



UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION



2009 REPORT ON ENFORCEMENT

Docket No. AD07-13-002

Prepared by the Staff of the
Office of Enforcement
Federal Energy Regulatory Commission
Washington, D.C.

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The matters presented in this staff report do not necessarily represent the views of the Federal Energy Regulatory Commission, its Chairman, or individual Commissioners, and are not binding on the Commission.

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I. INTRODUCTION

The staff of the Office of Enforcement (Enforcement) of the Federal Energy Regulatory Commission (Commission) is issuing this report as directed by the Commission in the Revised Policy Statement on Enforcement.¹ This report informs the public and the regulated community of Enforcement activities during Fiscal Year 2009 (FY2009),² including an overview and statistics on the activities of the four divisions within Enforcement: Division of Investigations (DOI), Division of Audits (DA), Division of Financial Regulation (DFR) and Division of Energy Market Oversight (DEMO).

The FY2009 report continues to recognize the importance of informing the public of the activities of Enforcement staff, given the expanded scope and reach of the Commission's enforcement authority since the passage of the Energy Policy Act of 2005.³ Because the investigative work of DOI is non-public, the majority of the information that industry receives about investigations comes from Commission orders that approve settlements, release staff reports, or order companies to show cause why conduct should not be sanctioned. However, investigations that result in public actions by the Commission are only a fraction of DOI's activities. As in previous years, the FY2009 report provides the public with more information regarding the nature of non-public Enforcement activities, such as self-reported violations and investigations that are closed without any public enforcement action or civil penalty assessments. The report also highlights other Enforcement work in auditing companies subject to the Commission's jurisdiction, compiling and monitoring data from forms and reports submitted to the Commission, and monitoring wholesale electric and natural gas markets.

¹ *Enforcement of Statutes, Regulations and Orders*, 123 FERC ¶ 61,156, at P 12 (2008) (Revised Policy Statement). A current Enforcement organizational chart is attached as Appendix A to the instant report.

² The Commission's fiscal year begins October 1 and ends September 30 of the following year. FY2009, the subject of this report, began on October 1, 2008 and ended on September 30, 2009.

³ Energy Policy Act of 2005, P.L. No. 109-58, 119 Stat. 594 (2005) (EPAAct 2005).

II. OFFICE OF ENFORCEMENT PRIORITIES

The Commission's Strategic Plan announced its mission of assisting consumers in obtaining reliable, efficient and sustainable energy services at a reasonable cost through appropriate regulatory and market means. The Strategic Plan identifies two primary goals in order to fulfill this mission: 1) ensuring that rates, terms and conditions are just, reasonable and not unduly discriminatory or preferential, and 2) promoting the development of safe, reliable, and efficient energy infrastructure that serves the public interest. In order to further those goals, Enforcement's four divisions will gather information about market behavior, market participants, and market rules to assist the Commission in its obligation to oversee regulated markets and will work to bring entities into compliance with the applicable statutes, Commission rules, regulations and tariff provisions.

Enforcement has selected priorities for its four divisions. Enforcement will focus on matters involving:

- Fraud and market manipulation;
- Serious violations of the reliability standards;
- Anticompetitive conduct; and
- Conduct that threatens the transparency of regulated markets.

Conduct involving fraud and market manipulation poses a significant threat to the markets overseen by the Commission. Such intentional misconduct undermines the Commission's goal of providing efficient energy services at a reasonable cost because the losses imposed by such actions ultimately are passed on to consumers. Similarly, anticompetitive conduct and conduct that threatens market transparency undermine confidence in the energy markets and damage consumers and competitors. Such conduct might involve the violations of rules designed to limit market power or to ensure the efficient operation of regulated markets. Of particular concern to Enforcement are cases involving the greatest harm to the public, where there is often significant gain to the violator or loss to the victims of the misconduct.

The reliability standards established by the Electric Reliability Organization and approved by the Commission protect the public interest by requiring a reliable and secure bulk-power system. Enforcement will enforce these standards and focus particularly on cases resulting in actual harm, either through the loss of load or through some other means, as well as cases involving repeat violations of the Reliability Standards, a violation of a standard that carries a high Violation Risk Factor, or substantial actual risk to the Bulk Power System. In addition, Enforcement will enforce other safety and environmental standards established by the Commission in order to promote the development of a safe, reliable and efficient energy infrastructure with a particular emphasis in cases involving actual harm or a high risk of harm.

III. DIVISION OF INVESTIGATIONS

A. Overview

DOI conducts non-public investigations of possible violations of the statutes, rules, orders, and tariffs administered by the Commission. Investigations may begin from self-reports, tips, calls to the Enforcement Hotline or referrals from organized markets, other agencies, or other offices within the Commission. During most investigations, DOI staff coordinates with other divisions in Enforcement and subject matter experts in other Commission offices. Where staff finds violations of sufficient severity, staff so reports to the Commission and attempts to settle the investigation for appropriate sanctions and future compliance before recommending that the Commission initiate a public show cause proceeding.⁴

In FY2009 DOI increased its focus on investigations of market manipulation, collected over \$38 million in civil penalties and nearly \$39 million in disgorged profits through settlements, stepped up enforcement of reliability standards, and encouraged regulated entities to improve their compliance practices. Several manipulation cases reached significant milestones, including the first manipulation hearing before an Administrative Law Judge, significant settlements of alleged manipulation, and issuance of orders to show cause why penalties should not be imposed for alleged market manipulation. The Commission also authorized the release of two staff reports on investigations in which staff found no evidence of manipulation.

During FY2009 the Commission issued 22 orders approving settlements reached by DOI staff with the subjects of investigations. These 22 settlements resulted in the payment of \$38,290,000 in civil penalties and an additional \$38,694,188, plus interest, in disgorgement of unjust profits, as well as compliance monitoring reporting requirements in most cases.

DOI also focused on enforcement of reliability standards, including the publicly-disclosed investigation into the February 2008 Florida Blackout, which led to a \$25 million settlement. DOI staff also coordinated with the compliance programs of the North American Electric Reliability Corporation (NERC) and the eight Regional Entities as to reliability standards and played a central role in processing 46 Notices of Penalty that NERC filed with the Commission during FY2009 in which Regional Entities proposed monetary penalties totaling \$1,366,000 for alleged violations of reliability standards.

With respect to compliance, on October 16, 2008, the Commission issued a Policy Statement on Compliance⁵ that emphasized the importance of regulated entities developing adequate compliance measures. Where companies have active and effective compliance programs supported by senior management that identify, remediate, and report compliance lapses, the Commission may reduce or even eliminate penalties in certain cases. As part of its investigation of possible violations, DOI reviews the compliance measures taken by the subject of the investigation, and includes information on compliance with its recommendations to the Commission.

Additionally, DOI staff participated in Commission efforts to improve price transparency through *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, FERC Stats. & Regs. ¶ 31,260 (2007), and *Pipeline Posting Requirements under Section 23 of the Natural Gas Act*, Order No. 720, FERC Stats. & Regs. ¶ 31,283 (2009). DOI staff also played a major role in *Standards of Conduct for Transmission Providers*, Order No. 717, FERC Stats. & Regs. ¶ 31,280 (2009), and the market monitor portions of *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2009).

⁴ For a discussion of the processes by which Enforcement staff conducts and concludes investigations, see Revised Policy Statement, *supra* note 1.

⁵ *Compliance with Statutes, Regulations, and Orders*, 125 FERC ¶ 61,058 (2008).

B. Significant Matters

1. BRIAN HUNTER HEARING

The first evidentiary hearing involving the Commission's anti-manipulation authority was held before an Administrative Law Judge in August-September, 2009. *Brian Hunter*, Docket No. IN07-26-004 (Cintron, ALJ). Brian Hunter, a trader then employed by Amaranth Advisors L.L.C., was alleged to have entered into trades that manipulated the NYMEX natural gas futures settlement prices for three months in early 2006, thereby affecting natural gas physical prices throughout the United States.⁶ Testimony of expert and fact witnesses focused on why Hunter sold large numbers of natural gas futures contracts in the time periods involved, whether Hunter intended by his trading to affect natural gas prices, and how to assess the effect of Hunter's trading in gas markets. An initial decision by the Administrative Law Judge is expected in December 2009.

2. FLORIDA BLACKOUT

DOI staff, coordinating with staff in other Commission offices, completed its investigation into the causes of the 2008 Florida blackout.⁷ The event, which occurred on February 26, 2008, led to the loss of 22 transmission lines, 4,300 MW of generation, and 3,650 MW of customer service or load. The event originated at the Flagami Substation on the Florida Power and Light Company (FPL) system when a field engineer was diagnosing a piece of transmission equipment that had previously malfunctioned. In September 2009, Enforcement, NERC, and FPL signed a Stipulation and Consent Agreement relating to alleged violations of Reliability Standards committed by FPL. The settlement was approved by the Commission on October 8, 2009.⁸ Under the settlement, FPL was required to pay a \$25 million civil penalty. FPL is also adding significant additional protection redundancy at several transmission stations and has committed to undertake numerous specific reliability enhancement measures. These measures include: enhancing its compliance program; enhancing training and certification requirements for operating employees; improving its frequency response; updating emergency operating procedures; providing additional staffing for Bulk Electric System analysis; and ensuring that specified equipment is properly inspected and maintained. FPL has also agreed to make quarterly progress reports to Enforcement and NERC and conduct an independent audit after one year following the Agreement to ensure compliance with the Agreement.

3. ENERGY TRANSFER PARTNERS

DOI staff concluded the order to show cause proceedings in *Energy Transfer Partners, L.P., et al. (ETP)* and *Oasis Pipeline, L.P., et al. (Oasis Pipeline)* in FY2009. These cases arose from a Commission Order To Show Cause issued on July 26, 2007. DOI staff alleged that ETP violated the then-effective market behavior rules by manipulating wholesale natural gas prices over a multi-month period at the Houston Ship Channel trading point.⁹ With respect to Oasis Pipeline, DOI staff alleged undue discrimination by an intrastate pipeline providing service under section 311 of the Natural Gas Policy Act of 1978 (NGPA). On February 27, 2009, the Commission approved a Joint Offer of Settlement in *Oasis Pipeline* requiring provision of NGPA 311 service on a first-come, first-served basis and specifying numerous enhancements to Oasis Pipeline's electronic bulletin board to increase transparency and prevent

⁶ Co-respondents Amaranth Advisors and affiliates settled staff's allegations shortly before trial with payment of \$7.5 million in civil penalties.

⁷ *2008 Florida Blackout*, 122 FERC ¶ 61,244 (2008).

⁸ *Florida Blackout*, 129 FERC ¶ 61,016 (2009).

⁹ The alleged violations occurred before the January 2006 effective date of rules to implement the Commission's anti-manipulation authority. ETP's conduct, therefore, was alleged to have violated former Market Behavior Rule 2, codified at 18 C.F.R. § 284.403(a) (2005). Most of the alleged wrongful conduct also predated the Commission's penalty authority it received pursuant to EAct 2005.

undue discrimination.¹⁰ On September 21, 2009, the Commission approved a Joint Offer of Settlement in *ETP*, under which ETP was required to pay \$30 million consisting of a \$5 million civil penalty to the U.S. Treasury and \$25 million into a disgorgement fund to be distributed to those harmed by ETP's conduct. A Commission Administrative Law Judge will determine appropriate distributions from the fund.¹¹ The settlement also requires ETP to adhere to a compliance program, with outside auditing of that program, for two years.

4. NYISO LOOP FLOW

In FY2009, staff concluded a non-public investigation into allegations of market manipulation in connection with Lake Erie loop flows. In light of the significance of the issues raised and the impact on regional transmission organizations in the area, the Commission authorized the public disclosure of the DOI staff report, and adopted staff's findings and conclusions.¹² The investigation began in May 2008, when the Market Monitoring and Performance Department of the New York Independent System Operator, Inc. (NYISO) referred allegations of market manipulation to Enforcement. The issues revolved around whether market participants engaged in manipulation with regard to inter-control area transactions that unlawfully exploited a seam in the pricing methods used by NYISO, PJM Interconnection, L.L.C., the Midwest Independent Transmission System Operator, Inc., and Ontario's Independent Electricity System Operator. Because there are no transmission lines under or over Lake Erie, electricity flows are split with a portion of power flowing clockwise and a portion flowing counterclockwise around the lake. Loop flow, which refers to physical flows that differ from scheduled flows, can cause congestion on transmission lines and that congestion can affect market prices of electricity. After extensive discovery, staff determined that the market participants involved in the investigation did not commit any tariff violations, were openly responding to organized market price signals, were not artificially affecting congestion in order to raise prices, and did not have the requisite scienter to commit market manipulation.

5. POWER EDGE AND TOWER

In December 2007, PJM declared a major default by Power Edge LLC (Power Edge), one of its members, the costs of which would have to be socialized among other PJM members. Power Edge was an affiliate of Tower Research Capital, LLC and other companies in a family of hedge funds (collectively Tower). Power Edge's default set off a series of proceedings both before the Commission and in the courts between PJM and Tower. Enforcement staff opened a non-public investigation to explore allegations of manipulation in PJM's day-ahead and Financial Transmission Rights (FTR) markets. In the first phase of its investigation, staff examined whether Tower entities perpetrated a fraud upon PJM by entering into coordinated, offsetting positions in the market for FTRs by concentrating high-risk or losing positions in Power Edge, and deliberately causing Power Edge to default on its obligations, while holding profitable positions through other affiliates. Staff also examined whether Tower deliberately under-capitalized Power Edge.

DOI staff concluded that the evidence did not support the allegations but, rather, that Tower supplied additional capital to Power Edge to try and prevent its collapse and that Power Edge's FTR positions became unprofitable because of abnormal weather and transmission outages during the second half of 2007. While certain issues involving allegations of manipulation of PJM's FTR market remain under investigation, the Commission issued an order denying PJM's complaint with respect to the corporate fraud issues and released Enforcement staff's report.¹³

¹⁰ *Oasis Pipeline, L.P.*, 126 FERC ¶ 61,188 (2009).

¹¹ *Energy Transfer Partners, L.P.*, 128 FERC ¶ 61,269 (2009).

¹² *New York Independent System Operator, Inc.*, 128 FERC ¶ 61,049 (2009).

¹³ *PJM Interconnection, LLC v. Accord Energy, LLC*, 127 FERC ¶ 61,007 (2009), *reh'g denied*, 129 FERC ¶ 61,010 (2009).

C. Settlements

In FY2009, the Commission approved 22 settlement agreements entered into by Enforcement for total civil penalty payments of \$38,290,000¹⁴ and disgorgement of \$38,694,188, plus interest.¹⁵ In the investigations leading to 15 of these settlements, DOI staff found violations of the Commission's natural gas pipeline open access transportation requirements. Of the remaining settlements, six involved violations of 18 C.F.R. Part 1c or natural gas Market Behavior Rule 2,¹⁶ and one pertained to a violation of a Parking and Lending (PAL) Rate Schedule in a Commission approved tariff.

