



**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**



2015 REPORT ON ENFORCEMENT

Docket No. AD07-13-009

Prepared by 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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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 its Revised Policy Statement on Enforcement.¹ This report informs the public and the regulated community of Enforcement's activities during Fiscal Year 2015 (FY2015),² including an overview of, and statistics reflecting, the activities of the four divisions within Enforcement: Division of Investigations (DOI), Division of Audits and Accounting (DAA), Division of Energy Market Oversight (Market Oversight), and Division of Analytics and Surveillance (DAS).

Enforcement recognizes the importance of informing the public of the activities of Enforcement staff and prepares this report with that objective in mind. Because much of the investigative work of Enforcement is non-public, most of the information the public receives about investigations comes from public Commission orders approving settlements, orders to show cause, publicly released staff reports, audit reports, and notices of alleged violations. However, not all of Enforcement's activities result in public actions by the Commission. As in previous years, the FY2015 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 public enforcement action. This report also highlights Enforcement's work auditing jurisdictional companies, compiling and monitoring data from forms and reports submitted to the Commission by market participants, and performing surveillance and analysis of conduct in wholesale natural gas and electric 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 this report.

² The Commission's fiscal year begins October 1 and ends September 30 of the following year. FY2015, the subject of this report, began on October 1, 2014 and ended on September 30, 2015.

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.³ The Strategic Plan identifies three primary goals to fulfill this mission: (1) ensuring that rates, terms, and conditions of jurisdictional services are just, reasonable, and not unduly discriminatory or preferential; (2) promoting the development of a safe, reliable, and efficient energy infrastructure that serves the public interest; and (3) facilitating organizational excellence through increased transparency, communication, and managing Commission resources and employees. To further those goals and assist the Commission in its obligation to oversee regulated markets, Enforcement's four divisions gather information about market behavior, market participants, and market rules. The divisions continue to work to bring entities into compliance with applicable statutes, Commission rules, orders, regulations, and tariff provisions.

In FY2015, Enforcement had the same priorities as in previous years, continuing to 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.

Enforcement does not intend to change these priorities in FY2016. Conduct involving fraud and market manipulation poses a significant threat to the markets the Commission oversees. Such intentional misconduct undermines the Commission's goal of ensuring provision of efficient energy services at a reasonable cost, because the losses imposed by fraud and manipulation are ultimately passed on to consumers. Similarly, anticompetitive conduct and conduct that threatens market transparency undermine confidence in the energy markets and harm consumers and competitors. Such conduct might also involve the violation of rules designed to limit market power or to ensure the efficient operation of regulated markets. Enforcement focuses on preventing and remedying misconduct involving the greatest harm to the public, where there may be significant gain to the violator or loss to the victims.

The Reliability Standards established by the Electric Reliability Organization (ERO) and approved by the Commission protect the public interest by ensuring a reliable and secure bulk power system. This office enforces these standards and focuses primarily on violations resulting in actual harm, through the loss of load or other means. Enforcement also focuses on cases involving repeat violations of the Reliability Standards or violations that present a substantial risk to the bulk power system.

Enforcement continued its commitment to these priorities in FY2015. DOI staff opened 19 new investigations while bringing 22 pending investigations to closure either with no action or through a Commission-approved settlement. During FY2015, staff negotiated settlements

³ The Federal Energy Regulatory Commission, Strategic Plan FY 2014-2018 (Mar. 2014), *available at* <http://www.ferc.gov/about/strat-docs/FY-2014-FY-2018-strat-plan.pdf>.

allowing it to recover a total of almost \$26.25 million in civil penalties and disgorgement of nearly \$1 million in unjust profits. These settlements also included provisions requiring the subjects to enhance their compliance programs, and periodically report back to Enforcement regarding the results of those compliance enhancements.

Staff from DAA reviewed the conduct of regulated entities through 22 audits of oil pipeline, public utility, and natural gas companies (up from 19 in FY2014), resulting in 360 recommendations for corrective action and directing refunds and recoveries totaling \$26.3 million (up from \$11.7 million in FY2014).

Market Oversight continued its analysis of market fundamentals (including significant trends and developments) and market structure, and continued to identify market anomalies and flawed market rules. As in prior years, Market Oversight presented its annual State of the Markets report assessing significant events of the previous year, as well as its Winter Energy Market Assessment and Summer Energy Market and Reliability Assessment. Additionally, Market Oversight continued ensuring compliance with the Commission's filing requirements for Electric Quarterly Reports (EQR) and various Commission financial forms.

Finally, in FY2015, DAS worked on more than 30 investigations and reviewed numerous instances of potential misconduct, with some reviews resulting in referrals to DOI. DAS also developed a Notice of Proposed Rulemaking regarding collection of connected entity data that, if adopted by a final rule, will enhance DAS's screening and investigative activities and will reduce the number of informal inquiries that DAS must make based on false surveillance screen trips.

DIVISION OF INVESTIGATIONS

A. Overview

The Division of Investigations (DOI) conducts investigations of potential violations of the statutes, regulations, rules, orders, and tariffs administered by the Commission. Those investigations may begin from self-reports, tips, calls to the Enforcement Hotline, referrals from organized markets or their monitoring units, other agencies, other divisions within Enforcement, other program offices within the Commission, or as a result of other investigations. DOI staff works closely with other Enforcement divisions, and other Commission offices as appropriate, throughout its investigations. If staff finds significant violations, it reports its findings to the Commission and attempts to settle investigations for appropriate sanctions and future compliance improvements before recommending that the Commission initiate a public show cause proceeding.⁴

As in previous years, DOI staff continued to support in FY2015 the Commission's initiatives to increase transparency and promote consistency as it carried out its investigatory mission. Among other efforts to support these initiatives, the Director of Enforcement directed the Secretary to issue five notices of alleged violations (NAVs) involving conduct of five separate corporate entities and eleven individuals. The notices identified investigation subjects and included a concise description of alleged violations of applicable statutes and Commission regulations and orders.⁵

If a settlement cannot be reached, the Commission may issue an order to show cause (OSC) directing the subject to explain why it did not commit a violation and why penalties and disgorgement are not warranted. The subject has a full opportunity to respond to that OSC, and Enforcement staff may reply to the subject's response. After considering the factual record and legal arguments submitted by the subject and Enforcement staff, if the Commission concludes that the subjected committed a violation and that violation warrants penalties and disgorgement, the Commission will state those conclusions in a subsequent order. In matters arising under the Federal Power Act (FPA), that subsequent order is called an Order Assessing Civil Penalties. DOI staff spent substantial time in FY2015 working on matters from previous years that had reached the OSC stage in a Natural Gas Act matter and the Order Assessing Civil Penalties stage in FPA matters. In FY2015, the Commission issued three OSCs related to FPA investigations, and it ultimately assessed civil penalties in each of those matters. DOI staff currently is seeking to enforce those civil penalty assessments in federal court (through the *de novo* review process set forth in section 31 of the FPA). Including actions filed in previous years, staff currently is litigating six such actions in federal court, seeking to enforce the Commission's combined assessment of more than half a billion dollars in penalties and disgorgement.

Most DOI investigations do not result in a contested court matter but are either closed without further action or settled. In all cases, staff attempts to settle matters when it is in the public interest to do so. In FY2015, the Commission settled with an energy firm and its traders

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

⁵ *See* Appendix C to this report for a complete listing of the notices of alleged violations that Enforcement issued in FY2015.

regarding violations of the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.1, and with a gas pipeline regarding violations of its tariff.

The most significant set of settlements in FY2015 concerned the 2011 blackout in the southwestern United States. Commission staff, along with the North American Electric Reliability Corporation (NERC), completed its multi-year investigation into the September 8, 2011 outage in Arizona, Southern California and Baja California, Mexico. The effects of that blackout on the economy and citizens of those parts of both countries was substantial: millions of people lost power, schools and businesses closed, flights and public transportation were disrupted, sewage pumping stations lost power, and beaches were closed and waters polluted due to sewage spills. After issuing a comprehensive report on the blackout in 2012 and entering into settlements with some of the responsible parties in previous years, the Commission and NERC addressed all remaining violations in FY2015 by entering into four settlement agreements. The settling companies agreed to undertake significant mitigation measures designed to bring the companies into compliance with the Reliability Standards and also agreed to pay a total of \$22.65 million dollars in civil penalties. A significant portion of the civil penalties was offset by the companies' agreement to invest in reliability enhancements that go beyond what is required by NERC's Reliability Standards – providing significant improvements to the reliable operation of the Western Interconnection.

While the public NAVs, settlements, orders to show cause, and orders assessing penalties often receive the most public attention, DOI closes the majority of its investigations with no further action and without those investigations becoming public. During the course of its investigation, if DOI concludes that there is insufficient evidence to establish a violation or otherwise concludes that further proceedings are not warranted, its goal is to close the matter promptly. In fact, DOI closed 16 investigations in FY2015 because either staff found no violation or there was not enough evidence to conclude that a violation had occurred. This number is up from seven investigations closed with no further action in FY2014. Adding those 16 closed investigations to the six investigations that DOI closed through settlement brings the total closed investigations in FY2015 to 22, which is more than the number of new investigations DOI opened in FY2015 (19).

In addition to this substantial amount of investigation-related work, DOI continued its rigorous analysis of self-reports, Enforcement Hotline calls, referrals, and other matters within the Commission in FY2015. As in previous years, DOI staff continued to provide guidance and assistance as requested by other program offices on advisory matters.

DOI staff has a strong commitment to the public interest and tries to carry out its investigative work in a manner that maximizes fairness and transparency. During this fiscal year, the Energy Department's Office of Inspector General (OIG) conducted a comprehensive examination of Enforcement's investigative work to ensure that it was following all relevant policies and procedures. After nearly a year of careful study, the OIG concluded that "nothing came to our attention to indicate that OE had not performed enforcement activities in accordance with its own policies and procedures." Accordingly, the OIG did not offer any recommended changes or reforms. Nonetheless, DOI and the Office of Enforcement as a whole constantly strive to ensure that Enforcement's policies and procedures are not only effective in accomplishing the Commission's enforcement mission but also are fair and transparent to subjects under investigation.

B. Orders to Show Cause and Related Proceedings

DOI staff spent substantial time preparing staff reports and other public filings related to OSC proceedings before the Commission. After considering the staff reports and other filings, along with the investigative subjects' responses, the Commission decided to assess civil penalties in all three investigations for which it had issued OSCs in FY2015: (1) Houlian Chen, Powhatan Energy Fund, LLC, HEEP Fund, LLC, and CU Fund, Inc. (Docket No. IN15-3-000); (2) Maxim Power Corporation, Maxim Power (USA), Inc., Maxim Power (USA) Holding Company Inc., Pawtucket Power Holding Co., LLC, Pittsfield Generating Company, LP, and Kyle Mitton (Docket No. IN15-4-000); and (3) City Power Marketing, LLC and K. Stephen Tsingas (Docket No. IN15-5-000). The subjects declined to pay the assessed penalties and, consistent with their elections, the Commission has sought affirmance and enforcement of its penalty assessment orders in United States District Court. A summary of each matter is provided below.

In addition to the district court litigation, staff also litigated an action before a Commission Administrative Law Judge (ALJ) related to Enforcement's investigation of BP America, Inc. and various affiliates (collectively, BP) following the Commission's Order to Show Cause. As described more fully below, the ALJ agreed with staff that BP engaged in market manipulation, and the ALJ's Initial Decision is now under review by the Commission.

In total, counting all pending federal court and ALJ litigation, as of the date of this report, staff is seeking to recover \$544,600,000 in civil penalties and \$42,242,999 in unjust profits through seven litigation proceedings. Enforcement staff has never had this many litigation proceedings over the course of one year. Moreover, with the exception of FY2012, the Commission has never issued more than three OSCs in one fiscal year since Congress expanded its enforcement authority in 2005.

1. District Court Litigation

In FY2015, DOI staff litigated five matters in United States District Courts across the country to enforce the Commission's penalty assessments. Those matters are:

a) FERC v. Maxim Power Corporation, No. 15-cv-30113 (D. Mass.)

On May 1, 2015, the Commission issued an Order Assessing Civil Penalties against Maxim Power Corporation, Maxim Power (USA), Inc., Maxim Power (USA) Holding Company, Inc., Pawtucket Power Holding Co., LLC, and Pittsfield Generating Company, LP (collectively Maxim) and Maxim employee Kyle Mitton. The Commission determined that Maxim and Mitton had violated the Commission's Anti-Manipulation Rule through a scheme to collect \$3 million in inflated payments from ISO-New England (ISO-NE) for reliability runs by charging the ISO for costly oil when it actually burned much less expensive natural gas. In addition, the Commission found that Maxim had violated section 35.41(b) of the Commission's regulations by making false and misleading statements and material omissions in its communications with the ISO-NE Market Monitor. The Commission assessed civil penalties of \$5 million against Maxim and \$50,000 against Mitton. Commissioner Clark dissented from the Commission's Order. On July 1, 2015, Enforcement staff filed a petition in the United States District Court for the District of Massachusetts to enforce the Commission's Order, and the respondents filed a motion to dismiss the petition on September 4, 2015. That motion remains pending as of the date of this report.

b) FERC v. Powhatan Energy Fund, LLC, No. 3:15-cv-00452 (E.D. Va.)

On May 29, 2015, the Commission issued an Order Assessing Civil Penalties, in which it determined that Powhatan Energy Fund, LLC (Powhatan), Houlian “Alan” Chen, HEEP Fund, Inc. (HEEP), and CU Fund, Inc. (CU) had violated the Commission’s Anti-Manipulation Rule by engaging in fraudulent Up-To Congestion trades in the PJM Interconnection, LLC (PJM) market during the summer of 2010. The Commission determined that respondents had engaged in trades to improperly collect certain market payments (called Marginal Loss Surplus Allocation, or “MLSA”) intended for bona fide Up-To Congestion trades. Specifically, respondents had placed fraudulent round-trip trades (trades in opposite directions on the same paths, in the same volumes, during the same hours) that involved no economic risk and constituted wash trades. The Commission assessed civil penalties of \$16.8 million against Powhatan, \$1 million against Chen, \$1.92 million against HEEP, and \$10.08 million against CU and ordered disgorgement of unjust profits in the amounts of \$3,465,108 from Powhatan, \$173,100 from HEEP, and \$1,080,576 from CU, plus interest. On July 31, 2015, Enforcement staff filed a petition in the United States District Court for the Eastern District of Virginia to enforce the Commission’s Order. On October 19, 2015, the respondents filed a motion to dismiss the petition, and that motion remains pending as of the date of this report.

c) FERC v. City Power Marketing, LLC, No. 15-cv-01428 (D.D.C.)

On July 2, 2015, in another PJM Up-To Congestion market manipulation matter, the Commission issued an Order Assessing Civil Penalties against City Power Marketing, LLC (City Power) and its owner, K. Stephen Tsingas. The Commission found that City Power and Tsingas had violated the Commission’s Anti-Manipulation Rule by engaging in fraudulent Up-To Congestion trades in the PJM market during the summer of 2010. As part of that finding, the Commission determined that City Power and Tsingas had engaged in three types of trades to improperly collect MLSA payments intended for bona fide Up-To Congestion trades: (1) round-trip trades that constituted wash trades, (2) trading between export and import points (SOUTHIMP and SOUTHEXP) that had the same prices, and (3) trading between two other points (which had minimal price differences) not to profit from spread changes but instead for the purpose of collecting MLSA payments. The Commission also found that City Power had violated section 35.41(b) of the Commission’s regulations by making false and misleading statements and material omissions in its communications with Enforcement staff to conceal the existence of relevant instant messages. The Commission assessed \$14 million in civil penalties against City Power and \$1 million against Tsingas and ordered disgorgement of \$1,278,358 in unjust profits, plus interest. On September 1, 2015, Enforcement staff filed a petition in the United States District Court for the District of Columbia to enforce the Commission’s Order. On November 2, 2015, the respondents filed a motion to dismiss the petition, and that motion remains pending as of the date of this report.

d) FERC v. Barclays Bank, PLC, No. 2:13-cv-2093 (E.D. Cal.)

On July 16, 2013, the Commission issued an Order Assessing Civil Penalties, in which it determined that Barclays Bank, PLC (Barclays) and several of its traders had violated the Commission’s Anti-Manipulation Rule by engaging in loss-generating trading of next-day, fixed-price physical electricity on the Intercontinental Exchange with the intent to benefit financial swap positions at primary electricity trading points in the western United States. The Commission assessed civil penalties of \$435 million against Barclays and \$18 million against the named traders and ordered Barclays to disgorge \$34.9 million in unjust profits, plus interest. On October 9, 2013, Enforcement staff filed a petition in the United States District Court for the Eastern District of California to enforce that civil penalty assessment. The respondents, in turn, filed a motion to dismiss the complaint or transfer venue, which the court denied in full on May

20, 2015. The court held that: 1) the manipulative scheme was jurisdictional to FERC and not within the Commodity Futures Trading Commission's exclusive jurisdiction; 2) the occurrence of transactions on an open market is not a defense to manipulation; 3) the Federal Power Act's anti-manipulation provision, 16 U.S.C. § 824v, applies to individuals; 4) venue was proper in the Eastern District of California; 5) transfer to the Southern District of New York was not warranted; and 6) the statute of limitations had not run. On October 2, 2015, the court issued a scheduling order indicating that it will proceed with this case by reviewing FERC's Order (and underlying administrative record) and will also consider whether a determination as to this penalty assessment requires supplementation of the record submitted by FERC and/or alternative means of fact-finding. The Court, in this scheduling order, also bifurcated the disgorgement calculation from its review of liability and civil penalty assessment.

e) FERC v. Lincoln Paper & Tissue, Inc., No. 1:13-cv-13056 (D. Mass.) & FERC v. Silkman, No. 1:13-cv-13054 (D. Mass.)

On August 29, 2013, the Commission issued two Orders Assessing Civil Penalties in which it determined that Lincoln Paper and Tissue LLC (Lincoln), Competitive Energy Services, LLC (CES), and Richard Silkman (CES's Managing Partner) had violated the Commission's Anti-Manipulation Rule in connection with a demand response program. It found that the respondents had engaged in a scheme to fraudulently inflate Lincoln's energy load baselines and then offer load reductions against that inflated baseline. The Commission assessed civil penalties of \$5 million against Lincoln, \$7.5 million against CES, and \$1.25 million against Silkman and ordered disgorgement of \$379,016 from Lincoln and \$166,841 from CES, plus interest. On December 2, 2013, Enforcement staff filed two petitions in the United States District Court for the District of Massachusetts to enforce those penalty assessment orders (one against Lincoln and another against CES and Silkman). The respondents filed motions to dismiss the petitions in FY2014, and those motions still are pending with the court.

2. Administrative Hearings

In addition to court proceedings to enforce the penalty assessments, DOI staff also litigated a market manipulation case before a Commission ALJ in FY2015. This was the first ALJ hearing conducted at the Commission using all electronic exhibits, and Enforcement staff took the lead in ensuring the electronic evidence process went smoothly and successfully.

On August 5, 2013, the Commission issued an Order to Show Cause and Notice of Proposed Penalty in Docket No. IN13-15-000 directing BP to demonstrate why it should not be required to pay \$28 million in civil penalties and disgorgement of \$800,000 of unjust profits related to certain trading by BP of next-day, fixed-price natural gas at the Houston Ship Channel. Enforcement staff alleged that such trading was uneconomic and part of an unlawful manipulative scheme to increase the value of BP's financial position based on Houston Ship Channel natural gas prices. After denying BP's motion to dismiss and reviewing numerous other filings, the Commission issued an order on May 15, 2014 establishing a hearing before an ALJ to determine whether BP's conduct, in fact, violated the Anti-Manipulation Rule and to ascertain certain facts relevant to the calculation of a civil penalty and disgorgement amount.

After the Commission issued its order establishing a hearing, OE staff and BP engaged in a lengthy discovery period in anticipation of that hearing. During that period, they exchanged millions of pages of written discovery, deposed a total of 23 witnesses, and received thousands of pages of additional discovery from 27 third parties.

The Honorable Carmen Cintron presided over the hearing, which began on March 30, 2015 and lasted until April 15, 2015. At the hearing, Enforcement staff cross-examined eight of BP's

fact witnesses, called two of its three expert witnesses for live direct testimony, and took live adverse direct testimony of five additional fact witnesses. BP took live direct testimony of eight witnesses and cross-examined two expert witnesses and the five adverse fact witnesses that Enforcement staff had called. In sum, the hearing record consisted of 325 exhibits and 2,657 pages of transcripts.

After the hearing and post-hearing briefing, Judge Cintron issued an Initial Decision on August 13, 2015, finding in Enforcement staff's favor on all substantive issues. Specifically, she found that BP's Texas team had engaged in market manipulation by changing its trading patterns in the investigative period to flood HSC with next day gas to benefit its corresponding short financial positions. In doing so, Judge Cintron credited the testimony elicited by Enforcement staff, emphasizing the credibility and weight of its experts' testimony, and gave no weight to the testimony of BP's primary expert witness. BP filed exceptions to the Initial Decision on September 14, 2015, and Enforcement Staff filed its opposition to those exceptions on October 5, 2015. Judge Cintron's decision and the parties' briefs are pending before the Commission.

C. Settlements

In FY2015, the Commission approved nine settlement agreements between Enforcement and 11 separate subjects to resolve pending investigations in six matters. The settlements assessed a total of \$26.25 million in civil penalties and disgorgement of nearly \$1 million.⁶ In half of those matters, the subject's compliance efforts warranted credit to reduce payment of monetary penalties. Since 2007, the total civil penalties assessed by the Commission (excluding overturned and pending proceedings) amounts to approximately \$628 million and the total disgorgements amount to approximately \$300 million.

Since the 2010 issuance of the Revised Penalty Guidelines,⁷ almost every Commission-approved settlement subject to the Penalty Guidelines has fallen within the established range. An organization's civil penalty can vary significantly depending on the amount of market harm caused by the violation, the amount of unjust profits, an organization's efforts to remedy the violation, and other culpability factors, such as senior-level involvement, prior history of violations, compliance programs, self-reporting of the violation, and cooperation with Enforcement's investigation. For example, under the Penalty Guidelines, an organization's culpability score can be reduced through favorable culpability factors to zero, lowering the base penalty by as much as 95 percent.⁸ Because a number of factors can influence the civil penalty in each case, the amount of disgorgement of unjust profits (if any) does not always directly relate to the amount of the civil penalty.

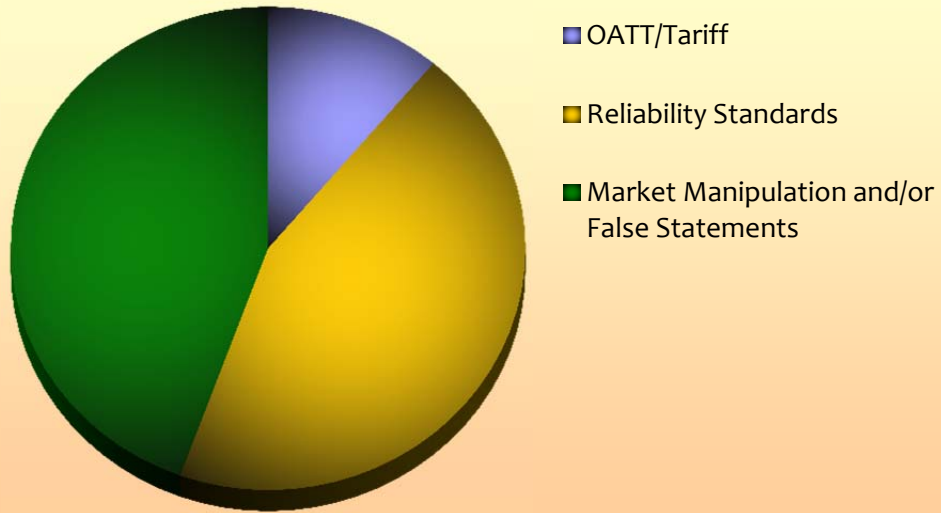
In FY2015, the Commission approved settlement agreements that resolved violations of the Anti-Manipulation Rule by six related entities, violations of Reliability Standards by four entities, and violations of tariff provisions by one entity.

