

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

2014 REPORT ON ENFORCEMENT

Docket No. AD07-13-008

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 2014 (FY2014),[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, and notices of alleged violations. However, not all of Enforcement's activities result in public actions by the Commission. As in previous years, the FY2014 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. FY2014, the subject of this report, began on October 1, 2013 and ended on September 30, 2014.

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.

Enforcement selected priorities for its four divisions. In FY2014, Enforcement continued 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 FY2015. 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 its efforts 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 requiring 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. In addition, the office enforces safety and environmental standards established by the Commission in order to promote the development of a safe, reliable, and efficient energy infrastructure with an emphasis on cases involving actual harm or a high risk of harm.

[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.

Enforcement continued its commitment to these priorities in FY2014. DOI staff opened 17 new investigations while bringing 15 pending investigations to closure with no action or settlement. During FY2014, staff obtained a total of almost $25 million in civil penalties and disgorgement of approximately $4 million in unjust profits. In addition, all of these settlements included provisions requiring the subject to enhance its 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 19 financial and operational audits of public utilities and natural gas pipelines. DAA's audits resulted in 162 recommendations for corrective action and directed refunds and recoveries totaling over $11.7 million.

Market Oversight continued its analysis of market fundamentals, including significant trends and developments, market structure and operations to identify market anomalies, flawed market rules, and potentially improper behavior by market participants. 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 FY2014, DAS reviewed numerous instances of potential misconduct and referred matters to DOI for investigation. The Commission also continued to enhance its ability to conduct surveillance of the natural gas and electric markets and to analyze individual market participant behavior by gaining access to the Commodity Futures Trading Commission's (CFTC) Large Trader Report (LTR) data. In addition, DAS led an extensive review of the Polar Vortex events that occurred in January and February of 2014 to determine whether potentially manipulative trading behavior contributed to the high natural gas prices and elevated electricity costs.

DIVISION OF INVESTIGATIONS

A. Overview

The Division of Investigations (DOI) conducts public and non-public investigations of possible violations of the statutes, regulations, rules, orders, and tariffs administered by the Commission. Investigations may begin from self-reports, tips, calls to the Enforcement Hotline, referrals from organized markets or their monitoring units, other agencies, other divisions in Enforcement, other offices within the Commission, or as a result of other investigations. In its investigations, DOI staff coordinates with other divisions in Enforcement and subject matter experts in other Commission offices as appropriate. Where staff finds violations of sufficient seriousness, staff 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]

The Commission continues to increase the transparency of Enforcement activities and promote consistency in Enforcement actions. In FY2014, the Director of Enforcement directed the Secretary to issue 9 notices of alleged violations involving conduct of 21 separate corporate entities and 6 individuals. The notices involved alleged violations of the Commission's prohibition of market manipulation, tariffs, regulations, and Reliability Standards. The notices identified investigation subjects and alleged violations with a concise description of the alleged wrongful conduct.[5]

In FY2014, DOI continued to focus on the enforcement of the Reliability Standards. Through Enforcement's investigations, with the assistance of technical expertise from the Office of Electric Reliability (OER) and in conjunction with the investigative efforts of the North American Electric Reliability Corporation (NERC), the Commission addressed and resolved findings of numerous Reliability Standards violations.

Notably, during this fiscal year the Commission approved settlement of an investigation of a self-reported violation of the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.1 (2014), the first self-report of this kind to result in a Commission-approved settlement. Launched by a self-report by Direct Energy Services, LLC (Direct Energy), DOI and DAS investigated whether Direct Energy manipulated natural gas prices at three hubs in 2011 and 2012. Staff ultimately concluded that Direct Energy engaged in manipulation in May 2012 at Algonquin and Transco Zone 6 to benefit its related financial positions. Direct Energy stipulated to the facts (without admitting that it committed a violation), and agreed to pay a civil penalty of $20,000, to disgorge $31,935, and to continue implementing its existing compliance measures, which include periodic review of its employees' trading conduct. Importantly, Direct Energy received a relatively small civil penalty and disgorgement payments due to its self-reporting, strong compliance program, quick action, and full cooperation with Enforcement's investigation.

The Commission also approved settlements of reliability investigations of Arizona Public Service Company (APS) and Imperial Irrigation District (IID), respectively. The investigations arose out of a joint inquiry between the Commission and NERC into the September 2011 outage

[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 FY2014.

in Arizona, Southern California and Baja California, Mexico, that resulted in over 30,000 MWh of lost firm load and left approximately 2.7 million customers (5 million or more individuals) without power for up to 12 hours. APS and IID stipulated to the facts (without admitting violations of the Reliability Standards) and agreed to mitigation and compliance monitoring. APS agreed to a civil penalty of $3.25 million, $1.25 million to be invested in reliability enhancement measures beyond Reliability Standards requirements. IID agreed to a civil penalty of $12 million, $9 million to be invested in reliability enhancement measures. The Commission has also issued a Notice of Alleged Violations against the Western Electricity Coordinating Counsel, the California ISO, Southern California Edison Company[6] and Western Area Power Authority-Desert Southwest Region in connection with the same outage.

Additionally, DOI work in FY2014 included obtaining multiple settlements resolving investigations concerning manipulative conduct, submission to the Commission of inaccurate and misleading information, violations of the Standards of Conduct for transmission providers, violations of the Reliability Standards, violations of Open Access Transmission Tariff (OATT) provisions, and violations of hydropower safety regulations. In addition to investigation-related work, DOI continued its rigorous analysis of self-reports, Enforcement Hotline calls, referrals, and other matters within the Commission. DOI staff continues to provide guidance and assistance as requested by other program offices on advisory matters.

B. Significant Matters

1. Barclays Bank, PLC, Daniel Brin, Scott Connelly, Karen Levine, and Ryan Smith (Barclays and Traders)

On October 9, 2013, the Commission filed a petition in the United States District Court for the Eastern District of California (the court) to affirm the Commission's assessment of civil penalties of $435 million against Barclays and of $18 million against the named Traders and to order disgorgement by Barclays of $34.9 million plus interest in unjust profits. Previously, on July 16, 2013, the Commission determined that Barclays and the Traders violated the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.2, by engaging in loss-generating trading of next-day, fixed-price physical electricity on the Intercontinental Exchange (ICE) with the intent to benefit financial swap positions at primary electricity trading points in the western United States. On December 16, 2013, Barclays and the Traders filed a motion to dismiss the Commission's petition or alternatively to transfer it to the United States District Court for the Southern District of New York. The Commission filed an opposition to Barclays and the Traders' motion on February 14, 2014, and Barclays and the Traders filed a reply brief on March 21, 2014. The motion is pending before the court as of November 17, 2014.

2. ISO-NE Day-Ahead Load Response Program (DALRP)

Based on an Enforcement investigation of Lincoln Paper and Tissue LLC (Lincoln), Competitive Energy Services, LLC (CES), and Richard Silkman (the CES managing partner), on August 29, 2013, the Commission issued Orders Assessing Civil Penalties to Lincoln, CES, and Silkman,[7] finding that the subjects fraudulently inflated load baselines and repeatedly offered

[6] After the fiscal year ended, on October 21, the Commission approved a settlement in which SCE 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.

[7] *Lincoln Paper and Tissue, LLC*, 144 FERC ¶ 61,162 (2013) (order assessing civil penalty); *Competitive Energy Services, LLC*, 144 FERC ¶ 61,163 (2013) (order assessing civil penalty); *Richard Silkman*, 144 FERC ¶ 61,164 (2013) (order assessing civil penalty).

load reductions at the minimum offer price in order to maintain the inflated baseline. Enforcement found that the scheme involved uneconomic energy purchases that served no legitimate purpose and were designed to increase Day Ahead Load Response Program (DALRP) payments that would not have otherwise been obtained. The Commission determined that this scheme misled ISO-NE, inducing payments to these entities based on the inflated baselines for load reductions that never occurred. The Commission ordered all three respondents to pay civil penalties, and also ordered Lincoln and CES to pay disgorgement. None of the respondents paid the amounts assessed by the Commission. Staff filed two petitions in the United States District Court for the District of Massachusetts on December 2, 2013 seeking affirmance of the Commission's orders. Currently pending in federal court are multiple motions to dismiss and a motion for judgment on the pleadings. All Respondents seek transfer to Maine if the cases are not dismissed. On July 18, 2014, staff participated in a motions hearing before Judge Douglas P. Woodlock in Springfield, Massachusetts. The hearing addressed motions to dismiss and for judgment on the pleadings filed by the Respondents in both cases and a motion to transfer filed by Silkman and CES. The motions are pending before the court as of November 17, 2014.

3. BP America, Inc. and Affiliates (BP)

On May 15, 2014, the Commission issued an order establishing a hearing before an Administrative Law Judge (ALJ) to determine whether certain trading by BP of next-day, fixed-price natural gas at the Houston Ship Channel violated the Commission's anti-manipulation rule, 18 C.F.R. § 1c.1. Enforcement alleges that such trading was uneconomic and part of a manipulative scheme to increase the value of BP's financial position based on Houston Ship Channel natural gas prices. The order addressed BP's answer to the Commission's August 5, 2013 order to show cause in this matter, denied BP's motion to dismiss the proceeding, and found that there are issues of fact requiring a hearing before an ALJ. The order directed the ALJ to make findings with respect to subject matter jurisdiction, the allegations of manipulation, and factors relevant to a possible civil penalty. Staff filed its direct testimony on September 22, 2014 and BP will file its reply testimony on January 6, 2015. The hearing before the ALJ is scheduled to commence on March 30, 2015, and the ALJ's Initial Decision is scheduled for issuance on or before August 14.