The 15 settlements concerning open access transportation resulted from both self-reports of violations and from DOI staff investigations of abuses in capacity release transactions known as "flipping."¹⁷ Many cases involved more than one violation—failure to adhere to the shipper-must-have-title requirement, flipping, and prohibited buy/sell transactions occurred in several settled cases. In addition to civil penalties ranging from \$320,000 to \$5 million, many settlements involved disgorgement of unjust profits and require the submission of compliance monitoring reports to Enforcement.

FY2009 settlements involving allegations of manipulation include all parties to *Amaranth Advisors*, except for Brian Hunter, and ETP. The other *Amaranth Advisors* parties entered into a settlement, as noted above, for payment of a \$7.5 million civil penalty, an amount that reflected the adverse financial circumstances of the settling parties. The ETP settlement, also noted above, totaled \$30 million. The remaining four manipulation settlements involved conduct in bidding for valuable pipeline capacity on the Cheyenne Plains Gas Pipeline Company, LLC (Cheyenne) pipeline. DOI staff investigated groups of affiliated companies that submitted multiple bids for the capacity. Four of the groups entered into settlements with Enforcement resulting in civil penalty payments of \$8,385,000 and disgorgement of nearly \$3.9 million, plus interest.¹⁸ Two groups of companies that declined to settle are the subjects of orders to show cause currently pending before the Commission.¹⁹

The remaining settlement involved alleged violations by Columbia Gas Pipeline Company (Columbia) of its PAL service and certain matters arising out of an audit. Columbia Gas agreed to disgorge \$9 million in profits to certain customers and to pay a civil penalty of \$1 million. The Commission's order also helped assure that local distribution companies receiving disgorgement amounts would flow them through to their ratepayers.²⁰

Total settlements for FY2009 exceeded the number of settlements in FY2008 and FY2007 combined. In FY2008, staff entered into seven settlement agreements that were approved by the Commission, for total civil penalty payments of \$19.95 million. In FY2007, staff entered into ten settlement agreements that were approved by the Commission, for total civil penalty payments of \$32.5 million. Settlements approved in FY2009 are compared, by type of violation, with settlements in FY2008 and FY2007:

¹⁴ This does not include the FPL \$25 million settlement noted above, which occurred shortly after the close of FY2009.

¹⁵ A table of EPA Act Civil Penalty Enforcement Actions in FY2009 is attached to this report as Appendix B.

¹⁶ 18 C.F.R. § 284.403(a) (2005) (predating the promulgation of 18 C.F.R. Part 1c).

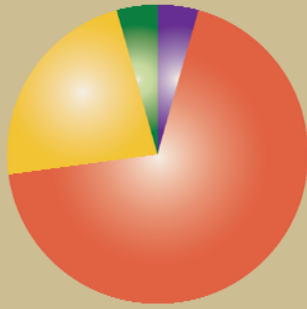
¹⁷ Flipping describes transactions that avoid the posting and bidding requirements for discounted rate firm capacity at 18 C.F.R. § 284.8 (2009), typically consisting of a series of short-term releases of discount rate capacity to two or more affiliated replacement shippers on an alternating monthly basis that rolls over, extends, or continues the discount rate release without complying with the posting and competitive bidding requirements.

¹⁸ *In re Tenaska Mktg. Ventures, In re ONEOK, Inc., In re Klabzuba Oil & Gas, F.L.P. and In re Jefferson Energy Trading, LLC*, 126 FERC ¶ 61,040 (2009).

¹⁹ *Seminole Energy Services*, 126 FERC ¶ 61,041 (2009); *Nat'l Fuel Mktg. Co.*, 126 FERC ¶ 61,042 (2009).

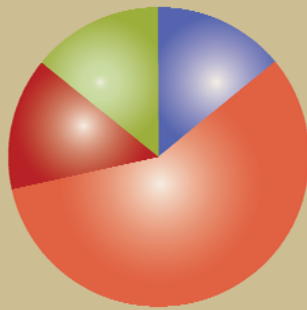
²⁰ *Columbia Gas Transmission Corp.*, 125 FERC ¶ 61,150 (2008).





Settlements by Type of Violation, FY2009



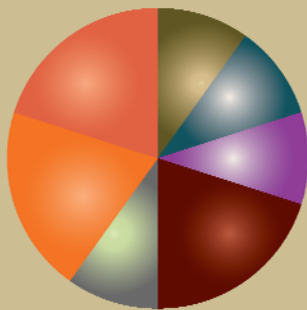
-  Market Behavior Rule 2, 18 C.F.R. § 284.403(a) (2005)
-  Open Access
-  Market Manipulation, 18 C.F.R. § 1c.1
-  Violation of a PAL Rate Schedule in a Commission Approved Tariff

Settlements by Type of Violation, FY2008



-  Network Service Violation of the OATT
-  Open Access
-  Standards of Conduct
-  18 C.F.R. § 35.41

Settlements by Type of Violation, FY2007



-  Market Behavior Rules 1 and 3
-  OASIS Business Practices
-  OATT
-  OATT and SOC
-  Violations of the FPA
-  Violation of a Commission Order/Settlement Agreement
-  Open Access

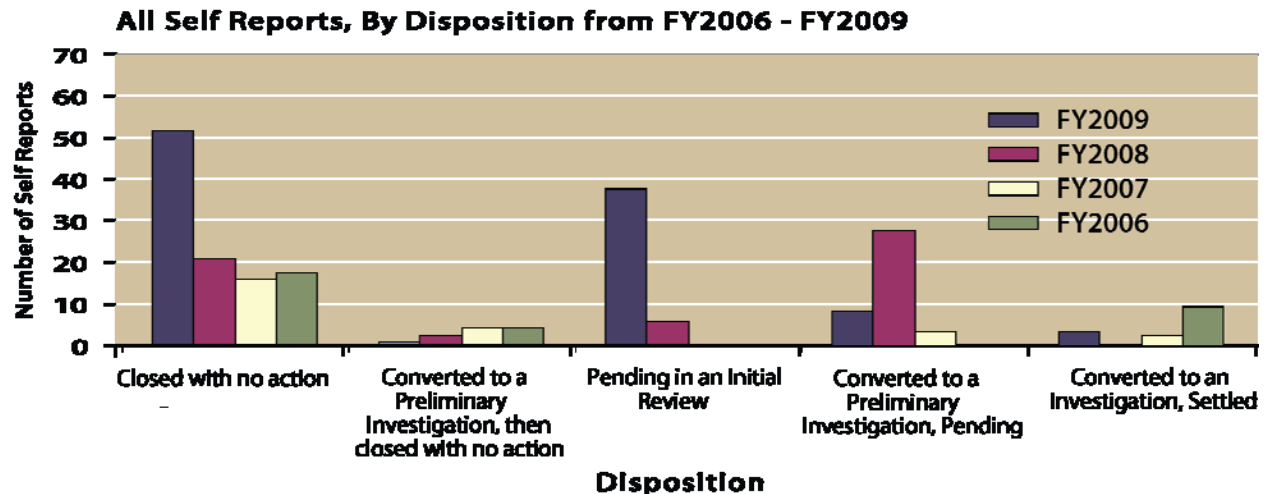
D. Self-Reports

Since issuance of the first Policy Statement on Enforcement,²¹ staff has received a total of 258 self-reports. This total is broken down by fiscal year as follows:

FY2006 -- 37 reports received
 FY2007 -- 31 reports received
 FY2008 -- 68 reports received
 FY2009 -- 122 reports received

As these yearly totals demonstrate, the number of self-reports submitted to DOI have increased significantly from FY2007 to the present.

Of the 122 self-reports received in FY2009, staff closed 62 of them after an initial review and without opening an investigation, and one more was closed without sanctions after conducting an investigation. Staff's initial review is pending for 45 of these self-reports and 14 have been or are being investigated, of which four have settled with sanctions. For comparison, in FY2008, staff received 68 self-reports. Staff closed 25 of them after an initial review, and three were closed without penalties after conducting an investigation. Thirty-three of the self-reports were investigated in FY2008, while seven were pending initial review.

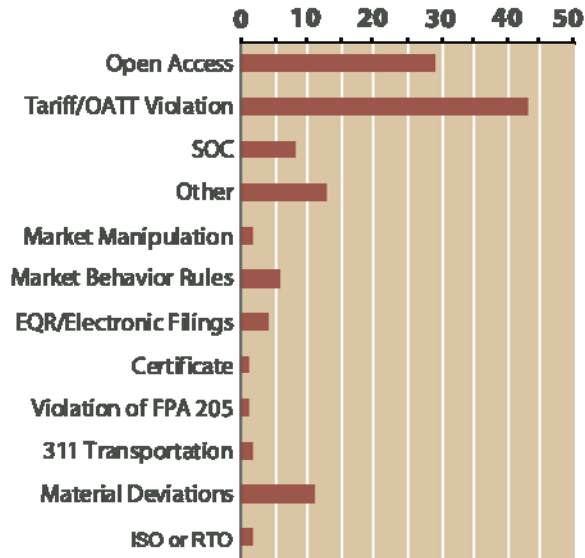


Staff receives self-reports on a variety of matters. The following charts depict the types of violations for which staff received self-reports for FY2009 and FY2008. As the charts demonstrate, self-reports related to the Commission's natural gas pipeline open access requirements continue to represent a significant portion of all self-reports received by Enforcement. While the number of self-reported open access violations decreased from FY2008 to FY2009, this category of self-reports still accounts for a significant portion of all self-reports received in FY2009.

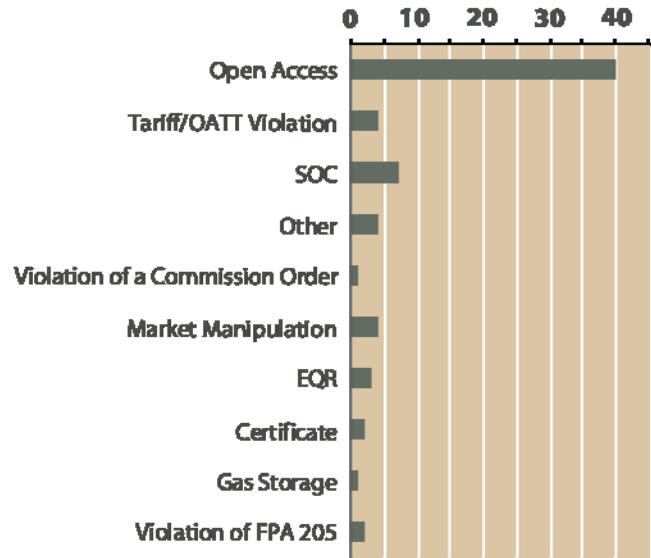
In FY2009 the number of self-reported Tariff or Open Access Transmission Tariff (OATT) violations increased significantly. In comparison to FY2008, this year staff received over ten times as many self-reports of possible Tariff or OATT violations. Also, for the first time, staff received self-reports of possible violations of the Commission's market behavior rules, NGPA Section 311 transportation requirements, material deviations from Commission approved tariffs, and violations of ISO or RTO requirements.

²¹ *Enforcement of Statutes, Orders, Rules, and Regulations*, 113 FERC ¶ 61,068 (2005).

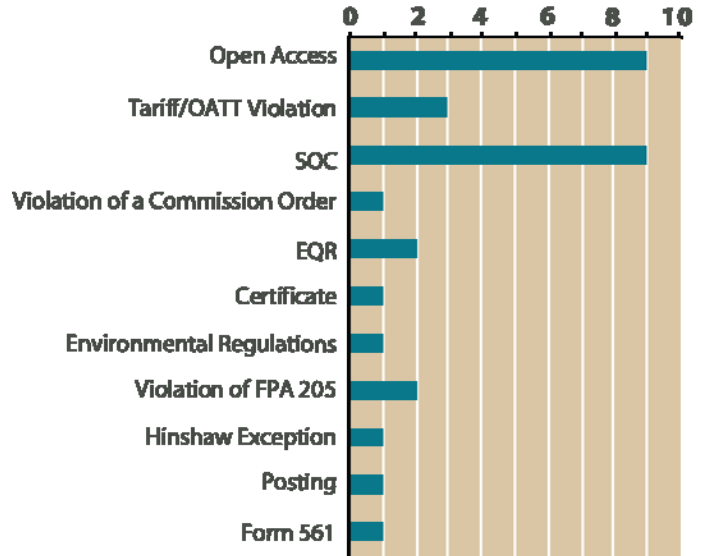
Self-Reports by Type of Violation, FY2009



Self-Reports by Type of Violation, FY2008



Self-Reports by Type of Violation, FY2007



1. ILLUSTRATIVE SELF-REPORTS CLOSED WITH NO ACTION

Staff recognizes that it is beneficial to the public, and to regulated entities, to provide information regarding the circumstances in which staff determines that sanctions are not necessary. In its continued effort to promote and encourage the compliance efforts of regulated entities, the following illustrations summarize the circumstances surrounding some of the self-reports staff received in FY2009 that were closed with no action and the reasons why staff chose not to pursue enforcement action in these matters. These illustrations are intended to provide guidance to the public and to regulated entities, while still preserving the non-public nature of the self-reports.

Transmission Service Practices. A public utility company (Company) self-reported violations of 18 C.F.R. § 37.6(e)(1)(i), Company's OATT, and Company's Business Practices. Over the course of a year, Company sold non-firm point-to-point transmission service to neighboring customers at times when Company had reduced its available transfer capability to zero and cut service to firm customers on certain paths. These sales were made during times when the neighboring customers lost their transmission capabilities directly to serve a pocket of their respective native loads because of planned and unplanned transmission outages. These load pockets would have been stranded unless they were provided power using Company's lines. The firm customers whose services were cut had reservations on the lines but, because of the location of the outage, the firm customers' power was not deliverable to its final destination via that line. Company violated transmission service practice rules, but because Company was acting in the interest of reliability by serving customers who would have been stranded, and because the violations were: limited in volume; found, self-reported, and corrected; were not done for financial gain; and resulted in no harm to the market, staff closed the matter with no further action.

Untimely QF Certification Filing. A paper production company (Company) had been selling electrical output of its 375 KW hydro turbine without having filed the appropriate Qualifying Facility (QF) self-certification Form 556 from 2006 through 2008. Company believed that this failure to comply with the Commission's regulations resulted from a misunderstanding of the difference between being exempt from licensing and being a QF. To remedy the situation on a prospective basis, Company filed the appropriate forms for self-certification of its QF status and self-reported its failure to certify timely. Staff concluded that this failure to timely file a self-certification Form 556 was unintentional, and that Company's voluntary corrective filing was consistent with the Commission's expectation that companies make curative out-of-time filings. Because the failure to file was not intentional, caused no harm, and because Company cured the error and reported it to staff, staff closed the matter with no further action.