⁶ A table of FY2015 Civil Penalty Enforcement Actions, both those resolved through settlement and those resolved through agency proceedings, is attached to this report as Appendix B.

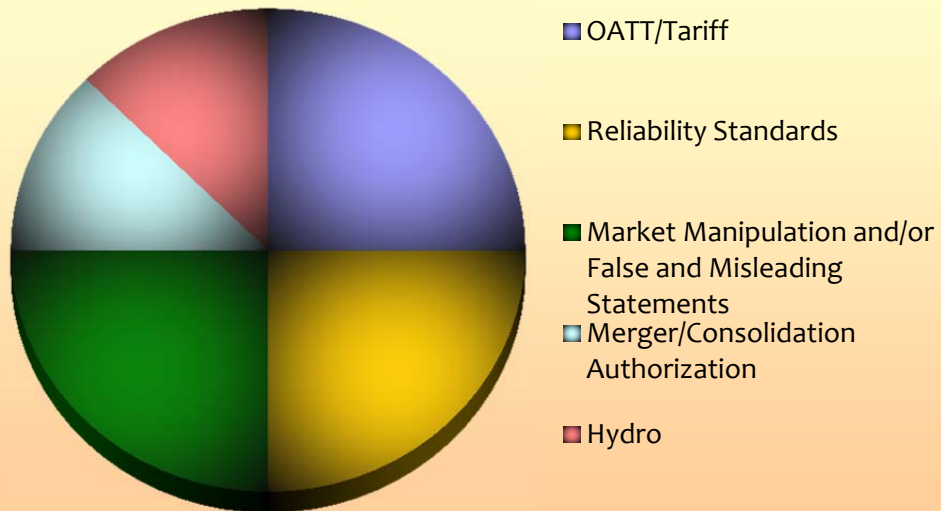
⁷ *Revised Policy Statement on Penalty Guidelines*, 132 FERC ¶ 61,216 (2010) (Revised Penalty Guidelines).

⁸ *Revised Penalty Guidelines*, 132 FERC ¶ 61,216 at P109.

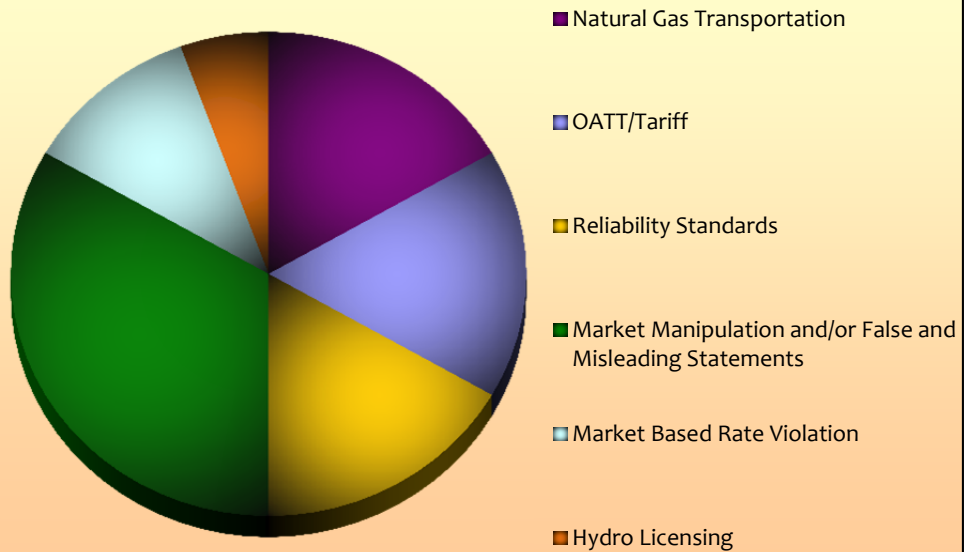
Types of Violations Settled, FY2015



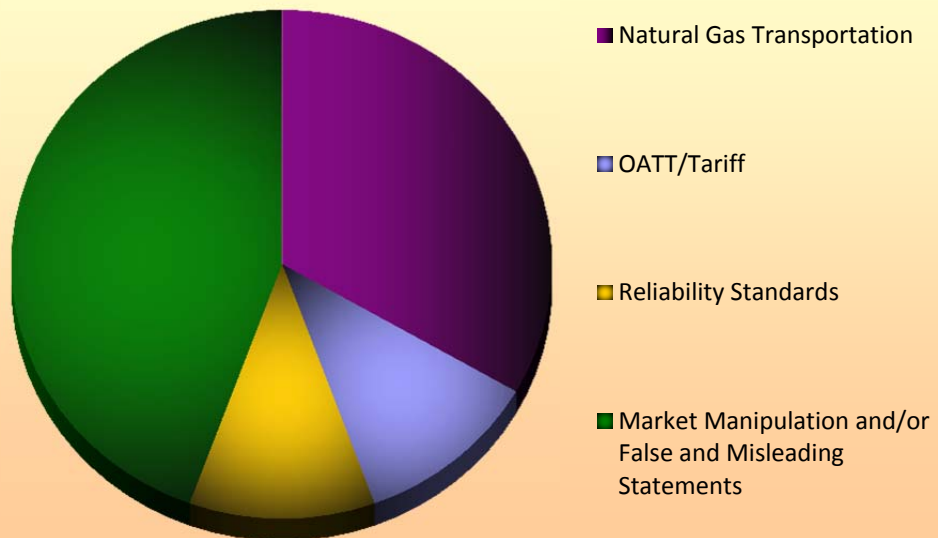
Types of Violations Settled, FY2014

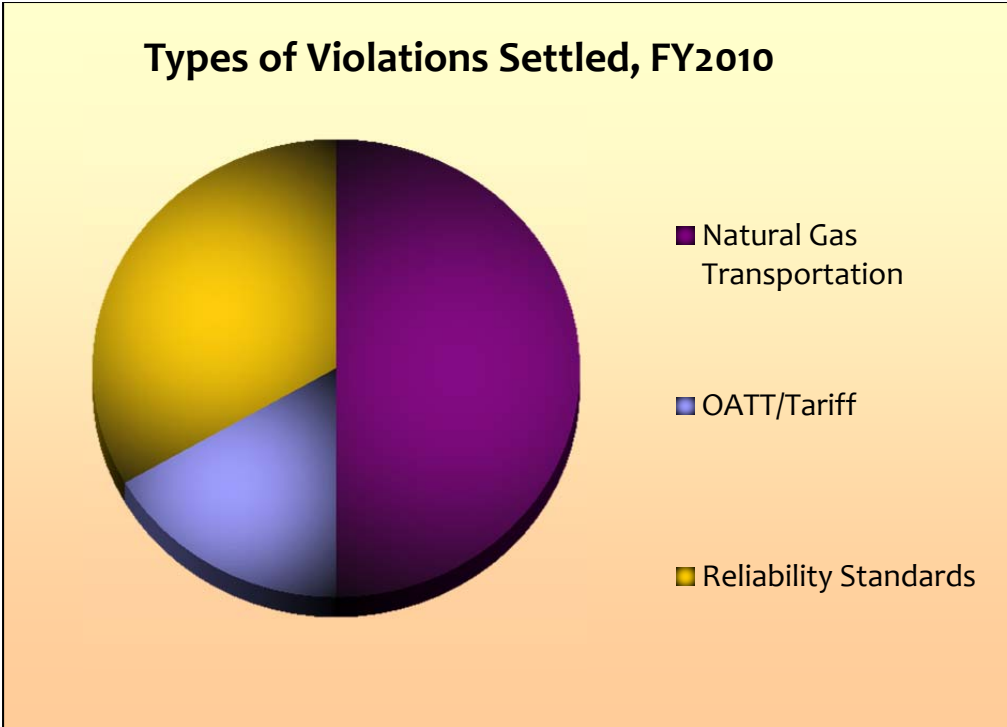
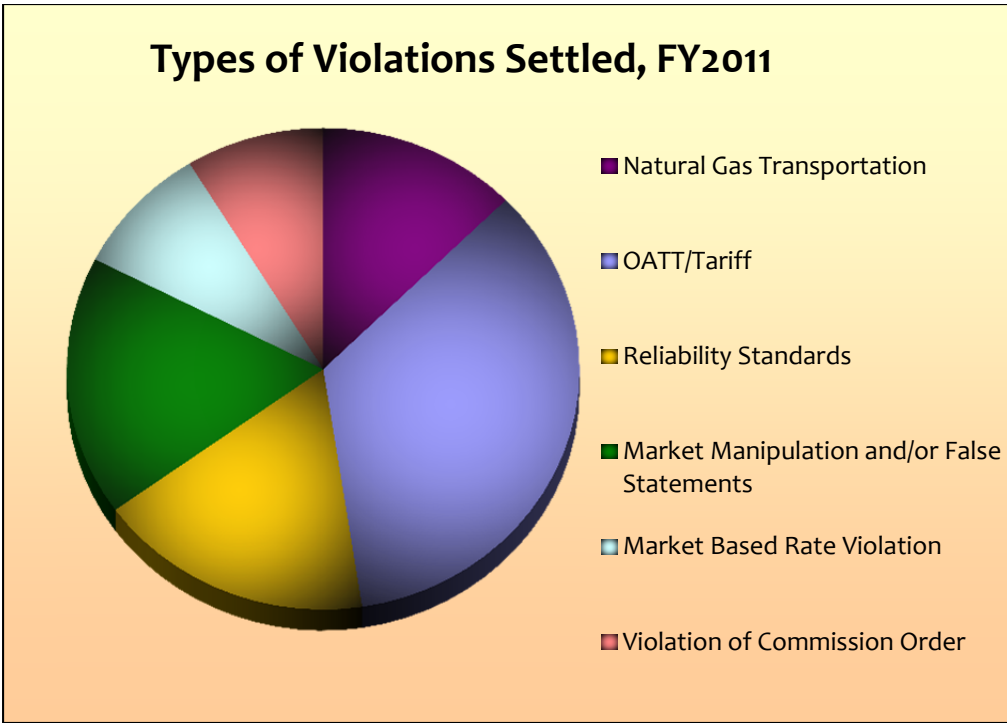


Types of Violations Settled, FY2013



Types of Violations Settled, FY2012





The Commission approved the following settlement agreements in FY2015:

1. Settlements Related to the Arizona-Southern California Blackout

DOI staff and NERC completed their investigations related to the September 8, 2011 power outage in Arizona, Southern California and Baja California, Mexico that caused over 30,000 MWh of lost firm load. The Commission and NERC entered into four settlements with different entities related to that investigation in FY2015. Those settlements are in addition to the two settlements with different entities (Arizona Public Service Company and Imperial Irrigation District) related to the power outage that the Commission and NERC entered into in FY2014.

The sequence of events leading up to the power outage began when a large, 500 kV, transmission line in the Southwest went down on the afternoon of September 8, 2011. The loss of that line caused power flows to be instantaneously redistributed around the grid and overloaded a set of connections in Southern California known as “Path 44.” Path 44 was carrying all flows into the San Diego area (as well as parts of Arizona and Mexico) at that point in time, and this large flow of power through that path caused the intertie separation scheme at a local switchyard (the San Onofre Switchyard) to activate. Activation of this separation scheme disconnected San Diego Gas & Electric (SDG&E) from major transmission lines and key generation units, which isolated the SDG&E control area, caused power plants to trip, and (along with other factors) ultimately resulted in hours-long blackouts in San Diego, the Baja California control area of Mexico, and parts of Arizona.

The four FY2015 settlements that the Commission and NERC entered into regarding the blackout are:

California Independent System Operator (CAISO), Docket No. IN14-10-000. The Commission issued its order approving the settlement agreement with CAISO on November 28, 2014. CAISO manages the high-voltage transmission lines that make up approximately 80 percent of California’s power grid, and serves as the Transmission Operator under Coordinated Functional Registrations for several entities, including SDG&E and Southern California Edison Company. CAISO operators had failed to monitor the intertie separation scheme at the San Onofre Switchyard moments before the September 8 outage began, and because CAISO was not monitoring the scheme, it failed to take necessary emergency measures to keep the scheme from operating when the intertie became overloaded. In the settlement, CAISO admitted the facts but neither admitted nor denied violations of three Requirements of three Reliability Standards. CAISO also agreed to a civil penalty of \$6 million, with \$2 million to be paid in equal shares to the U.S. Treasury and NERC, and \$4 million to be invested in reliability enhancement measures beyond the requirements of the Reliability Standards. CAISO also agreed to mitigation and compliance monitoring.

Southern California Edison Company (SCE), Docket No. IN14-8-000. The Commission issued its order approving the settlement agreement with SCE on October 21, 2014. SCE operates as a Transmission Operator within the CAISO footprint. The intertie separation scheme at the San Onofre switchyard had never operated before the September 8 blackout, and SCE had never studied—or developed emergency plans to remedy—the impact of such an event on reliability of that part of the grid, which already was severely compromised by the time the scheme operated on September 8. When the scheme operated, it caused a rapid decline in frequency within the San Diego Gas & Electric area, eventually resulting in its complete blackout. Had SCE adequately studied how the grid might react if the scheme operated, it (and other reliability entities) might have been able to limit the cascading failures and blackouts that followed operation of the intertie separation scheme. In the settlement, SCE admitted to certain facts but neither admitted nor denied violating one Requirement of one Reliability Standard. It agreed to a civil penalty of \$650,000, with \$250,000 to be paid in equal shares to the Treasury and NERC, and \$400,000 to be invested in reliability enhancement measures beyond the requirements of the

Reliability Standards. SCE also agreed to mitigation and compliance monitoring.

Western Area Power Authority-Desert Southwest (Western-DSW), Docket No. IN14-9-000.

The Commission issued its order approving the settlement agreement with Western-DSW on November 24, 2014. Western-DSW is a division of one of four power marketing administrations that are part of the Department of Energy. It markets power from plants at the Hoover, Parker and Davis dams and serves as a Transmission Operator for lines necessary to transmit that power. Following the loss of a key transmission line on September 8, Western-DSW experienced significant voltage depression on its system and needed to shed load. However, its State Estimator, a monitoring tool that gathers system measurements and calculates real-time values, stopped working during the event, leaving it unable to sufficiently identify, study and mitigate post-contingency system operating limit violations affecting its system. In the settlement, Western-DSW admitted the facts but neither admitted nor denied violations of four Requirements of three Reliability Standards. Western-DSW also agreed to mitigation and compliance monitoring.

Western Electricity Coordinating Council (WECC), Docket No. IN14-11-000.

The Commission issued its order approving the settlement agreement with WECC on May 26, 2015. In its capacity as the Reliability Coordinator (RC), in 2011 WECC was the highest level of authority responsible for the reliable operation of the Bulk-Power System in the Western Interconnection. The RC has the authority to prevent or mitigate emergency operating conditions in the next-day and real-time timeframes, including by issuing directives to other entities, such as Transmission Operators. On September 8, WECC operators failed to respond properly to alarms, issued no reliability directives during the outages, relied on outdated reliability studies, did not review other studies, and were not aware of how certain system and interconnection operating limits could undermine grid system reliability. In its settlement, WECC admitted the facts but neither admitted nor denied violating nine Requirements of five Reliability Standards. It agreed to pay a civil penalty of \$16 million, with \$3 million to be paid in equal shares to the Treasury and NERC, and \$13 million committed to be invested in reliability enhancements beyond the requirements of the Reliability Standards. As parties to the settlement, WECC and Peak Reliability, as the successor to WECC as RC, agreed to numerous mitigation activities and compliance monitoring.

2. Other Settlements

MISO Cinergy Hub Transactions, Docket No. IN12-2-000. On December 30, 2014, the Commission issued an order approving the settlement of a market manipulation investigation of Twin Cities Energy, LLC (Twin Cities), two of its affiliates, and three individual traders, Jason Vaccaro, Allan Cho, and Gaurav Sharma (collectively, the Traders). Following an investigation, staff determined that Twin Cities and the Traders had violated the Commission's Anti-Manipulation Rule by flowing physical power in such a way as to move the real-time physical market of the Midcontinent Independent System Operator, Inc. (MISO) to the benefit of related financial positions. In settling, Twin Cities stipulated and agreed to the facts, and admitted that it violated the Commission's Anti-Manipulation Rule. Twin Cities agreed to pay a civil penalty of \$2,500,000, as well as disgorgement to MISO in the amount of \$978,186, plus interest. Twin Cities will also implement new compliance measures, including submitting compliance reports to FERC for four years. The Traders admitted the facts, but neither admitted nor denied the violations. They agreed to pay civil penalties as follows: Jason Vaccaro, \$400,000, Allan Cho, \$275,000, and Gaurav Sharma, \$75,000. Additionally, the Traders agreed to new compliance obligations and to accept physical trading bans in every market as follows: Jason Vaccaro for five years, Allan Cho for four years, and Gaurav Sharma for four years.

In re Columbia Gas Transmission, LLC, Docket No. IN15-7-000. On July 30, 2015, the Commission issued an order approving the settlement of a tariff violation investigation of Columbia Gas Transmission, LLC (Columbia Gas). Following a referral from DAA and subsequent investigation, staff determined that Columbia Gas had violated the General Terms and Conditions of its FERC Gas Tariff by failing to post notices of the auctions of its available firm capacity on the public side of its Electronic Bulletin Board. The investigation, and the settlement, covered the period January 1, 2010 through May 1, 2013, the date on which Columbia Gas began properly posting such notices. In settling, Columbia Gas stipulated and agreed to the facts, admitted the violation, and agreed to pay a civil penalty of \$350,000. In response to DAA's audit report related to this same violation, Columbia Gas agreed to implement written procedures and internal controls to ensure that it reported accurate and consistent data in its posted capacity reports.

D. Self-Reports

Over the past five years (FY2011-15), staff has received more than 460 self-reports. Staff concluded that further enforcement action was not necessary following review of the vast majority of those reports, because, for example, there was no material harm (or the reporting companies already had agreed to remedy any harms) and the companies had taken appropriate corrective measures, both to remedy the violation and to avoid future violations through enhancements to their compliance programs.

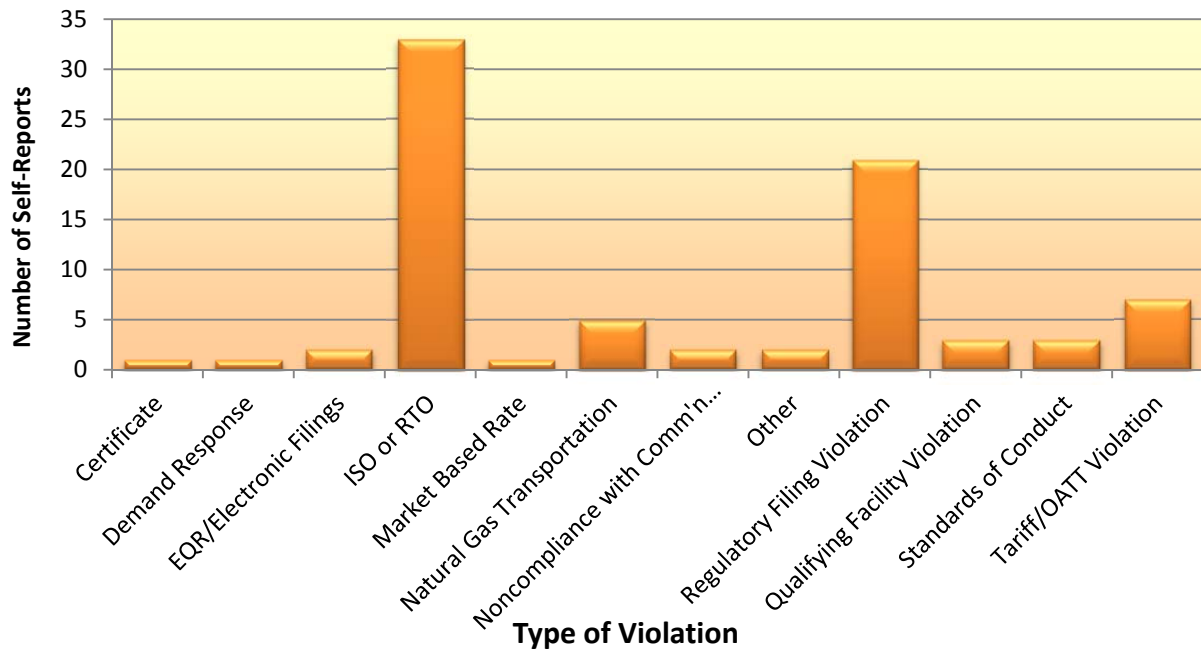
In FY2015, staff received 122 new self-reports from a variety of market participants, including electric utilities, natural gas companies, generators, and RTO/ISOs. A significant number of these self-reports were from RTOs/ISOs. Staff also closed 78 self-reports that had been submitted during this fiscal year and previous fiscal years.

The Penalty Guidelines emphasize the importance of self-reporting by providing credit that can significantly mitigate a penalty when a self-report is made.⁹ Staff continues to encourage the submission of self-reports and views self-reports as showing a company's commitment to compliance.

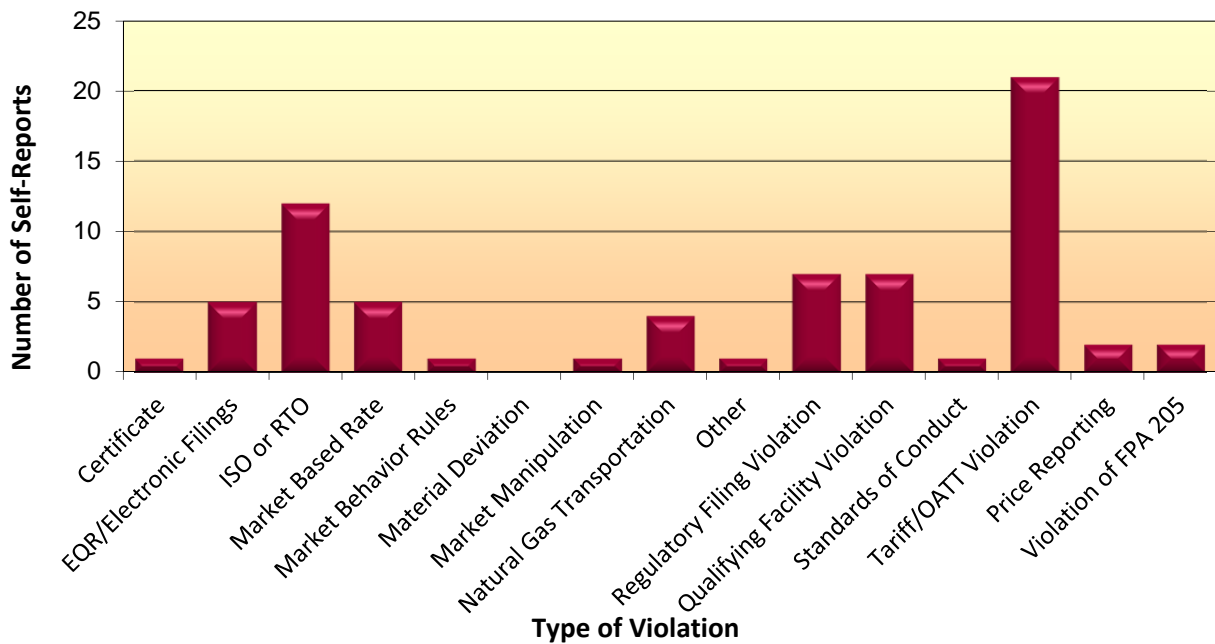
The following charts depict the types of violations for which staff received self-reports from FY2011 through FY2015. Some self-reports include more than one type of violation. In FY2015, RTO/ISO self-reports and regulatory filing violations accounted for the majority of the self-reports received.