C. Settlements

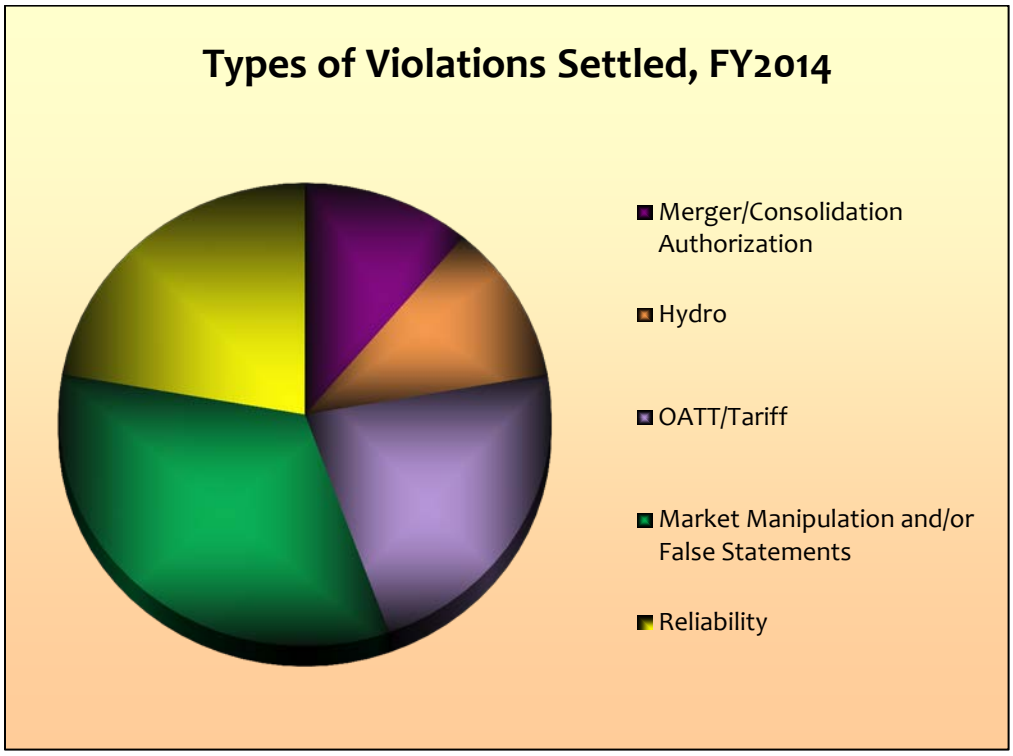
In FY2014, the Commission approved 8 settlement agreements between Enforcement and 9 separate subjects to resolve pending investigations. The settlements assessed a total of almost $25 million in civil penalties, disgorgement of approximately $4 million plus interest, and $1.7 million in public safety enhancements by Erie Boulevard Hydropower, L.P. and Brookfield Power US Assets Management, LLC.[8] In five of the eight cases, subject compliance efforts warranted credit to reduce penalties. Since 2007, the total civil penalties assessed (excluding overturned and pending proceedings) amount to over $602 million and the total disgorgements amount to almost $300 million.[9]

[8] A table of FY2014 Civil Penalty Enforcement Actions, both those resolved through settlement and those resolved through agency proceedings, is attached to this report as Appendix B.

[9] This civil penalty number does not include the $30,000,000 assessed in Hunter and overturned on jurisdictional grounds by the U.S. Court of Appeals for the District of Columbia Circuit. It also does not include penalties proposed or assessed in the following currently pending matters: $28,000,000 in BP America Inc., *et al.*; $453,000,000 in Barclays Bank PLC, *et al.*; $5,000,000 assessed in Lincoln Paper and Tissue, LLC; $7,500,000 assessed in Competitive Energy Services, LLC; or $1,250,000 assessed in Richard Silkman. The disgorgement

Since the 2010 issuance of the Revised Penalty Guidelines,[10] almost every Commission-approved settlement guided by 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 via favorable culpability factors to zero, lowering the base penalty by as much as 95 percent.[11] Because a number of factors can influence the civil penalty in each case, the amount of disgorgement of unjust profits (if any) often does not directly relate to the amount of the civil penalty.

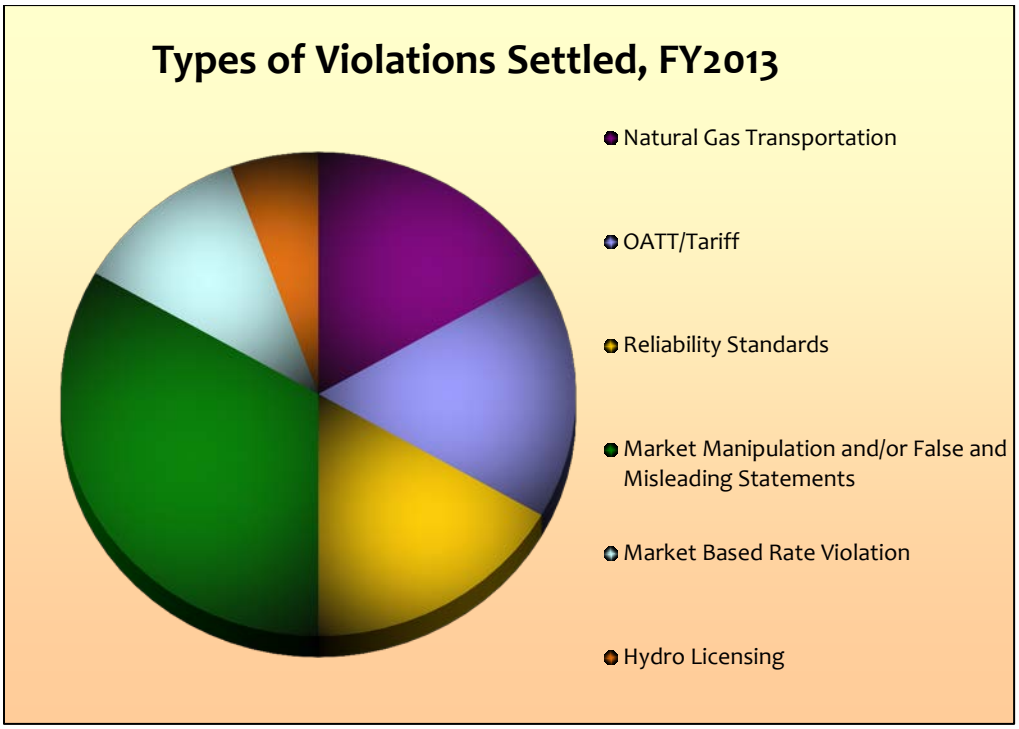
In FY2014, the Commission approved settlement agreements (some involving multiple categories of violations) that resolved OATT violations by two entities, violations of Reliability Standards by two entities, violations of hydropower safety regulations by one entity, violations of Commission regulations regarding filings and facility merger/consolidation authorization by four affiliated entities, violations of prohibitions on submission of inaccurate information by one entity, and violations of the Commission's regulations prohibiting manipulation in natural gas and electric markets by two entities.