Unreserved Use Penalties. A utility company (Company) submitted a self-report to DOI staff after being assessed an unreserved use penalty by its transmission provider under the provisions of the provider's Open Access Transmission Tariff. Company reported that it had been charged \$704,275 in unreserved use penalties over a 47 hour period spanning 13 months. According to Company, these scheduling errors were inadvertent. Because Company has already paid these penalties to its transmission provider, staff determined that the self-report should be closed with no further action.

Disclosure of Transmission Information. Employee of a natural gas transmission company (Company) inadvertently sent an e-mail with a non-public capacity posting to a marketing affiliate employee. The transmission employee intended to send the e-mail to a transmission employee with a similar name. The transmission employee immediately called the marketing affiliate employee with instructions not to open the e-mail. Even though the marketing affiliate employee had not opened the e-mail, Company treated the incident as an improper disclosure and posted the incident and the e-mail on its website. Company also reconfigured its mail servers so that transmission employees and marketing affiliate employees are accessed separately to help ensure that similar incidents do not occur. Staff concluded that Company quickly recognized and took action to correct the mistake, that the incident was inadvertent, and that Company immediately took steps to prevent future occurrences. Because there was no harm or unjust

profits, no intent, and no involvement of senior management, and because this was an isolated compliance issue that was immediately addressed, the matter was closed with no further action.

Failure to Submit Required Filings. Several affiliated companies (Companies) that provide interstate gas transportation service under section 311 of the Natural Gas Policy Act of 1978 and Subpart C of Part 284 of the Commission's regulations failed to comply with certain requirements of Part 284. Specifically, two of the Companies failed to submit Form 549 annual reports identifying shippers, volumes, and revenues associated with interstate transportation under section 284.126(b) of the Commission's regulations, 18 C.F.R. § 284.126(b) (2009). In addition, one Company failed to revise its Statement of Operating Conditions in violation of a 1999 Commission order. Finally, an affiliated interstate pipeline that provides interstate transportation service under Subpart A of Part 284 failed to file a Form 549B annual peak day capacity report required by section 284.13(d)(2) of the Commission's regulations, 18 C.F.R. § 284.13(d)(2) (2009). Staff concluded that Companies did not intentionally fail to submit the required filings. Staff noted that Companies discovered the violations and promptly self-reported the violations to DOI. Because there was no indication that the violations caused harm, and because Companies performed a thorough review of pertinent Commission filing requirements to ensure compliance and updated their compliance tracking tool to prevent the violations from recurring, staff closed the matter with no further action.

Errors in Filed Electric Quarterly Reports (EQRs) and Market Based Rate Authority Violations. An electric utility company (Company) self-reported that it conducted an internal review of its short-term power sales transactions and discovered that it had mislabeled some market-based rate transactions as cost-based rate transactions and inaccurately reported the transactions in its EQR submittals to the Commission. Company also discovered that it overcharged some in-state customers when it assessed these customers market-based rates instead of cost-based rates. Company performed a comprehensive review of its EQR submittals for all of its market-based rate transactions and filed amended EQRs accurately to reflect its transactions. Company also submitted an affidavit confirming that it refunded \$267,218 plus interest to the in-state customers that were overcharged. Additionally, Company implemented detailed compliance procedures that included mandatory training and software replacements to prevent violations in the future. Because there was no economic harm or economic benefit from the EQR violations after the refunds were made, and because Company promptly refunded the overcharged amounts, staff closed the matter with no further action.

Shipper-must-have-title violation. A natural gas company (Company) delivering gas to certain industrial facilities executed contracts and transaction confirmations showing the point of sale of natural gas as the receipt point on an interstate pipeline rather than the delivery point. The gas was shipped on capacity held by Company, resulting in a shipper-must-have-title violation. Company submitted a detailed self-report that explained that the designated point of sale was intended to be upon delivery, but that unfamiliar contract forms were used and incorrectly filled out. While the error continued for some time, when it was discovered it was immediately corrected and a comprehensive report was submitted. In addition, Company submitted information showing that it had in place a regular and comprehensive training program on transportation requirements, including specifically the shipper-must-have-title requirement, and documented that the employees responsible for completing the documents had received the training. Because the gas was delivered to the contracting counterparty, because the identification of the point of title transfer was the result of unfamiliarity with the form contracts, and because Company had provided the relevant employees with comprehensive training on transportation requirements, staff closed the matter with no further action.

Buy/sell violation. During post-Hurricane Ike restarting of Gulf of Mexico offshore facilities, a natural gas company (Company) purchased gas supply from a producer. Both Company and the producer had capacity on offshore pipeline facilities, and Company nominated the gas to flow on its capacity. The producer requested that its capacity be used. A Company scheduler, aware of the shipper-must-have-title requirement, sold the gas back to the producer, which transported it on the producer's capacity, and repurchased the gas from the producer after transportation. Another Company employee reviewing transaction paperwork noticed the buy/sell and informed a Company officer, who immediately stopped

the transaction and restructured it to purchase the gas in the first instance after transportation. The buy/sell lasted only six days and involved less than 11,000 Dth of natural gas. Company made a prompt and complete self-report. Because the transaction occurred in the confusion of restarting offshore service, because the Company's supervision and review of transactions discovered the violation in less than one week, and because the violation involved *de minimis* quantities, staff closed the matter with no further action.

Shipper-must-have-title violation. As a result of training employees on natural gas transportation requirements, a trading and marketing company (Company) discovered a transaction in which Company was using interruptible pipeline capacity of an affiliate company to transport gas owned by Company. The violation lasted about four months and was limited to the Henry Hub area. Upon learning of the violation, Company immediately changed the transportation arrangements to comply with the shipper-must-have-title requirement and provided additional training for its staff. Company promptly reported the violation and submitted complete information about the incident. Because the violation was for a limited period of time, involved only interruptible capacity within the Henry Hub area, and involved an affiliate's capacity rights, and because Company acted promptly upon discovery to end the violation, staff closed the matter with no further action.

Buy/sell violations. Following attendance at a conference at which a Commission representative spoke about enforcement and compliance, a marketing company (Company) became aware that it had engaged in a buy/sell transaction for six days related to moving gas into storage, and another buy/sell for 35 days related to resolving imbalances. Company initiated a self-report two days later and restructured the transactions to avoid the violation. Company voluntarily undertook a review of its transportation-related activities for other possible buy/sell violations and reported certain additional transactions to staff. Upon review, staff determined that the storage-related transaction was a buy/sell but that the other transactions were not violations. Because the scope of the violation was limited, and the violation was corrected immediately upon discovery, and because the potential for harm was small in these circumstances, staff closed the matter with no further action.

Misuse of NGPA Section 311 facility. A company with limited pipeline operations (Company) was authorized to construct a compressor station under NGPA Section 311 for use in service on behalf of qualifying shippers. Some years ago, following a merger with another company with larger pipeline operations, Company decided to file an application to authorize NGA service through the compressor station. The application, however, was never filed. Company did not closely monitor contracts to assure that all service rendered through the compressor station was "on behalf of" qualifying entities. Recently, Company prepared the certificate application and discovered that it could not substantiate that all prior service had met the "on behalf of" requirement. Company self-reported the circumstances it had discovered, and also filed a certificate application. Because some documentation did indicate that at least some service rendered through the compressor station met the "on behalf of" requirement, and because certificate authority was sought and granted, staff closed the matter with no further action.

Price Reporting Guidelines. A company with a blanket marketing certificate (Company) self-reported that it had not reported its natural gas transactions to price index publishers consistent with the Commission's price reporting guidelines. *Price Discovery in Natural Gas and Electric Markets*, 104 FERC ¶ 61,121, *as clarified*, 105 FERC ¶ 61,282 (2003), *as further clarified*, 112 FERC ¶ 61,040 (2005). A blanket certificate holder must conform to those guidelines if reporting prices. 18 C.F.R. § 284.403 (2009). Company noted the following noncompliance: 1) it reported next-day but not next-month transactions; 2) it did not have an independent audit focused on price reporting; 3) it did not have confidentiality agreements with all price index developers; and, 4) it reported transactions only for points at which a price index publisher had established price indices and not all transactions at all trading locations. After follow-up discussions with staff, Company corrected its protocols for reporting. Because Company corrected its practices, the omissions were relatively minor, and because there was no evidence of intentional misconduct, staff closed the matter with no further action.

Software Coding Error by RTO. During a standard software validation review on an unrelated matter, an RTO discovered that the software code for calculating estimated exposure for real time energy, day ahead energy, congestion and losses was using a 366-day rolling average instead of the 365-day rolling average required by RTO's tariff. RTO promptly corrected the software code and self-reported the violation. RTO ran an analysis to determine the financial impact of the violation and determined that it was insignificant. RTO reported the error to stakeholders, none of whom expressed concern. RTO also posted notification of the error on its website. Because the error was inadvertent, because there was no indication of harm from the violation, and because the RTO promptly and openly corrected the error and notified the Commission staff and market participants, staff closed the matter with no further action.

Filing of Jurisdictional Transmission Agreements. Following an internal regulatory compliance review, a public utility company (Company) identified several jurisdictional transmission and interconnection agreements that Company had failed to file with the Commission under section 205 of the Federal Power Act (FPA). Additionally, some of these agreements were not properly reflected in Company's Electric Quarterly Reports (EQRs). Company self-reported the violations and provided a detailed explanation of how the violations occurred and new compliance procedures implemented by Company to ensure that similar violations did not recur. Additionally, Company promptly re-submitted EQRs to account for the prior omissions. Because there was no harm to the market, there was no evidence of fraud or intent to avoid compliance with the Commission's regulations, and Company quickly and comprehensively conducted an internal investigation and self-reported the violations, and because Company voluntarily adopted a satisfactory compliance program, staff closed the matter with no further action.

2. ILLUSTRATIVE SELF-REPORTS CONVERTED TO INVESTIGATIONS BUT CLOSED WITH NO ACTION

The following illustrations provide a short summary of the circumstances surrounding some of the self-reports staff received in FY2009 for which investigations were opened but, upon investigation, were closed with no action.

Tariff Violation. Staff conducted an investigation after an electric utility company (Company) self-reported that it failed to convert a one-year experimental study review process to permanent status. After the review should have expired, Company continued to study and approve requests under the experimental process. In addition to the self-report, Company also filed a tariff waiver and sought the permanent approval of the review process. The Commission granted the waiver, thus retroactively approving the studies that were erroneously completed while the review process was not Commission-approved. Because the Commission approved the waiver request and the experimental review process also allowed for a more efficient study review, staff closed the matter with no further action.

Oversubscription of Firm Capacity and Posting Violations. A natural gas company (Company) submitted a self-report to Enforcement staff addressing: 1) oversubscription of firm capacity on its system; 2) omissions with respect to its transactional and discount postings; and 3) improper execution of discount rate contracts. Staff required Company to submit monthly reports detailing how it was managing the oversubscription and to notify staff immediately if daily nominations exceeded certificated capacity. Company's oversubscription problem was eliminated after it placed a new compressor station into service, which increased Company's system capability. Company also submitted an affidavit describing the corrections Company has taken and the steps in place for the future to assure that postings would be done for the future, and demonstrated that the error in executing discount contracts did not have any substantive effect. Because Company appropriately identified and managed its oversubscription problem and did not deny or reduce any firm service requests, and because Company took adequate steps to eliminate posting errors and correct the ministerial errors in discount rate contracts, staff closed the matter with no further action.

Posting Violations and Oversubscription of Firm Capacity. After an internal review and investigation, Company A submitted a self-report to staff acknowledging that it participated as a replacement shipper in certain capacity release transactions. Company B, the releasing shipper in these transactions, also

submitted a self-report to staff. Staff concluded that the transactions between Company A and Company B violated the Commission’s competitive bidding requirements by failing to post required information on the terms of the release and by continuing the transactions on a month-to-month basis without posting the release for competitive bidding. Nonetheless, because the violations did not result in unjust profits or harm to the market and were of limited scope and duration, and because both companies put adequate compliance measures in place to insure that no other similar violations would occur in the future, staff closed the matter with no further action.

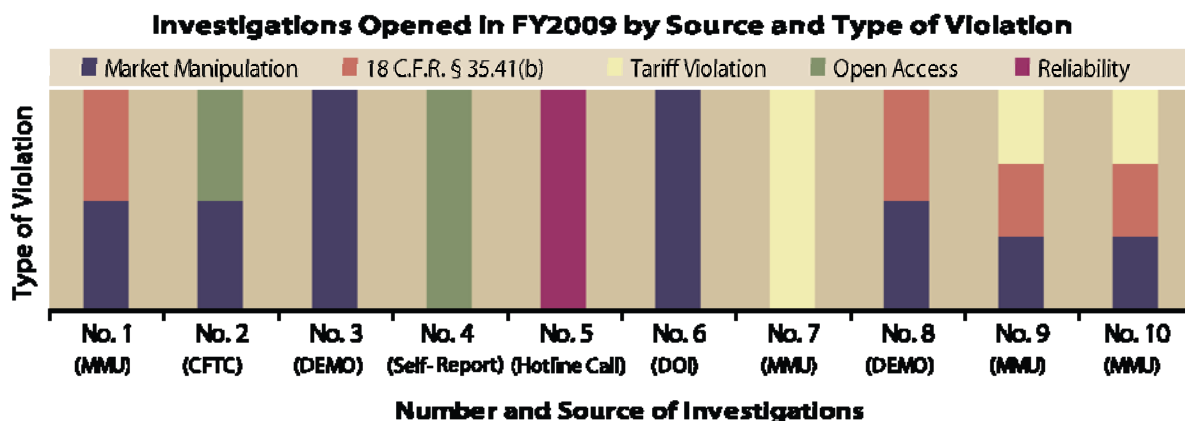
Shipper-Must-Have-Title Violation. A services company (Company) that purchases natural gas and sells it to affiliated companies for use at power plants self-reported shipper-must-have-title violations. Staff investigated and confirmed that over the course of three and a half years, Company transported approximately 2.7 Bcf of natural gas in violation of the Commission’s shipper-must-have-title requirement. Of the 2.7 Bcf of gas, 70 percent of the gas was associated with interruptible contracts. Because the violation was limited in volume and duration; found, self-reported and corrected by Company; and presented no harm to the market, staff closed the matter with no further action.

E. Investigations

During FY2009, staff observed trends in the types and sources of non-self-report investigations it conducted. First, staff opened fewer investigations than it did in FY2008. In FY2008 staff opened 48 investigations and in FY2009 staff opened 10 investigations. Seven of the ten investigations opened in FY2009 involve market manipulation. Generally speaking, market manipulation investigations are more complex and require significantly greater staff resources than other types of investigations.