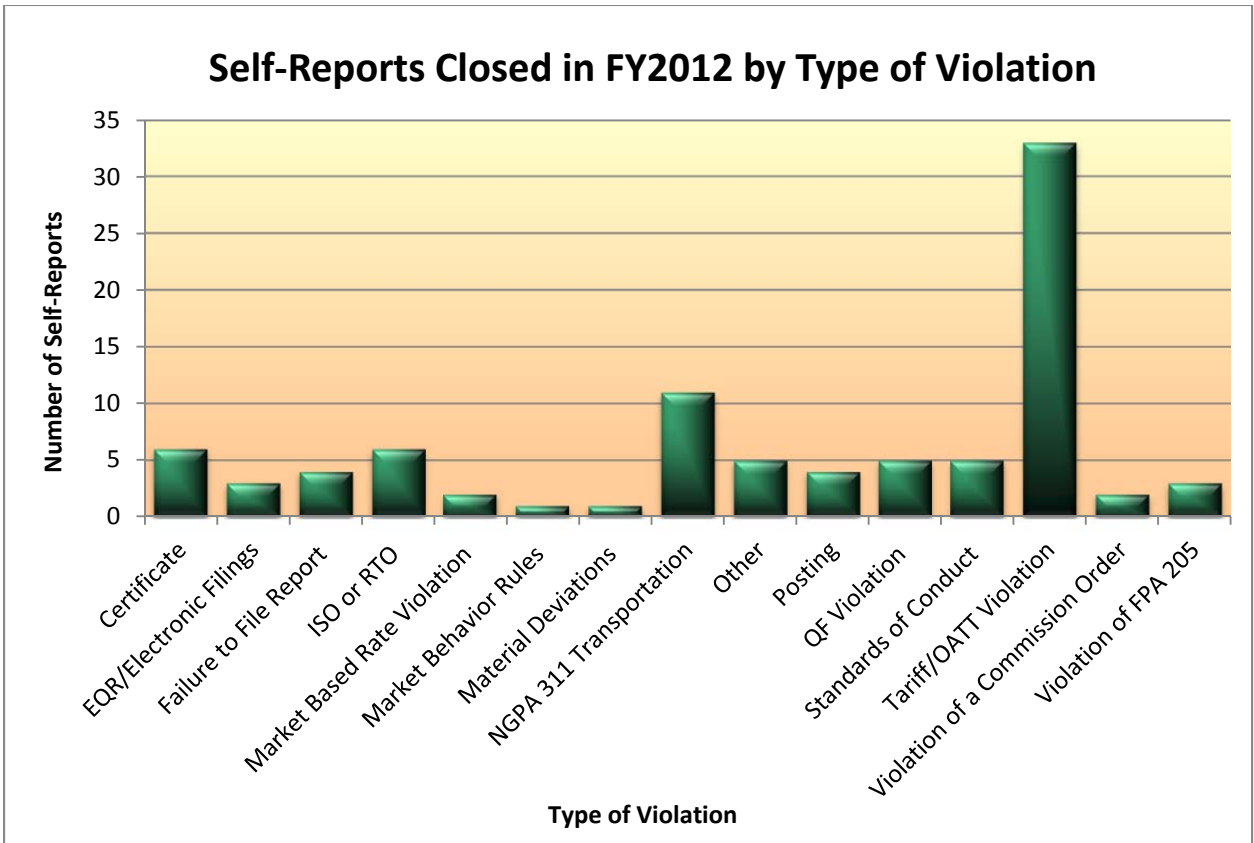
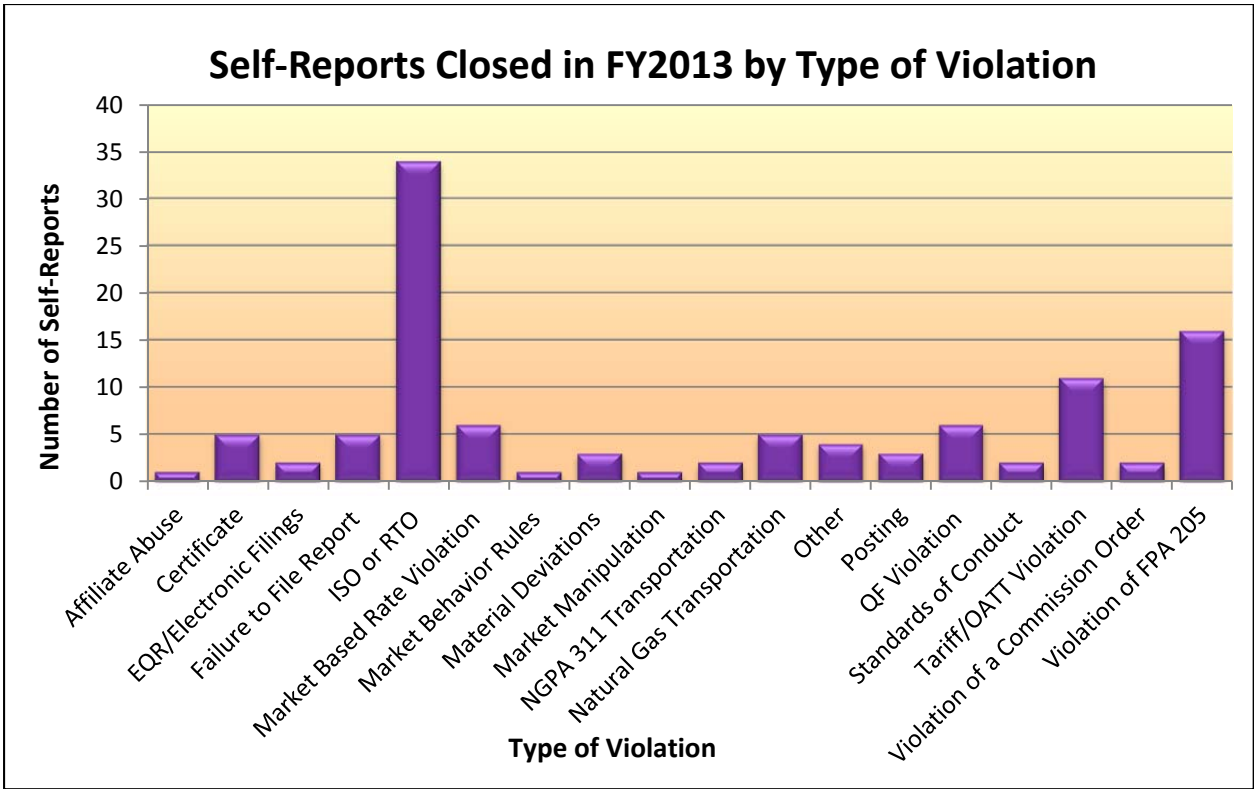
⁹ *Revised Policy Statement on Penalty Guidelines*, 132 FERC ¶ 61,216, at P 127 (2010).

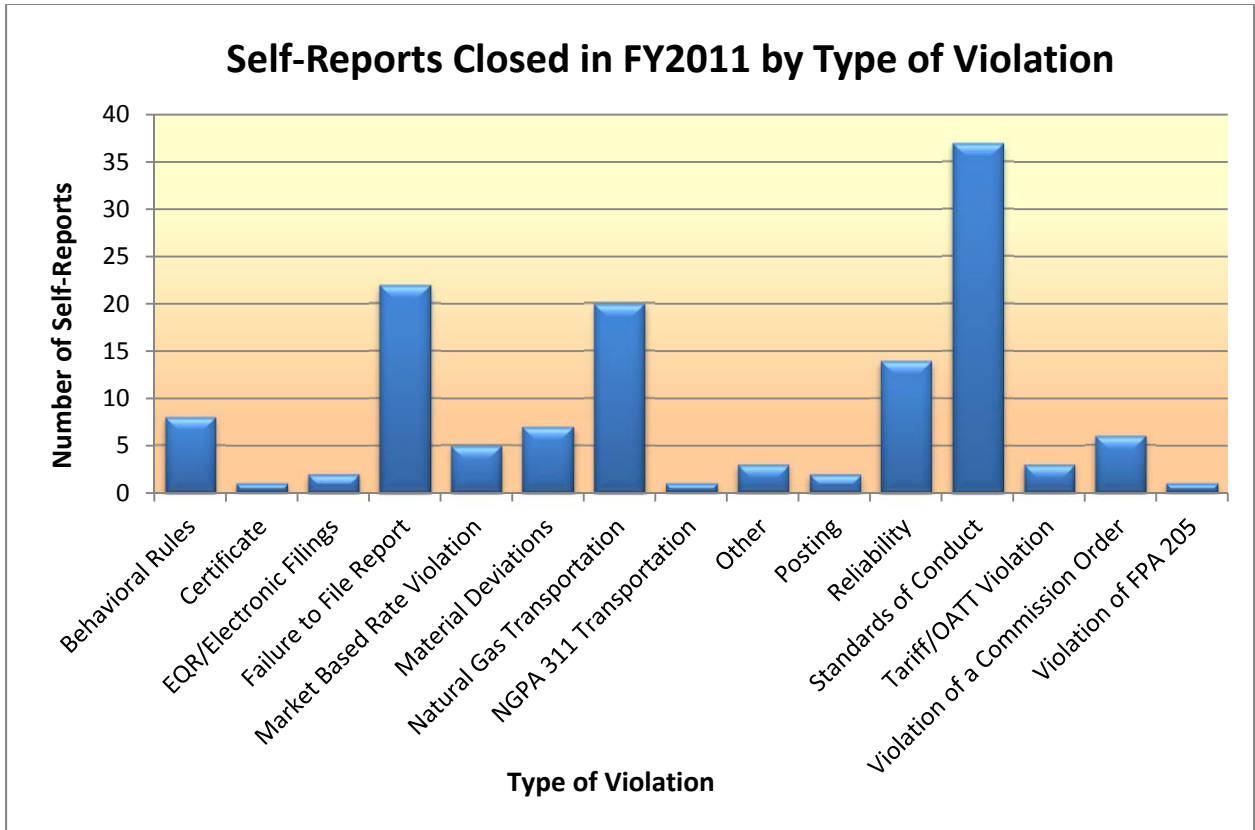
Self-Reports Closed in FY2015 by Type of Violation



Self-Reports Closed in FY2014 by Type of Violation







1. Illustrative Self-Reports Closed with No Action

In a continuing effort to promote transparency while encouraging the compliance efforts of regulated entities, Enforcement presents the following illustrative examples of self-reports DOI staff closed in FY2015 without conversion to an investigation. One of the various factors staff considered in closing the following self-reports was the absence of significant harm to the market. These summaries are intended to provide guidance to the public and to regulated entities as to why staff chose not to pursue an investigation or enforcement action, while preserving the non-public nature of the self-reports.

Regulatory Filing Violation. An energy trading firm self-reported that it had failed to file a request for “Category 1” status as required by Order No. 697. A Category 1 seller is defined as a market participant that is highly unlikely to have market power, because it sells less than 500 MW of power. If a market participant does not meet the requirements in section 35.36(a)(2) of the Commission’s regulations for Category 1 status and does not fall under other exemptions, it must file triennial updates, which enable the Commission to determine whether it has market power. After discovering the errors, the company: (1) conducted an internal audit to confirm its Category 1 status, (2) contacted the Office of Energy Market Regulation (OEMR) staff to advise them of the situation and to let them know a remedial tariff filing was forthcoming, (3) filed for Category 1 status to correct the situation, (4) instituted internal reporting requirements, and (5) developed a formal FERC compliance policy to help prevent similar violations in the future. Staff closed the matter with no action, because the violations did not harm the market and because the company promptly took remedial measures and implemented necessary compliance measures.

Regulatory Filing Violation. A company self-reported that it realized during an internal review of state and federal regulatory requirements (prompted by a prospective corporate reorganization) that it inadvertently had failed to file Form No. 566, as is required by section 46.3 of the Commission’s regulations. Form No. 566 requires utilities to list “each purchaser who, during any of the three (3) preceding calendar years, purchased (for purposes other than resale) from a public utility one of the twenty (20) largest amounts of electric energy measured in kilowatt hours sold (for purposes other than resale) by such utility during such year.” The Commission uses the information from Form No. 566 in conjunction with information from Form No. 561 (Annual Report of Interlocking Positions) to determine whether public or private interests will be adversely affected by the holding of officer or director positions of both a public utility and its customers. Staff closed the matter without further action because the company promptly filed the missing forms and enacted diligent measures to ensure future compliance, and because no harm occurred from the late filing.

Regulatory Filing Violation & Failure to Comply with Commission Orders. An electricity transmission provider self-reported that after receiving permission pursuant to FPA section 204 to issue secured debt, it (1) failed to file timely reports for those issuances (as is required by the FPA and Commission order) and (2) failed to follow the Commission’s instructions regarding calculation of the interest rate for two of its issuances. The transmission provider’s internal regulatory counsel had identified these omissions during a review of the company’s finances. Shortly thereafter, the transmission provider reallocated its interest payments in accordance with the rate it should have been paying, updated its online compliance tracking system to include section 204 obligations, designated a specific individual as being responsible for filing section 204 reports, and established a second-tier review to help ensure that it files such reports in a timely fashion. In light of the provider’s prompt disclosure, the lack of market harm, and its remedial measures, staff closed the self-report without further action.

Electric Quarterly Reports. A large bank submitted a self-report disclosing that it had made errors in its EQR submissions. The bank worked with Market Oversight to address the errors, and Market Oversight reported to DOI staff that it was satisfied with the bank’s corrections and did not see any need for further action. Accordingly, staff closed this self-report without further action.

Electric Quarterly Reports. An electric utility reported that it had erroneously filed EQR data for the previous year in incorrect units (Cents/kWh instead of Dollars/MWh). The utility submitted corrected EQRs in less than two weeks, and it reported to DOI that it was not the owner of the plant at issue at the time of the original filing and thus had not made the mistake. Given the prompt correction by the utility and lack of direct fault on its part, and given the ministerial nature of the error, this self-report was closed with no further action.

Qualifying Facility Violations. A number of unrelated small generators self-reported that they had failed to file their Form No. 556 to self-certify a qualifying facility (QF) and, therefore, had made sales of electricity for resale in interstate commerce without the Commission authorization required by FPA section 205. These generators all promptly filed their Form 556s, made time-value refunds on the money that they had collected for these sales, and added new compliance measures to prevent similar violations in the future. Given the limited harm, the prompt self-reports, and appropriate remedial measures, staff closed these self-reports without further action.

Failure to Obtain Market-Based Rate (MBR) Authority. The owner of three facilities that had converted from being qualified cogeneration facilities to qualifying small power producers reported that it had made sales for resale in interstate commerce without the Commission MBR authority required by FPA section 205. The owner requested MBR authority promptly upon

discovering the deficiencies. The Commission granted the requests and directed the owner to submit a refund report for the unauthorized sales. The refund report demonstrated that all sales occurred at avoided cost rates pursuant to state PURPA tariffs, so the company did not have to refund the money it had collected, but it still owed time-value refunds for the entire period it collected that money without required authorization. Staff closed the self-report after the company made the refunds, because the violation was unintentional and the entity promptly self-reported and obtained outside counsel to ensure future compliance with the Commission's MBR requirements.

Regulatory Filing Violation. Multiple utilities self-reported that they inadvertently had created improper interlocking positions with subsidiaries by, for example, appointing parent company officers as officers of those subsidiaries. Section 305(b) of the FPA generally prohibits such interlocking positions absent a prior Commission finding pursuant to Part 45 of the Commission's regulations that neither public nor private interests will be adversely affected. The companies had not identified the potential violations until after they had made the appointments, but they promptly made the requisite filings with the Commission and implemented additional compliance measures to avoid similar violations in the future. There was no indication that any of the relationships led to individuals exerting undue influence, but some of the companies voided the appointments as a curative measure. Staff closed these self-reports without further action.

Tariff/OATT Violation & Regulatory Filing Violation. An electric transmission provider self-reported that it recently had learned, during an internal compliance review, that a generator it had purchased in 2008 had failed to develop an Open Access Transmission Tariff (OATT) or Open Access Same-Time Information System (OASIS) and had not been complying with the Standards of Conduct. That generator owns a short lead line that it uses solely to connect to an interstate transmission provider. In 2008, and at the time of the self-report, such generators were required to establish an OATT and create and maintain an OASIS and to follow the Standards of Conduct or to seek a waiver of those Standards. In 2015, the Commission exempted such generators from those requirements in Order No. 807. The parent company requested, and the Commission granted, a waiver for the generator covering the period when those requirements still applied, and it adopted new training and compliance programs to help ensure that such violations do not happen again. Given the lack of harm, the company's prompt self-report, and its new compliance measures, staff closed the self-report with no further action.

Tariff/OATT Violation. An electricity transmission provider self-reported that a software bug had led it to act on certain transmission service requests (TSRs) without holding them in a queue for 15 minutes, as is required by its tariff. One customer sent a letter to the company stating that it had been disadvantaged by this error and demanded either damages or an award of the transmission service to which it was entitled. The provider determined that it had sufficient capacity to grant the award and did so when the customer resubmitted its TSR. As a result, there was no market harm associated with the error. The provider subsequently fixed the bug and added procedures to its software upgrade checklist to ensure that such errors would not be repeated. In light of the isolated nature of this incident, the lack of harm, and the provider's remedial efforts, staff closed this self-report without further action.

Tariff/OATT Violation. An electricity transmission provider self-reported that, due to a software error, its load serving operator had failed to act on a Redirect Transmission Service Request (Redirect TSR) from a customer. Its tariff requires the provider to act on such requests within five minutes. While its redirect request was not acted upon, the customer had sufficient transmission rights to allow it to receive the physical service that it had sought, and the customer did not complain about the error. The provider made software changes and provided additional training to its load serving operators to avoid similar errors in the future. In light of the isolated

nature of this incident, the lack of harm, and the provider's remedial efforts, staff closed this self-report without further action.

Demand Response. An electric energy supplier self-reported that three of its demand response assets had submitted inaccurate meter data in violation of the relevant RTO/ISO's data accuracy tariff requirement and that these inaccurate submissions had resulted in the company receiving overpayments from the RTO/ISO. The company informed the RTO/ISO within 24 hours of discovering its first inaccuracy and reported the other two after it completed an internal investigation. The company then implemented remedial methods to prevent similar violations in the future, including installing tools to quickly identify any faulty meters or customer sites not reporting their expected load values. Staff closed the self-report after the entity refunded the RTO/ISO the full amount of overpayments it received plus interest.

RTO/ISO Violation. An RTO/ISO self-reported that over the course of several hours on one day, it had failed to process requests for available capacity in the timeframe dictated by its tariff. There was sufficient capacity available, and the one market participant affected by this error was satisfied with the subsequent steps taken by the RTO. Thus, staff closed the matter with no further action.

RTO/ISO Violation. An RTO/ISO self-reported that it had failed to bill one energy company millions of dollars in congestion charges beginning in 2005 and extending for a number of years. Because of the long period of time that had passed from the earliest missed charges, the RTO/ISO was limited in the amount of unbilled revenues it could seek through billing adjustments, and it was able to recover only approximately 2/3 of the unbilled amount. While staff was concerned about the length and magnitude of this billing error, it concluded that the error was made in good faith, was corrected promptly after being discovered, and had no effect on the reliability of the bulk power system or the RTO/ISO's local marginal prices. Moreover, the RTO/ISO rebilled the majority of the relevant congestion charges and distributed them to the Financial Transmission Right holders who would have received the congestion charges absent its error. Accordingly, staff closed this self-report with no further action.

RTO/ISO Violation. An RTO/ISO reported that, due to a technical issue, it had failed to post historical bid data, as was required by its tariff. After a market participant brought this omission to the RTO/ISO's attention, it conducted an investigation and determined that the omission was limited to one day's worth of data. The RTO/ISO then posted that data and corrected the technical issue that had led to the error. Given the limited scope of the error, the RTO/ISO's prompt response, and the lack of harm, staff closed this self-report without further action.

RTO/ISO Violation. An RTO/ISO self-reported a violation of its tariff stemming from the failure of its software to incorporate updated fuel information. The failure to include this information could have resulted in mitigation for units that should not have been mitigated or mitigation to a lower price than required. In the sixteen occurrences identified, none of the units were mitigated; thus, there was no harm or market impact. The RTO/ISO identified an issue with its server as the root cause of the problem and addressed that issue. Because the RTO/ISO self-reported the violation, there was no harm or market impact, and the RTO/ISO fully mitigated the violation, staff closed this matter with no action.

RTO/ISO Violation. There were multiple self-reports of RTO/ISOs inadvertently forwarding market participants' confidential information to other companies or individuals in violation of the confidentiality provisions in their respective tariffs. The RTO/ISOs promptly reported the disclosures, attempted to have the recipients destroy the confidential information, and instituted new procedures to limit such improper disclosures in the future. Accordingly, staff closed those self-reports without further action.

RTO/ISO Violation. An RTO/ISO failed to adjust its procedures to take into account a tariff update that required the payment of interest on certain monetary deposits. This error was not discovered until ten years later, when one of the requesting depositors asked for interest in addition to the return of its deposit. The RTO/ISO searched through its records, made a list of the entities to which it had failed to pay interest, and paid the interest to all but a small fraction of them, who could not be located. The RTO/ISO has put new systems in place to ensure that such interest is paid in the future. Accordingly, staff closed the matter.

Tariff/OATT Violation. A gas pipeline company reported that a software bug had caused it to reject scheduling gas consistent with its available capacity on one day for several firm and interruptible shippers. The error was corrected the following day, and the pipeline company provided full reservation credits to the affected firm shippers. Shippers reported to staff that they were satisfied with the pipeline company's mitigation. Given that the company's error was inadvertent and that the company discovered the violation quickly and took prompt remedial measures, staff closed this self-report with no further action.

Natural Gas Transportation. Three affiliated pipelines self-reported that they had discovered during an internal investigation that they had failed to include certain volumetric information in a number of Transactional Reports that they had posted on their respective electronic bulletin boards (EBBs). Section 284.13 of the Commission's regulations requires these pipelines to post this volumetric information, and the pipelines claimed that their failure to do so was the result of a software coding error. The pipelines implemented an interim fix within a week and a permanent fix a short time later. The pipelines claimed that these errors were harmless, because sufficient information regarding the rate and location for all the transactions was accurately posted, even though the volumetric information was missing, and the pipelines are not aware of any shipper inquiries relating to the errors. Moreover, volumetric information was included in the pipelines' quarterly "Index of Customers" for firm transactions, so any harm that might have resulted would have been short-term. The pipelines adopted remedial measures to ensure that this type of error does not recur and made an informational posting on their EBBs informing shippers of all capacity reporting errors. Accordingly, staff closed the self-report without further action.