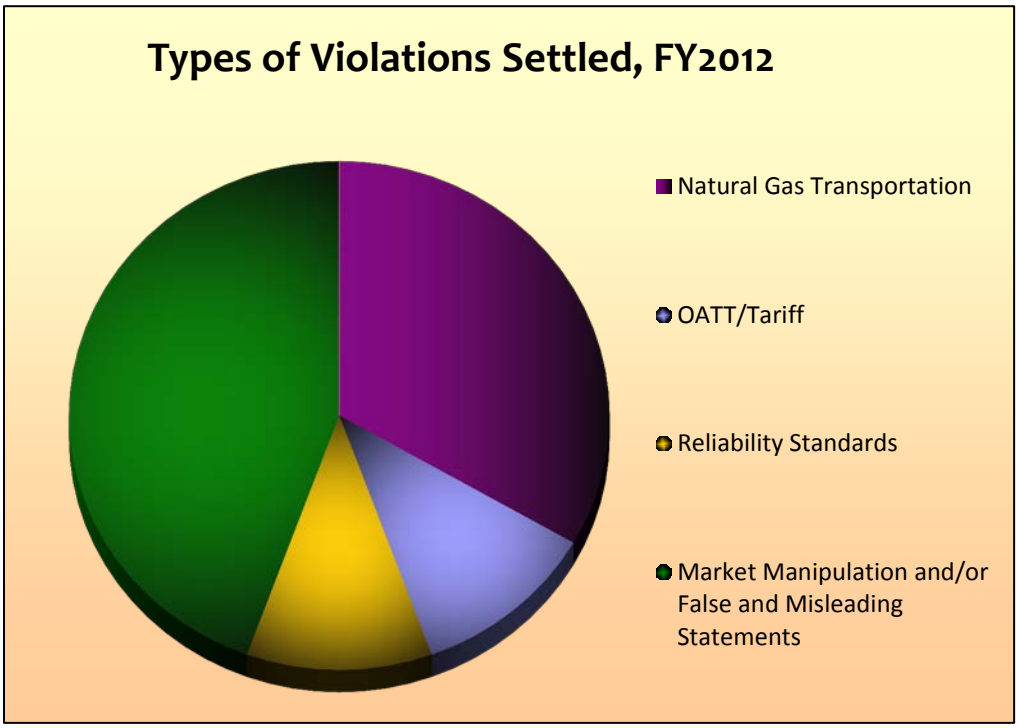


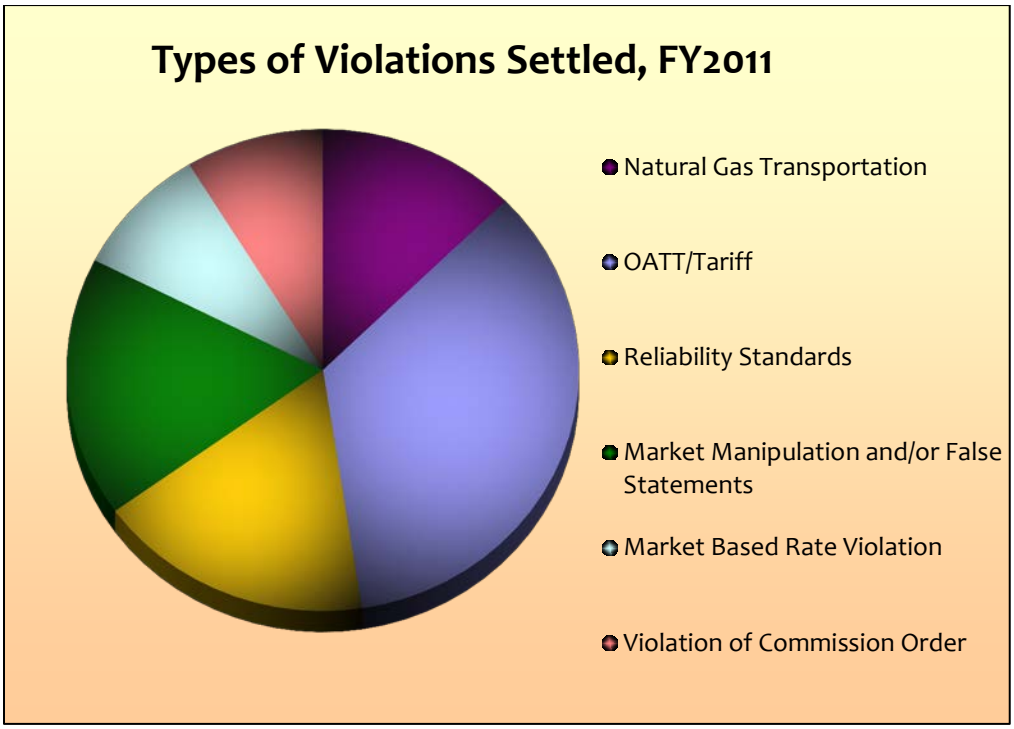
number does not include amounts ordered in the same pending matters: $34,900,000 ordered in Barclays; $379.016 ordered in Lincoln Paper; or $166,841 ordered in Competitive Energy Services.

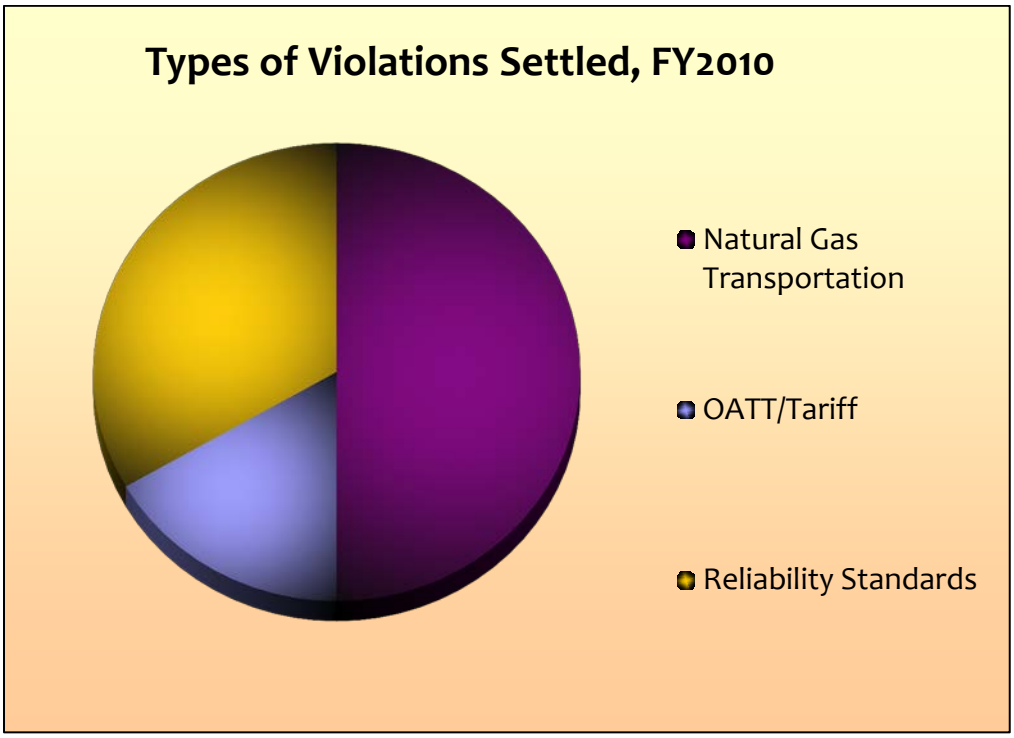
[10] *Revised Policy Statement on Penalty Guidelines*, 132 FERC ¶ 61,216 (2010) (Revised Penalty Guidelines).

[11] Revised Penalty Guidelines, 132 FERC ¶ 61,216 at P109.


Types of Violations Settled, FY2013
Natural Gas Transportation
OATT/Tariff
Reliability Standards
Market Manipulation and/or False and Misleading Statements
Market Based Rate Violation
Hydro Licensing


Types of Violations Settled, FY2012
Natural Gas Transportation
OATT/Tariff
Reliability Standards
Market Manipulation and/or False and Misleading Statements


Types of Violations Settled, FY2011
Natural Gas Transportation
OATT/Tariff
Reliability Standards
Market Manipulation and/or False Statements
Market Based Rate Violation
Violation of Commission Order


Types of Violations Settled, FY2010
Natural Gas Transportation
OATT/Tariff
Reliability Standards

A number of FY2014 settlement agreements are summarized below:

Constellation Energy Commodities Group, Docket No. IN13-17-000. On October 18, 2013, the Commission approved a settlement between Enforcement and Constellation Energy Commodities Group (CECG), resolving a pending investigation of CECG's wheeling-through transactions in the California Independent System Operator (CAISO) market. CAISO's market monitor referred the trades, believing they were improperly designated as wheel-through transactions because they did not include a generation resource or load outside of the CAISO. CECG and Exelon Corporation (then recently merged) stipulated to the facts and admitted that the trade designations violated the requirement in 18 C.F.R. § 35.41(b) of truth and accuracy to the Commission and its ISOs. CECG and Exelon also admitted to violations of a similar CAISO tariff provision and agreed to pay a $500,000 civil penalty, disgorge $145,928 of unjust profits, and submit to compliance monitoring. The Commission's order noted the importance of candor and accuracy during investigations based on two CECG misrepresentations to staff that CAISO would be willing to see the investigation close without imposing a penalty. These misrepresentations cost CECG and Exelon credit for cooperation in their penalty calculation.

Erie Boulevard Hydropower, L.P., Docket No. IN13-12-000. On January 15, 2014, the Commission issued an order approving settlement between Enforcement and Erie Boulevard Hydropower, L.P. (Erie), resolving an investigation into deaths of two fisherman on September 28, 2010 at Erie's Varick development in Oswego, New York. Staff determined after a referral by the Commission's Dam Safety Office that Erie violated numerous provisions of the Commission's Part 12 regulations regarding safety of water power projects and project works. Erie failed to timely repair or replace a safety camera at Varick's powerhouse and staggered-height flashboards, and also to file required information on these safety issues. Erie also failed, among other things, to provide adequate training to the remote system operator (on duty the day of the deaths) on Varick's fishermen Alert System or public safety. Erie and Brookfield Power US Assets Management, LLC stipulated to the facts, neither admitted nor denied they constituted violations of Part 12, and agreed to a civil penalty of $4,000,000 and to budget $1,700,000 for public safety enhancements at their U.S. hydroelectric projects, as well as other compliance measures.

Arizona-Southern California Outage (Arizona Public Service Company), Docket No. IN14-6-000. On July 7, 2014, the Commission issued an order approving the settlement of a reliability investigation of Arizona Public Service Company (APS). The investigation arose out of a joint FERC/NERC inquiry into the September 8, 2011 outage in Arizona, Southern California and Baja California, Mexico that caused over 30,000 MWh of lost firm load. In the settlement, APS stipulated to the facts, neither admitted nor denied violations of four Requirements of two Reliability Standards, and agreed to a civil penalty of $3,250,000, with $2,000,000 to be paid in equal shares to the Treasury and NERC, and a $1,250,000 investment in reliability enhancement measures beyond Reliability Standards requirements (including the installation of additional transmission system monitoring equipment). APS also agreed to mitigation and compliance monitoring.

Arizona-Southern California Outage (Imperial Irrigation District), Docket No. IN14-7-000. On August 7, 2014, the Commission issued an order approving the settlement of a reliability investigation of Imperial Irrigation District (IID). The investigation arose out of a joint FERC/NERC inquiry into the September 8, 2011 outage in Arizona, Southern California and Baja California, Mexico that caused over 30,000 MWh of lost firm load. In the settlement, IID stipulated to the facts, neither admitted nor denied violations of ten Requirements of four Reliability Standards, and agreed to a civil penalty of $12,000,000, with $3,000,000 to be paid in equal shares to the Treasury and NERC, and a $9,000,000 investment in reliability enhancement measures beyond Reliability Standards requirements (utility-scale energy storage facilities). IID

also agreed to mitigation and compliance monitoring.

Louis Dreyfus Energy Services L.P., Docket No. IN12-6-000. On February 7, 2014, the Commission approved a settlement between Enforcement, Louis Dreyfus, and one of its traders, Xu Cheng. The settlement resolved a formal investigation in which Enforcement concluded that Louis Dreyfus violated the Commission's Anti-Manipulation Rule when it made certain virtual trades in the Midcontinent Independent System Operator, Inc. (MISO) market from November 2009 through February 2010 that increased the value of its nearby financial transmission rights (FTRs). Specifically, Enforcement found that Louis Dreyfus engaged in market manipulation at Velva (a node representing a North Dakota wind farm) by placing virtual demands to create artificial congestion, thus enhancing the value of its nearby FTR positions. Under the terms of the settlement, Louis Dreyfus stipulated to the facts, neither admitted nor denied that they constituted a violation, and agreed to disgorge $3,334,000 in unjust earnings, plus interest, and pay a civil penalty of $4,072,257. Cheng, who had previously crafted and described the manipulative scheme in his doctoral dissertation, agreed to pay a civil penalty of $310,000. In addition, Louis Dreyfus prohibited Cheng from virtual trading on behalf of the company anywhere in the United States and agreed that he would not be permitted to resume such trading for at least two years.