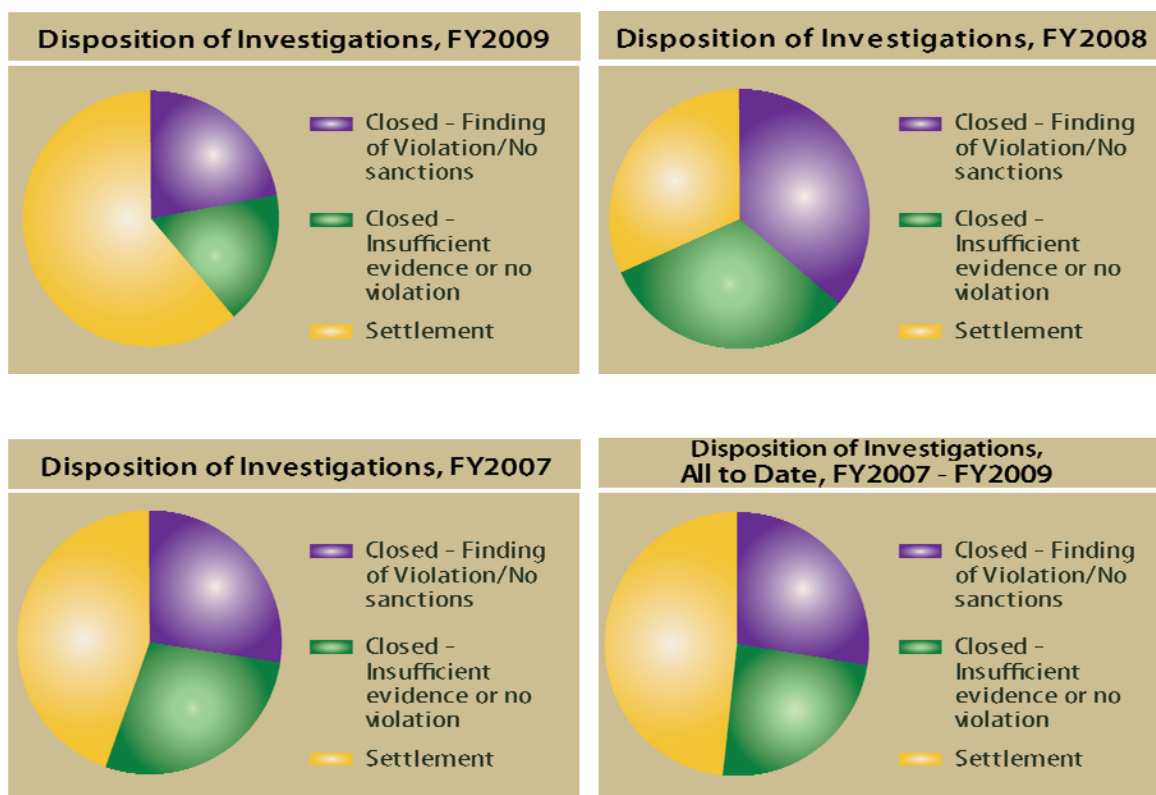
1. STATISTICS ON INVESTIGATIONS

Of the ten investigations staff opened this fiscal year, seven investigations involve market manipulation, four investigations implicate violations of 18 C.F.R. § 35.41(b) (2009) of the Commission’s market behavior rules, three investigations address tariff violations, two investigations pertain to open access transportation and one investigation relates to violations of NERC’s reliability standards. As indicated in the chart below, half of the investigations opened this year entail more than one type of violation.



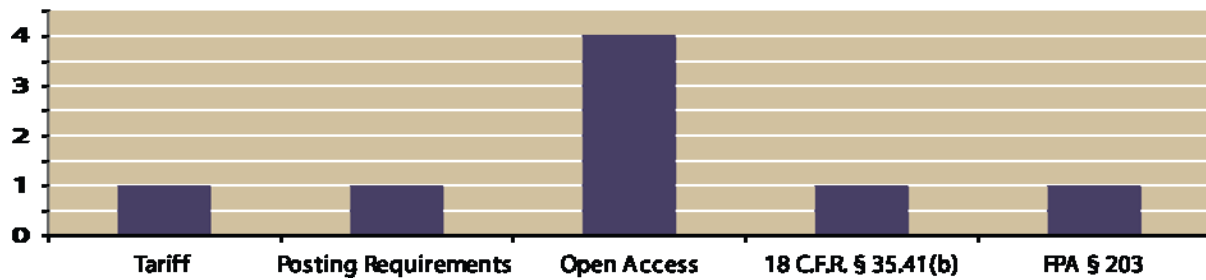
In FY2009, four of the investigations staff opened were referred to the Commission by RTO or ISO market monitoring units (MMUs). Pursuant to Commission policy, MMUs are to refer potential misconduct to the Commission for investigation.²² Three of the four investigations opened this fiscal year as a result of MMU referrals involve alleged market manipulation. While the four MMU referrals received this year are fewer than the 14 referrals received in FY2008, preliminary investigations resulting from referrals still account for a significant percentage of Enforcement staff's investigations. To date, Enforcement has received 21 referrals from MMUs, 19 of which were converted to preliminary investigations.

Staff closed a total of 36 investigations in FY2009 as compared to 22 during FY2008. Of the 36 investigations closed this fiscal year, six investigations, or 17 percent, were closed with no finding of a violation. In eight, or 22 percent of the investigations, staff found a violation, but the investigation was closed with no sanctions. Finally, 22, or 61 percent of the investigations, were concluded through settlement. For comparison purposes, in FY2008 seven investigations, or 32 percent, were closed with staff finding no violation. Also during FY2008, eight investigations, or 36 percent, were closed with a finding of a violation, but closed with no sanctions and seven investigations, or 32 percent, were concluded through settlement. The following charts show the overall disposition of investigations from FY2007 through FY2009 and also highlight the types of violations that staff examined for those investigations that were closed without sanctions from FY2007 to FY2009.

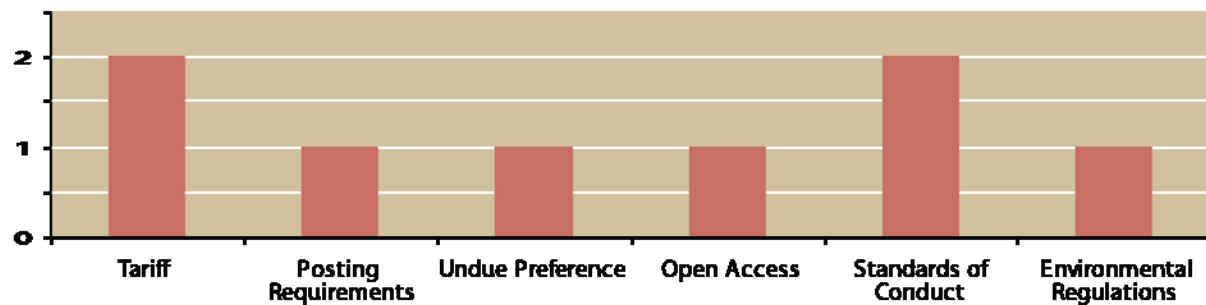


²² *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 (2009). See also *Market Monitoring Units in Regional Transmission Organizations and Independent System Operators*, 111 FERC ¶ 61,267 (2005).

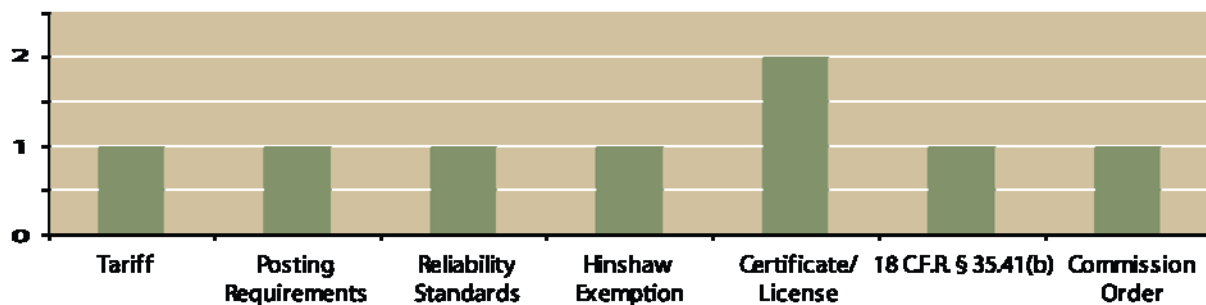
Investigations Closed Without Monetary Remedies by Type of Violation, FY2009



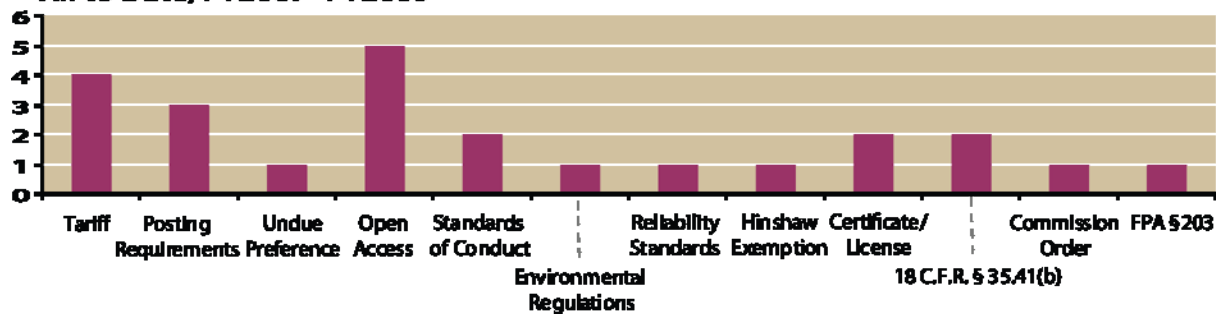
Investigations Closed Without Monetary Remedies by Type of Violation, FY2008



Investigations Closed Without Monetary Remedies by Type of Violation, FY2007



Investigations Closed Without Monetary Remedies by Type of Violation - All to Date, FY2007- FY2009



2. ILLUSTRATIVE INVESTIGATIONS CLOSED WITH NO ACTION

The following illustrations describe the circumstances surrounding selected investigations that were closed in which staff found a violation, but did not take any enforcement action. Like the self-report illustrations, these are intended to provide guidance to the public, while still preserving the non-public nature of DOI's investigations.

False or misleading communications to RTO. Staff investigated whether an electric company (Company) violated section 35.41(b) of the Commission's regulations, which prohibits false or misleading communications from market sellers to Commission-approved RTOs. Staff concluded that, while a communication from Company to an ISO which provided a specified capacity commitment turned out to be inaccurate, Company had good reason to believe that its communication was correct when made. The ISO assessed a deficiency charge against Company, which contained a penalty component that was timely paid by Company. Staff concluded that these events presented no demonstrable financial harm to the market and Company generated no unjust profits. The investigation was therefore closed without sanctions.

FPA 203 violation. Staff investigated an electric company's (Company) failure to make timely filings pursuant to section 203 of the Federal Power Act (FPA). The divestiture of Company's public utility holdings, which triggered the need for an FPA 203 filing, resulted from a cease and desist order issued by the Securities and Exchange Commission (SEC) calling for the divestiture of jurisdictional assets. As soon as Company was informed of the need to make the section 203 filings it worked to remedy the situation by preparing an application and bringing the matter to the attention of staff. Staff determined that Company's failure to file timely pursuant to FPA 203 was corrected, presented no demonstrable financial harm to the market, and generated no unjust profits. The investigation was therefore closed without sanctions.

Flipping violations. A natural gas company (Company) self-reported two sets of flipping transactions. Company's flipping transactions involved releasing capacity at a discount for alternating months to two entities in violation of the posting and bidding requirements for discounted rate firm capacity at 18 C.F.R. § 284.8 (2009). Because Company acted proactively after the violations were uncovered and the total volume transported by the replacement shippers through the flipping releases was approximately 2/3 of a Bcf, the investigation was closed without sanctions.

F. Reliability

Pursuant to the Electric Reliability Organization's (ERO) Compliance Monitoring and Enforcement Program, NERC files Notices of Penalty with the Commission that reflect violations of the Reliability Standards found by NERC or one of the eight Regional Entities after investigation. Each Notice of Penalty indicates resolution of a violation or alleged violation through a penalty and mitigation plan, which may result from an assessment by the Regional Entity or NERC, or from settlement negotiations with the registered entity. The Notice of Penalty becomes effective by operation of law thirty days after filing with the Commission if the Commission takes no action within that time to either request more information or open the matter for further review. In addition, the Commission can investigate alleged violations of reliability standards on its own or in coordination with NERC, as occurred in the Florida Blackout matter discussed earlier.²³ Several such investigations are pending.

DOI staff work with staff from the Office of Electric Reliability (OER) and the Office of the General Counsel (OGC) to review the Notices of Penalty as they are filed and determine whether to recommend

²³ 2008 Florida Blackout, 122 FERC ¶ 61,244 (2008); Florida Blackout, 129 FERC ¶ 61,016 (2009).

that the Commission take action or decline further review. This fiscal year all 97 violations in 46 Notices of Penalty submitted by NERC became effective without further review by the Commission. By comparison, staff reviewed 105 violations in 37 Notices of Penalty filed by NERC in FY2008, all of which became effective thirty days after filing without further review by the Commission. In FY2009, there were 24 zero dollar penalties and 22 non-zero penalties totaling \$1,336,000. The largest single penalty of FY2009, which arose from a settlement between FPL Energy, LLC, and SERC, is \$250,000 and related to violations of reliability standards PRC-005-1 (protections system maintenance and testing) and CIP-001-1 (sabotage reporting).²⁴

G. Enforcement Hotline

DOI staff operates the Enforcement Hotline. The Hotline is an anonymous means for persons to inform Enforcement staff of potential violations of Commission statutes, rules, regulations, and orders. The Hotline is also a means by which the public can obtain informal guidance and nonbinding opinions on matters within the Commission's jurisdiction, including applicability of Commission orders and policies to particular circumstances. When staff members receive calls concerning possible violations, such as allegations of market manipulation, abuse of an affiliate relationship, or violation of a tariff or order, DOI staff researches the issue presented and consults other members of the Commission's staff with expertise in the subject matter of the inquiry. In some cases, the Hotline calls lead to investigations by DOI. Hotline staff also provides informal dispute resolution services.

In FY2009, Enforcement received 509 Hotline calls and inquiries, and a total of 485 Hotline matters were resolved. The most common category of call concerned landowner complaints about natural gas pipeline construction (274). Many Hotline calls were resolved with the provision of information concerning the subject of the call, and in other instances staff informally assisted callers in resolving disputes, often with the assistance of subject matter experts from other Commission offices. In FY2009, one Hotline call was converted to a preliminary investigation.

²⁴ All Notices of Penalty are available on the NERC website at <http://www.nerc.com/filez/enforcement/index.html>.