Natural Gas Transportation. A natural gas pipeline self-reported that, following some unrelated system enhancements to its electronic bulletin board in December, shippers were unable to view offers of released firm capacity for sale. Section 284.8 of the Commission's regulations requires pipelines to post such information. The pipeline notified its customers and, after completing its internal investigation, provided them with supplemental market information. None of the customers raised any concerns regarding the failure to post the information as originally required. The pipeline developed a formal policy to require review of system changes to reduce the likelihood of future problems. Staff closed the matter with no action because the violation was inadvertent, it caused no harm to customers or the market, and the pipeline quickly took corrective action.

Standards of Conduct. A pipeline self-reported that it had violated FERC's Standards of Conduct for Transmission Providers under Part 358 of the Commission's regulations by failing to make timely postings on its website of: (1) certain waivers granted to affiliates and (2) notice of customers providing Voluntary Consent that allowed the company to disclose their non-public information to marketing function employees. Upon discovery of the errors, the company promptly made the postings publicly available on its website and provided additional training to the employees responsible for the postings. Staff closed the matter because the errors did not harm the company's customers or other market participants.

Regulatory Filing Violation. Multiple natural gas companies self-reported that they had failed to file Form No. 552 (Annual Report of Natural Gas Transactions), as is required by Commission regulations. Upon learning of the failure, the companies retroactively filed the forms and put in place procedures to ensure that they would file the required forms on a timely basis in the future. Staff closed these self-reports because the companies' violations was inadvertent and promptly remedied.

E. Investigations

During FY2015, DOI staff opened 19 investigations, as compared to 17 investigations in FY2014. As in FY2014, over half of these new investigations arose from referrals based on conduct observed through surveillance by either DAS or the RTO/ISO Market Monitoring Units. Nearly a quarter of the new investigations in FY2015 were referred by the Commission itself. Staff closed 22 investigations in FY2015 either through a settlement or resolution without further action. In addition, the Commission issued orders to show cause in three pending matters, directing the subjects to explain why the Commission should not assess penalties against them based on the recommendations set out in earlier staff reports.

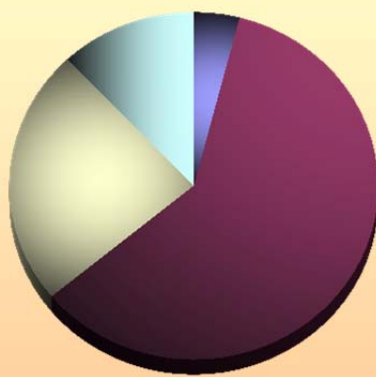
1. Statistics on Investigations

Of the 19 investigations staff opened this fiscal year (some of which involve more than one type of potential violation or multiple subjects), 14 involve market manipulation, four involve violations of the market behavior rules, seven involve tariff violations, one involves gas capacity releases, one involves violations of natural gas posting requirements, and one involves false statements to the Commission.

DOI staff closed 22 investigations in FY2015, compared with 15 in FY2014. Of those 22 investigations, staff closed six through settlement and 16 either upon finding no violation or because staff concluded that the evidence was insufficient to support finding a violation. The Commission-approved settlements of investigations are summarized above; illustrative examples of investigations closed without enforcement action are discussed below.

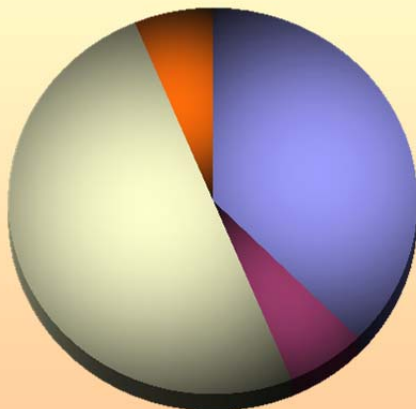
The following charts show the disposition of investigations that closed in fiscal years 2012 through 2015.

Disposition of Investigations, FY2015



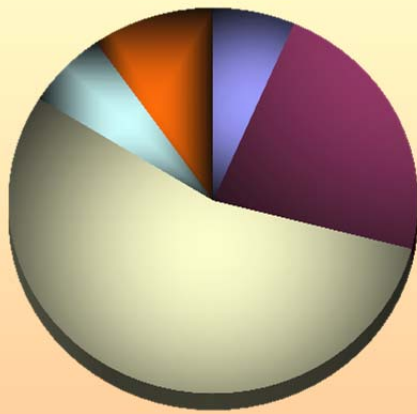
- Closed - Finding of Violation/No Sanctions
- Closed - Insufficient Evidence or No Violation
- Settlement
- Proceeded to Order to Show Cause

Disposition of Investigations, FY2014



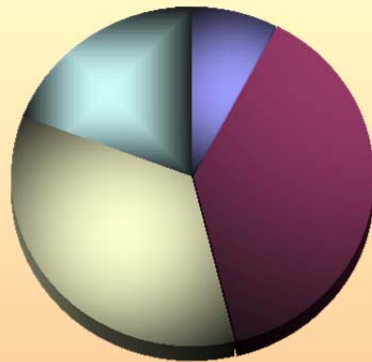
- Closed - Finding of Violation/No Sanctions
- Closed - Insufficient Evidence or No Violation
- Settlement
- Other

Disposition of Investigations, FY2013

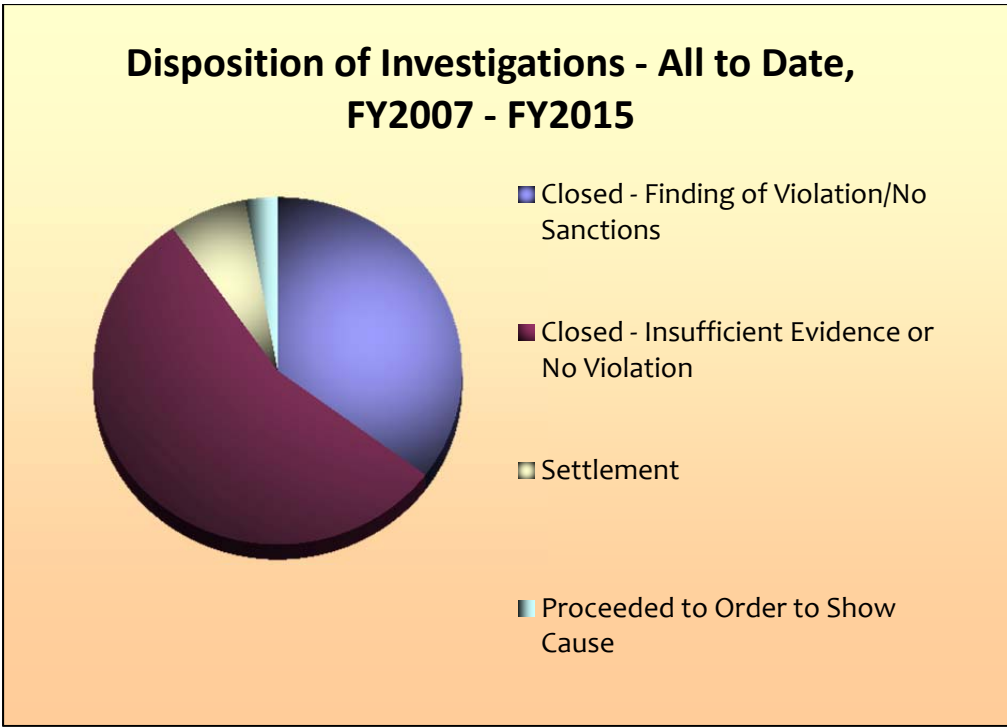


- Closed - Finding of Violation/No Sanctions
- Closed - Insufficient Evidence or No Violation
- Settlement
- Proceeded to Order to Show Cause
- Other

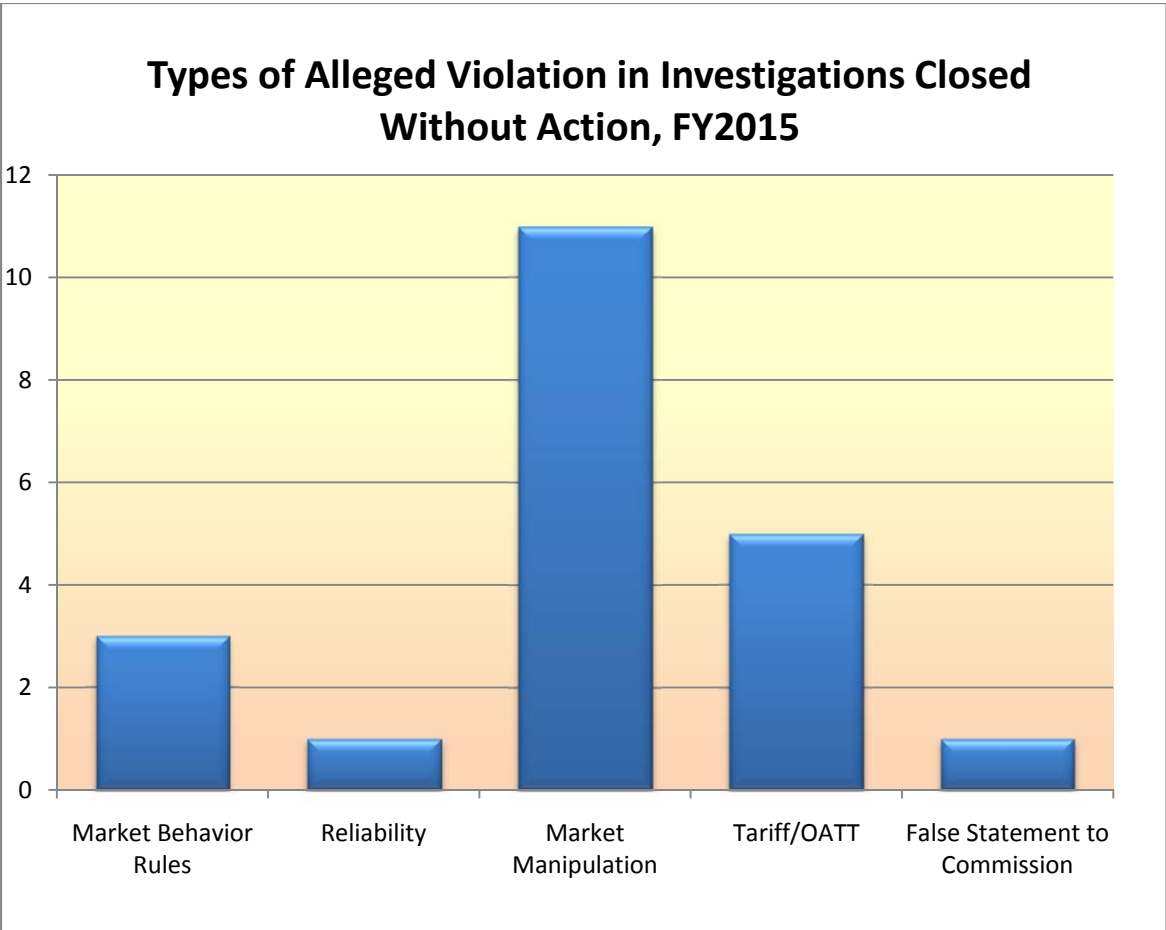
Disposition of Investigations, FY2012



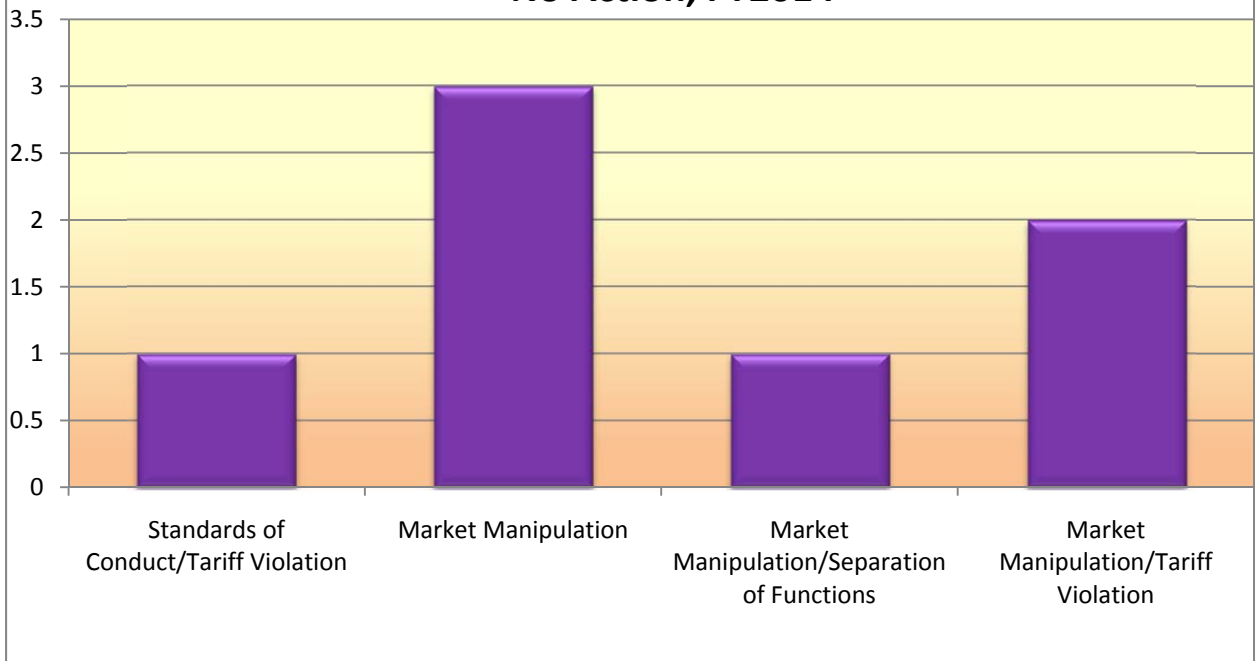
- Closed - Finding of Violation/No Sanctions
- Closed - Insufficient Evidence or No Violation
- Settlement
- Proceeded to Order to Show Cause



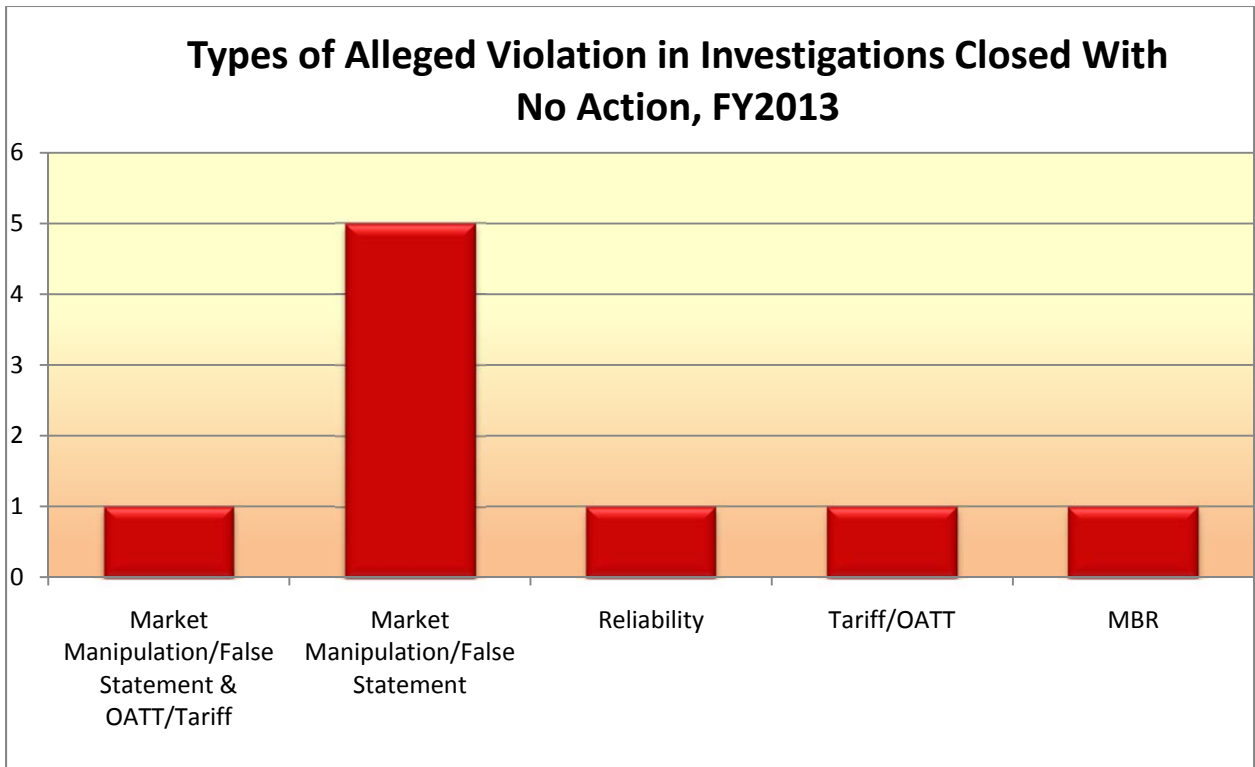
The following charts summarize the nature of the conduct at issue for those investigations that were closed without action in fiscal years 2012 through 2015.

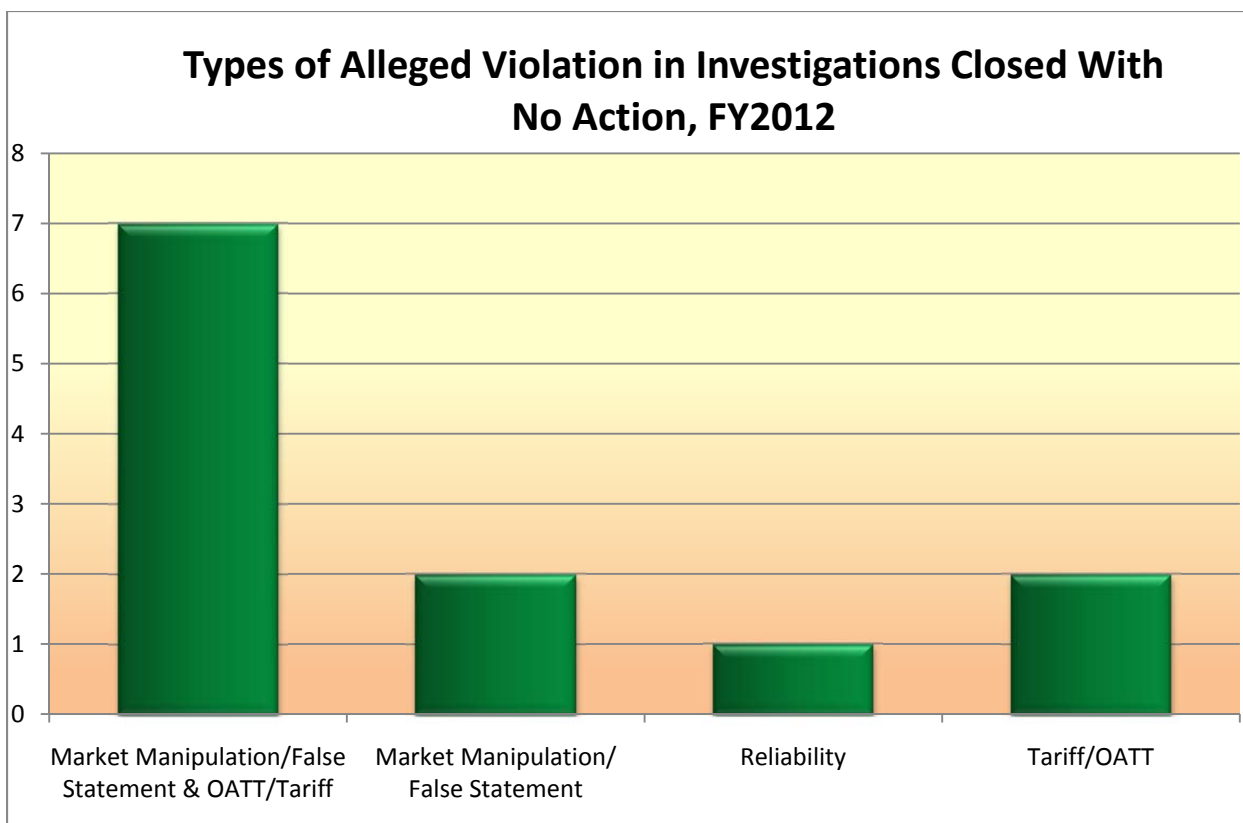


Types of Alleged Violation in Investigations Closed With No Action, FY2014



Types of Alleged Violation in Investigations Closed With No Action, FY2013





2. Illustrative Investigations Closed with No Action

The following descriptions provide illustrative examples of the investigations that Enforcement closed without action in FY2015. Like the self-report examples, these are intended to provide guidance to the public while preserving the non-public nature of DOI's investigations.

Violation of Reliability Standards. Staff did not seek civil penalties or other remedies against one of the companies under investigation in connection with the September 8, 2011 outage in Arizona, Southern California and Baja California. This decision came after staff met with the company and provided its preliminary conclusion that the company had violated the Reliability Standards. The company responded to those preliminary conclusions by providing additional evidence to FERC and NERC staff that clarified the actions that it took related to the blackout and its obligations under the specific Reliability Standards at issue. Based on this newly-provided information, staff decided to close the investigation as to that company without further action.

Market Manipulation (Electricity). In response to a Hotline tip, staff opened an investigation into whether an energy trading firm had violated the Commission's Anti-Manipulation Rule by flowing power uneconomically across adjoining RTO/ISOs to benefit related balance-of-day financial positions. After obtaining and analyzing relevant trade data and other documentary evidence along with testimony from the relevant trader, staff concluded that the physical trading in question was infrequent over the investigation period and that the volume and direction of the trading did not indicate that the firm was improperly attempting to benefit its related financial positions. During the course of its investigation, staff also examined certain other transactions

by this market participant and concluded that there was insufficient evidence of a manipulative trading scheme involving those transactions, so it closed the investigation with no action.

Market Manipulation (Electricity) and OATT/Tariff Violation. In response to a Hotline tip, staff opened an investigation into whether a utility improperly had used a network transmission service to facilitate off-system sales (*i.e.*, engaged in a so-called “hubbing” scheme). The tip alleged that the utility’s scheduling agent routinely over-scheduled network transmission service in order to facilitate the scheduling agent’s sales of power off-network. Such conduct could have constituted a tariff violation as well as a violation of the Commission’s Anti-Manipulation Rule. Staff investigated and determined that while incidental over-scheduling of network transmission service may have occurred simultaneous with off-system sales, such over-scheduling was incidental and unintentional. Moreover, any apparent hubbing was the result of inherent issues in the structure of the relevant market and power system and not because of manipulation or misuse of network service. As for the tariff violation, staff concluded that due to the complex contractual relationships at play, the entity utilizing the network service was a non-jurisdictional entity not subject to the Commission’s regulations in matters of tariff violations. Due to the lack of intent and manipulation, the accidental nature of the conduct, and the lack of jurisdiction over the tariff violation, staff closed the investigation without further action.

Market Manipulation (Electricity). Acting on a referral from an RTO/ISO MMU, staff investigated whether a demand response aggregator had violated an RTO/ISO tariff and/or the Commission’s Anti-Manipulation Rule by enrolling a resource in a yearly demand response capacity program knowing that the resource’s operating level could change dramatically during that delivery year. After conducting written fact discovery and taking testimony, staff determined that while the aggregator had received information before enrollment regarding potential changes to the resource’s operating level, the aggregator did not have sufficient time to consider the significance of that information and it did not have enough details regarding the timing and extent of the potential changes to be able to draw conclusions regarding the its participation in the capacity program. Staff also determined there was no evidence that the aggregator had intended to enroll the resource to take advantage of its potential change in operating level. Accordingly, staff closed the investigation without further action.