International Transmission Company, et al., Docket No. IN14-2-000. On March 11, 2014, the Commission approved a settlement resolving Enforcement's investigation of International Transmission Co. and its subsidiaries Michigan Electric Transmission Co., LLC, ITC Midwest, LLC, and ITC Great Plains, LLC (the ITC Companies) for violations of the Federal Power Act (FPA) and Commission regulations. Specifically, Enforcement found that the ITC Companies violated Section 203(a)(1)(B) of the FPA and Part 33 of the Commission's regulations, 18 C.F.R. Part 33, by acquiring certain Commission-jurisdictional transmission assets without prior Commission approval on 20 occasions during the period 2005 to 2011. Enforcement also found that the ITC Companies violated Section 205 of the FPA and Part 35 of the Commission's regulations by failing in 174 instances to timely file certain Commission-jurisdictional documents between 2003 and 2011. The ITC Companies stipulated to the facts, admitted their violations, agreed to pay a civil penalty of $750,000 and to make compliance reporting.

Indianapolis Power and Light Company, Docket No. IN14-12-000. On July 3, 2014, the Commission approved a settlement resolving Enforcement's investigation of Indianapolis Power and Light Company (IPL) for violating MISO tariff provisions requiring that capacity offers from generation resources "reflect the actual known physical capabilities and characteristics" of the resource on which the offer is based. IPL stipulated to the facts and admitted that it violated MISO's tariff by failing to adjust real time offers for its Petersburg 2 generating unit during two days in 2012, when the unit's capability fell below IPL's offered levels. IPL agreed to pay a civil penalty of $32,500 and to disgorge $301,000 to MISO (occasioned by IPL's receipt of Day-Ahead Margin Assurance Payments for which it was ineligible and avoidance of Revenue Sufficiency Guarantee charges). IPL also agreed to a one-year compliance plan. As noted in the Commission's order, a factor considered in IPL's penalty assessment was its accepting responsibility for its actions.

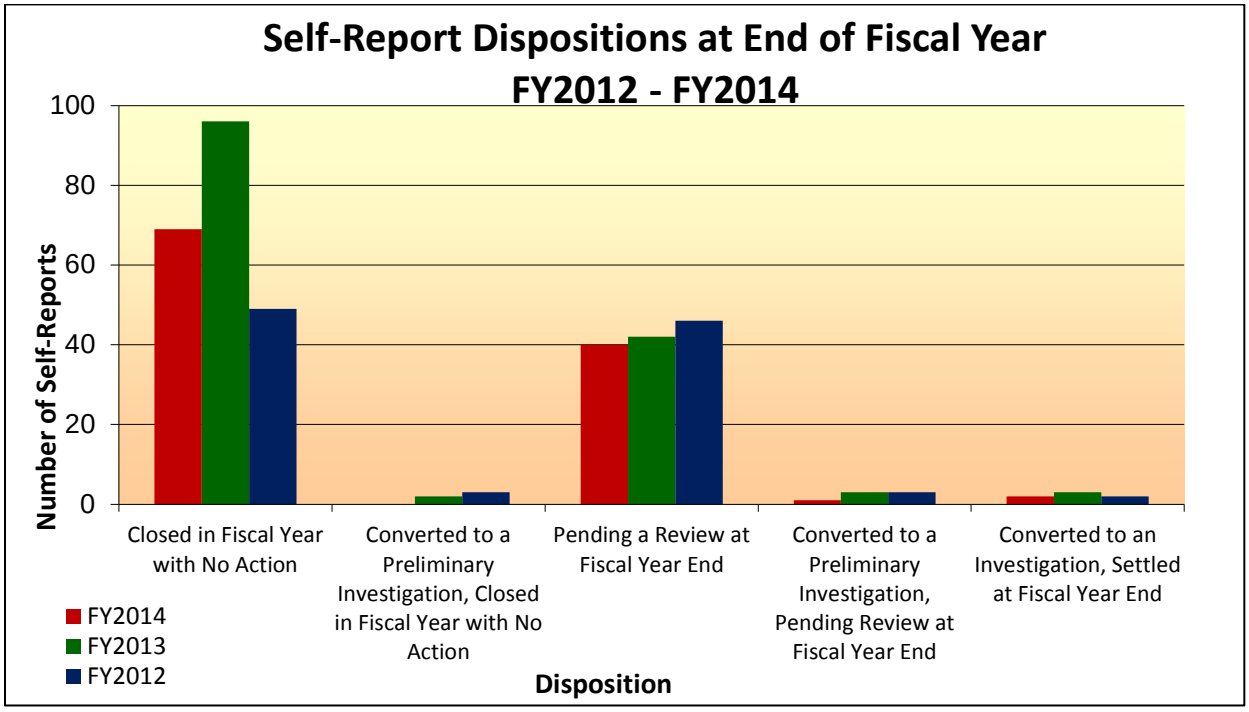
Direct Energy Services, LLC, Docket No. IN14-22-000. On August 11, 2014, the Commission approved a settlement resolving Enforcement's investigation of whether Direct Energy violated the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.1 (2014), by manipulating natural gas prices at three hubs in 2011 and 2012. Enforcement concluded that Direct Energy engaged in manipulation in May 2012 at Algonquin and Transco Zone 6 to benefit its related financial positions. Specifically, Direct Energy lowered prices at Algonquin and Transco Zone 6 by buying next-day physical index gas and selling comparable volumes of fixed-price gas, losing money and, in the process, lowering the Gas Daily index. Simultaneously, Direct Energy held

financial positions that benefited from this lowered Gas Daily index. Direct Energy stipulated and agreed to the facts but neither admitted nor denied that it violated 18 C.F.R. § 1c.1, agreed to pay a $20,000 civil penalty, to disgorge $31,935, to continuing existing compliance measures, and to compliance monitoring. The Commission's order notes that Direct Energy's strong compliance program led to a self-report of what Enforcement determined to be market manipulation. Moreover, Direct Energy's quick action due to its strong compliance program and its cooperation with Enforcement's investigation resulted in relatively small civil penalty and disgorgement payments.

D. Self-Reports

From issuance of the first Policy Statement on Enforcement in 2005[12] through the end of FY2014, staff has received a total of 667 self-reports. Of those, 566 have been reviewed and closed without action; 61 have been converted to an investigation.

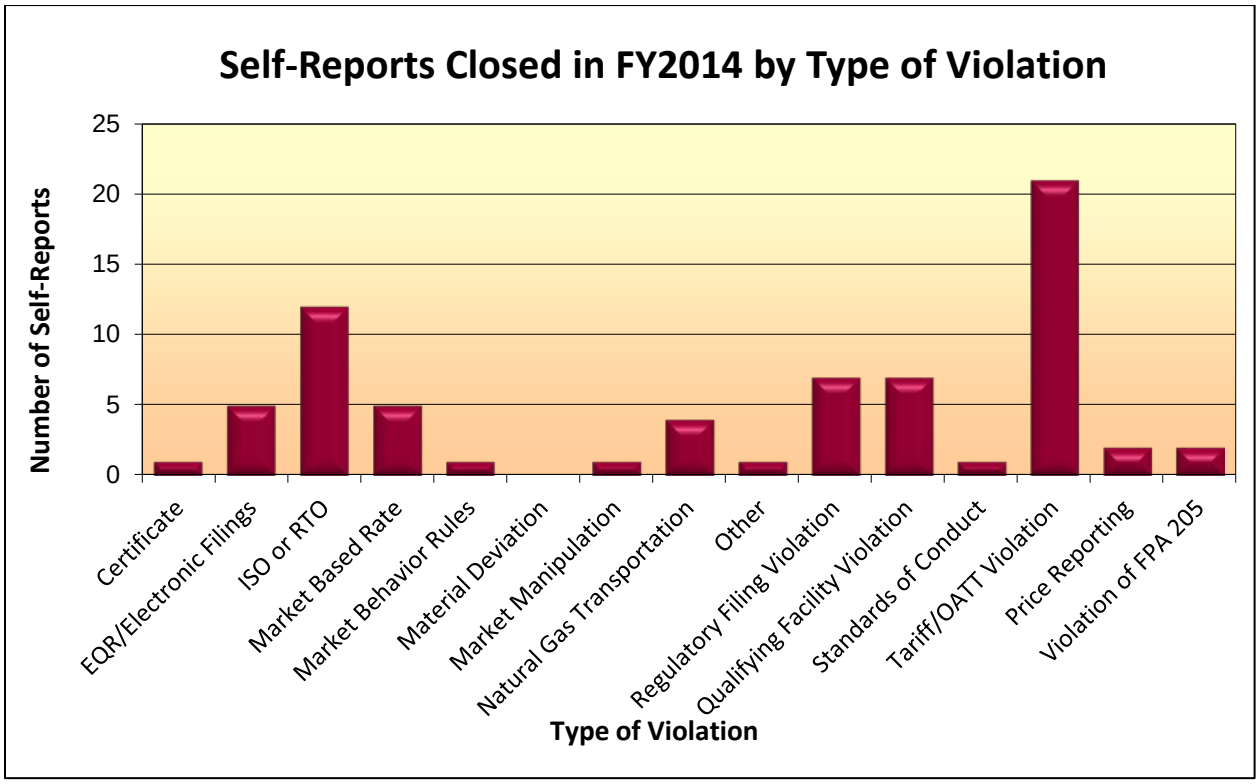
In FY2014, staff received 73 new self-reports and closed 70 self-reports, including some pending from fiscal years 2009 and 2011. As of the end of FY2014, 40 self-reports received then and in prior fiscal years remained pending. Staff received self-reports from a variety of market participants, including power marketers, electric utilities, natural gas companies, wind and solar energy companies, refining companies, and RTO/ISOs. The Penalty Guidelines emphasize the importance of self-reporting, providing credit that significantly mitigates a penalty when a self-report is made.[13] An example of this credit resulting in a lower penalty is the Direct Energy settlement, discussed above. Staff continues to encourage the submission of self-reports and views self-reports as evidence of a company's commitment to compliance.