IV. DIVISION OF AUDITS

A. Overview

The Division of Audits within the Office of Enforcement (DA) operates and maintains an audit program that is instrumental in ensuring that jurisdictional companies and entities comply with statutes and Commission orders, rules, and regulations by conducting an array of audits. DA continues to promote and ensure compliance through its audit process. During the course of an audit, DA staff works closely with jurisdictional companies to bring them into compliance with statutes and Commission rules, regulations, orders and polices. Staff discusses and provides compliance guidance informally to jurisdictional companies during the course of the audit engagement and areas of noncompliance, if applicable, are discussed throughout the audit engagement.

DA staff promotes compliance primarily through transparency and outreach. Audit transparency is bolstered through public postings on the Commission's eLibrary system of audit commencement letters and final audit reports and through information about the audit process posted on the Commission's website.²⁵ The public disclosure of these documents provides the public, jurisdictional entities, and others with information about compliance areas that the Commission is emphasizing. Also, transparency and outreach provide jurisdictional entities with the information and tools needed for developing and enforcing their own compliance programs using: DA's publicly available audit commencement letters, audit reports, audit process, detailed scope and methodology, frequently asked questions (FAQs) on the Commission website,²⁶ and feedback from reliability observation audits. Outreach efforts are another way DA staff provides compliance guidance to the public and jurisdictional companies. Outreach includes discussing compliance topics with company officials and industry representatives. Also, DA staff participates in phone conferences and *ad hoc* meetings to address specific compliance concerns received from jurisdictional companies.

B. Significant Matters

In FY2009, DA staff joined OER staff to observe 12 reliability audits conducted by the eight Regional Entities and three Agreed-Upon Procedures (AUP) audits²⁷ conducted on behalf of NERC. These audits focused on the compliance of Bulk-Power system users, owners, and operators with mandatory reliability standards. As observers, DA's and OER's role on these reliability audits was to understand the Regional Entity audit process and to engage in discussions with Regional Entity audit teams, which usually included a NERC participant, to examine lessons learned about audit processes, methods, and techniques. Also, DA and OER participated with NERC and its outside contractor on three AUP engagements in which NERC evaluated the Regional Entity's performance under its delegation agreement, using a selected set of AUPs developed to assess compliance. On each of these 15 audits, DA staff collaborated with the Regional Entities and NERC, and provided feedback based on DA's audit experience on ways to enhance the organizations' processes.

²⁵ The Office of Enforcement Audit Process is available at <http://www.ferc.gov/enforcement/audits/audit-process.pdf>.

²⁶ The Frequently Asked Questions page on the FERC website is available at <http://www.ferc.gov/o12faqpro/default.asp?>

²⁷ In the field of public accounting, the American Institute of Certified Public Accountants narrowly defines an audit as a specific type of financial engagement. Since a reliability audit falls outside that narrow scope and NERC contracted out its auditing function to a public accounting firm, NERC instead contracted for a specific type of "audit" known as an Agreed-Upon Procedures (AUP) engagement. However, the steps required in these AUP engagements conducted by an outside contractor are identical to the steps NERC would have taken had it conducted the audits itself.

Other notable audits in FY2009 included the following jurisdictional companies: Southern Star Central Gas Pipeline, Inc. (Southern Star), Southwest Power Pool Regional Transmission Organization (SPP-RTO), and New York Independent System Operator (NYISO).

1. SOUTHERN STAR

As a result of the Southern Star audit,²⁸ which found noncompliance with respect to filing with the Commission contracts with material deviations, staff developed a list of Frequently Asked Questions (FAQs) to address contracts containing material deviations from the forms of service agreement in pipelines' tariffs. The compliance guidance resulting from the FAQs helped jurisdictional companies and industry officials to comply with the Commission's requirements for the filing of contracts with material deviations.

2. SOUTHWEST POWER POOL

DA discovered some weaknesses with certain aspects of SPP-RTO's compliance with its OATT, standards of conduct, and administrative policies for travel. As a result of the weaknesses, the Commission required SPP-RTO to adopt corrective measures to strengthen and develop its policies and procedures for notifying customers and market participants of tariff-related problems, market participant audits, travel, board member selections, and nonmonetary gratuities.²⁹

3. NYISO

In the NYISO audit,³⁰ DA staff addressed concerns about the independence of NYISO's internal MMU due to its reporting relationship and responsiveness to NYISO's CEO. This audit also disclosed that NYISO failed to consistently notify the Commission and market participants on a timely basis when NYISO discovered tariff-related problems. The Commission required NYISO to address independence concerns with the MMU, as well as the problem with NYISO not timely notifying market participants and the Commission of tariff-related problems.

C. Audit Statistics

In FY2009, DA completed 33 audits of public utilities and natural gas pipeline and storage companies. The audits consisted of nonfinancial and financial audits. Twenty-eight of the audits were nonfinancial audits and focused on ensuring jurisdictional entities' compliance with regional transmission organization and independent system operators' RTO/ISO tariff requirements; compliance with reliability delegation agreements and compliance monitoring and enforcement programs (CMEPs); Open Access Transmission Tariffs (OATTs); gas tariff requirements; preservation of records; market-based rates; and Open Access Same-time Information Systems (OASIS). The remaining five audits were financial and addressed: RTO/ISO accounting and reporting regulations; affiliated transactions and the Public Utility Holding Company Act of 2005 (PUHCA 2005); and Fuel Adjustment Clauses (FACs).

These 33 audits resulted in 112 recommendations for corrective action and included \$2.8 million in monetary recoveries from accounting and billing adjustments. DA staff continues to require that jurisdictional companies implement compliance plans to ensure that Commission regulatory requirements are met, including those undertaken for the comprehensive training of employees, periodic self-auditing, and establishing and monitoring of processes, practices, and procedures. To assess whether corrective

²⁸ *Southern Star Central Gas Pipeline, Inc.*, 125 FERC ¶ 61,082 (2008).

²⁹ *Southwest Power Pool, Inc.*, 127 FERC ¶ 61,119 (2009).

³⁰ *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,120 (2009).

actions are properly implemented by jurisdictional companies and entities, on occasion, DA staff conducts a post-audit site visit to examine whether the subject of the audit has implemented DA's recommendations. DA staff tracks all audit recommendations to ensure that they are implemented.

D. Summary of Audit Results

The following illustrations highlight the results of several major categories of audits completed in FY2009.

1. RELIABILITY

During FY2009, DA staff conducted an independence audit of SPP and, as previously mentioned, participated as observers on 12 nondocketed reliability audits the Regional Entities conducted of the users, owners, and operators of the Bulk-Power System throughout the United States. Also, as noted above, DA staff observed audits conducted by NERC and its outside contractor of three Regional Entities' performance under their respective delegation agreements.

Southwest Power Pool – Regional Entity. This audit was completed with a Commission order approving the audit report on January 15, 2009 in Docket No. PA08-2-000.³¹ In the audit of SPP, DA staff sought to determine SPP's compliance with its Bylaws and Delegation Agreement between NERC and SPP, and the conditions included in relevant Commission orders. The audit identified three main areas of concern: 1) the lack of SPP-Regional Entity independence from SPP-RTO; 2) the need to improve trustees' oversight of Regional Entity functions to prevent conflicts of interest and to ensure SPP-Regional Entity's independence; and 3) the adequacy of SPP-Regional Entity implementation of certain aspects of the Compliance Monitoring and Enforcement Program (CMEP). SPP-Regional Entity promptly acted to correct the three main areas of concerns the audit identified. Significant corrective measures included hiring a regional manager to oversee all delegated functions of SPP-Regional Entity and to serve as the primary representative to NERC, and implementing numerous process and control procedures to address independence concerns. DA staff will conduct a post-audit site visit to SPP when all recommendations have been followed and all corrective actions have been properly completed.

Reliability Audits – Order No. 693. As noted, DA staff, in conjunction with OER staff, participated in eight audits, one from each of the reliability regions, in which the RE conducted a compliance audit pursuant to Order No. 693³² mandatory reliability standards that were actively monitored in the NERC 2009 CMEP. DA staff addressed audit processes and procedures the Regional Entity employed, while OER staff focused on the technical rigor demonstrated. On January 15, 2009, the Commission issued an order in Docket No. AD09-3-000, which provided guidance on conducting compliance audits to NERC and the eight Regional Entities.³³ The guidance, which derived from staff's audit observations, covered several areas of improvements in three main areas: audit team leadership and training, pre-audit procedures, and procedures during the course of a compliance audit.

Reliability Audits (Critical Information Protection) – Order No. 706. DA staff worked closely with OER staff on four Order No. 706³⁴ audits during FY2009. Order No. 706 audits deal with new, mandatory Critical Information Protection (CIP) reliability standards. These standards became auditable beginning July 1, 2009, although some entities agreed to allow themselves to be audited in advance. Two of the entities audited were ISOs (which perform a multitude of reliability functions), one was a Reliability Coordinator (RC) and the fourth was both a Balancing Authority (BA) and a Transmission Operator

³¹ *Southwest Power Pool, Inc.*, 126 FERC ¶ 61,045 (2009).

³² *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242 (2007), *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

³³ *Compliance with Mandatory Reliability Standards*, 126 FERC ¶ 61,038 (2009).

³⁴ *Mandatory Reliability Standards for Critical Infrastructure Protection*, Order No. 706, 122 FERC ¶ 61,040 (2008), *order on reh'g*, Order No. 706-A, 123 FERC ¶ 61,174 (2008), *order on clarification*, Order No. 706-B, 126 FERC ¶ 61,229 (2009), *order denying request for clarification*, Order No. 706-C, 127 FERC ¶ 61,273 (2009).

(TOP). During the first year of the program, the Regional Entities audited only entities performing the RC, BA, and TOP reliability functions. Given the nature of the entities audited, a high level of compliance was anticipated and, in general, the audits demonstrated these organizations' preparedness.

Agreed-Upon Procedures Engagement. DA staff observed NERC audits of Regional Entities for performance under delegation agreements, using a selected set of AUPs developed to assess compliance. The AUPs allow an impartial, third party consultant to audit the Regional Entities. To date, NERC and its auditing consultant have audited three of the eight Regional Entities: ReliabilityFirst Corporation, SERC Reliability Corporation, and the Midwest Reliability Organization. DA and OER staff members have attended all AUP engagements. Their participation included observing work performed by a consulting firm which focused on quantifying compliance with the procedures and processes of the NERC CMEP program. Also, DA staff observed NERC's examination of confidential data handling and sample audit reviews that require confidential treatment and specialized industry-specific knowledge. To date, AUP engagements have not revealed any significant concerns as to how the Regional Entities have performed their duties under their delegation agreements. Numerous exceptions have been reported, but they have been relatively minor. Given the new programs that have been put into place, such exceptions are not surprising. It is anticipated that most exceptions found to date have already been eliminated from the processes and procedures as the programs matured or can be addressed by tightening up adherence of the Regional Entity to specific program requirements.

2. NYISO

DA audited NYISO in Docket No. PA08-3-000³⁵ to determine whether NYISO complied with a select set of its responsibilities under its tariffs and agreements, including: 1) the NYISO Agreement, 2) the Membership Agreement, 3) the Market Services Tariff, and 4) the OATT. NYISO employs a hybrid market-monitoring structure. In this audit, DA staff looked at market monitor independence, among other items. The Commission issued an order approving this audit report that makes recommendations intended to improve the independence of NYISO's market monitor, as well as NYISO's notification of market participants of tariff filings, and the timing of NYISO's Commission filings.³⁶ NYISO implemented corrective actions to address audit staff's independence concerns and notification requirements to the Commission and market participants.

3. SOUTHWEST POWER POOL

The audit evaluated Southwest Power Pool – Regional Transmission Organization's (SPP-RTO) compliance with: 1) SPP's Bylaws; 2) the SPP Membership Agreement; 3) transmission provider obligations described in SPP's OATT; and 4) other Commission-approved obligations and responsibilities.³⁷ The audit report found that SPP did not: notify its customers of its inability to complete system-impact and facilities studies before OATT-specified deadlines; conduct any audits of participants in its energy imbalance service market to determine their compliance with data-retention requirements, as required by SPP-RTO's OATT; and follow its travel policy for the use of chartered or private aircraft, including verification of costs it was charged for the use of a plane owned by its Chief Executive Officer and Chief Financial Officer (CFO). Also, DA staff recommended that SPP-RTO adopt standards of conduct governing nonmonetary gratuities and review potential conflicts of interest affecting board members who are also affiliated with a law firm doing business with public utilities operating in the SPP service territory, and a member of a company that insures nuclear power plants operated by SPP members. SPP is implementing DA's recommended corrective actions to address these audit findings.³⁸

³⁵ *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,120 (2009).

³⁶ *Id.*

³⁷ *Southwest Power Pool, Inc. Regional Transmission Organization*, 127 FERC ¶ 61,119 (2009).

³⁸ *Id.*

4. ISO NEW ENGLAND INC.

In Docket No. FA09-6-000, DA staff evaluated ISO New England Inc.'s (ISO-NE) compliance with Commission accounting regulations in the Uniform System of Accounts (USofA) under 18 C.F.R. Part 101 (2009), financial reporting requirements in FERC Form Nos. 1 and 3-Q, and related regulations.³⁹ The audit found that ISO-NE incorrectly classified its pension liability in account 254, Other regulatory liability. According to Commission accounting policies, ISO-NE should have classified this pension liability in account 228.3, Accumulated provision for pensions and benefits. ISO-NE promptly modified its accounting policies to correctly classify its pension liability.

5. MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.

In Docket No. PA08-28-000, DA staff audited Midwest Independent Transmission System Operator, Inc. (MISO).⁴⁰ The audit evaluated MISO's compliance with aspects of: 1) the Open Access Transmission and Energy Market Tariff, 2) the Transmission Facilities Owners (TO) Agreement, 3) the Agreement between MISO, MISO Balancing Authorities, and the MISO Independent Market Monitor (IMM), 4) Commission accounting and reporting requirements, and 5) other Commission-approved obligations and responsibilities. DA found no areas of noncompliance.

6. EL PASO ELECTRIC COMPANY

On August 12, 2009, DA completed the audit of El Paso Electric Company (EPE) in Docket No. PA09-3-000.⁴¹ This audit evaluated company compliance with the terms and conditions of its OATT. The audit found four areas of noncompliance. First, EPE did not timely refund \$1,741,169 representing transmission service deposits and accrued interest to seven transmission customers, as required by its OATT. Also, EPE should have classified the liability for the deposits in account 235 and accrued interest in account 237, instead of account 253. Second, EPE incorrectly calculated the load-ratio share used to determine monthly demand charges for its network customers under its OATT, which resulted in EPE overcharging its network customers by \$18,339 for network load demand. Third, EPE's merchant function did not include an attestation for all its requests to temporarily terminate and redesignate a network resource. Finally, EPE used a network resource during a two-month period in which the designation term for this resource had expired. During this period of expiration, EPE did not demonstrate that it had committed to purchase firm energy to support the continued designation of the 25 MW that had expired. Further, EPE did not require its merchant function, consistent with EPE's OATT, to provide written notice for a change in a network resource designation. EPE undertook several corrective measures to successfully implement the recommendations in the audit report.