Market Manipulation (Electricity) and OATT/Tariff Violation. A commodities trading company participating in an RTO/ISO’s Financial Transmission Rights (FTR) market submitted bids between electrically-equivalent nodes on the transmission system, despite repeated warnings from the RTO/ISO that its tariff expressly prohibits such bids. Such sustained trading in contravention of the RTO/ISO warnings raised concerns that the company intentionally was violating the RTO/ISO tariff and the Commission’s Anti-Manipulation Rule. Specifically, it appeared that the company may have been attempting to manipulate the FTR market by bidding large volumes of MWs at electrically equivalent locations (which it could do at no cost) and reaping substantial profits if a small price divergence ever were to occur between those locations due, for example, to differences in the FTR and day-ahead models. After conducting an investigation, staff determined that (1) the relevant traders at the company had not received the RTO/ISO’s warnings and, therefore, had not ignored those warnings; (2) the company had submitted low MW bids; (3) the bids did not result in any market harm because the RTO/ISO removed them before they could clear the FTR auctions; and (4) the company promptly modified its trading application to prevent traders from submitting FTR bids at electrically equivalent locations in the future. Accordingly, staff closed the investigation without further action.

Market Manipulation (Natural Gas). Acting on a DAS referral, staff opened an investigation into whether a natural gas company had manipulated an index by selling large volumes of physical gas at uneconomically-low prices to drive down the index and benefit the producer’s financial positions in violation of the Commission’s Anti-Manipulation Rule. DAS had flagged several

trades by that company as suspicious during a review of Intercontinental Exchange (ICE) data in an unrelated investigation. After reviewing additional data and evidence provided by the company, staff concluded that there was insufficient evidence that the company had intended to manipulate the index, and it closed the investigation without further action.

Market Manipulation (Electricity). Acting on a referral from an RTO/ISO, staff investigated whether a financial trading firm had engaged in cross-product manipulation on one day in 2014 by submitting virtual bids with the intent to benefit its existing FTR position. The firm had never before submitted virtual bids between the two nodes at issue, and its decision to do so on that particular day resulted in it losing money on those bids. While the bids themselves lost money, they caused the value of the firm's FTR position to increase substantially. After requesting documents and taking testimony of the relevant trader, staff found insufficient evidence of manipulative intent. In particular, the trader provided a credible, legitimate explanation for his decision to place those virtual trades, and the company produced an email from the trader to his supervisor shortly after the day-ahead results were posted for that day, noting that his virtual trades might have affected the company's FTR position and explaining that this result was unexpected and that he would cease trading at those nodes in the future. Based on lack of evidence of manipulative intent, the limited duration of the trading, the fact that the RTO/ISO might be able to claw back any gains realized through these trades, and discussions with the company in which it identified new protective measures that it had taken to avoid problems with virtual trades in the future, staff closed this investigation without further action.

Market Manipulation (Natural Gas). Staff initiated an investigation after a DAS screening program had identified unusually high concentrations of physical natural gas trading during certain bidweeks by a single entity at hubs in the Northeast. In addition, it appeared that one trader at the entity was using his physical transactions to benefit his financial positions. Staff evaluated whether the entity, which held financial positions potentially benefitting from resultant price movements at those hubs, was engaging in cross-market manipulation by structuring its physical trades to those hubs to benefit existing financial positions. Staff was particularly concerned when the trader could not provide a consistent explanation for his bidding strategy. The Commission authorized staff to convert the investigation to a formal one, in which it had been delegated authority to issue subpoenas, after it learned that the company had not preserved certain materials that were subject to staff's earlier document preservation directive. However, after reviewing the remaining documentary evidence and data from ICE, and holding multiple meetings with the company, staff ultimately concluded that the company was not engaged in market manipulation and it closed the matter with no action.

OATT/Tariff Violation. DAA referred this matter for investigation after it found in an audit several errors in the collection and recording of data by a certain public utility over the course of a year. Further analysis showed that the utility had submitted inaccurate settlement information to an RTO/ISO on behalf of a demand response resource that had been participating in the capacity market. Enforcement notified the RTO/ISO, which then resettled most of the incorrectly-reported amounts. Because the errors uncovered in connection with the audit were inadvertent and because the public utility corrected those errors and agreed to refund the excess payments to the RTO/ISO, staff closed the matter with no action.

Market Behavior Rules. Following a self-report and a referral from the Commission for inquiry and action as appropriate, staff opened an investigation to determine whether a generator had made a material omission to the Commission, in violation of section 35.41(b) of the Commission's regulations, in its Market-Based Rate application and subsequent refund report. While the refund report was accurate, the entity had misstated in its MBR application why it had filed the application late. However, after considering a number of factors, including the lack of

harm to customers or the market, the self-report, the adoption of compliance procedures, and the company's precarious financial condition, staff closed the investigation without further action.

Market Manipulation (Electricity). DAS referred a matter for investigation after identifying patterns in trading data suggesting that a particular power marketing company might have been engaging in virtual trade to benefit certain financial transmission rights held by the company. Such trading could have violated the Commission's Anti-Manipulation Rule. After taking testimony and reviewing data and other material, staff closed the investigation with no further action because it found that the existence of manipulative behavior and an intent to manipulate to be unsubstantiated.

F. Enforcement Hotline

DOI staff fields calls and other inquiries made to the Enforcement Hotline (Hotline).¹⁰ The Hotline is a means for people, anonymously if preferred, to inform Enforcement staff of potential violations of statutes, Commission rules, orders, regulations, and tariff provisions. When staff receives information concerning possible violations, such as allegations of market manipulation, abuse of an affiliate relationship, or violation of a tariff or order, staff researches the issue presented and often 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.

In FY2015, Enforcement received 195 Hotline calls and inquiries, 186 of which were promptly resolved within the fiscal year through advice provided by staff or otherwise and 9 of which remained pending as of the end of the fiscal year. Staff also closed several Hotline matters that had been pending from previous years. In FY2015, staff converted no Hotline calls to preliminary investigations, although multiple FY2015 hotline calls concerned conduct in investigations that were already pending. Every year, a significant percentage of the calls received relate to subjects outside of the Commission's jurisdiction or contested matters pending before the Commission. DOI staff resolves these matters by advising those callers where they may find the information they need, or directs them to the appropriate Commission office or docketed proceeding.

G. Other Matters

As in previous years, DOI staff assisted other divisions and offices within the Commission on important matters in FY2015. Such matters included:

Gas-Electric Coordination Issues. DOI staff participated on the Gas-Electric coordination team, including the preparation in Docket No. RM13-17-002 of the Order Dismissing Request for Clarification re: Communication of Operational Information Between Natural Gas Pipelines and Transmission Operators issued by the Commission on July 16, 2015. DOI staff also provided advice to the Commission in the context of six specific orders related to requests for waiver, gas supply issues, and resource compliance with RTO/ISO dispatch instructions.

PJM Up-to Congestion Issues. DOI staff continued to work with other offices in the Commission to analyze issues raised in Docket Nos. ER13-1654-000 and EL14-37-000 regarding PJM's treatment of Up-to Congestion, including how it compares and contrasts with

¹⁰ See 18 C.F.R. § 1b.21 (2015).

PJM's treatment of virtual supply and virtual demand. DOI staff participated in a technical conference on these issues and worked with other offices to review and analyze comments that various parties subsequently submitted.

Inter-Office Coordination. DOI staff regularly coordinates with the Office of the General Counsel (OGC) and OEMR when applicants fail to timely submit filings to the Commission. In FY2015, the three offices coordinated on more than 125 late filings under FPA sections 203 and 205. Frequently, such coordination results in the inclusion in orders of language reminding applicants to submit filings on a timely basis or they may be subject to future enforcement actions. In some instances, when OGC or OEMR staff become aware of a late filing, they encourage entities to also submit a self-report to Enforcement. Occasionally, such coordination has resulted in Commission orders that include referrals to DOI for further examination and inquiry, as appropriate. DOI also coordinates with OGC and OEMR when facilities fail to file a Form No. 556 to self-certify as a qualifying facility (QF) in a timely manner and refunds are due for jurisdictional sales that were made without FPA section 205 authorization or a QF exemption under section 292.601 of the Commission's regulations.

No-Action Letters. Enforcement is one of several offices within the Commission that is jointly responsible for processing entity requests seeking a determination whether staff would recommend enforcement action against the requestor if it pursued particular transactions or practices. The "No-Action Letter" can be a useful tool for entities subject to the Commission's authority to reduce the risk of failing to comply with the statutes the Commission administers, the orders, rules or regulations thereunder, or Commission-approved tariffs.¹¹ FERC staff is generally available to confer on a pre-filing basis for possible "No-Action" requests. During FY2015, one such request was acted upon and another one was submitted, but has not yet been acted upon.

Notice of Proposed Rulemaking. DOI assisted DAS staff in the drafting of a notice of proposed rulemaking on the collection of connected entity data from RTOs and ISOs. The Commission issued that NOPR on September 17, 2015, in Docket No. RM15-23-000. Additional details regarding that notice are in the DAS section of this Annual Report.

Compliance Desk. In 2008, the Commission established the "Compliance Help Desk Portal" for entities to submit questions regarding particular compliance areas.¹² For various subjects, DOI and staff from other Commission offices are responsible for reviewing inquiries, and coordinating responses to the requestors. During FY2015, DOI staff assisted in seven Compliance Desk inquiries.

Requests for Waivers of Standards of Conduct under Order No. 717 and Coordination on Standards of Conduct-Related rulemaking. OGC and OEMR staff assigned to requests for waiver of the Standards of Conduct under Order No. 717 confer with DOI staff on the merits of the waivers. During FY2014, DOI staff reviewed approximately 36 such requests for waivers. In addition, DOI staff participated on the team in consideration of Standards of Conduct related issues during the preparation for the Commission's March 19, 2015 issuance of Order No. 807, *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities* and consideration of rehearing requests.

¹¹ See *Interpretive Order Modifying No-Action Letter Process and Reviewing Other Mechanisms for Obtaining Guidance*, 123 FERC ¶ 61,157 (2008).

¹² See *id.* at P 30 (2008).

DIVISION OF AUDITS AND ACCOUNTING

A. Overview

The Division of Audits and Accounting (DAA) administers the Commission's audit and accounting programs to aid in the efficient, effective, and appropriate oversight of jurisdictional entities and establishment and review of just and reasonable rates. DAA's audits are public, risk-based, and cover a variety of audit scope areas. It consults with other divisions within OE and other program offices to inform its risk-based methodology in the selection of audit scope areas and audit candidates. DAA also works with the other program offices to inform Commission actions addressing rates, tariffs, financial and operational transparency, policy initiatives, law, reliability, and other areas in the electric, natural gas, and oil industries. In conducting its public audit and accounting activities, DAA's primary goal is to enable the Commission to achieve its strategic objectives by ensuring compliance, accountability, and transparency.

All audits completed in FY2015 were initiated without any allegation of wrongdoing through a comprehensive risk assessment process. The first step in this process is to identify the most relevant risks the Commission faces in the electric, natural gas, and oil industries, using internal and external sources of information. Second, DAA publicly issues its commencement letters and audit reports, providing audited entities and the Commission's regulated industries insight into the areas of emphasis and concern, and giving the industries a rich source of guidance. DAA's public audit reports provide great detail on the audit scope, methodology, and any findings of noncompliance with the expectation that all jurisdictional entities will be better informed, avoid noncompliance, and improve operational performance. Finally, DAA expects timely implementation of all audit recommendations. Such timeliness demonstrates an entity's commitment to carry out enhancements to improve compliance with FERC rules and precedents and reduces the risk of future noncompliance.

DAA further enhances transparency by reaching out to industry and providing proactive guidance. DAA actively engages in industry outreach in many forums, including: participating in periodic scheduled meetings with trade associations, such as the Interstate Natural Gas Association of America, the Edison Electric Institute, and the Association of Oil Pipe Lines; by attending and participating in industry workshops, conferences, and other public trade gatherings; and by encouraging interested parties to contact DAA senior management with any inquiries or concerns. These points of contact inform the industry, public, and others about what constitutes effective compliance, accountability, and transparency. In addition, the Commission and DAA have several means by which jurisdictional entities may formally and informally seek guidance on all compliance matters.¹³ DAA's goal through these efforts and resources is to provide jurisdictional entities with ample opportunity to achieve compliance and avoid noncompliance that may result in harm to ratepayers and energy markets.

¹³ DAA provides formal accounting guidance through accounting requests filed with the Commission. Informal accounting guidance may be obtained via email (accountinginquiries@ferc.gov) and phone (202-502-8877). Informal guidance on all other compliance matters may be obtained at www.ferc.gov/contact-us/compliance-help-desk.asp.

B. Compliance Reviews and Alerts

1. Compliance Reviews

An assessment of internal compliance programs remains a key activity in DAA's audit program. Such an assessment helps to identify the level of risk that internal compliance efforts may fail to detect or to prevent noncompliance, and this assessment factors into audit planning, *e.g.*, the amount of substantive testing that DAA undertakes. Assessing compliance programs generally entails a review of a jurisdictional entity's compliance culture related to specific audit scope areas. The results of this assessment are communicated to the entity under audit to help it achieve a more robust compliance program. Providing such feedback is consistent with the Commission's strategic plan and enables jurisdictional entities to quickly implement corrective actions, reducing the risk of future noncompliance. The Federal Energy Regulatory Commission Strategic Plan FY2014-2018 continues to encourage strong compliance programs and places strong emphasis on timely implementation of corrective actions within six months of audit completion. In FY2015, DAA ensured that 96 percent of audit recommendations were implemented within six months. DAA is encouraged by the fact that many audited entities took proactive measures to address corrective actions identified from a compliance review prior to, or a few months after, the audit being completed.

DAA will continue reviewing compliance programs during its audits and will focus on some key features to increase the likelihood of abiding by and following the letter and spirit of rules and regulations to comply with statutes, Commission rules, orders, regulations, and tariff provisions. These features include:

- A proactive compliance program that: (1) equips staff and management with sufficient training, education, tools, and other resources to self-detect issues in a timely manner to prevent noncompliance, and (2) stays abreast of trends through Commission orders and audit reports.
- The active involvement of senior management to provide a tangible demonstration of appropriate "tone-from-the-top" as well as the allocation of funds necessary for successful compliance programs.
- The active involvement of an internal audit function to routinely assess compliance with Commission rules, orders, regulations, and tariff provisions, and foster a strong and sustainable culture of commitment to compliance on an enterprise-wide basis.

2. Compliance Alerts

DAA continues to observe certain areas in which compliance has been problematic for some entities. DAA believes that highlighting these areas for jurisdictional entities and their corporate officials will heighten awareness of these concerns and facilitate compliance efforts. The topics presented below are not the only areas in which compliance has been at issue, but they specifically relate to areas where DAA has found consistent compliance concerns or noncompliance. DAA believes that greater attention in these areas will enable jurisdictional entities to prevent noncompliance and avoid enforcement actions.

Oil Pipeline (Form 6, Page 700). An essential part of oil pipeline audits is an examination of the accounting and operating data included on page 700 of the FERC Form No. 6, Annual Cost of Service Based Analysis Schedule.¹⁴ The information reported on page 700 is used by the Commission and interested parties to evaluate interstate pipeline rates, among other uses. Recent oil pipeline audits have identified some accounting errors that impact the accuracy of amounts reported on page 700 of the FERC Form No. 6, including: failure to use Commission-approved depreciation rates; failure to reflect net salvage in depreciation rates; failure to account for subsidiaries under the equity method; and misclassification of carrier property, charitable donations, fines/penalties, and lobbying activities. DAA also identified a company that did not use and charge correct rates for intermediate points in billings to customers and another company that incorrectly included intrastate amounts as interstate on page 700.

Formula Rate Matters. DAA continues to ensure compliance with the Commission's accounting and the FERC Form No. 1 requirements for costs that are included in formula rate recovery mechanisms used to determine billings to wholesale customers. Formula rate audits in recent years have observed certain patterns of noncompliance in the following areas:

- Internal Merger Costs – Utilities have included merger-related costs in rates without Commission approval. Such unapproved costs typically relate to internal labor, severance, and integration costs. In these cases, utilities are subject to hold-harmless commitments to exclude merger-related costs from rates unless the Commission approves recovery of such costs, and they must have appropriate controls and procedures to ensure that merger-related costs are tracked and excluded from formula rates.
- Tax Prepayments – Utilities have incorrectly recorded income tax overpayments for which they will elect to receive a refund (in lieu of a credit being applied to a future tax year's obligation) as a prepayment in Account 165, Prepayments. Including these overpayments in Account 165 has led to excess recoveries through formula rate billings. These overpayments are properly recorded in Account 146, Accounts Receivable, from Associated Companies, or Account 143, Other Accounts Receivable, as appropriate.
- Asset Retirement Obligation (ARO) – Utilities have included ARO amounts in formula rates without explicit Commission approval. This includes the asset component that increases rate base, the depreciation expense related to the asset, the accretion expense related to the liability, and associated deferred taxes.
- Depreciation Rates – Utilities have used state-approved depreciation rates or a blended depreciation rate in their formula rate recovery mechanisms, rather than the depreciation rates approved by the Commission.
- Merger Goodwill – Utilities have included goodwill in the equity component of the capital structure, absent Commission approval. It is the Commission's long-standing policy that goodwill should be excluded from rates.
- Distribution Plant – Utilities have included plant balances related to their distribution function in transmission formula rates. This has occurred when a distribution capital project is placed in service without the appropriate policies and controls being utilized to ensure that those project costs are classified as distribution plant and the related depreciation is appropriately classified.

¹⁴ The schedule requires each oil pipeline company to report its Total Annual Cost of Service (as calculated under the Order No. 154-B methodology), operating revenues, and throughput in barrels and barrel-miles for the current and previous reporting year. The amounts reflected on page 700 represent interstate service (*i.e.*, FERC-jurisdictional) amounts, while the rest of the FERC Form No. 6 includes both interstate and intrastate amounts.

- Unused Inventory and Equipment – Utilities have included the cost of materials, supplies, and equipment purchased for construction projects without removing the cost of items unused in whole or in part from the cost of a project.
- Allocated Labor – Utilities have charged labor costs to transmission projects without using an appropriate cost allocation method or time tracking. Specifically, DAA observed that controls were not sufficient to ensure that labor costs charged were appropriately allocated between transmission and distribution capital projects when employees worked on both, resulting in an inappropriate or unsupported allocation of labor costs charged to transmission projects.
- Administrative and General (A&G) Expenses – Utilities have recorded nonoperating expenses and functional operating and maintenance expenses in A&G expense accounts, leading to an inappropriate inclusion of such costs in their formula rates.

Natural Gas Accounting and Tariff Matters. DAA continues to evaluate natural gas pipelines' compliance with the Commission's accounting, the FERC Form No. 2, and tariff requirements to ensure transparency and accuracy of data reported to the Commission. In recent comprehensive natural gas audits, DAA has observed patterns of noncompliance in the following areas:

- Tariff Issues – Natural gas pipelines have failed to comply with the FERC gas tariff valuation method for system gas activities, Operational Balancing Agreement stipulations to manage and monitor imbalance activity, and North American Energy Standards Board requirements related to reporting Operational Available Capacity data.
- Pipeline Integrity Management Costs – DAA has discovered that some natural gas pipelines have misclassified integrity management costs that should have been recorded as maintenance expenses. The Commission's accounting requirements, including accounting guidance in Docket No. AI05-1-000, provide that costs to develop integrity management programs, prepare pipelines for inspection, conduct pipeline assessments, and make repairs are to be charged to maintenance expense in the period the costs are incurred.
- Erroneous Accounting and Reporting – Natural gas pipelines have failed to comply with the Commission's accounting requirements for penalty revenues assessed to noncompliant shippers, transmission mains and compression station expenses, line pack inventory changes, shipper imbalances and cash-outs, lost and unaccounted-for gas, gains from the sale of cushion gas, and penalties assessed by the U.S. Department of Transportation. DAA discovered misclassification issues among the categories of costs representing operational transmission expenses, other gas supply expenses, and underground storage expenses.

Consolidation. Commission accounting regulations require the equity method of accounting for all investments in subsidiaries. Recent audit activity has found jurisdictional companies incorrectly using the consolidation method for accounting for subsidiaries instead of the equity method as required by the Commission. As a result, improper amounts were included in formula rate billings. Entities must seek a waiver from the Commission to use the consolidation method for an investment in a subsidiary.

Nuclear Decommissioning Trust Funds. The Commission's regulations concerning nuclear decommissioning trust funds require utilities owning nuclear power plants to file annual trust fund reports, among other requirements. Recent audit activity has identified utilities that have not satisfied the Commission's regulations by failing to: submit annual decommissioning trust fund reports, clearly distinguish Commission-jurisdictional monies from nonjurisdictional monies held in the trust funds, and accurately report the amount of Commission-jurisdictional money in the trusts.

Price Index Reporting and FERC Form No. 552 Reporting. DAA’s recent energy-reporting audits have revealed common deficiencies that have led to transactions that are not reported to price indexes. Transactions that are unreported in price indexes lead to less robust price indexes and can impact prices published by indexes, particularly at illiquid hubs. Common deficiencies revealed during audits of the FERC Form No. 552 include: failures to disclose affiliate companies, improper transaction categorization, and inclusion of nonreportable transactions. These reporting errors on the FERC Form No. 552 hinder the usefulness and transparency of the form’s contents.

Allowance for Funds Used During Construction (AFUDC). Recent audit activity has shown deficiencies in how jurisdictional entities have calculated AFUDC, resulting in excessive accruals of AFUDC. Common findings during audits include: failure to exclude goodwill-related equity from the equity component of the AFUDC rate, failure to include short-term debt in computing the AFUDC rate, computing AFUDC on contract retention and other noncash accruals, compounding AFUDC more frequently than semi-annually, inclusion of unrealized gains and losses from other comprehensive income, and use of an AFUDC methodology not prescribed by the Commission in Order No. 561.

Capacity Transparency and Allocation. Interstate natural gas pipelines are required to post available pipeline capacity on their websites. These postings promote transparency of available pipeline capacity and enable greater competitive and efficient use of such capacity; however, recent audits have identified common deficiencies in reported available pipeline capacity where quantities were either omitted or incorrectly reported. The result is that some shippers may not have been able to avail themselves of available pipeline capacity.

Open Access Transmission Tariffs (OATT). An essential goal of open access is to support efficient and competitive markets, and DAA recently has noted instances in which company actions did not support this goal. Specifically, the companies billed customers using incorrect rates, posted inaccurate available transfer capacity data, failed to release transmission capacity in accordance with Commission-approved tariffs, and failed to follow scheduling protocols to ensure appropriate transmission reservations over constrained interfaces.

Untimely Filing of Commission Reports. DAA identified instances where companies have failed to timely file various reports with the Commission. These instances included reports such as decommissioning trust fund reports and required filings and reports related to mergers. Failure to timely file these reports limits the Commission and industry’s ability to use this data. It also undermines the transparency of information and creates doubt regarding the effectiveness of these companies’ compliance programs.