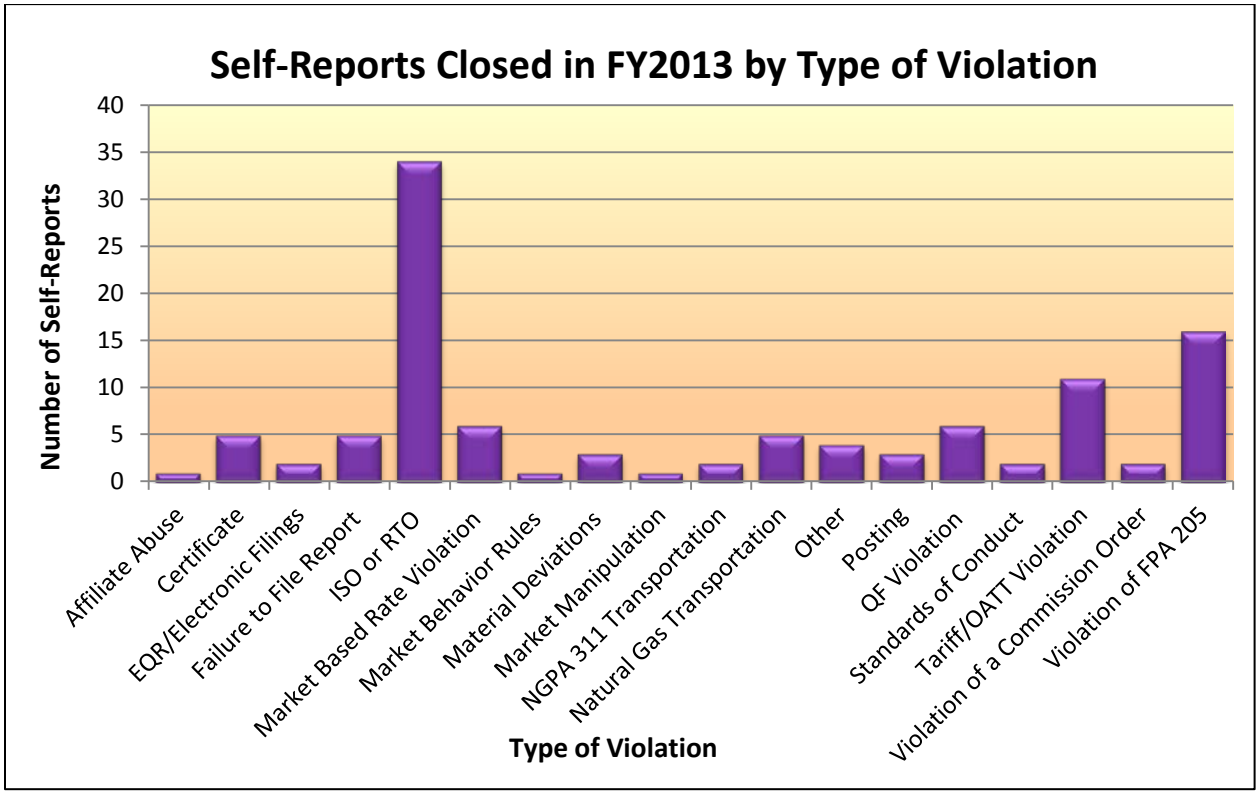


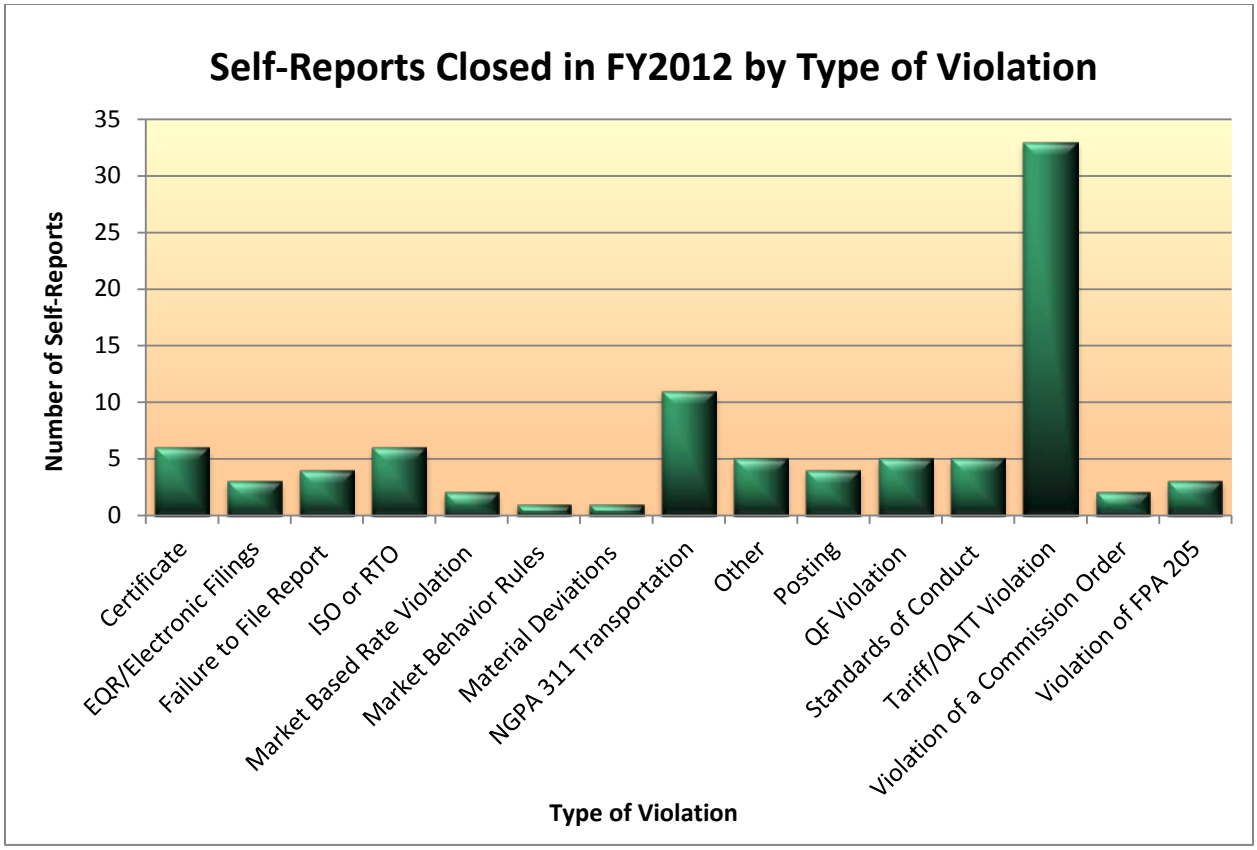
[12] *Enforcement of Statutes, Regulations and Orders*, 113 FERC ¶ 61,068 (2005) (2005 Policy Statement).

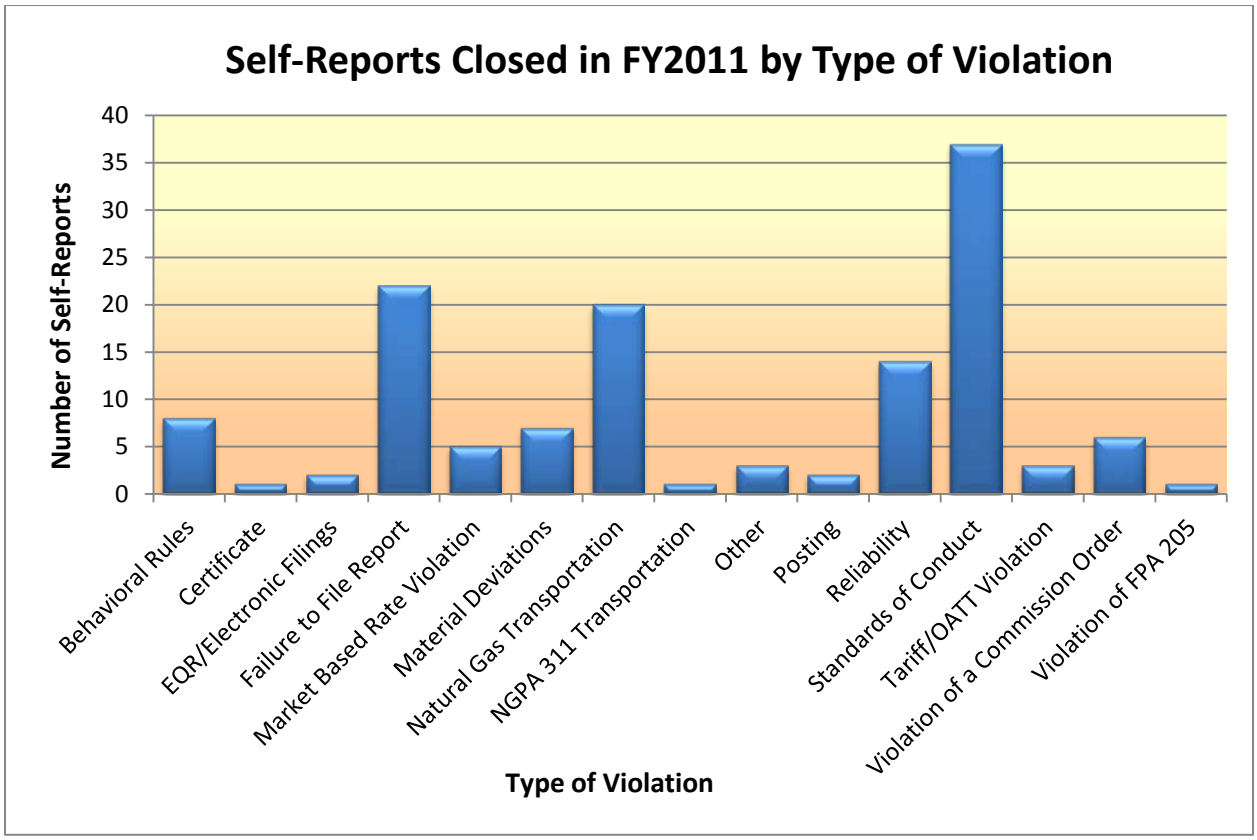
[13] *Revised Policy Statement on Penalty Guidelines*, 132 FERC ¶ 61,216, at P 127 (2010).