7. GAS TARIFF COMPLIANCE - SOUTHERN STAR

The Commission issued an order approving the Southern Star Central Gas Pipeline, Inc. (Southern Star) audit report.⁴² This audit examined whether Southern Star was complying with Commission policies and regulations on capacity auctions, fuel retention, lost and unaccounted-for gas retention, contracts, index of customers filings, FERC Form No. 11 filings, certain FERC Form No. 2 information, Web postings, crediting of penalty collections, and cash management.⁴³ The audit revealed that Southern Star did not: 1) file with the Commission all contracts containing material deviations from the form of service agreement in its tariff, 2) file all the requisite information in its index of customers or post the index in a format required by regulations, 3) post for bid capacity expiring under one contract, as required

³⁹ *ISO New England, Inc.*, Letter Order, Docket No. FA09-6-000 (August 25, 2009).

⁴⁰ *Midwest Indep. Transmission Sys. Operator, Inc.*, Letter Order, Docket No. PA08-28-000 (June 9, 2009).

⁴¹ *El Paso Electric Co.*, Letter Order, Docket No. PA09-3-000 (August 12, 2009).

⁴² *Southern Star Central Gas Pipeline, Inc.*, 125 FERC ¶ 61,082 (2008).

⁴³ *Id.*

by its FERC-approved tariff, 4) comply with certain requirements when it filed its FERC Form No. 2 with the Commission, and 5) post its Transactional and Available Capacity Reports to comply with Commission regulations. Southern Star adopted and implemented DA's recommended corrective actions.

8. PUHCA 2005 - ALLEGHENY ENERGY, INC.

In Docket No. FA08-3-000, DA initiated an audit of Allegheny Energy, Inc. (Allegheny Energy) and evaluated its compliance with FERC's: 1) accounting, recordkeeping, and reporting requirements for holding and service companies under 18 C.F.R. Part 366 (2007), 2) preservation of records requirements for holding and service companies under 18 C.F.R. Part 368 (2007), and 3) USoA for centralized service companies.⁴⁴ DA staff found four areas of noncompliance: Allegheny Energy did not allocate enough costs to two of its jurisdictional companies, TrAILCo and PATH; Allegheny Energy used two cost-allocation methods to allocate and bill costs to two of its affiliated companies that were not reported to the Commission in Allegheny Energy's 2006 FERC Form No. 60; Allegheny Energy's FERC Form No. 60 contained several reporting deficiencies; and Allegheny Energy did not properly classify some expenses it incurred in carrying out its operations. Allegheny completed all of audit staff's recommended corrective actions.

9. PRESERVATION OF RECORDS - NIAGARA MOHAWK

DA staff initiated an audit of Niagara Mohawk Power Corporation (NiMo) in Docket No. PA08-7-000⁴⁵ based on a Commission directive to "examine Niagara Mohawk's current practices, procedures, and agreements in effect to evaluate whether Niagara Mohawk is fully complying with the requirements for filing of rate schedules and tariffs under 18 C.F.R. Part 35 (2007) and the Commission's preservation of records requirements for public utilities under 18 C.F.R. Part 125 (2007)."⁴⁶ DA staff found that NiMo's failure to comply with Commission requirements was mainly the result of insufficient controls employed by the company. For example, DA staff found that NiMo had no formal procedure for reviewing whether contract revisions would trigger different filing requirements; NiMo's failure to produce documentation to support rate schedule filings was the result of a record preservation system with insufficient controls. NiMo's Electric Quarterly Report (EQR) filings included a number of errors, primarily as a result of NiMo's failure to adhere fully to guidance for such filings. To comply now and in the future, DA staff recommended that NiMo continue processes it had already begun, including: evaluating existing procedures, developing new procedures as warranted, enhancing training, and conducting periodic self-auditing.

10. FUEL ADJUSTMENT CLAUSE (FAC) - WISCONSIN ELECTRIC POWER COMPANY

DA staff completed the audit of Wisconsin Electric Power Company (WEPCO), Docket No. FA08-15-000,⁴⁷ to determine whether the company was complying with Commission accounting and reporting regulations as to the calculation of the FAC. DA identified three areas of noncompliance, with WEPCO improperly recovering costs through its FAC. These areas of noncompliance related to costs associated with interim storage for spent nuclear fuel and management fees. The audit resulted in \$1,038,357.19 in refunds and interest to wholesale fuel-adjustment clause customers for the cost of dry casks used for the interim storage of spent nuclear fuel assemblies. WEPCO was also required to correct accounting entries to properly classify the costs and management fees associated with the dry casks.

⁴⁴ *Allegheny Energy, Inc.*, Letter Order, Docket No. FA08-3-000 (November 13, 2008).

⁴⁵ *Niagara Mohawk Power Corp.*, Letter Order, Docket No. PA08-7-000 (January 21, 2009).

⁴⁶ *Niagara Mohawk Power Corp.*, 121 FERC ¶ 61,104, at P 25 (2007).

⁴⁷ *Wisconsin Elec. Power Co.*, Letter Order, Docket No. FA08-15-000 (December 3, 2008).

11. ORDER NO. 890 AUDITS

DA staff completed 20 audits involving jurisdictional companies' compliance with posting requirements in Order No. 890.⁴⁸ With the issuance of Order Nos. 890, 890-A, and 890-B,⁴⁹ DA staff focused on testing compliance with tariff provisions governing Open Access Same-Time Information Systems (OASIS) postings, network resource facilities credits, redispach and conditional firm service, and use of network service. DA performed comprehensive OATT audits to be vigilant in ensuring that OATT requirements are followed in a nondiscriminatory manner. These audits resulted in several posting deficiencies, and DA verified that the jurisdictional companies corrected their posting problems.

⁴⁸ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

⁴⁹ *Id.*

V. DIVISION OF FINANCIAL REGULATION

A. Overview

The Division of Financial Regulation (DFR) provides support in ensuring that jurisdictional rates remain just and reasonable and not unduly discriminatory or preferential. DFR is structured into two divisions: forms administration and data collection, and regulatory accounting. DFR supports the Commission's mission through its market monitoring activities, the development and monitoring of cost-based rates, and the Commission's enforcement efforts by requiring that important financial and market information be recorded in a useful form and be transparent to the Commission and the public.⁵⁰

DFR staff administers, analyzes and ensures compliance with the filing requirements for the Electric Quarterly Report (EQR) and the FERC financial forms filed by jurisdictional companies. On an ongoing basis and in support of the Commission's market-based rate program, DFR analyzes the price, volume, and contract data for market-based rate sales to determine whether reported sales indicate that a seller may be charging excessive rates. Transactions that are outside expected ranges, as defined by the market, are investigated. Sellers that routinely charge high market-based rate prices relative to other sellers are identified and their sales further analyzed.

DFR also houses the Chief Accountant of the Commission, who is responsible for compliance with the Commission's Uniform System of Accounts, ensuring that companies keep their books and records in a format that is useful to the Commission and the industry so that rates remain just and reasonable. During FY2009, DFR staff directed accounting input and inserts to rate filings, including highly complex and controversial incentive rate filings, rate proceedings and Section 203 merger and consolidation filings.

B. Significant Matters

1. CHIEF ACCOUNTANT'S COMMENTS ON INTERNATIONAL ACCOUNTING STANDARDS

During FY2009, DFR staff submitted comments to the Securities and Exchange Commission related to its *Roadmap for the Potential Use of Financial Statements Prepared in Accordance With International Financial Reporting Standards (IFRS) by U.S. Issuers*, addressing major issues affecting regulated utilities and natural gas and oil pipeline companies should such a proposal be adopted.

In particular, FERC's Chief Accountant advised that most of the entities under FERC's jurisdiction file financial information with FERC prepared in accordance with U.S. Generally Accepted Accounting Principles (GAAP) with certain departures to recognize the economic effects of regulation. Therefore, the Chief Accountant noted that the SEC's proposal regarding the adoption of International Financial

⁵⁰ Currently, DFR administers the following: FERC Form No. 1 (Annual Report for Major Electric Utilities, Licensees and Others) (18 C.F.R. § 141.1 (2009)); FERC Form No. 1-F (Annual Report of Nonmajor Public Utilities, and Licensees) (18 C.F.R. § 141.2 (2009)); FERC Form No. 2 (Annual Report for Major Natural Gas Companies) (18 C.F.R. § 260.1 (2009)); FERC Form No. 2-A (Annual Report for Nonmajor Natural Gas Companies) (18 C.F.R. § 260.2 (2009)); FERC Form No. 552 (Annual Report of Natural Gas Transactions) (18 C.F.R. § 260.401 (2009)); FERC Form No. 3-Q (Quarterly Report of Oil Pipeline Companies; referring to quarterly filings of FERC Form Nos. 1, 1-F, 2, and 2-A for the first, second and third quarters) (18 C.F.R. § 141.400 (2009)); FERC Form No. 6 (Annual Report of Oil Pipeline Companies) (18 C.F.R. § 357.2 (2009)); FERC Form No. 6-Q (referring to quarterly filings of FERC Form No. 6 for the first, second and third quarters) (18 C.F.R. § 357.4 (2009)); FERC Form No. 60 (Annual Report by Centralized Service Companies) (18 C.F.R. § 366.23(a)(1) (2009)); FERC-61 Narrative Description of Service Company Functions (18 C.F.R. § 366.23(a)(2) (2009)); and, FERC-730 Reports of Transmission Investment Activity (18 C.F.R. § 35.35(h) (2009)); FERC Form No. 552 (Annual Report of Natural Gas Transactions) (18 C.F.R. § 260.401 (2009)).

Reporting Standards (IFRS) will have a significant impact on energy companies regulated by the Commission. Under current international accounting standards, cost-based rate regulated entities would not be able to reflect the economic effects of regulation on their publicly issued financial statements as currently permitted under U.S. GAAP pursuant to Statement of Financial Accounting Standards (SFAS) No. 71, Accounting for the Effects of Certain Types of Regulation, and its predecessor, the Addendum to Accounting Principles Board (APB) Opinion No. 2.

Accordingly, to the extent that the SEC adopts IFRS, the Chief Accountant urged the SEC to encourage the International Accounting Standards Board (IASB) to adopt an accounting standard similar to SFAS No. 71 that would permit cost-based rate regulated entities to reflect the rate actions of regulators in their financial statements.⁵¹

Rate-regulated entities currently report hundreds of billions of dollars in cost and revenue/gain deferrals to recognize the economic effects of regulator actions. Without an equivalent SFAS No. 71 standard, these entities may be required to derecognize reported deferrals, which could have a dramatic impact on earnings, equity and capital structure, dividends, debt covenants, and rate making. Further, cost-based rate regulated entities' results of operations as reported in financial statements to FERC could differ greatly from the results of operations reported in the same companies' publicly issued financial statements, leading to inconsistency and potential investor confusion.

In response to comments received from the industry and regulators, in December 2008, the IASB resolved to add a project on rate regulated activities to its agenda and the matter is pending.

2. ANNUAL REPORT OF NATURAL GAS TRANSACTIONS (FORM 552)

In response to requests by industry officials, DFR, DOI, and DEMO staff conducted a series of widely attended teleconferences with industry officials and trade associations to provide answers to numerous questions and guidance to assist the gas industry in complying with the Commission's requirements established in Order No. 704.⁵² In addition, DFR, DOI, and DEMO staff developed a list of Frequently Asked Questions regarding Form No. 552 that has been posted on the Commission's website. The guidance in this posting provides details on reporting requirements, fixed price trades, energy management agreements, exchange for physical transactions, physical basis transactions, NYMEX Trigger and NYMEX Plus transactions, cashouts, unprocessed gas, pre-bidweek transactions and take or release contracts.

3. QUARTERLY REPORTING REQUIREMENTS FOR INTRASTATE NATURAL GAS COMPANIES

On August 26, 2009, the Commission issued a notice requesting comments on proposed standardized electronic information collection on contract reporting requirements to be used by Natural Gas Policy Act

⁵¹ Under cost of service ratemaking, a regulator establishes rates that a rate-regulated entity may charge its customers. The resulting rate is based on costs incurred plus a reasonable return. A rate regulator may require that costs incurred in one period be deferred and recovered from customers over a future period in order to smooth the resultant rate over time. Similarly, a rate regulator may require revenues or gains realized in the current period to be returned or refunded to customers over a future period. Cost of service ratemaking relies on accurate cost and revenue data that reflects a company's true economic position in order to establish just and reasonable rates. Adoption of sound and uniform accounting standards are particularly important for cost-based, rate regulated entities, because of the degree of reliance that must be placed on financial statement information for purposes of accurate cost-based pricing. Without reliable financial statements that depict the economic substance of the rate regulator's actions on the regulated entity, federal and state regulators, customers, and stakeholders would not be able to accurately determine the costs that relate to a particular time period, service, or line of business; to assess whether a given utility has previously been given the opportunity to recover certain costs through rates; or to compare how the cost of one utility relates to that of another.

⁵² *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, FERC Stats. & Regs. ¶ 31,260 (2007), *order on reh'g*, Order No. 704-A, FERC Stats. & Regs. ¶ 31,275 (2008), *order dismissing reh'g*, Order No. 704-B, 125 FERC ¶ 61,302 (2008). Order No. 704 has its genesis in EPAAct 2005. EPAAct 2005 added section 23 of the Natural Gas Act (NGA), 15 U.S.C. § 717t-2 (2006) to authorize the Commission "to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, and the protection of consumers."

section 311 and Hinshaw pipelines.⁵³ The NOPR proposes to: 1) require the existing annual section 284.126(b) transactional reports to be filed on a quarterly basis; 2) require that the reports include certain additional types of information and cover storage transactions as well as transportation transactions; 3) establish a procedure for the section 284.126(b) reports to be filed in a uniform electronic format and posted on the Commission's web site; and 4) require that those reports be public and may not be filed with information redacted as privileged.

As a result of this rulemaking, DFR developed a new form that is intended to capture the data and make it easily accessible to the public with the information presented in a clear and transparent manner. By notice issued on July 16, 2009, this new form is available for public comment prior to becoming final.⁵⁴

4. DATA VALIDATION PROGRAM

In December 2008, DFR implemented a series of data validation checks in the submission software for FERC Form Nos. 1, 2, 6 and 60 that are intended to improve the accuracy and quality of the financial information filed with the Commission. The automated data checks notify filers of errors in their submissions prior to filing and help to ensure compliance with the Commission's filing requirements.