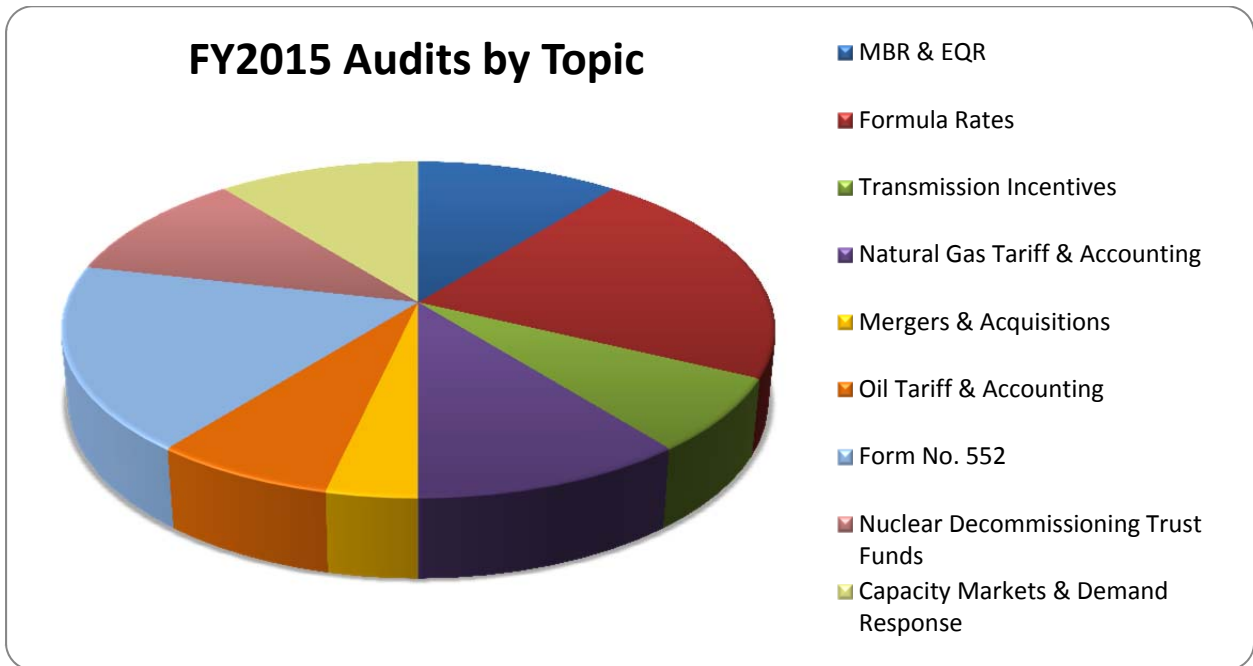
Record Retention. DAA has identified instances where records are not retained in accordance with Commission regulations. In some cases, DAA determined that records associated with assets acquired through acquisitions had not been obtained from the original owner. Failure to maintain adequate records can impair the Commission’s ratemaking and enforcement activities and ultimately impact an entity’s ability to recover costs associated with those assets.

Capacity Markets. DAA audits have pointed out that jurisdictional companies need to strengthen controls over the reporting of capacity additions to bid into and otherwise participate in capacity markets.

C. Audit Matters

In FY2015, DAA completed 22 audits of oil pipeline, public utility, and natural gas companies covering a wide array of topics. The audits resulted in 360 recommendations for

corrective action, all of which were accepted by the audited companies, and directed over \$26.3 million in refunds and recoveries. Specifically, DAA directed over \$16.8 million to be refunded to ratepayers and prevented over \$9.5 million from being inappropriately included in transmission plant and wholesale formula rates. DAA also directed improvements to the audited companies' internal processes and procedures, financial reporting for accuracy and transparency, website postings, and efficiency and cost-effectiveness of operations. Collectively, these refunds, recommendations, and prevented charges (*i.e.*, savings) benefit ratepayers and market participants.



The following audit activities reflect the issues and priorities identified and discussed above.

1. Oil

Colonial Pipeline Company (Colonial), FA14-4-000. DAA evaluated whether Colonial had complied with the Commission's regulations for oil pipeline companies and the FERC Form No. 6 financial reporting requirements.¹⁵ The audit report identified five findings of noncompliance and made 14 recommendations for corrective action. The audit findings involved the improper reporting of \$7.6 million in intrastate amounts on certain line items of page 700 on the 2013 FERC Form No. 6, the improper reporting of investment in various subsidiaries under the consolidated method of accounting instead of using the equity method of accounting, nonoperating expenses improperly recorded as operating expenses, and accounting misclassifications related to interest during construction and regulatory fees payable to Federal agencies. As a result of DAA's findings, Colonial will properly reflect page 700 amounts in its 2014 FERC Form No. 6 and strengthen its policies related to the identified findings.

Enterprises Product Partners, L.P. (Enterprise), FA14-1-000. DAA evaluated whether Enterprise had complied with the Commission's regulations for oil pipeline companies and the FERC Form

¹⁵ *Colonial Pipeline Company*, Docket No. FA14-4-000 (June 17, 2015) (delegated letter order).

No. 6 financial reporting requirement.¹⁶ The audit identified 10 findings of noncompliance and made 25 recommendations for corrective action. This includes findings related to a misapplication of tariff rates to intermediate points involving an affiliate resulting in the under-billing of \$1.7 million and eight findings related to improperly recorded expenses. These findings included accounting misclassifications of \$1.2 million in leases and a misapplication of depreciation rates, which resulted in a higher depreciation expense and accumulated reserve totaling \$2.3 million. As a result of DAA's findings, Enterprise restated its 2011-2013 FERC Form No. 6 and strengthened its policies related to the identified findings.

2. Formula Rates

PPL Corporation (PPL), FA12-12-000. DAA evaluated the wholesale formula rates for PPL's three franchised public utilities: Kentucky Utilities Company (KU), Louisville Gas and Electric Company (LG&E), and PPL Electric Utilities Corporation (PPL Electric).¹⁷ The audit also evaluated whether PPL complied with the Commission's cross-subsidization restrictions on affiliate transactions, accounting requirements for centralized service companies, preservation of records requirements for holding and service companies, and the FERC Form No. 60 requirements. The audit report identified 10 findings of noncompliance and made 33 recommendations for corrective action. Most significantly, PPL Electric improperly accounted for its investment in a subsidiary under the consolidation method of accounting instead of using the equity method of accounting; PPL Electric improperly accounted for overpayments of income taxes in Account 165, Prepayments; PPL Electric improperly accounted for manufactured gas plant remediation expenses in Account 930.2, Miscellaneous General Expenses; KU and LG&E recovered asset retirement obligation costs in their wholesale formula rates without Commission approval; and KU did not remove all amounts from its formula rate calculations associated with distribution utility plant facilities. As a result of DAA's findings, PPL refunded \$5.7 million to wholesale customers.

Ameren Illinois Company (Ameren Illinois), FA13-1-000. DAA evaluated Ameren Illinois's compliance with its wholesale formula rate tariff and the Commission's accounting requirements for public utilities, the FERC Form Nos. 1 and 3-Q reporting requirements, and record-retention regulations.¹⁸ The audit identified 10 findings of noncompliance and made 24 recommendations for corrective action. The findings involved improper accounting and rate treatment for income tax overpayments, improper recovery of merger-related internal labor costs, accounting misclassifications in administrative and general expense accounts, improper AFUDC accruals, improper inclusion of asset retirement obligation amounts in formula rates, failure to use Commission-approved depreciation rates for transmission and general utility plant included in formula rates, improper accounting for the underfunded status of its pension fund, and improper record retention practices. As a result of DAA's findings, Ameren Illinois refunded over \$2.8 million to wholesale customers and will exclude significant amounts from being improperly included in future wholesale formula rate calculations.

¹⁶ *Enterprises Product Partners, LP*, Docket No. FA14-1-000 (June 17, 2015) (delegated letter order).

¹⁷ *PPL Corporation*, Docket No. FA12-12-000 (Oct. 9, 2014) (delegated letter order).

¹⁸ *Ameren Illinois Company*, Docket No. FA13-1-000 (Apr. 4, 2015) (delegated letter order).

Duquesne Light Company (Duquesne), FA13-3-000. DAA evaluated compliance with Duquesne's wholesale formula rate tariff and the Commission's accounting and FERC Form No. 1 reporting requirements.¹⁹ The audit also evaluated whether Duquesne complied with the conditions established in Commission orders granting transmission rate incentives, Commission rules for incentive-based rate treatment for transmission infrastructure investment, and market rules governing PJM's demand-response program. The audit report identified nine areas of noncompliance and made 45 recommendations for corrective action. The findings involved improper accounting for costs associated with utility plant construction, inappropriate recovery of (and a return on) costs, and record retention and reporting deficiencies. As a result of DAA's findings, Duquesne refunded approximately \$4.4 million to wholesale formula rate customers and it also removed \$9.5 million in costs from the transmission plant in its rate base that would have continued to have been inappropriately included in wholesale formula rate determinations.

Union Electric Company (Union Electric), FA13-2-000. DAA evaluated compliance with Union Electric's wholesale formula rate tariff and the Commission's regulations governing nuclear plant decommissioning trust funds, accounting requirements for public utilities, the FERC Form Nos. 1 and 3-Q reporting requirements, and record-retention requirements.²⁰ The audit identified 10 findings of noncompliance and made 27 recommendations for corrective action. The findings involved improper accounting and rate treatment for income tax overpayments Union Electric made to its parent company for its applicable Federal and state income tax liabilities in Account 165, Prepayments; improper recovery of nonsafety-related advertising expenses in formula rate billings; misclassified power production costs in A&G accounts; improper inclusion of asset retirement obligation amounts in formula rates; improper inclusion of the premium and discount of preferred stock in preferred stock and common equity components of the AFUDC rate computation; and failure to use Commission-approved depreciation rates for transmission and general utility plant included in formula rate determinations. As a result of DAA's findings, Union Electric refunded over \$970,000 through its wholesale formula rate and excluded significant amounts from being improperly included in future wholesale formula rate calculations.

Southwestern Public Service Company (Southwestern), FA13-4-000. DAA evaluated compliance with Southwestern's wholesale formula rate tariff, the Commission's accounting requirements, and the FERC Form Nos. 1 and 3-Q reporting requirements.²¹ The audit report identified seven areas of noncompliance and made 25 recommendations. These findings involved the improper recovery of land held for future use related to distribution plant, improper recovery of A&G expenses previously reimbursed, failure to use Commission-approved depreciation rates for transmission and general plant included in formula rate determinations, misclassification of regulatory fees and expenses, air pollution emissions fees, and asset retirement costs, and failure to make a required accounting filing for disposition of utility plant. As a result of DAA's findings, Southwestern refunded \$85,872 (including interest) to its wholesale customers and excluded significant amounts from being improperly included in future wholesale formula rate calculations.

Public Service Company of Colorado (PSCo), PA13-14-000. DAA evaluated PSCo's compliance with its wholesale formula rate tariff, the Commission's accounting requirements,

¹⁹ *Duquesne Light Company*, Docket No. FA13-3-000 (Nov. 13, 2014) (delegated letter order).

²⁰ *Union Electric Company*, Docket No. FA13-2-000 (Mar. 27, 2015) (delegated letter order).

²¹ *Southwestern Public Service Company*, Docket No. FA13-4-000 (Nov. 17, 2014) (delegated letter order).

and FERC Form Nos. 1 and 3-Q reporting requirements.²² The audit report identified 13 areas of noncompliance and made 32 recommendations for corrective action. These findings involved computational errors for common plant depreciation and amortization expenses in the wholesale formula rate, failure to credit revenues for the transmission of electricity of others against the transmission revenue requirement, misclassification of compromise settlements and donations as an operating expense, improper inclusion of generator interconnection assets in the formula rate mechanism, misallocation of service company costs to PSCo, and premature recovery of a transmission plant acquisition adjustment prior to Commission approval. DAA also identified PSCo's failure to have adequate procedures to identify acts of discretion that may have required a posting to OASIS under Order No. 717, failure to post complete system impact and facilities study metrics on its public OASIS web site, failure to release nonfirm available transmission capability, inconsistent customer creditworthiness reviews, and inadequate record-retention procedures. As a result of DAA's findings, PSCo refunded approximately \$700,000 (including interest) to its wholesale customers and excluded significant amounts from being improperly included in future wholesale formula rate calculations.

Baltimore Gas and Electric Company (BGE), FA13-13-000. DAA evaluated BGE's compliance with its wholesale formula rate tariff, the conditions included in the Commission order granting BGE's transmission rate incentives, and PJM's OATT (under which BGE is a market participant in PJM's capacity market and other demand-response programs).²³ The audit also evaluated whether accounts included in the determination of recoveries under BGE's wholesale formula rate tariff complied with the Commission's accounting requirements. The audit identified four findings of noncompliance and made 11 recommendations for corrective action. Most significantly, BGE improperly had included merger-related costs in its wholesale formula rate. Audit staff also took issue with BGE's accounting for costs related to political action committees, the misclassification of a prepaid pension asset, and insufficient explanations in its FERC Form No. 1. As a result of DAA's findings, BGE refunded \$155,083 (including interest) to its wholesale customers and excluded significant amounts from being improperly included in future wholesale formula rate calculations.

3. Nuclear Decommissioning

Kansas Gas and Electric Company (KGE), FA14-3-000. DAA evaluated KGE's compliance with the Commission's regulations governing nuclear plant decommissioning trust funds.²⁴ It also evaluated KGE's books of account, accounting practices, and controls over its nuclear plant decommissioning trust funds for consistency with established accounting and reporting requirements applicable to nuclear decommissioning. The audit report identified two areas of noncompliance and made six recommendations for corrective action. The findings involved KGE's lack of clear separation of wholesale from retail monies in its trust fund and its failure to file annual financial reports for its trust fund activities with the Commission. As a result of DAA's findings, KGE adjusted the structure of the trust fund to properly reflect monies collected from customers through wholesale rates. KGE also developed new procedures and controls to ensure it files the annual trust fund report timely, completely, and accurately with the Commission.

²² *Public Service Company of Colorado*, Docket No. PA13-14-000 (July 21, 2015) (delegated letter order).

²³ *Baltimore Gas and Electric Company*, Docket No. FA13-13-000 (June 4, 2015) (delegated letter order).

²⁴ *Kansas Gas and Electric Company*, Docket No. FA14-3-000 (March 27, 2015) (delegated letter order).

Entergy Corporation (Entergy), FA14-2-000. DAA evaluated Entergy’s compliance with the Commission’s regulations governing nuclear plant decommissioning trust funds.²⁵ It also evaluated Entergy’s books of account, accounting practices, and controls over its nuclear plant decommissioning trust funds for consistency with established accounting and reporting requirements applicable to nuclear decommissioning. The audit report identified one finding of noncompliance and made four recommendations for corrective action. DAA concluded that Entergy’s trust fund financial reports did not include some trust funds containing wholesale monies that it had acquired from previous nuclear plant owners and did not include all required information for the trust funds reported. As a result of the audit, Entergy will strengthen its policies to ensure it submits all required information.

4. Mergers and Acquisitions

Kinder Morgan, Inc. (Kinder Morgan), FA14-10-000. At Kinder Morgan, DAA focused on examining the transactions associated with the Kinder Morgan and El Paso Corporation merger to evaluate compliance with the Commission’s accounting regulations and the FERC Form No. 2 requirements.²⁶ DAA identified four areas of noncompliance and made nine recommendations for Kinder Morgan’s jurisdictional interstate natural gas pipelines. The audit found that accounting classification procedures adopted after the merger for pipeline assessment expenses and other maintenance costs were inappropriate, certain merger-related labor costs were misclassified to operating expense accounts instead of the appropriate nonoperating expense account, merger-related software development costs were misclassified to administrative and general expense accounts instead of appropriate operating expense accounts, and certain costs were recorded inconsistent with the Commission’s accounting requirements. As a result of DAA’s findings, Kinder Morgan will strengthen its accounting procedures for pipeline assessment costs and other areas of noncompliance identified.

5. Natural Gas Tariff, Accounting, and Reporting

Columbia Gas Transmission, LLC (Columbia), FA13-5-000. DAA evaluated whether Columbia had complied with Commission accounting and reporting requirements, and its adherence to the approved terms and rates of its gas tariff.²⁷ The audit identified eight areas of noncompliance and made 29 recommendations related to Columbia’s operations under the tariff and its accounting and financial reporting to the Commission. As a result of DAA’s findings, Columbia refunded \$949,039 to customers through its capital cost recovery mechanism for pipeline safety costs. Further, in response to audit findings, Columbia is monitoring capacity on its operating balancing agreements, accurately reporting available capacity on its electronic bulletin board, and utilizing appropriate FERC accounts to accurately capture and report financial information to stakeholders, shareholders, and users of FERC information.

Southern Natural Gas Company (SNG), FA13-7-000. DAA evaluated whether SNG had complied with Commission accounting and reporting requirements, proper accrual of AFUDC, and record-retention regulations.²⁸ The audit report identified seven findings of noncompliance and made 20 recommendations for corrective action. Most significantly, SNG improperly had recorded more than \$75 million in pipeline integrity management program costs as operating

²⁵ *Entergy Corporation*, Docket No. FA14-2-000 (July 30, 2015) (delegated letter order).

²⁶ *Kinder Morgan, Inc.*, Docket No. FA14-10-000 (June 4, 2015) (delegated letter order).

²⁷ *Columbia Gas Transmission, LLC*, Docket No. FA13-5-000 (Dec. 30, 2014) (delegated letter order).

²⁸ *Southern Natural Gas Company*, Docket No. FA13-7-000 (Apr. 14, 2015) (delegated letter order).

expenses instead of maintenance expenses from 2012-2014. DAA also detected areas of incorrect accounting, including incorrect accounting for civil penalties. Finally, the audit team uncovered an inappropriate treatment of unamortized debt expense totaling over \$8.8 million, which resulted in SNG overstating its AFUDC. As a result of DAA's findings, SNG and its jurisdictional affiliates updated their accounting practices, resulting in the reclassification of pipeline integrity management program costs from operating expenses to maintenance expenses. Furthermore, SNG implemented accounting procedures to ensure that civil penalty expenses and similar transactions are properly classified.

Ruby Pipeline, LLC (Ruby), FA13-12-000. DAA evaluated whether Ruby had complied with Commission accounting and reporting requirements and proper accrual of AFUDC.²⁹ The audit report identified five areas of noncompliance and made 14 recommendations for corrective action. The audit found that Ruby had overstated interest expense recorded in Account 427, Interest on Long-term Debt, and had inappropriately subtracted the balance of Account 181, Unamortized Debt Expense, from the long-term debt balance in computing AFUDC rates. Ruby also had included ineligible costs, such as contract retention, unpaid use tax accruals, and expenditures from a canceled project in its construction cost component and had over-accrued AFUDC. As a result of DAA's finding, Ruby recalculated its AFUDC rate and made journal entries to correct all related accounts.

6. Market-Based Rates, Electric Quarterly Reports, and Other Reporting

Public Service Enterprise Group, Inc. (PSEG), PA13-13-000. DAA evaluated whether PSEG and its subsidiaries had complied with the requirements of their respective MBR authorizations, EQR filing requirements, and the market rules governing uplift payments received under PJM's Amended and Restated Operating Agreement.³⁰ The audit report identified two areas of noncompliance and made seven recommendations related to PSEG companies' EQR filing requirements. Specifically, audit staff found that PSEG had misreported data in EQR filings and had failed to report in EQR filings demand-response and energy-efficiency transactions and associated contracts from 2010 through 2012. As a result of DAA's findings, PSEG corrected and refiled its EQR filings, strengthened controls over EQR filing, revised written procedures that guide its EQR filing processes and procedures, and implemented a formal staff training program related to EQR filing requirements.

Tenaska Energy, Inc., and Tenaska Energy Holdings, LLC (Tenaska), PA13-18-000. DAA evaluated whether Tenaska had complied with the requirements of: (1) its MBR authorizations and EQR filing regulations, and (2) the FERC Form No. 552 reporting requirements.³¹ The audit identified six findings of noncompliance, made 19 recommendations for corrective action, and presented suggestions to strengthen Tenaska's internal controls over training and trading. The findings focused on compliance issues with Tenaska's FERC Form No. 552s, EQRs, and price index reporting. The issues concerned timeliness of filing, accuracy and completeness of information filed, and controls in place to ensure compliance. As a result of DAA's findings, Tenaska committed to correct and refile the necessary filings, strengthen its controls surrounding the filing of complete and accurate information with the Commission, and enhance its internal controls regarding compliance training and trading activities.

²⁹ *Ruby Pipeline, LLC*, Docket No. FA13-12-000 (Nov. 10, 2014) (delegated letter order).

³⁰ *Public Service Enterprise Group, Inc.*, Docket No. PA13-13-000 (Oct. 16, 2014) (delegated letter order).

³¹ *Tenaska Energy, Inc.*, Docket No. PA13-18-000 (Feb. 11, 2015) (delegated letter order).

American Electric Power, Inc. (AEP), PA13-17-000. DAA evaluated AEP's compliance with the requirements of: (1) its MBR authorizations and EQR filing regulations and (2) the FERC Form No. 552 reporting requirements.³² The audit also examined AEP's wholesale electric and natural gas market activity, including compliance with applicable tariff provisions and Commission regulations for natural gas transportation and sales transactions under 18 C.F.R. Part 284. DAA found that AEP's subsidiary, AEP Energy Partners, had overstated its energy sales transactions reported in seven EQR filings made from May 2012 through December 2013 by 46,593,821 megawatt-hours and approximately \$1.8 billion. As a result of DAA's findings, AEP will refile its May 2012 through December 2013 EQR filings and strengthen its controls surrounding the filing of accurate EQR filings.

Cargill Incorporated (Cargill), FA14-6-000. DAA evaluated whether Cargill had complied with Commission Form No. 552 reporting requirements.³³ The audit report identified one area of noncompliance in Cargill's FERC Form No. 552 report filed with the Commission. Cargill had incorrectly reported certain non-reportable purchase and sales volumes as transactions contracted at fixed prices, at prices that refer to published daily and monthly indexes, and at prices set upon a physical basis transaction value. This resulted in Cargill over-reporting purchase and sales volumes in its 2012 FERC Form No. 552. As a result of DAA's finding, Cargill will refile its 2012 FERC Form No. 552 and strengthen its controls and procedures to submit complete and accurate information to the Commission.

ConocoPhillips Company (ConocoPhillips), FA14-5-000. DAA evaluated whether ConocoPhillips had complied with Commission regulations surrounding the reporting of energy transactions, including: (1) reporting on the FERC Form No. 552, Annual Report of Natural Gas Transactions and (2) standards for reporting transaction data to indexes.³⁴ The audit identified two areas of noncompliance and made four recommendations for corrective action. The areas of noncompliance concerned ConocoPhillips's failure to report all reportable transactions to price index publishers and its failure to disclose all affiliate companies on its FERC Form No. 552 filings. As a result of DAA's findings, ConocoPhillips must strengthen its processes and procedures to ensure that all reportable natural gas transactions are reported to price index publishers.

7. Capacity Markets and Demand Response

NRG Energy, Inc., (NRG), PA14-1-000. DAA evaluated whether NRG had complied with the various tariffs governing the markets in which its resources operate.³⁵ DAA focused on tariff provisions relevant to NRG's participation as a generation resource in wholesale capacity markets and evaluated whether NRG has sufficient procedures, practices, and resources to carry out its programmatic responsibilities. The audit report included two findings of noncompliance and five recommendations for corrective action. The findings concerned NRG's failure to report plant outage data and the destruction of plant outage log records. As a result of DAA's findings, NRG updated its standard operating system policies for each of the three Eastern RTO/ISOs and its records management policies.

³² *American Electric Power, Inc.*, Docket No. PA13-17-000 (July 30, 2015) (delegated letter order).

³³ *Cargill Incorporated*, Docket No. FA14-6-000 (Oct. 24, 2014) (delegated letter order).

³⁴ *ConocoPhillips Company*, Docket No. FA14-5-000 (June 17, 2015) (delegated letter order).