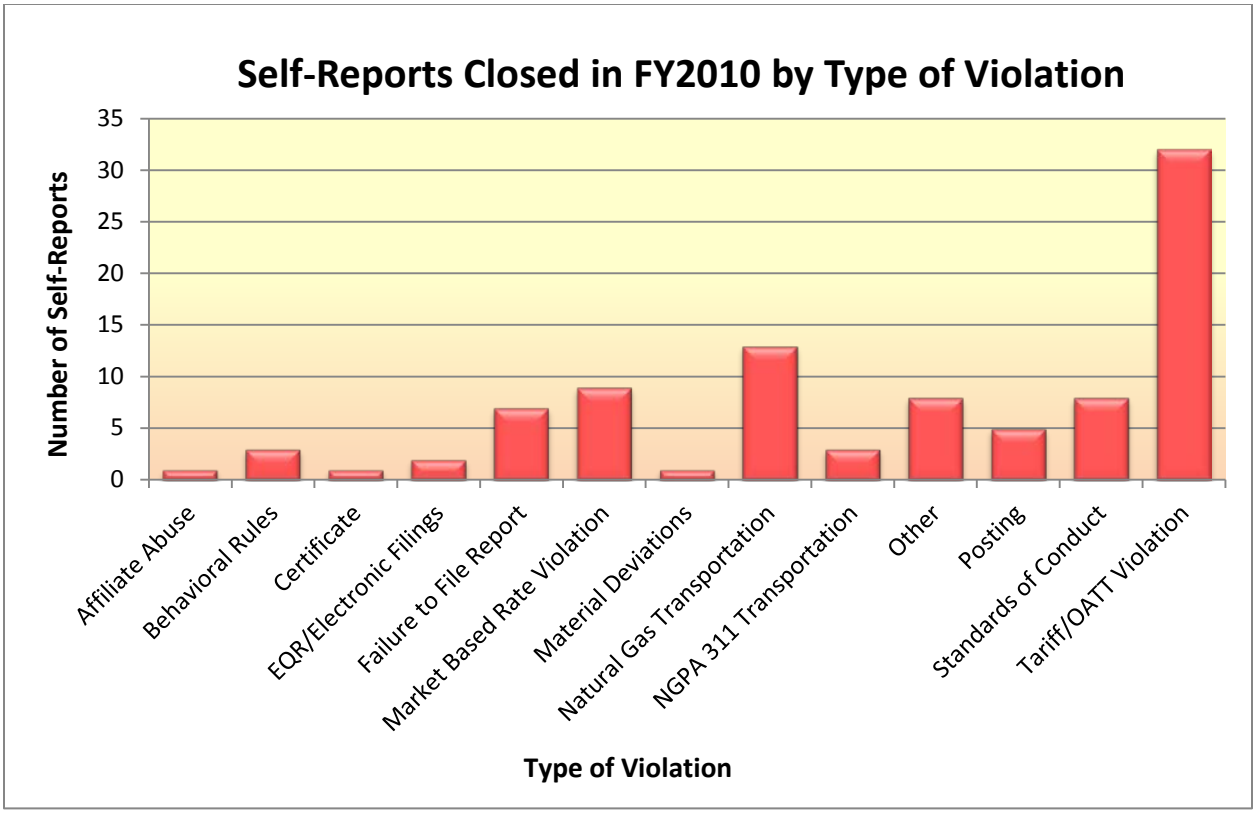
The following charts depict the types of violations for which staff received self-reports from FY2010 through FY2014. In FY2014, Tariff/OATT violations accounted for a significant portion of self-reports received.






Self-Reports Closed in FY2012 by Type of Violation
Number of Self-Reports
35
30
25
20
15
10
5
0
Certificate
EQR/Electronic Filings
Failure to File Report
ISO or RTO
Market Based Rate Violation
Market Behavior Rules
Material Deviations
NGPA 311 Transportation
Other
Posting
QF Violation
Standards of Conduct
Tariff/OATT Violation
Violation of a Commission Order
Violation of FPA 205
Type of Violation


Self-Reports Closed in FY2011 by Type of Violation
Number of Self-Reports
40
35
30
25
20
15
10
5
0
Behavioral Rules
Certificate
EQR/Electronic Filings
Failure to File Report
Market Based Rate Violation
Material Deviations
Natural Gas Transportation
NGPA 311 Transportation
Other
Posting
Reliability
Standards of Conduct
Tariff/OATT Violation
Violation of a Commission Order
Violation of FPA 205
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 illustrations summarizing some of the self-reports that DOI staff closed in FY2014 upon review and without conversion to 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.

RTO/ISO Violation. An RTO/ISO violated its tariff when a control room employee inadvertently emailed confidential generator information to an individual outside the company who had a similar name to the RTO/ISO intended recipient. The RTO/ISO promptly contacted the unintended recipient and instructed him to delete the email without opening it. No harm resulted from this inadvertent disclosure. In response to this occurrence, the ISO/RTO made changes to its default email settings to reduce the likelihood of a future similar incident. Thus, staff closed this matter without further action.

RTO/ISO Violation. An RTO/ISO self-reported that it potentially violated its tariff by disclosing to NERC data and information about market participants that entered projects in the interconnection queue. The RTO/ISO's tariff indicated that the name of project sponsors should remain confidential until a Large Generator Interconnection Agreement is signed, even though project data is not otherwise confidential. Upon discovering this disclosure, the RTO/ISO requested that NERC remove the information from its website, to which NERC agreed. The RTO/ISO updated its internal procedures to ensure prevention of future such violations. Thus, staff closed this matter without further action.

Certificate Violation. A utility company self-reported its failure to obtain appropriate certificate exemptions for a small portion of intrastate pipeline facilities crossing state lines. The company discovered the omission during its preparation to sell the facilities. To resolve the issue, the company filed with the Commission a request for a Limited Jurisdiction Blanket Certificate to exempt the facilities from Commission jurisdiction while the sale was pending. The purchaser filed for a NGA Section 7(f) exemption to exempt the facilities from Commission jurisdiction after the sale. Staff closed the matter without action because the violation was unintentional.

Price Reporting Violation. A public utility self-reported its failure to fully comply with price reporting requirements under 18 C.F.R. § 284.403, which requires, in part, that Sellers who report transactions to natural gas index publishers provide accurate and factual information. Specifically, the company failed to timely report certain daily and Bid-week trades to price index publishers but since cured the deficiency. Staff agreed with the company's characterization of harm from these violations as immaterial and unintentional because the volumes were minimal compared to the liquidity of the hubs at which the transactions occurred. To avoid recurrence, the company enhanced its processes for capturing all trades and their reporting to index publishers. Staff closed this matter without further action because the violations were inadvertent (due to process gaps and human error) and caused no harm to market participants.

Market Behavior Rule Violation. An electric energy provider reported that it made improper power sales under a reserve sharing group (RSG) sales agreement. Unbeknownst to the reporting company, reserve sales on two occasions were made to a counter-party that failed to renew its RSG membership, thereby violating the filed RSG agreement. Upon discovering the issue, the reporting company notified its counter-party, which immediately took action to remedy the situation. The oversight by the counter-party involved a small number of improper transactions with minimal financial impact, but caused no negative third-party impact. Thus, staff closed the self-report without further action.

Failure to Obtain Market-Based Rate Authority and Regulatory Filing Violations. A wind energy company self-reported that several public utility and qualifying facility (QF) subsidiaries failed to comply with FPA § 205 and/or various Commission filing requirements. The violations included: 1) inadvertent sales without Market-Based Rate (MBR) authority, 2) MBR tariffs inconsistent with conditions in Commission Orders accepting them, 3) failure to file or erroneous EQRs, 4) failure to file Form 566 reports identifying the 20 largest electricity purchasers, 5) failure to file Form 556 re-certifications reflecting changes in QF upstream ownership, 6) failure to report entity reports of transactions to publishers of price indices, and 7) failure to provide or update corporate contact information. The subsidiaries cured the violations, including by refunding unauthorized sales. To ensure future compliance, the company appointed two experienced senior management compliance individuals, engaged an experienced law firm to centralize FERC compliance work, established formal corporate compliance and timely filing goals, and implemented a deadline tracking procedure. Though the violations were widespread, staff closed the matter because they were promptly and effectively cured. The company significantly improved its processes and procedures.

Failure to Obtain Market-Based Rate Authority. Four utilities engaged in wholesale balancing transactions without FPA § 205 MBR authority. The parent company that owned the four utilities self-reported the violations when it discovered the unauthorized sales during a corporate restructuring. The utilities filed their requests for MBR authorization promptly upon discovering the deficiencies, and the Commission granted the requests and directed the utilities to submit refund reports for the unauthorized sales. The refund reports demonstrated that all sales occurred at a loss and the utilities did not receive any profits from their balancing transactions. Staff closed the self-report because the violation was unintentional, the utilities promptly self-reported, and the utilities have taken steps under new management to prevent recurrence of these violations.

Failure to Obtain Market-Based Rate Authority. A refining and marketing company self-reported unauthorized market based sales from a newly-acquired qualifying facility (QF) pursuant to a power sales contract predating that QF's acquisition. The contract relied on the seller's corporate MBR authority, which remained with the seller when the reporting company acquired the QF assets. The company attributed its unauthorized sales to controls on its access to information that prevented conducting customary due diligence at the time of QF purchase. After discovering that it had no MBR authority, the company self-reported and filed a late MBR application. The Commission granted the company's MBR request but denied the requested retroactive effective date, instead ordering refunds of the difference between cost-based rates and market-based rates. Staff closed the self-report without further action because unauthorized power sales were limited, the company provided a plausible reason for error, the company quickly self-reported the matter and filed and obtained MBR authorization, and made appropriate refunds.