C. Forms Administration and Data Collection

DFR staff administers, analyzes and ensures compliance with the Commission's filing requirements regarding jurisdictional sales, financial statements, and operational data.

1. ELECTRIC QUARTERLY REPORTS

On April 25, 2002, the Commission issued Order No. 2001, a final rule requiring public utilities to file EQRs summarizing data about their currently effective contracts and wholesale power sales made during each calendar quarter.⁵⁵ EQR data is public and is made available for use on the Commission's website. Although the primary purpose of requiring public utilities to file EQRs is to satisfy the FPA section 205(c) requirement to have rates on file in a convenient form and place, EQRs are also helpful in monitoring the market. For example, EQRs play a critical role in the Commission's oversight of the market-based rate program, which relies on the dual requirement of an *ex ante* finding of the absence of market power and sufficient post-approval reporting requirements, including the EQR.

DFR staff reviews over 1,200 EQR filings each quarter for accuracy and completeness. DFR staff determines whether sellers have timely complied with the requirements set forth in Order No. 2001 and whether that data is accurate and reliable. To accomplish this task, DFR staff developed software tools to identify anomalies in the data. Once identified, DFR contacts filers to determine whether the data is correct and, if not, assists filers in revising their EQRs to come into compliance with Commission requirements. During FY2009, DFR staff contacted over 650 filers regarding issues with their EQRs. The vast majority of these issues were resolved and, as appropriate, the EQRs were revised to address concerns.

When necessary, DFR advises the Commission on remedial action to be taken in response to uncorrected EQR deficiencies. In FY2009, the Commission revoked the market-based rate authorization

⁵³ *Notice Requesting Comments on Proposed Standardized Electronic Information Collection and Extending Time for Comments on Notice of Proposed Rulemaking*, 128 FERC ¶ 61,187 (2009).

⁵⁴ *Contract Reporting Requirements of Intrastate Natural Gas Companies*, FERC Stats. & Regs. ¶ 32,644 (2009) (NOPR).

⁵⁵ *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003).

of eight sellers for failure to timely file their EQRs.⁵⁶ The Commission also notified 12 companies of the Commission's intent to revoke their market-based rate authority for failure to file their EQRs.

The uses of EQR data are wide and varied. EQR data is particularly useful in monitoring markets for indications that market power is being exercised. On an ongoing basis, DFR analyzes price, volume, and contract data to determine whether reported sales indicate that a seller may be charging excessive rates. In addition, DFR staff extracts price information from the EQRs to assist in corroborating or refuting evidence submitted by sellers seeking to obtain or retain market-based rate authority. For example, this price information can be a critical factor in performing a Delivered Price Test,⁵⁷ which only considers supplies from sellers that are selling power near the market price. DFR has also used EQR data to assist the Commission in addressing on-the-record protests claiming inadequate supplies in the Northwest. EQR data is also used by DFR staff to determine whether sellers are complying with mitigation measures that limit the price a seller may lawfully charge (*e.g.*, \$400 rate cap in California). This monitoring of reported transactions helps ensure that rates continue to be just and reasonable.

DFR staff also uses EQR data to provide critical information regarding market trends such as the volume of physical transactions in a particular market compared to the volume of financial transactions, prices for short-term sales versus long-term sales, and long-term contracting by qualifying facilities. Currently, DFR staff is also accumulating data on the reassignment of transmission capacity. This information will provide the Commission with important information regarding its policy of removing price caps on transmission reassignments and what effect, if any, that policy has on developing a market for such reassignments.

In FY2009, DFR staff worked collaboratively with staff from the California Independent System Operator (CAISO) and companies that operate in CAISO to map the codes charged by the CAISO to the Commission's EQR reporting requirements. This effort was intended to facilitate the EQR filing process for companies that operate in CAISO and improve the quality of the data reported in the EQR.

2. ANNUAL AND QUARTERLY FINANCIAL REPORTS

The Commission requires companies subject to its jurisdiction to submit annual and quarterly financial reports. The Commission uses these financial reports for a variety of purposes, including establishing cost-based rates. The Commission, as well as the industry, also uses the data reported in the financial reports to consider whether existing rates continue to be just and reasonable. Accordingly, the accuracy of financial reports is an important aspect of monitoring the markets. During FY2009, over 500 filers submitted annual financial reports as well as quarterly financial reports. DFR contacted about 150 filers regarding issues with their submittals.

In February 2007, the Commission issued a Notice of Inquiry (NOI) seeking comments from filers and users of various financial forms, including FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6-Q (Quarterly Report of Oil Pipeline Companies), addressing whether the forms should be modified.⁵⁸ Interested parties filed comments addressing possible modifications to the forms. Commission staff also conducted a public workshop to discuss the topic. The Commission concluded that FERC Form Nos. 6 and 6-Q continue to provide sufficient information to allow shippers to file a complaint requesting a determination of the justness and reasonableness of a pipeline's rates. Accordingly, the Commission concluded that no changes to FERC Form Nos. 6 and 6-Q were warranted.

⁵⁶ *Electric Quarterly Reports, Flat Earth Energy, LLC*, 125 FERC ¶ 61,203, (2008); *Electric Quarterly Reports, Knergy, LLC and Westbank Energy Capital, LLC*, 127 FERC ¶ 61,148 (2009); *Electric Quarterly Reports, PowerGrid Systems, Inc.*, 127 FERC ¶ 61,290 (2009); *Electric Quarterly Reports, Energy Algorithms, LLC; Forest Energy Partners, LLC; Norge Power Marketing Corporation and Ohms Energy Company, LLC*, 128 FERC ¶ 61,139, (2009).

⁵⁷ The Delivered Price Test is a market power analysis tool used by the Commission in determining whether a seller possesses market power.

⁵⁸ *Assessment of Information Requirements for FERC Financial Forms*, FERC Stats. & Regs. ¶ 35,554 (2007) (Notice of Inquiry).

On December 18, 2008, the Commission issued a notice terminating the proceeding in its review of FERC Form Nos. 6 and 6-Q.⁵⁹

3. ANNUAL AND QUARTERLY TRANSACTIONAL AND OPERATIONAL REPORTS

On December 26, 2007, as discussed above, the Commission issued a Final Rule in Order No. 704,⁶⁰ which amended Part 260 of its regulations to require that certain natural gas market participants file annually FERC Form No. 552, *Annual Report of Natural Gas Transactions*. DFR staff designed and tested the new form and database, developed data validation checks and released the new form for filing. In addition, DFR staff developed a list of Frequently Asked Questions on Form No. 552 to assist filers.

In FY2009, approximately 1,100 filers submitted a Form No. 552. DFR contacted about 300 filers regarding issues with their submittals. DFR staff drafted a list of the most common filing errors and continues to work with companies to determine if they are required to file the Form No. 552.

As noted previously, the Commission issued a NOPR on Contract Reporting Requirements of Intrastate Natural Gas Companies,⁶¹ and subsequently issued a Notice requesting comments on the standardized electronic information collection.⁶² The proposed collection would collect quarterly natural gas transportation and storage data. DFR staff created an extensive appendix detailing proposed data elements, data dictionary and instructions to the new collection, which were publicly noticed for comment.

D. Regulatory Accounting

FERC requires that electric utilities, natural gas companies and oil pipelines subject to its jurisdiction keep financial and related records in accordance with the rules and regulations contained in the applicable Uniform System of Accounts. DFR staff develops and maintains uniform regulations and requirements for accounting, financial reporting, and preservation of records. In addition, DFR staff advises the Commission on current accounting issues affecting jurisdictional industries and reviews Exposure Drafts and other publications of the Financial Accounting Standards Board for items that may impact the Commission or jurisdictional entities. DFR staff provides expert accounting advice to the electric, gas, and oil industries with regard to meeting the Commission's accounting requirements. DFR staff also reviews the proposed accounting submissions from entities in certificate and merger and acquisition proceedings.

1. ACCOUNTING POLICY

DFR advises the Commission on current accounting issues affecting jurisdictional industries and reviews Exposure Drafts and other publications of the Financial Accounting Standards Board for items that may impact the Commission or jurisdictional entities. As discussed above, during FY2009, DFR staff submitted comments to the Securities and Exchange Commission related to its *Roadmap for the Potential Use of Financial Statements Prepared in Accordance With International Financial Reporting Standards (IFRS) by U.S. Issuers*, addressing major issues affecting regulated utilities and natural gas and oil pipeline companies should such a proposal be adopted.

⁵⁹ *Review of FERC Form Nos. 6 and 6-Q*, FERC Stats. & Regs. ¶ 35,561 (2008).

⁶⁰ *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, FERC Stats. & Regs. ¶ 31,260 (2007), *order on reh'g*, Order No. 704-A, FERC Stats. & Regs. ¶ 31,275 (2008), *order dismissing reh'g*, Order No. 704-B, 125 FERC ¶ 61,302 (2008).

⁶¹ *Supra* note 54.

⁶² *Supra* note 53.

2. HELP DESK AND OUTREACH

DFR responds on a daily basis to questions raised by jurisdictional entities and industry stakeholders and consultants. These inquiries are directed to DFR from the Commission's Compliance Help Desk, the Office of External Affairs, the Enforcement Hotline, other offices within the Commission or directly from interested parties. In responding to more than 120 such questions during FY2009, DFR provided informal staff advice on all aspects of the Commission's accounting, financial reporting, and record retention regulations.

Additionally, DFR staff oversees accounting liaison activities with the Financial Accounting Standards Board and industry groups such as Edison Electric Institute, American Gas Association, Interstate Natural Gas Association of America, and Association of Oil Pipelines. Through meetings with industry groups and jurisdictional entities and responding to inquiries, DFR staff helps provide regulatory certainty on accounting and reporting matters and thereby reduce regulatory risk to the energy companies regulated by the Commission.

3. REQUESTS FOR APPROVAL OF THE CHIEF ACCOUNTANT

DFR staff reviews and responds to all requests for approval of the Chief Accountant. The requests span the breadth of the Commission's accounting and reporting requirements and regulations for electric, natural gas, oil, and centralized service companies and may involve anything from routine filings requiring approval to unique topics involving issues of first impression, items of questionable interpretation, or implementation of new or evolving generally accepted accounting principles. During FY2009, DFR responded to 185 requests for approval of the Chief Accountant.

4. CERTIFICATE PROCEEDINGS

DFR staff is responsible for identifying deficiencies in proposed accounting and recommending appropriate corrections. DFR staff's review of accounting in certificate filings provides greater certainty to pipelines by providing upfront guidance on accounting entries prior to the pipeline seeking Commission approval. In FY2009, DFR staff reviewed 50 natural gas pipeline certificate applications for embedded accounting issues in pipeline construction, purchase, and abandonment transactions.

5. MERGER AND ACQUISITION PROCEEDINGS

DFR staff reviews all merger and acquisition filings made under section 203 of the FPA, to ensure that the proposed accounting is in conformance with the Commission's regulations. As part of this process, DFR works with the Office of the General Counsel in preparing the orders that address any potential accounting concerns raised in the application. During FY2009, DFR staff reviewed 110 merger and acquisition filings.

6. RATE PROCEEDINGS

DFR staff provides accounting insight and support to electric and natural gas rate filings before the Commission. These filings may involve a whole host of issues requiring accounting input, including allowance for funds used during construction, construction work in progress recovery in rate base, recovery of pre-commercial costs, cost allocations, and taxes. During FY2009, DFR staff participated in about 30 rate proceedings.

VI. DIVISION OF ENERGY MARKET OVERSIGHT

A. Overview

The Division of Market Oversight (DEMO) within the Office of Enforcement is responsible for the oversight and analysis of the nation's natural gas and electric power markets as well as related financial markets. DEMO continuously examines and monitors the structure and operations of these markets to maintain situational awareness and identify problems and market events as they arise. DEMO develops and disseminates its analysis through daily morning meetings in the Division's Market Monitoring Center to review market issues and events, internal publications, presentations at open Commission meetings and other public conferences, material posted on the Oversight Website, and briefings for industry and foreign delegations. DEMO's outreach efforts also include monthly calls with State commissions, as well as meetings with market stakeholders.

Regular monitoring of energy markets is designed, in part, to identify potentially inappropriate market participant behavior, such as anomalous market outcomes that can not be readily explained by supply and demand fundamentals (e.g., price differences across locations that are not consistent with historical patterns and known external forces). DEMO staff researches such anomalies to determine, among other things, whether there are indications of possible fraud. If fraud or manipulation is detected, DEMO refers the matter to DOI for further investigation. DEMO staff provides technical advice and support to DOI, particularly in investigations of potential market manipulation.

B. Market Assessments

DEMO makes periodic informational assessments which are presented at Commission meetings and publicly available on the FERC website, including an annual presentation of the State of the Markets Report, assessments of the past and upcoming summer and winter seasons, and other topical reports deemed of importance by the Commission. In FY2009, the following assessments were made:

2008/2009 Winter Energy Market Assessment, October 16, 2008. This assessment discussed the large swings in natural gas and oil prices experienced during 2008. High prices were attributed in part to physical fundamentals (including low storage inventories and warm weather), but more so to financial fundamentals consistent with the prices of other commodities. The winter was forecasted to see the building of above average storage inventories, a mild weather outlook, robust growth in gas production (due to shale plays) and reduced natural gas imports. This presentation is available at <http://www.ferc.gov/market-oversight/mkt-views/2008/10-16-08.pdf>.

2008 State of the Markets Report Presentation, April 16, 2009. This assessment reiterated the underlying financial conditions responsible for the run up in gas prices in the first half of 2008; however, the precipitous decline in natural gas prices which followed was attributed to large improvements in production and pipeline infrastructure combined with a large reduction in demand caused by the recession. The financial crisis was cited as causing a sharp contraction in the financial electricity and natural gas markets, signified by an increased cost of and reduced access to capital. Significantly lower gas cost had the effect of altering regional electricity supply stacks, posing operational challenges for RTOs which were already adjusting to accommodate increasing wind resources on their systems. This presentation is available at <http://www.ferc.gov/market-oversight/st-mkt-ovr/som-rpt-2008.pdf>. The 2008 State of the Markets Report was issued on September 2, 2009 and is available at <http://www.ferc.gov/market-oversight/st-mkt-ovr/2008-som-final.pdf>.

[2009 Summer Energy and Reliability Market Assessment, May 21, 2009](#). This assessment discussed the effect of continued additions of wind resources. The need in some regions for the procurement of more ancillary services was cited as a result, although no reliability concerns were expected. Low expected summer electric and natural gas prices were expected due to the recession, the abundance and transportability of natural gas, and the increased tendency of generators to displace coal-fired generation with units burning natural gas. This presentation is available at <http://www.ferc.gov/market-oversight/mkt-views/2009/05-21-09.pdf>.