³⁵ *NRG Energy, Inc.*, Docket No. PA14-1-000 (July 2, 2015) (delegated letter order).

8. No Audit Findings

Occidental Energy Marketing, Inc. (Occidental), FA14-8-000. DAA evaluated whether Occidental had complied with Commission filing requirements for the annual reporting of natural gas transactions and the FERC Form No. 552 instructions.³⁶ The audit resulted in no findings or recommendations that require Occidental to take corrective action at this time. Audit staff based its conclusion on the review of material Occidental provided in response to audit staff's data requests, interviews with Occidental employees, and a review of publicly available documents.

D. Accounting Matters

DAA administers the Commission's accounting programs, which were established for the electric, natural gas, and oil industries as a vital component of the Commission's authority for establishing just and reasonable rates. In support of this strategic goal, DAA provides accounting advice that considers the Commission's ratemaking policies, ensures the transparency of financial information affecting rate design, and identifies accounting outcomes that best reflect the economic results of an entity's operations. It does so through extensive coordination with other Commission program offices. Further, DAA provides accounting expertise to Commission program offices as they develop Commission policies and proposed rulemakings to ensure that these initiatives properly consider and evaluate accounting and financial issues affecting jurisdictional entities. To better serve the Commission in these capacities, DAA monitors and participates in projects initiated by the Financial Accounting Standards Board, Securities and Exchange Commission, and International Accounting Standards Board.

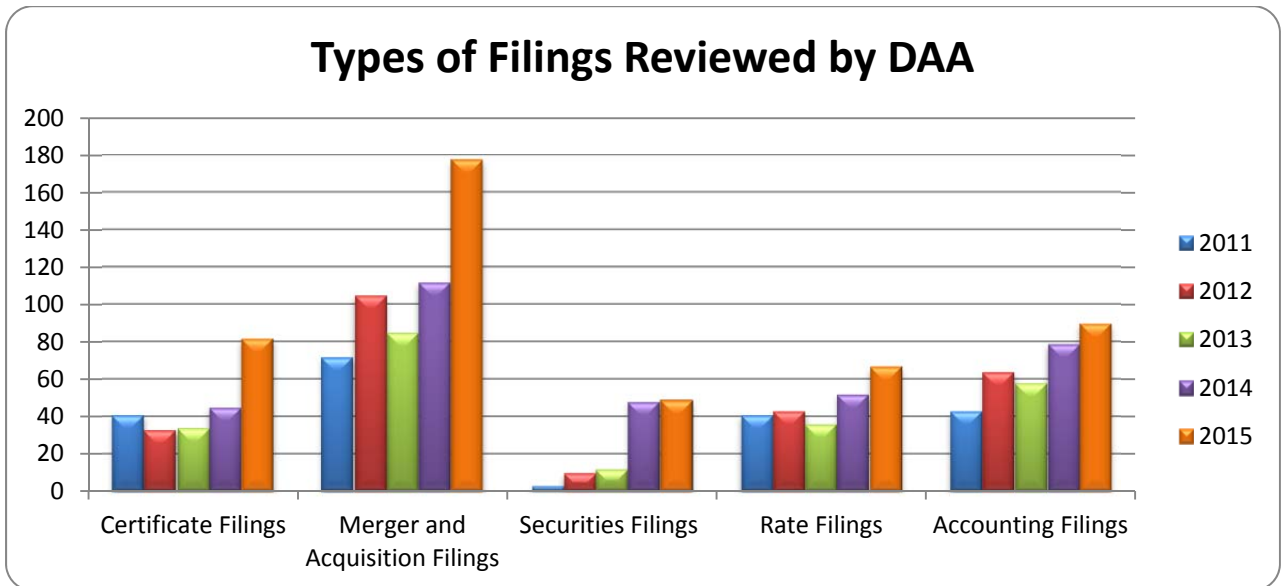
DAA also receives accounting inquiries and provides informal feedback on the Commission's accounting and financial reporting regulations. These inquiries come directly from jurisdictional entities, industry trade groups, consultants, and other industry stakeholders, as well as through the Commission's Compliance Help Desk, Office of External Affairs, Enforcement Hotline, and other Commission offices. Similarly, DAA responds to various accounting and financial reporting matters during pre-filing, accounting liaison, and other meetings with jurisdictional entities. While DAA's informal advice does not constitute a formal Commission action, DAA staff works diligently to aid jurisdictional entities in complying with the Commission's accounting and financial reporting regulations when requests are made. DAA encourages jurisdictional entities to also seek formal guidance on accounting issues of doubtful interpretation to enhance compliance with the Commission's accounting and financial reporting regulations.

1. Filings Reviewed by DAA

DAA has advised the Commission and has acted on filings submitted to the Commission covering various accounting matters with cost-of-service rate implications, such as accounting for mergers, asset dispositions, depreciation, AFUDC, post-retirement benefits, income taxes, and prior-period corrections. While DAA focused on accounting matters within the filings, some of the filings came from jurisdictional entities seeking Commission approval primarily for matters other than accounting, such as requests for certificates, merger and acquisition approvals, rate filings, and securities and debt applications. In these cases, DAA served in an advisory role to other program offices. Over the past five years, DAA has reviewed 1,395 Commission filings

³⁶ *Occidental Energy Marketing, Inc.*, Docket No. FA14-8-000 (Oct. 24, 2014) (delegated letter order).

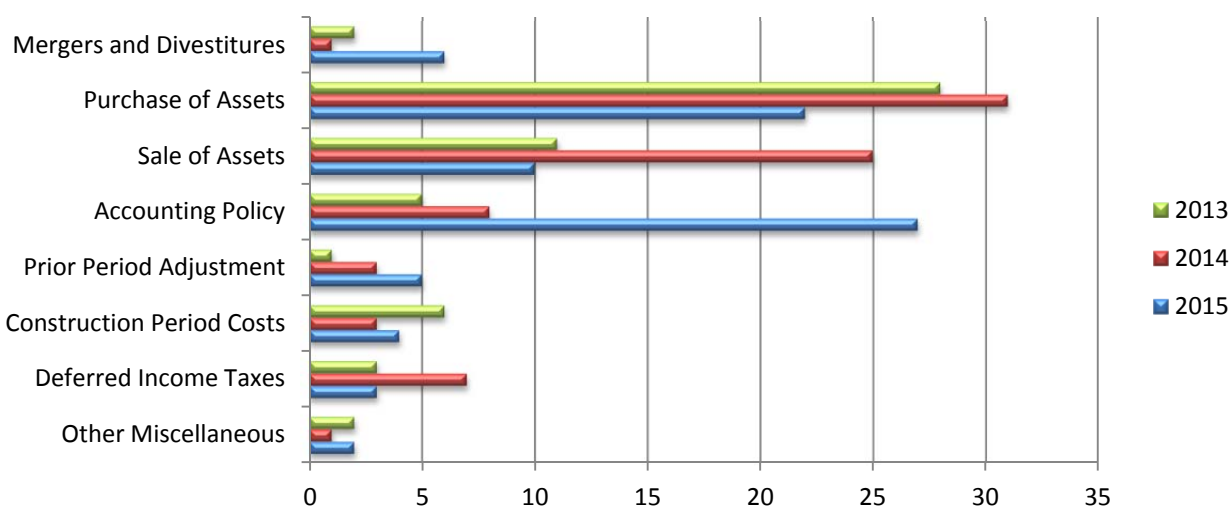
to ensure proper accounting is followed and to advise the Commission on potential rate effects. In FY2015 alone, DAA reviewed a total of 376 filings.



2. Requests for Approval of the Chief Accountant

In FY2015, the Chief Accountant responded to 90 accounting filings requesting approval of a proposed accounting treatment or financial reporting. The matters covered in these accounting requests related to various topics within the Commission’s accounting and financial reporting requirements for electric, natural gas, and oil entities. Notably in FY2015, there was an increase in filings related to mergers and divestitures, which included reorganizations between affiliated entities. In these, DAA focused on issues related to goodwill, acquisition adjustments, equity accounts, and capital structures. There also was an increase in filings during FY2015 to make changes in accounting policy and prior-period adjustments, which is an indicator that regulated entities are showing more prudence in reviewing and scrutinizing their compliance with the Commission’s accounting rules.

Filings Submitted for Chief Accountant Approval



The dockets below represent accounting filings approved by the Commission that presented noteworthy accounting issues or involved ratemaking consequences. These accounting orders serve as guidance for future DAA action on similar accounting issues.

- In Docket No. AC11-46-000, *et al.*, the Commission found that Ameren Illinois inappropriately, and without Commission approval, had included goodwill recorded in Account 211, Miscellaneous Paid-in Capital, in the equity component of its capital structure used in its transmission formula rate calculation. As a result, Ameren Illinois had collected an excessive return through transmission formula rates. On July 20, 2015, the Commission approved a settlement whereby Ameren Illinois agreed to correct this error by adjusting its formula rate billings and refunding \$7,138,799 to wholesale customers.
- In Docket No. AC14-126-000, Ohio Power Company (OPCo) and AEP Generation Resources Inc. (AGR) proposed journal entries relating to an internal reorganization whereby OPCo's generation and power marketing businesses were transferred to AGR. DAA discovered certain transaction costs that were inappropriately recorded in operating expense accounts by OPCo and included in rates to wholesale generation customers. Costs incurred to consummate mergers and internal reorganizations are typically nonoperating in nature and properly recorded in Account 426.5, Other Deductions.

3. Certificate Proceedings

In FY2015, DAA reviewed 82 natural gas pipeline certificate application filings seeking Commission authorization to construct, own, and operate new pipeline facilities; abandon or acquire pipeline facilities; and establish rates for new pipeline facilities in service. DAA works with other Commission program offices to assist development of just and reasonable rates in the public interest by reviewing construction costs and all items used to determine initial rates (including operation and maintenance expenses), depreciation, amortization, taxes, AFUDC, and return on investment. DAA also ensures that applicants follow Commission accounting rules and regulations related to asset abandonment, construction, AFUDC calculations, contributions in aid of construction, regulatory assets and liabilities, leases, and system gas. During FY2015, DAA continued to observe that several new and established pipeline companies had not fully adhered to the Commission's accounting regulations and precedent when they submitted an

initial application pursuant to section 7(c) of the Natural Gas Act.³⁷ Particularly, the timing of AFUDC accruals had not appropriately begun and ended, potentially leading to excess capitalization of AFUDC. DAA continues to remind natural gas pipeline companies to follow the Commission's regulations and precedent in accruing and compounding AFUDC capitalized to construction projects.

4. Merger and Acquisition Proceedings

In FY2015, DAA reviewed six merger filings and approximately 171 acquisition filings from electric utilities. The accounting review for merger transactions entails examining proposed accounting for costs to execute the transaction, costs to achieve integration and synergies, fair-value adjustments to assets and liabilities, and goodwill. DAA also ensures that the accounting is consistent with any hold-harmless or other rate requirements discussed in a merger order. In acquisition filings, DAA conducts an accounting review to ensure applicants properly account for the purchase and sale of plant assets consistent with Commission regulations. DAA ensures that jurisdictional entities maintain the appropriate original cost and historical accumulated depreciation of acquired utility plant and properly recorded acquisition premiums or discounts. DAA also reviewed merger and acquisition accounting entries to ensure they provide enough transparency to the Commission and all interested parties for evaluating the impact on rates. DAA also consistently reminded jurisdictional entities to file accounting entries timely, within six months of a finalized merger or acquisition transaction, in accordance with Electric Plant Instruction No. 5 and the requirements of Account 102, Electric Plant Purchased or Sold.

5. Debt and Security Issuance Proceedings

In FY2015, the Chief Accountant reviewed 49 electric utility security/debt applications. Section 204(a) of the FPA requires jurisdictional entities to receive Commission authorization before issuing securities or assuming liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person. In reviewing filings under section 204, the Commission evaluates an applicant's viability based on a review of financial statements submitted with the application, interest coverage ratio, and debt maturities and cash-flow projections. DAA's review of debt and security applications provides critical analysis that helps prevent public utilities from borrowing substantial amounts of money and using the proceeds to finance nonutility businesses. This review also ensures that future issuance of debt is consistent with the public interest.

6. Rate Proceedings

In FY2015, DAA participated in 62 rate filings that predominately involved electric formula rate proceedings, but also included natural gas and oil pipeline rate proceedings. DAA worked with other program offices to discuss many accounting and financial issues and their effects on rates. Since many electric and natural gas rates are derived from accounting information in the FERC Form Nos. 1 and 2, DAA ensured that all proposed accounting in the rate proceedings was consistent with the Commission's accounting requirements and precedent. DAA also worked with other program offices to enhance the transparency of financial information affecting formula rates so that all stakeholders had an opportunity to review the costs included in rates. Particular items that DAA emphasized as critical information included plant assets' historical

³⁷ See 18 C.F.R. Part 201, Gas Plant Instruction (GPI) No. 3-17 (2015); and *Accounting Release No. 5 (Revised)*, *Capitalization of Interest During Construction*, effective January 1, 1968, FERC Stats. & Regs. ¶ 40,005.

cost, merger-related costs, prior-period adjustments, affiliate cost allocations, and correction of errors, among other items. Accounting issues associated with each filing ranged in number and topic. Some of the more common accounting issues in FY2015 rate filings included merger-related costs, regulatory assets, post-retirement benefits, and prepayments.

7. Accounting Inquiries

In FY2015, DAA responded to 85 accounting inquiries from jurisdictional entities and other stakeholders in the Commission's jurisdiction. Accounting inquiries are made through the Compliance Help Desk and the Accounting Inquiries phone line and email or are sent directly to DAA staff. The majority of those who had accounting inquiries sought accounting and financial reporting direction on topics such as capitalization and cost allocations. Those who had accounting inquiries also sought guidance on depreciation, the appropriate functional classification of costs, and record-retention requirements. Of particular interest in FY2015 were inquiries related to emission allowances and renewable generation, income taxes, and asset retirement obligations. DAA responded to these accounting inquiries by providing informal accounting and financial reporting guidance based on Commission precedent and regulations, in addition to instructing individuals how to find documents and regulations using the Commission eLibrary system³⁸ and the Code of Federal Regulations.³⁹

8. International Financial Reporting Standards

The International Financial Reporting Standards (IFRS) Foundation, the International Accounting Standards Board (IASB), and their project on Rate-Regulated Activities (RRA) continue to be of special interest to the Commission and its regulated entities. The Chief Accountant, a Consultative Group member for the RRA Project, has worked with U.S.-regulated entities, state commissions, and international regulators to promote the development of an IFRS accounting standard that provides for regulatory assets and liabilities in IFRS financial statements. In December 2014, DAA participated in an outreach meeting attended by financial statement users, preparers of financial statements, auditing firms, rate regulators, and three IASB members to discuss the RRA Project and potential accounting approaches to recognize the economic effects of rate regulation in IFRS financial statements. Also, the Chief Accountant sent a comment letter in January 2015 to the IASB in response to a discussion paper to provide a more in-depth look into the mechanisms and policy framework supporting the accounting of these economic effects. The Chief Accountant participated in a Consultative Group meeting on March 4, 2015 and provided expert advice on the regulatory mechanisms in the United States. In FY2016, the Chief Accountant expects to continue providing expert advice to IASB staff to develop permanent standards on rate-regulated activities.

9. Hydropower Licensee Requirements under Part 1 of the FPA

DAA has identified compliance issues resulting from the Commission's waiver of certain accounting requirements in previous orders granting MBR authority to hydropower licensees. Part 1 of the FPA requires hydropower licensees to maintain records that may be used in determining the actual legitimate original cost of and net investment in a licensed project in the event that the Commission opts to take over a hydropower project or another entity wants to take

³⁸ The Commission's eLibrary system can be accessed at www.ferc.gov/docs-filing/elibrary.asp.

³⁹ The Commission's regulations in 18 C.F.R. can be found at www.ecfr.gov/cgi-bin/text-idx?SID=03cdba1b6c896b3bd9734aab926c7b88&c=ecfr&tpl=/ecfrbrowse/Title18/18cfrv1_02.tpl

over the license. Accordingly, DAA worked with other program offices to include language in orders granting market-based rate authority stating that hydropower licensees are required to comply with the requirements of the Commission's Uniform System of Accounts to the extent necessary to carry out their responsibilities under Part 1 of the FPA.⁴⁰

⁴⁰ *All Dams Generation, LLC*, 150 FERC ¶ 62,103 (Feb. 12, 2015); *Fortis US Energy Corporation*, 151 FERC ¶ 62,109 (May 15, 2015); and *Balko Wind, LLC*, 151 FERC ¶ 61,162 (May 20, 2015).

DIVISION OF ENERGY MARKET OVERSIGHT

A. Overview

The Division of Energy Market Oversight (Market Oversight) within the Office of Enforcement is responsible for monitoring and overseeing the nation's wholesale natural gas and electric power markets. To carry out this responsibility, Market Oversight continuously examines the structure and operation of the markets to identify anomalies, flawed market rules, tariff and rule violations, and other unusual market behavior as well as significant market events and trends. It also analyzes market-based rate transactions to determine whether entities are exercising market power and reports its various analyses and observations to the Commission and, as appropriate, to the public. Beyond these examinations, Market Oversight also collaborates with other Commission offices to develop regulatory strategies, focusing on the competitiveness, fairness, and efficiency of wholesale energy markets. In addition, Market Oversight administers, analyzes, and ensures compliance with the filing requirements of EQRs and various financial forms. Finally, Market Oversight advises the Commission on the efficacy of regulatory policies in light of evolving energy markets and ensures the Commission has the information needed to effectively administer and monitor those markets.

B. Market-Based Rate Ex Post Analysis

Market Oversight develops tools, conducts surveillance, and analyses transactional and other market data to detect the presence of market power and ensure that jurisdictional rates remain just and reasonable and not unduly discriminatory or preferential. This *ex post* analysis uses a risk-based approach that identifies higher risk markets and participants to prioritize for screening and implements a number of screens to evaluate market structure and outcomes. It then evaluates transactions in the context of the market fundamentals at the time of execution with the primary goal of identifying outcomes that may be inconsistent with expectations of a competitive market, and thus may be indicative of an exercise of market power. Once such outcomes are identified, Market Oversight coordinates with other Commission program offices on its findings, which may result in actions taken by the Commission to remedy market power concerns.

C. Market Monitoring

Market Oversight staff examines data from a variety of sources to review market fundamentals and emerging trends and to examine the structure, operation, and interaction of natural gas and electric markets. As developments warrant, Market Oversight staff initiates projects designed to evaluate market trends and to assess participant behavior. Staff also presents analyses at Commission meetings. During FY2015, such presentations included the following:

1. 2014 State of the Markets Report

Market Oversight annually presents to the Commission and makes public its State of the Markets report, which assesses the significant events in the energy markets during the prior year. Presented on March 19, 2015, the report for 2014 observed that extreme cold temperatures during the early winter months stressed the country's natural gas infrastructure and power markets. Natural gas prices reached record levels during the winter, resulting in electricity price spikes. However, the report explained that after a dramatic start to 2014, natural gas and electricity prices were relatively low and stable for the remainder of the year. Moreover, despite low commodity prices throughout most of the year, natural gas production continued to break

records, attributed to increased shale production. During the second half of the year oil prices plunged, which highlighted long-term implications for oil and gas industry activity. The report also discussed significant developments in the organized wholesale electricity markets, with major changes occurring in CAISO and SPP, as well the expansion of MISO's footprint. Additionally, the report recognized that physical and financial trading had fallen significantly in 2014 as a result of companies, particularly large banks, reducing or eliminating their trading exposure.

2. Seasonal Market Assessments

Market Oversight prepares seasonal assessments that it presents at Commission meetings and makes available to the public on the Commission website. In FY2015, Market Oversight staff's seasonal assessments included the following:

Winter 2014/2015 Energy Market Assessment, October 16, 2014. Market Oversight staff presented the outlook for natural gas markets and noted that conditions going into the winter were mixed for natural gas and electricity markets. The U.S. natural gas market was amply supplied, with production continuing to break records. Following the 2013-2014 winter polar vortex, natural gas pipelines, electric utilities, RTO/ISOs, and the Commission took a number of measures to improve system reliability.

While spot market natural gas prices were in the \$4.00/MMBtu range over most of the country, winter futures were significantly higher. Natural gas storage was below average and coal stockpiles were also lower than usual. Although new pipeline capacity had been added since the previous winter, there were still restrictions in New England. In some regions, there was an increased reliance upon natural gas for electricity generation.

Summer 2015 Energy Market and Reliability Assessment, May 14, 2015. This assessment reviewed the outlook for the electric market for summer 2015. Key takeaways from the assessment included plentiful fuel supplies with low natural gas prices and recovering coal stockpiles. Additionally, the economy continued to recover and contributed to increased industrial demand, yet reserve margins remained adequate. The drought in California and the West entered its fourth year and may have led to elevated energy prices, but both the NERC and the California ISO concluded that the situation was not a threat to reliability.

Market conditions going into the summer reflected the continued low natural gas prices that resulted from robust production, as well as the recovery of fuel stockpiles at coal-fired power plants. Regional electric system reserve margins were adequate, despite modest growth in load, which was primarily attributable to increased industrial activity.

D. Outreach and Communication

Market Oversight makes available to the public its analyses by posting reports on its website and in monthly and periodic snapshot presentations. Staff also briefs visiting industry participants, state and federal officials, and foreign delegations.

1. Website

Market Oversight publishes data and analyses on its website (<http://www.ferc.gov/market-oversight/market-oversight.asp>), which is organized into pages for: (1) national overviews of natural gas and electricity markets; and (2) ten regional electricity and five regional natural gas markets. The regional market pages provide charts, tables, and maps displaying market

characteristics and outcomes. The Market Oversight website also has information on other relevant markets, including LNG, coal, and emissions markets.

2. Snapshot Calls

Market Oversight held several conference calls with representatives of public utility commissions and state agencies in the eastern, central, and western states. These calls provide a current “snapshot” of energy markets. Regional Snapshot Reports serve as the basis for discussion on the calls. The reports include data on natural gas, electricity, LNG, weather, and other market developments. Additionally, the Snapshot Report incorporates reports on special topics. Snapshot Reports are available on the Market Oversight website at <http://www.ferc.gov/market-oversight/mkt-snp-sht/mkt-snp-sht.asp>, and are archived back to 2007.

3. Domestic and Foreign Delegation Briefings

Market Oversight periodically hosts visitors, including foreign and domestic delegations of regulators and industry participants, interested in energy markets and in staff’s market monitoring activities. In FY2015, Market Oversight conducted seven briefings in the Market Monitoring Center, including briefings to Congressional delegations, groups of delegates from federal and state agencies, delegations from industry, and foreign delegations.

Market Oversight also briefs new Commission employees and others on its ongoing monitoring of market trends and events and briefs the management of the Market Monitoring Center to support its oversight function.

4. 2015 Energy Primer

FERC’s 2015 Energy Primer reflects changes in energy markets since the 2012 edition. Market Oversight developed and issued an updated version of its resource manual, *Energy Primer: A Handbook of Energy Market Basics*. This manual provides the public with a broad overview of the physical wholesale markets for natural gas and electricity and energy-related financial markets. The new manual reflects the many changes that have occurred in the industry since Market Oversight developed the first edition of the Energy Primer in 2012. These changes include the growth in natural gas supplies and the expansion of organized electric markets under ISOs and RTOs.

Highlights of the 2015 Energy Primer include: (1) updated figures and recent trends in U.S. natural gas and electricity markets; (2) new maps of ISO and RTO regions to reflect physical changes in market areas and updated descriptions of key features for these markets; (3) updated discussion on electronic trading platforms and exchanges, and the financial instruments used for hedging and arbitrage in natural gas and electricity trading and markets; and (4) expanded discussion of the anti-manipulation provisions of the Federal Power Act and the Natural Gas Act.