Regulatory Filing Violation. A company notified Staff that it failed to submit correct EQRs on behalf of five of its subsidiaries for the previous two reporting years. Staff reviewed the submittals and found that only one of the reports was correct. Staff then reviewed EQR submittals, or lack thereof, for five additional subsidiaries that the company failed to mentioned in the written report. Working with Market Oversight, DOI found that submittals for several of the additional subsidiaries required corrections, from as early as 2005. After working with the company for over two years and concluding that all subsidiaries have now substantially complied with the Commission's EQR requirements and are capable of submitting future correct EQRs, Staff closed the matter without further action.

Regulatory Filing Violation. A pipeline failed to make a prior notice filing with the Commission before operating a new gas delivery point, as required by 18 C.F.R. § 157.211(a)(2). Upon learning of the violation, the pipeline immediately shut down the delivery point. The pipeline offered to credit a portion of the customer's gas purchases from the customer's prior source of gas, and also agreed to not operate the delivery point until fulfilling its regulatory obligations. After the pipeline submitted its new delivery point application, the Commission approved the application. The pipeline also implemented enhanced controls and procedures to prevent similar future violations. DOI staff closed the self-report without action because the violation was isolated and inadvertent, recurrence of the violation is unlikely, and the company quickly remedied the violation upon its discovery.

Regulatory Filing Violations. Pursuant to Commission authorization, a parent company acquired a generator with market-based rate authorization in 2008. In 2013, during due diligence for possible sale of the generator, the company discovered that the generator had failed to file a triennial market update by 2010 as required by Order No. 607 and FPA section 205. During its internal investigation, the parent company also discovered that for several other generators acquired during 2008 and 2009, it carried forward incorrect regional and category designations in their respective triennial updates. The companies promptly filed corrections and triennial updates in the appropriate proceedings, which the Commission accepted. The parent company modified its compliance processes. Staff closed the matter because the violations were self-reported and promptly remedied.

Regulatory Filing and Tariff Violations. Following an internal review of processes, an interstate pipeline self-reported its failure to file five negotiated rate contracts with the Commission. As required by NGA Section 4(c), 18 C.F.R. § 154.1(d), and the pipeline's tariff, the pipeline is required to file negotiated rate agreements with the Commission prior to their effective date. The pipeline explained that the omission was inadvertent and no market harm occurred because it disclosed the existence of these agreements on its Internet Website as required by 18 C.F.R. § 284.13. The Commission accepted the agreements filed by the pipeline in September 2013. Staff closed this matter because the pipeline reinforced its procedures to ensure future timely filing of negotiated rates contracts with the Commission.

Regulatory Filing Violation. In December 2013, a wind project self-reported that in 2011 it had amended a 1997 bi-lateral Commission-approved power purchase agreement without filing it with the Commission for prior approval as required by section 205 of the FPA. The Commission approved the agreement after it had been filed, but noted that future filings should be made on a timely basis. Because the rates do not go into effect until 2016, there was no harm to the market. The company modified its compliance processes and procedures to avoid such violations in the future. Because the violation was isolated and inadvertent, the matter was closed without additional enforcement action.

Regulatory Filing Violation. Following an internal review, an electric utility self-reported its failure to file FERC Form 715 for reporting years 2012 and 2013. FERC Form 715, which is due by April 1 of each year, describes the filing entity's transmission system and planning. The utility regularly coordinated with regional organizations responsible for and/or overseeing transmission networks. Although some of those organizations would have indirectly accounted in their 2012 and 2013 filings for the self-reporting utility's facilities, the Form 715 information at issue still should have been included more formally in the utility's own filing. Staff closed the matter after the utility submitted the missing filings and implemented processes to prevent such future oversights.

Regulatory Filing Violation. A parent company with multiple utility subsidiaries failed to file Form No. 561 (Annual report of interlocking positions) for certain officers who retired and only served during part of a calendar year, as required by 18 C.F.R. §§ 46.4 and 46.6 (although the company did correctly file notices of change for the officers as required by 18 C.F.R. § 45.5(b)). The company also incorrectly filed certain FERC Form No. 561s by enclosing relevant information in footnotes instead of in the correct lines on the form. After an internal compliance audit, the company disclosed the violations and made curative filings. DOI staff closed this matter because it confirmed that no undue affiliate preferences or other harm occurred to the market as a result of the company's filing failures and that the company had instituted compliance measures to prevent future recurrence of this type of violation.

Regulatory Filing Violation. A gas producing company reported that it failed to file its four required EQRs for calendar year 2013. The company learned of this failure in June 2014 after a FERC EQR team contacted them. The company explained that the employee responsible for making these EQR filings in prior years had left the firm, and that it inadvertently overlooked appointing a replacement. Staff confirmed that the company since filed all required EQR's and is current in its obligations. Staff closed this matter because the error was inadvertent, corrected, and did not result in any financial loss or gain.

Qualifying Facility Violations. The owner of two small generation QFs self-reported that it failed to self-certify their status to the Commission as required by 18 C.F.R. § 292.203(a)(3), a requirement before claiming the benefits of QF status. As a result of the owner's failure to certify, its jurisdictional sales of power violated § 205 of the FPA because the facilities were not QF-exempt and did not otherwise receive market based sales authorization from the Commission. Staff closed the self-report with no action because the owner's failure to certify was inadvertent, it promptly self-reported the matter to staff, subsequently adopted compliance measures to prevent future recurrence, and because the company made refund payments consistent with Commission precedent for unauthorized sales of power.

Qualifying Facility Violation. A solar photovoltaic generation facility self-reported violation of FPA section 205 due to its failure to self-certify as a QF before making wholesale power sales. Although 18 C.F.R. § 292.601 affords an exemption from section 205 for small QFs like the company (i.e., under 20MW), the Commission's regulations require owners of such QFs to either file a notice of self-certification or apply for a Commission certification in order to obtain QF status pursuant to 18 C.F.R § 292.207. To remedy this violation, the company submitted to the Commission a Form 556 to certify the facility as a QF, refunded its customer time value refunds amounting $10,847.99, and investigated the circumstances leading to the violation. Going forward, the company implemented measures to formalize its regulatory compliance program, including developing a written compliance policy and retaining FERC counsel. Staff closed this self-report because the violation was isolated and inadvertent, and the company made refund payments consistent with Commission precedent for unauthorized sales of power.

Tariff/OATT Violation. In April 2011, an electric company that previously received a waiver of the requirement to file an OATT self-reported that it received a request for transmission and interconnection service triggering the requirement to file an OATT within 60 days. The company was approximately 6 months late in filing the OATT. The company claimed that it initiated an interconnection study after receiving the request, which would have been required had it timely filed the OATT. The company further represented that it had since implemented procedures to avoid recurrence of this type of violation. Staff kept the self-report open until the pending OATT proceeding was fully resolved, and then closed it.

Tariff/OATT Violation. A public utility self-reported its failure to fully comply with certain Interconnection Agreement (IA) timelines for submitting final accounting reports to customers, violating 18 C.F.R. § 35.1(e). This regulation, in part, prohibits a public utility from imposing any practice that differs from the rate schedule on file with the Commission. By sending final accounting reports outside of the timelines set in certain IAs, the public utility imposed a practice that differed from the rate schedule on file. Staff closed this self-report without sanctions because the violations were inadvertent (resulted from human error caused by a poorly implemented change in process). Further, where the a final accounting report was late and a refund due to an Interconnection Customer, the public utility added interest at the FERC rate to compensate for the delay. The company updated its procedures so future recurrence of the violation is unlikely.

Tariff/OATT Violation. An RTO/ISO self-reported that incorrect software code in its settlements system caused overpayment of various generating units for their dispatch to offer real-time energy for reliability reasons, thereby violating the RTO/ISO's tariff. Because the violation was inadvertent and limited to two very unusual scenarios for generators, and because the RTO/ISO quickly implemented a manual screen for the issue as well as a permanent software correction to prevent recurrence, staff closed the matter with no action.

Tariff/OATT Violation. A public utility inadvertently omitted the text of its small generator interconnection procedures and small generator agreement as an attachment to the OATT it filed with the Commission in 2010. Inclusion of these pro forma documents was required by the Commission in 2006, but delayed until conclusion of the Commission's electronic tariff filing rulemaking. When that event occurred some four years later, the public utility inadvertently failed to make the appropriate filing. Because the Division of Audits was already examining tariff compliance by the public utility, this matter was included in the audit and closed as a self-report.

Tariff/OATT Violation. An interstate pipeline self-reported that it violated the General Terms and Conditions of its transportation tariff by purchasing natural gas for its own operational purposes (to maintain a minimum system pressure) at a receipt point not authorized by the tariff for such a purpose. The pipeline nevertheless solicited competitive bids for the operational gas purchase, and otherwise complied with its tariff. Staff closed the matter without action because the violation was inadvertent, minor, and technical, and because the violation did not result in monetary benefit.

Tariff/OATT Violation. A pipeline's tariff required it to post notification of "suspense gas" (e.g., unscheduled gas delivered to a delivery point), after which the recipient of the suspense gas would have 60 days to either (a) inform the pipeline of the agreement to which the gas should be allocated or (b) pay a specified amount for the gas. The pipeline reported that it failed to post suspense gas for several months during which a recipient repeatedly received suspense gas, effectively depriving the recipient the opportunity to timely advise the pipeline of the agreement to which it should allocate the gas. Staff closed this matter without action because the pipeline (a) did not charge the recipient for the gas, (b) properly accounted for the gas in its books as required by the Commission's regulations, and (c) implemented a procedure to reduce greatly the likelihood of a future similar mistake.

Shipper-Must-Have-Title Violation. An independent oil and natural gas exploration and production company self-reported that it violated the Shipper-Must-Have-Title Requirement when one of its subsidiaries over an eleven day period transported 151,800 MMBtus of natural gas titled to another subsidiary. The company reported that the violation resulted from an inadvertent administrative error. Staff closed the matter with no action because the violation was inadvertent, of limited duration, and the company quickly took corrective action and provided Staff notice of the violation.