C. Domestic and Foreign Delegation Briefings

DEMO hosts a variety of domestic and foreign delegations of regulators and industry participants interested in energy markets and how staff monitors them. DEMO conducted the following briefings in FY2009:

[Twenty-five domestic briefings](#). These included briefings to three Congressional delegations, ten groups of delegates from federal or state agencies (one of which included the Secretary of the Interior), four delegations from industry, four groups of university students, and one charitable organization.

[Eleven presentations to foreign delegations](#). These included delegations from China, Canada, Italy, Singapore, Australia, Poland, Korea, Brazil, and Kosovo, as well as regional delegations from Latin America and Southeast Asia. Each briefing was tailored to the particular interests of the visiting delegation.

D. Inter-Office Projects

DEMO staff often work with staff from other offices within the Commission on a variety of multi-disciplinary projects. During FY2009, staff completed the following three major public projects:

[Annual Report on Demand-Response and Advanced Metering](#). DEMO staff provided data concerning demand response programs in existence on statewide or local bases. This report fulfilled the Commission's reporting requirement pursuant to section 1252(e)(3) of the Energy Policy Act of 2005. This report is available at <http://www.ferc.gov/legal/staff-reports/sep-09-demand-response.pdf>.

[Estimation of Existing and Projected Grid-Interconnected Renewable and Demand-Side Resources](#). This analysis was performed in furtherance of the creation of the Commission's Strategic Plan for FY2009-FY2014, available at <http://www.ferc.gov/about/strat-docs/FY-09-14-strat-plan-print.pdf>.

[Smart Grid Standards Policy Statement](#). DEMO staff made contributions in furtherance of the Commission's Smart Grid Standards Policy Statement, available at <http://www.ferc.gov/whats-new/comm-meet/2009/071609/E-3.pdf>.

E. Agenda Items Support

DEMO staff supported Commission efforts with respect to multiple orders issued by the Commission during FY2009. In particular, DEMO provided technical support for the Commission's transparency efforts in natural gas market reporting (Order No. 552) and requiring non-interstate pipelines to post scheduled flows (Order No. 720). Additionally, given DEMO's charge of monitoring the RTO's market monitors, staff also assessed the related compliance filings associated with Order No. 719.

F. Ongoing Market Monitoring

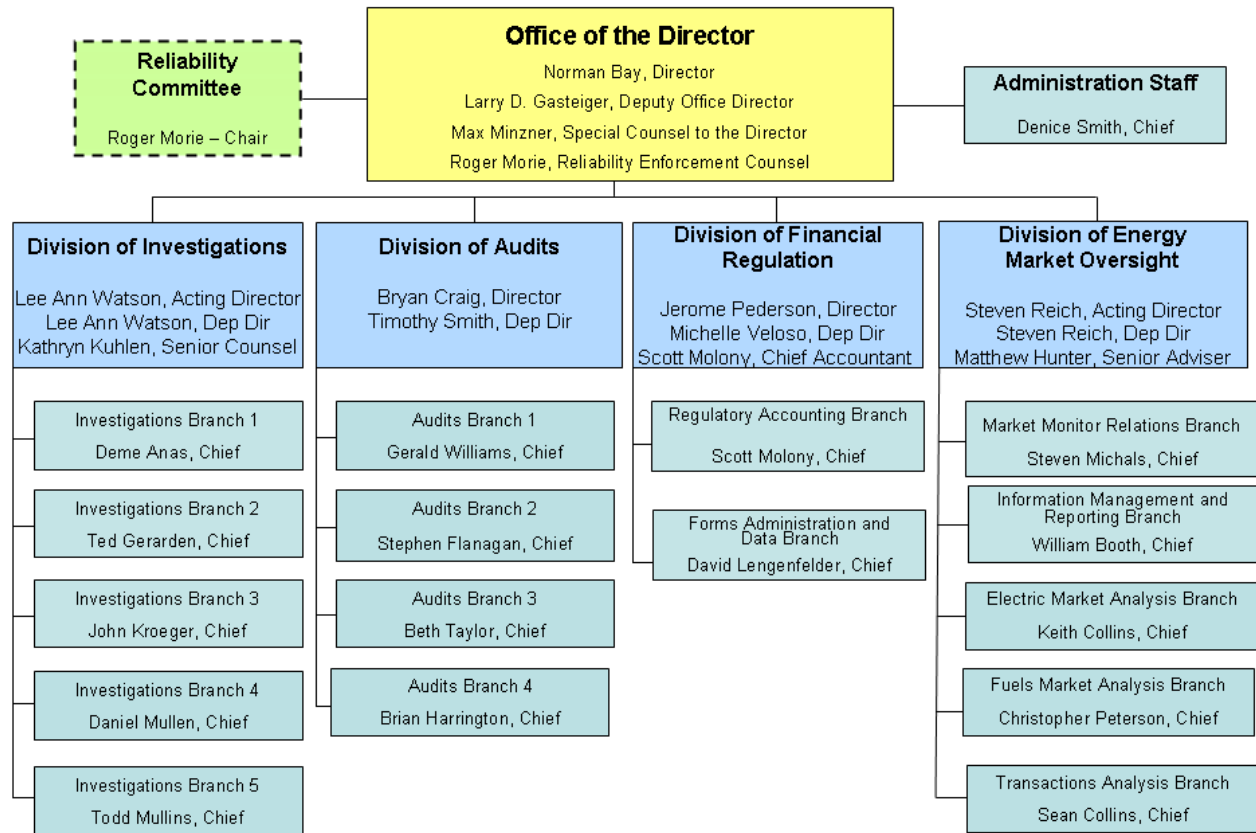
DEMO staff continuously examines the structure, operation and interaction of natural gas and electric markets. As developments warrant, DEMO staff initiates projects designed to better understand phenomena which arise in evolving markets. Staff may also initiate analyses based upon the request of the Chairman, other Commissioners, or other offices within the Commission. During FY2009, such projects included analyses of virtual bidding and FTRs in RTO markets, the separation of natural gas pricing from physical fundamentals due to financial trading, and a review of RTO/ISO Credit Policies. DEMO is continuously striving to improve its monitoring efforts to enhance its contributions to the Commission and to the Office of Enforcement.

VII. CONCLUSION

Energy policy, markets and the industry itself are continuously evolving, and the activities of the Office of Enforcement in FY2009 likewise have changed. As discussed in this Report, the Office of Enforcement increased its efforts to promote compliance with the Commission's statutes, orders, rules, and regulations by investigating a wide variety of matters, focusing on market manipulation, stepping up activity related to the reliability of the nation's Bulk Power System, settling significant cases, increasing transparency through reporting requirements, briefing regulators and market participants, identifying instances of non-compliance, and providing technical assistance to the Commission on rule-makings and special projects. The information in this Report is provided to encourage entities subject to Commission requirements to develop strong internal compliance programs, specifically with respect to avoiding market manipulation and ensuring the reliability of the nation's Bulk Power System.

APPENDIX A – OFFICE OF ENFORCEMENT ORGANIZATION CHART

OFFICE OF ENFORCEMENT



APPENDIX B – CIVIL PENALTY ENFORCEMENT ACTIONS IN FY2009⁶³

SUBJECT OF INVESTIGATION AND ORDER AND DATE	TOTAL PAYMENT CIVIL PENALTY, DISGORGEMENT, OTHER	SUMMARY OF CONDUCT
<i>Energy Transfer Partners, L.P.</i> , 128 FERC ¶ 61,269 (September 21, 2009)	\$5,000,000 Civil Penalty \$25,000,000 Disgorgement	Civil penalty resulting from violations of market behavior rule 18 C.F.R. § 284.403(a) (2005).
<i>Enserco Energy, Inc.</i> , 128 FERC ¶ 61,173 (August 24, 2009)	\$1,400,000 Civil Penalty	Civil penalty resulting from violations of the Commission's open access transportation program, including, improper release and acquisition of discounted rate capacity through flipping transactions, and violations of the shipper-must-have-title requirement.
<i>In re Amaranth Advisors</i> , 128 FERC ¶ 61,154 (July 8, 2009)	\$7,500,000 Civil Penalty	Civil penalty resulting from violations of 18 C.F.R. § 1c.1 (Natural Gas Anti-Market Manipulation Rule).
<i>In re Southern Company Services, Inc.</i> , 128 FERC ¶ 61,013 (July 8, 2009)	\$350,000 Civil Penalty	Civil penalty and compliance reporting resulting from violations of buy-sell transactions and shipper-must-have-title requirements.
<i>In re Wasatch Oil & Corp. and Wasatch Energy LLC</i> , 127 FERC ¶ 61,322 (June 30, 2009)	\$320,000 Civil Penalty	Civil penalty and compliance reporting resulting from violations of § 284.8(h) posting and bidding requirements, improper release and acquisition of discounted rate capacity through flipping transactions.
<i>In re ProLiance Energy, LLC</i> , 127 FERC ¶ 61,321 (June 30, 2009)	\$3,000,000 Civil Penalty \$195,959.44 Disgorgement	Civil penalty and compliance reporting resulting from violations of § 284.8(h) posting and bidding requirements, improper release and acquisition of discounted rate capacity through flipping transactions, violations of shipper-must-have-title requirements and violations of buy-sell transaction rules.
<i>In re Sequent Energy Management, L.P. and Sequent Energy Marketing, L.P.</i> , 127 FERC ¶ 61,320 (June 30, 2009)	\$5,000,000 Civil Penalty \$53,728.18 Disgorgement	Civil penalty and compliance reporting resulting from violations of § 284.8(h) posting and bidding requirements, improper release and acquisition of discounted rate capacity through flipping transactions, violations of shipper-must-have-title requirements and violations of buy-sell transaction rules.

⁶³ A list of all EPAAct civil penalty orders is available at <http://www.ferc.gov/enforcement/civil-penalties/civil-penalty-action.asp>.

<i>In re Piedmont Natural Gas Co. Inc.</i> , 127 FERC ¶ 61,319 (June 30, 2009)	\$1,250,000 Civil Penalty	Civil penalty and compliance reporting resulting from violations of § 284.8(h) posting and bidding requirements, improper release and acquisition of discounted rate capacity through flipping transactions.
<i>In re Puget Sound Energy</i> , 127 FERC ¶ 61,070 (April 22, 2009)	\$800,000 Civil Penalty	Civil penalty and compliance reporting resulting from violations of 18 C.F.R. § 284.8(h) posting and bidding requirements, improper release and acquisition of discounted rate capacity through flipping transactions and self-reported violations of shipper-must-have-title requirements.
<i>In re Anadarko Petroleum Corp.</i> , 127 FERC ¶ 61,069 (April 22, 2009)	\$1,100,000 Civil Penalty \$232,423.40 Disgorgement	Civil penalty, disgorgement and compliance reporting resulting from violations of 18 C.F.R. § 284.8(h) posting and bidding requirements, improper release and acquisition of discounted rate capacity through flipping transactions.
<i>In re Louisville Gas and Electric Co.</i> , 127 FERC ¶ 61,068 (April 22, 2009)	\$350,000 Civil Penalty	Civil penalty and compliance reporting resulting from violations of 18 C.F.R. § 284.8(h) posting and bidding requirements, improper release and acquisition of discounted rate capacity through flipping transactions.
<i>In re Jefferson Energy Trading, LLC, Wizco, Inc., Golden Stone Resources, LLC</i> , 126 FERC ¶ 61,040 (January 15, 2009)	\$585,000 Civil Penalty	Civil penalty and compliance reporting resulting from violations of 18 C.F.R. § 1c.1, in connection with an attempt to engage in multiple affiliate bidding to impair the pro rata allocations in an auction.
<i>In re Klazuba Oil & Gas, F.L.P.</i> , 126 FERC ¶ 61,040 (January 15, 2009)	\$300,000 Civil Penalty	Civil penalty and compliance reporting resulting from violations of 18 C.F.R. § 1c.1, in connection with an attempt to engage in multiple affiliate bidding to impair the pro rata allocations in an auction.
<i>In re ONEOK, Inc.</i> , 126 FERC ¶ 61,040 (January 15, 2009)	\$4,500,000 Civil Penalty \$1,914,945 Disgorgement	Civil penalty, disgorgement and compliance monitoring resulting from violations of 18 C.F.R. § 1c.1, in connection with the submission of multiple affiliate bids to impair the pro rata allocation mechanism in an auction. Also violations of shipper-must-have-title requirements and open access transportation requirements.
<i>In re Tenaska Marketing Ventures</i> , 126 FERC ¶ 61,040 (January 15, 2009)	\$3,000,000 Civil Penalty \$1,972,842 Disgorgement	Civil penalty, disgorgement and compliance monitoring resulting from violations of 18 C.F.R. § 1c.1, in connection with the submission of multiple affiliate bids to impair the pro rata allocation mechanism in an auction.

<i>In re DCP Midstream, LLC</i> , 125 FERC ¶ 61,359 (December 23, 2008)	\$360,000 Civil Penalty	Civil penalty and compliance monitoring reporting resulting from self-reported violations of the shipper-must-have-title requirement.
<i>Sempra Energy Trading LLC</i> , 125 FERC ¶ 61,360 (December 23, 2008)	\$400,000 Civil Penalty \$7,959 Disgorgement	Civil penalty, disgorgement, and compliance monitoring reporting resulting from self-reported violations of the shipper-must-have-title requirement.
<i>In re Cornerstone Energy, Inc.</i> , 125 ¶ FERC 61,234 (November 26, 2008)	\$325,000 Civil Penalty \$121,825 Disgorgement	Civil penalty and disgorgement resulting from self-reported violations of the shipper-must-have-title requirement.
<i>In re NorthWestern Corporation and NorthWestern Services, LLC.</i> , 125 FERC ¶ 61,233 (November 26, 2008)	\$450,000 Civil Penalty	Civil penalty and compliance monitoring reporting resulting from self-reported violations of the shipper-must-have-title requirement and failure to obtain a certificate of public conveyance and necessity under section 7 of the NGA.
<i>Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.</i> , 125 FERC ¶ 61,150 (Nov. 6, 2008)	\$1,000,000 Civil Penalty \$9,000,000 Disgorgement	Civil penalty, disgorgement, and compliance monitoring reporting resulting from tariff violations relating to Parking and Lending (PAL) services and Commission regulations regarding firm and interruptible transportation services and the independent functioning rule.
<i>In re Integrys Energy Services, Inc.</i> , 125 FERC ¶ 61,089 (October 24, 2008)	\$800,000 Civil Penalty \$194,506 Disgorgement	Civil penalty, disgorgement, and a 1 year compliance monitoring plan resulting from a self-report for violations of shipper-must-have-title requirements and circumvention of the posting and bidding requirements for released capacity.
<i>In re Enbridge Marketing (U.S.) L.P.</i> , 125 FERC ¶ 61,088 (October 24, 2008)	\$500,000 Civil Penalty	Civil penalty and compliance report resulting from self-reported violations of the shipper-must-have-title requirement.