The 2015 Energy Primer is available on the Current Highlights section of the Market Oversight website at <http://www.ferc.gov/market-oversight/market-oversight.asp>.

E. Forms Administration and Compliance

Market Oversight staff administers and ensures compliance with the Commission’s forms filing requirements. The Commission requires companies subject to its jurisdiction to submit annual and quarterly reports regarding jurisdictional sales, financial statements, and operational

data. It uses these reports for analyses, including evaluations of whether existing rates continue to be just and reasonable. Other government agencies and industry participants use them for a variety of business purposes. Accordingly, accurate reporting is a critical aspect of monitoring markets. During FY2015, companies completed and submitted over 10,000 FERC forms.

Market Oversight performs a series of data validation checks for the various FERC forms to ensure that submissions comply with filing requirements and to improve the accuracy and quality of the filed information. Additionally, staff reviewed the various forms and data submitted to the Commission to assess whether to recommend that the Commission take remedial action.

1. Electric Quarterly Reports

Section 205 of the FPA, 16 U.S.C. § 824d (2012), and Part 35 of the Commission's regulations, 18 C.F.R. Part 35 (2015), require, among other things, that all rates, terms, and conditions of jurisdictional service be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements requiring public utilities, including power marketers, to file EQRs summarizing the contractual terms and conditions in their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and provide transaction information (including rates) for short-term and long-term power sales during the most recent calendar quarter.⁴¹

In FY2015, Market Oversight staff reviewed EQR submittals from over 2,000 individual respondents. Commission staff assesses whether sellers have timely complied with the requirements set forth in the multiple orders surrounding EQR filings, and whether the data is accurate and reliable.

2. eForms Refresh Project

On April 16, 2015, the Commission directed Commission staff to begin the process of replacing its electronic filing format for many of the forms submitted by the industry, as the developer no longer supports the current software, Visual FoxPro.⁴² The Commission noted that it believes the best electronic format for submission of these forms is the Extensible Mark-Up Language (XML) file format, which the industry is currently using for submission of other files and reports to the Commission, including electronic tariff filings.⁴³ Market Oversight Staff led a technical conference on May 20, 2015, that brought the North American Energy Standards Board (NAESB) and interested members of the industry together to discuss the eForms Refresh Project and the transition to a new electronic submission format.

⁴¹ *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127 (2002), *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074 (2002), *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342 (2002), *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334 (2003), *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270 (2007), *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008).

⁴² *Order Instituting Proceeding to Develop Electronic Filing Protocols for Commission Forms*, 151 FERC ¶ 61,025 (2015).

⁴³ Phase 1 of the eForms Refresh project is limited to Forms 1, 1-F, 2, 2-A, 3-Q electric, 3-Q gas, 6, 6-Q, FERC-60, and FERC-714.

Market Oversight continues to oversee the transition of these forms in the eForms Refresh project, conducting internal meetings and gathering information gained on the concurrent NAESB-led conference calls.

F. Agenda Items and Rulemakings

Market Oversight assists the Commission in evaluating the efficacy of certain regulatory policies in light of evolving energy markets and ensures that the Commission has the information needed to administer and monitor the markets effectively. Market Oversight continuously reviews the monitoring program to ensure that it is comprehensive and systematic, and reviews reporting requirements to ensure that appropriate and accurate information is collected. Market Oversight seeks to enhance market transparency and efficiency while balancing the regulatory burden on market participants.

The agenda items and rulemakings for which Market Oversight provided support included the Commission agenda item concerning coal delivery issues for electric generation in Winter 2014-15. Early in the winter of 2014-2015, problems in receiving full coal deliveries in the mid-section of the country became apparent to the Commission through staff oversight, letters to the Commission, and press reports. The Commission requested a panel of parties involved in the coal delivery issue appear for its December 18, 2014 Open Meeting, including representatives from ALLETE Minnesota Power, BNSF Railway, U.S. Surface Transportation Board, and MISO. Market Oversight staff, along with Office of Electric Reliability staff, presented its analysis of the coal delivery situation and an overview of the reliability and market implications. Staff's analysis was informed by its oversight and monitoring efforts, as well as by outreach to industry participants.

DIVISION OF ANALYTICS AND SURVEILLANCE

A. Overview

The Division of Analytics and Surveillance (DAS) develops surveillance tools, conducts surveillance, and analyzes transactional and market data to detect potential manipulation, anticompetitive behavior, and other anomalous activities in the energy markets. DAS focuses on: (1) natural gas surveillance, (2) electric surveillance, and (3) analytics for reviewing market participant behavior. The analysts and economists in DAS participate in investigations with attorneys from DOI, providing detailed transactional analysis, market event analysis, and subject matter expertise. As part of its surveillance function, DAS develops, refines, and implements surveillance tools and algorithmic screens to perform continuous surveillance and analysis of market participant behavior, economic incentives, operations, and price formation, in both the natural gas and electric markets, (1) to detect anomalous activities in the markets; and (2) to identify potential investigative subjects.

In FY2015, the Commission continued its efforts to enhance its surveillance of the organized electric markets and to analyze individual market participant behavior by issuing a Notice of Proposed Rulemaking (NOPR) for the Collection of Connected Entity Data from RTOs and ISOs.

The Collection of Connected Entity Data from RTOs and ISOs NOPR. On September 17, 2015, the Commission issued a NOPR on the Collection of Connected Entity Data from RTOs and ISOs in Docket No. RM15-23-000.⁴⁴ In that NOPR, the Commission proposed to amend its regulations to require each RTO and ISO to electronically deliver to the Commission, on an ongoing basis, data required from its market participants that would: (1) identify the market participants by means of a common alpha-numeric identifier; (2) list their “Connected Entities,” which includes entities that have certain ownership, employment, debt, or contractual relationships to the market participants, as specified in the NOPR; and (3) describe in brief the nature of the relationship of each Connected Entity. As explained in the NOPR, this information will assist the Commission’s screening and investigative efforts to detect market manipulation by providing it with a more complete view of the relationships between electric market participants and the incentives underlying their trading activities. More complete information about market participants’ Connected Entities will also reduce the number of informal inquiries that DAS would otherwise have to conduct in response to false positive surveillance screen trips that may result from an incomplete picture of market participants’ incentive structures. The information should also assist the market monitors for the RTOs and ISOs in their individual and joint investigations of cross-market manipulation.

B. Natural Gas Surveillance

DAS conducts surveillance and analysis of physical natural gas market behavior to detect potential manipulation and anti-competitive behavior. DAS created and uses analytical tools, known as screens, that detect anomalous activity by analyzing data relating to trade prices, volumes, times, and other transaction characteristics. In addition, DAS uses Large Trader Report (LTR) data from the CFTC to look for potential financial incentives that might cause a market

⁴⁴ See *Collection of Connected Entity Data from Regional Transmission Organizations and Independent System Operators*, 152 FERC ¶ 61,219 (2015).

participant to engage in a manipulative scheme. The automated screens cover the majority of physical and financial trading hubs in the United States. DAS also employs asset-based screens that monitor cash trading around infrastructure, including natural gas storage, pipeline capacity, and electric generation. The screens alert staff to a variety of market conditions and market participant actions.

When a screen issues an alert, staff conducts a series of analyses to gain information about the activity that caused it. First, staff compares the trading to that at other hubs and determines whether there is a fundamentals-based explanation for the activity based on a review of supply, demand, pipeline utilization, operational notices, and physical and financial trading. Most often, staff finds such an explanation. However, when the follow-up analysis fails to explain the alert, staff performs a more in-depth analysis of the specific trading behavior underlying the alert. Under some circumstances, DAS staff will contact market participants for additional transactional details or explanations of trading activities to better understand the purpose of the transactions. If staff continues to have concerns that the market activities underlying the screen alert could constitute manipulation, DAS refers the matter to DOI and recommends opening an investigation.

C. Electric Surveillance

DAS regularly accesses data from a variety of sources to screen for anomalies and potentially-manipulative behavior in the RTO/ISO and bilateral electricity markets. During FY2015, staff ran monthly screens to identify patterns at the hourly level by monitoring the interactions between physical and virtual bidding strategies and potentially-benefiting payouts. In particular, these screens identify financial transmission rights and swap-futures that exist at nodes and constraints where market participants also trade virtuals, generate electricity, or move power between RTO/ISOs. Staff continued to refine its analytic tools and screens for: (1) determining uneconomic virtual transactions by node, zone, and constraint; (2) detecting day-ahead market congestion manipulation that would benefit financial transmission rights and swap-futures positions; (3) identifying anomalies in physical offer patterns; and (4) identifying abnormal out-of-market payments.

Throughout FY2015, DAS continued to develop and improve its surveillance capabilities. In particular, DAS increased its tools to view patterns of behavior on a portfolio basis and across RTO borders. DAS continues to use extensively the data from the RTO/ISOs under Order No. 760,⁴⁵ the e-Tag data from Order No. 771,⁴⁶ and LTR data from the CFTC. In addition, staff continued to work closely with the Market Monitoring Units of each RTO and ISO.

D. Analytics

During FY2015, DAS worked on more than 30 investigations, some of which are discussed above in the DOI section. Many of these investigations involve allegations of manipulation in the Commission-jurisdictional natural gas and electric markets or violations of tariff provisions that are intended to foster open, competitive markets. DAS's investigative activities generally include: (1) assessing market conditions during periods of suspected manipulation; (2)

⁴⁵ *Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators*, Order No. 760, FERC Stats. & Regs. ¶ 31,330 (2012).

⁴⁶ *Availability of E-Tag Information to Commission Staff*, Order No. 771, 141 FERC ¶ 61,235 (2012).

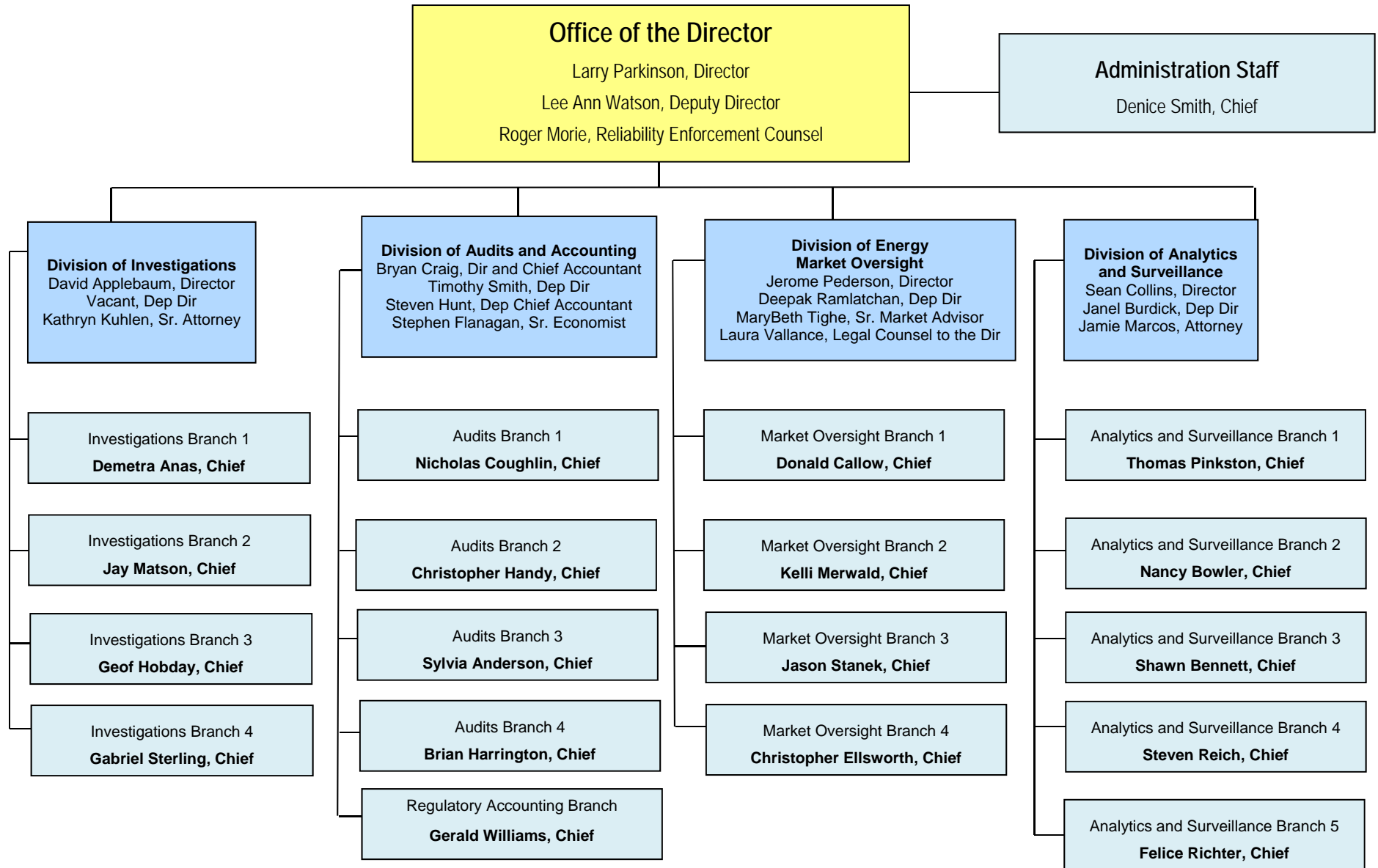
identifying patterns of market activity that could indicate market manipulation; (3) identifying time periods in which potentially manipulative activities occurred; (4) fully reconstructing and analyzing companies' trading portfolios; (5) supporting DOI in taking investigative testimony; and, (6) calculating the amount of unjust profits and market harm resulting from violations to assist with determining a civil penalty recommendation under the Commission's penalty guidelines. Upon completion of the analytical process, staff develops data-based explanations to inform the structure and substance of further investigation, settlement discussions, and Commission actions. Staff also coordinates to develop new screens to detect improper behavior that has been identified during prior investigations.

CONCLUSION

The information in this Report is provided to promote transparency and to encourage entities subject to Commission requirements to develop strong internal compliance programs. As discussed in this Report, Enforcement promotes compliance with the Commission's statutes, rules, orders, regulations, and tariff provisions by investigating a wide variety of matters, auditing regulated entities for both compliance and performance issues, and actively overseeing the gas and electric markets to assist the Commission in ensuring reliable, efficient, and sustainable energy for consumers. DOI will continue to focus its efforts on keeping markets transparent and competitive and helping to ensure the reliability of the bulk power system. DAA will work closely with entities to improve compliance, while Market Oversight will examine and monitor the structure and operation of natural gas and electric markets. DAS will conduct surveillance and analyze transactional and market data to detect potential manipulation, anticompetitive behavior, and other anomalous activities in the energy markets.

APPENDIX A: OFFICE OF ENFORCEMENT ORGANIZATION CHART

OFFICE OF ENFORCEMENT



APPENDIX B: FY2015 CIVIL PENALTY ENFORCEMENT ACTIONS⁴⁷

Subject of Investigation and Order Date	Total Payment	Explanation of Violations
Columbia Gas Transmission, LLC, 152 FERC ¶ 61,089 (July 30, 2015)	\$350,000 civil penalty.	The Commission approved a settlement resolving findings that between January 1, 2010 and May 1, 2013, Columbia Gas violated Part 4 of its tariff by failing to post the notices of the auctions of its available firm capacity on the public side of its Electronic Bulletin Board (EBB) (Navigates). Columbia Gas admits to the violation.
City Power Marketing, LLC and K. Stephen Tsingas, Order to Show Cause and Notice of Proposed Penalty, 152 FERC ¶ 61,012 (July 2, 2015)	\$15 million civil penalty; \$1,278,358 disgorgement.	The Commission issued an Order Assessing Civil Penalties for alleged violation of the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.2, section 222 of the Federal Power Act (FPA), 16 U.S.C. § 824v, and 18 C.F.R. § 35.41(b) by engaging in: (i) a scheme to collect Marginal Loss Surplus Allocation payments through large volumes of sham Up To Congestion trades in PJM; and (ii) false statements under oath to staff designed to conceal important contemporaneous evidence (instant messages) discussing the trades. City Power and Tsingas elected, as part of their response to the Commission's Order to Show Cause, the procedures of FPA section 31(d)(3), under which the Commission assessed a penalty and instituted an action in federal district court to affirm the assessment. FERC has filed a Petition for an Order Affirming the Commission's Order Assessing Civil Penalties in the U.S. District Court, District of Columbia.

⁴⁷ A list of all EPCRA 2005 civil penalty orders is available at <http://www.ferc.gov/enforcement/civil-penalties/civil-penalty-action.asp>.

<p>Houlian Chen; Powhatan Energy Fund, LLC; HEEP Fund, LLC; CU Fund, Inc., Order Assessing Civil Penalties, 151 FERC ¶ 61,179 (May 29, 2015),</p>	<p>\$29.8 million civil penalty; \$4,718,784 disgorgement; compliance measures and monitoring.</p>	<p>The Commission issued an Order Assessing Civil Penalties finding a violation of section 222 of the FPA, 16 U.S.C. § 824v, and the Commission’s Anti-Manipulation Rule, 18 C.F.R. § 1c.2, by engaging in fraudulent Up To Congestion transactions in order to collect Marginal Loss Surplus Allocation payments in PJM Interconnection L.L.C.’s energy markets.</p>
<p>Western Electricity Coordinating Council, 151 FERC ¶ 61,175 (May 26, 2015)</p>	<p>\$16 million civil penalty offset by \$13 million in reliability enhancements; compliance monitoring.</p>	<p>The Commission approved a settlement resolving findings under nine Requirements of five Reliability Standards for failures to: establish valid system operating limits (SOLs) and interconnection reliability operating limits (IROLs), identify and prevent potential violations of SOLs and IROLs, be aware of the impact of protection systems, and to alert impacted Balancing Authorities and Transmission Operators regarding potential violations of SOLs and IROLs.</p>
<p>Maxim Power Corporation, Maxim Power (USA), Inc.; Maxim Power (USA) Holding Company, Inc.; Pawtucket Power Holding Co., LLC; Pittsfield Generating Company, LP; and Kyle Mitton, 151 FERC ¶ 61,094 (May 1, 2015)</p>	<p>\$5.05 million civil penalty.</p>	<p>The Commission issued an Order Assessing Civil Penalties for violations of the Commission’s Anti-Manipulation Rule, 18 C.F.R. § 1c.2, section 222 of the FPA, 16 U.S.C. § 824v, and 18 C.F.R. § 35.41(b) through a scheme to mislead the ISO-New England market monitor in order to collect make-whole payments for reliability dispatches based on the price of oil when Maxim’s plant actually burned less costly gas. Maxim and the other named corporate respondents, including Mitton, elected the procedures of FPA section 31(d)(3), in which the Commission assesses a penalty and, if the penalty is not paid, then institutes an action in federal district court to affirm the assessment.</p>
<p>MISO Cinergy Hub Transactions (Twin Cities Power – Canada, Ltd., Twin Cities Energy, LLC, Twin Cities Power, LLC, Jason F. Vaccaro, Allan Cho, Gaurav Sharma), 149 FERC ¶ 61,278 (December 30, 2014)</p>	<p>\$3.25 million civil penalty; \$978,186 disgorgement; compliance measures and monitoring.</p>	<p>The Commission approved four settlements resolving findings that the entities and three former traders violated the Commission's Prohibition of Electric Energy Market Manipulation, 18 C.F.R. 1c.2, by scheduling and trading physical power in MISO to benefit related swap positions that settle off of real-time MISO prices.</p>

<p>California Independent System Operator, 149 FERC ¶ 61,189 (November 28, 2014)</p>	<p>\$6 million civil penalty, offset by \$4 million in reliability enhancements; Compliance Monitoring.</p>	<p>The Commission approved a settlement resolving findings under three Requirements of three Reliability Standards for failures to: monitor the current flow on Path 44 i by any method that would alert operators to the need for corrective action to avert operation of the separation scheme at the San Onofre switchyard, to operate so that instability, uncontrolled separation and cascading outages would not occur as the result of a single contingency, and establish valid system operating limits.</p>
<p>Western Area Power Administration – Desert Southwest Region, 149 FERC ¶ 61,157 (November 24, 2014)</p>	<p>Mitigation and compliance enhancement measures; compliance monitoring.</p>	<p>The Commission approved a settlement resolving findings under four Requirements of three Reliability Standards for failure to operate Western-DSW’s portion of the transmission system within voltage system operating limits and maintain sufficient situational awareness.</p>
<p>Southern California Edison Company, 149 FERC ¶ 61,061 (October 21, 2014)</p>	<p>\$650,000 civil penalty, offset by \$400,000 in reliability enhancements; compliance monitoring.</p>	<p>The Commission approved a settlement resolving findings under one Requirement of one Reliability Standard for failure to coordinate SCE’s intertie separation scheme with other protection systems.</p>

APPENDIX C: FY2015 NOTICES OF ALLEGED VIOLATIONS⁴⁸

Issue Date	Subject(s) of Investigation	Description of Alleged Misconduct	Dates of Alleged Misconduct
September 21, 2015	Total Gas & Power, North America, Inc. (TGPNA) and individuals Therese Nguyen and Aaron Hall	Violation by TGPNA, and West Desk supervisors Therese Nguyen and Aaron Hall, of section 4A of the Natural Gas Act and the Commission's Anti-Manipulation Rule for devising and executing a scheme to manipulate the price of natural gas at price indexes in the southwest United States. Therese Nguyen and Aaron Hall are alleged to have each implemented the scheme and supervised and directed other traders in implementing the scheme.	Between June 2009 and June 2012.
September 11, 2015	Coaltrain Energy L.P. and individuals Peter Jones, Shawn Sheehan, Robert Jones, Jeff Miller, Jack Wells, and Adam Hugh	Violation by Coaltrain and the named individuals of the Commission's Anti-Manipulation Rule and 18 C.F.R. § 35.41(b) through Up-To Congestion transactions in PJM regional market designed to falsely appear to be spread trades but in fact aimed at collecting Marginal Loss Surplus Allocation payments.	June-September 2010 (violation of Anti-Manipulation Rule); October 2010–December 2012 (violation of 18 C.F.R. § 35.41(b)).
July 27, 2015	Etracom LLC (Etracom) and Michael Rosenberg	Violation by Etracom LLC (Etracom) and Michael Rosenberg of the Commission's Anti-Manipulation Rule by engaging in manipulative virtual trading at the New Melones Intertie in the California Independent System Operator.	May 2011.

⁴⁸ A list of all notices of alleged violations is available at <http://www.ferc.gov/enforcement/alleged-violation/notices.asp>.

July 16, 2015	Columbia Gas Transmission, LLC	Violation by Columbia Gas Transmission, LLC of Part 4 of the General Terms and Conditions of its FERC Gas Tariff by failing to post the notices of the auctions of its available firm capacity on the public side of its Electronic Bulletin Board, Navigates.	Between January 1, 2010 and April 30, 2013.
November 3, 2014	Maxim Power Corporation, John Bobenic, and Kyle Mitton	Violation by Maxim and the named individuals of Commission’s Anti-Manipulation Rule through gaming the ISO-NE mitigation tool, falsely offering its units on oil when it burned natural gas, and artificially inflating the capacity of its units for capacity tests. By offering its units on oil and then burning gas, as well as by artificially inflating the capacity of its units for capacity tests, Maxim also violated 18 C.F.R. § 35.41(b).	2010–2013.