Statement of Operating Conditions Violations. In March 2012 after an internal investigation, a local distribution company and Hinshaw pipeline self-reported its failure to comply with the cost-based rate provisions of its statement of operating conditions (SOC) under section 311 of the NGPA and 18 C.F.R. § 284.224. The company's SOC authorized transporting gas at a cost-based rate linked to a state-approved rate and transporting gas at a negotiated rate even though the Commission-approved blanket certificate did not authorize negotiated rates. During 2009-2010, the company entered into two transactions above the cost-based rate and over-collected approximately $500 in revenues. The company promptly refunded the two customers and filed with the Commission to remove the negotiated rate provision from its SOC. Staff closed the

matter with no action because the company self-reported and promptly remedied the violations, which were not of sufficient gravity, scope or impact to warrant the imposition of sanctions.

Force Majeure. In September 2014, two interstate natural gas pipelines separately self-reported a 31-hour outage on their respective electronic bulletin boards and nomination systems (EBB Systems) because of an unanticipated database failure. The outage caused the pipelines to violate various Commission and NAESB standards for posting requirements normally met by the EBB Systems. During the outage, the pipelines declared a *force majeure* emergency and communicated with customers by e-mail and telephone as well as extended nomination and other deadlines as permitted by their tariffs. No gas receipts or deliveries were interrupted or curtailed and no customer lost gas service because of the outage. Following the outage, the pipelines provided cross-training in key infrastructure areas, and enhanced their disaster recovery systems. Staff closed the matter because the violations were isolated, inadvertent, and outside the pipelines' control; the pipelines quickly notified customers, expended efforts to ensure uninterrupted gas flow, and ensured no customers were harmed by the outage of their EBB Systems. The pipelines also implemented measures to prevent a recurrence of this type of event.

E. Investigations

During FY2014, DOI staff opened 17 investigations, as compared to 24 investigations in FY2013. Over half of these new investigations arose from referrals based on conduct observed through surveillance by the Division of Analytics and Surveillance or the RTO/ISO Market Monitoring Units. In FY2014, 15 pending investigations resulted in settlement or closure without enforcement action. Enforcement also was active on an additional four matters involving orders to show cause issued in prior fiscal years.

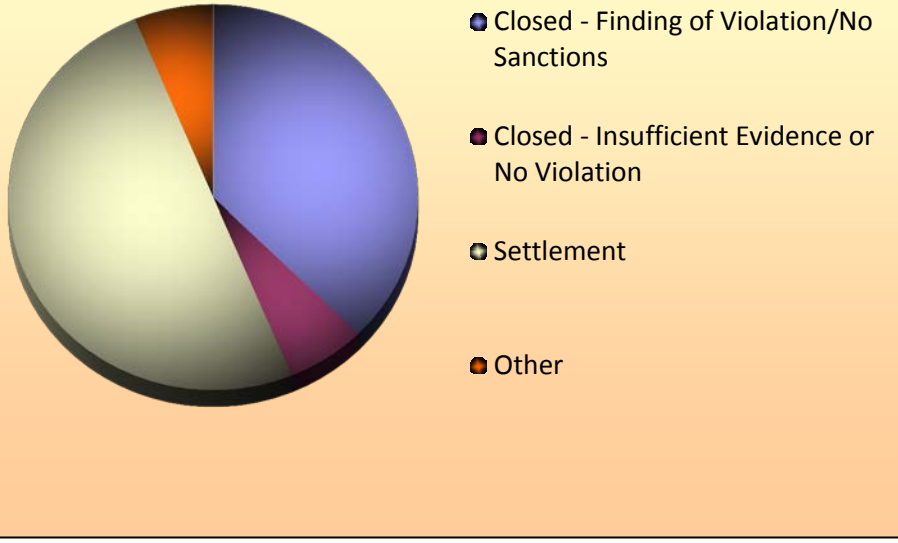
1. Statistics on Investigations

Of the 17 investigations staff opened this fiscal year, some of which involve more than one type of violation or multiple subjects, 9 involve market manipulation, 8 involve false statements to the Commission or an RTO/ISO, 11 involve tariff violations, and 1 involves Commission accounting standards and orders.

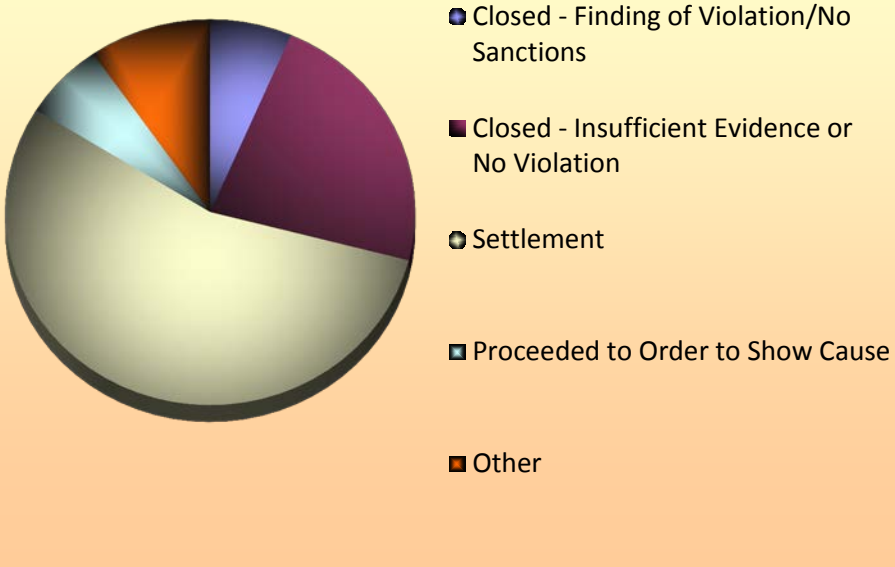
Of the 15 investigations closed in FY2014, staff closed 8 via settlement and 7 either upon finding no violation or because staff concluded that the evidence was insufficient to support finding a violation. The Commission-approved settlements of investigations are summarized above in subsection C; investigations closed without enforcement action are discussed below in subsection E.2.

The following charts show the disposition of investigations that closed in fiscal years 2011 through 2014.

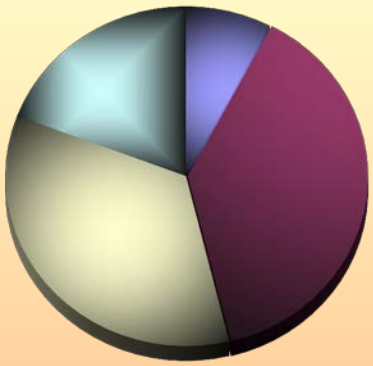
Disposition of Investigations, FY2014



Disposition of Investigations, FY2013

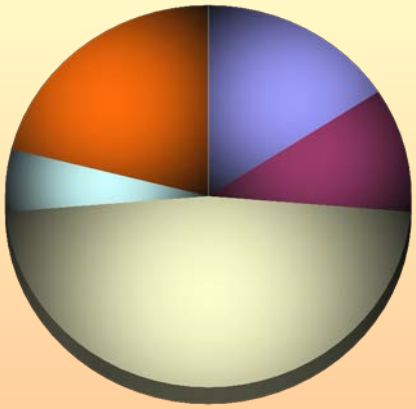


Disposition of Investigations, FY2012

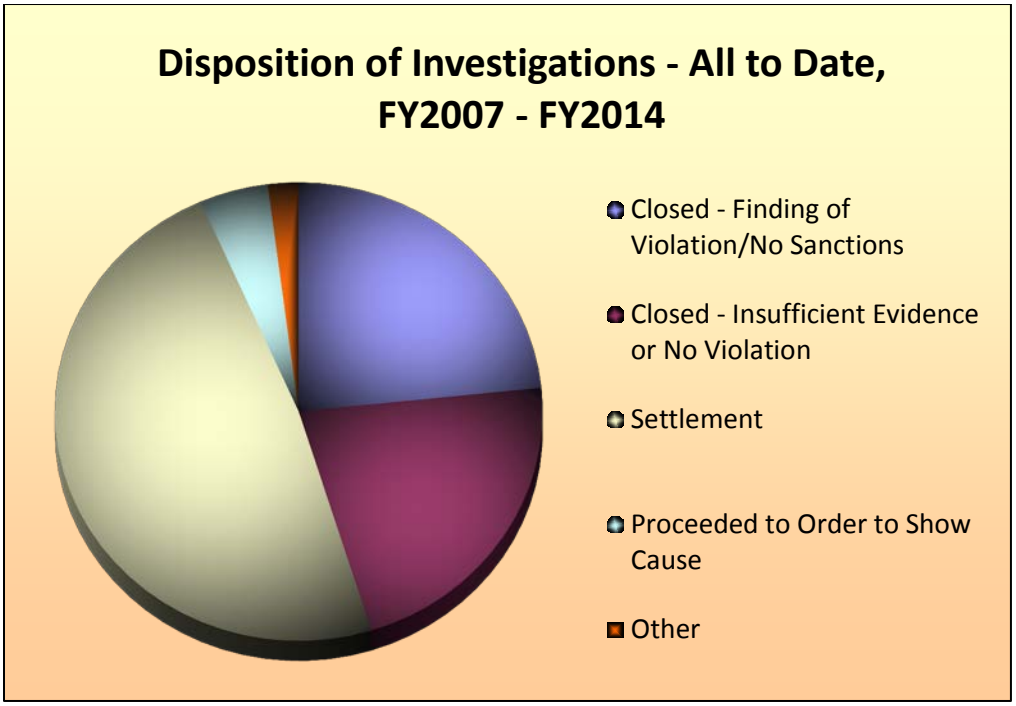


- Closed - Finding of Violation/No Sanctions
- Closed - Insufficient Evidence or No Violation
- Settlement
- Proceeded to Order to Show Cause

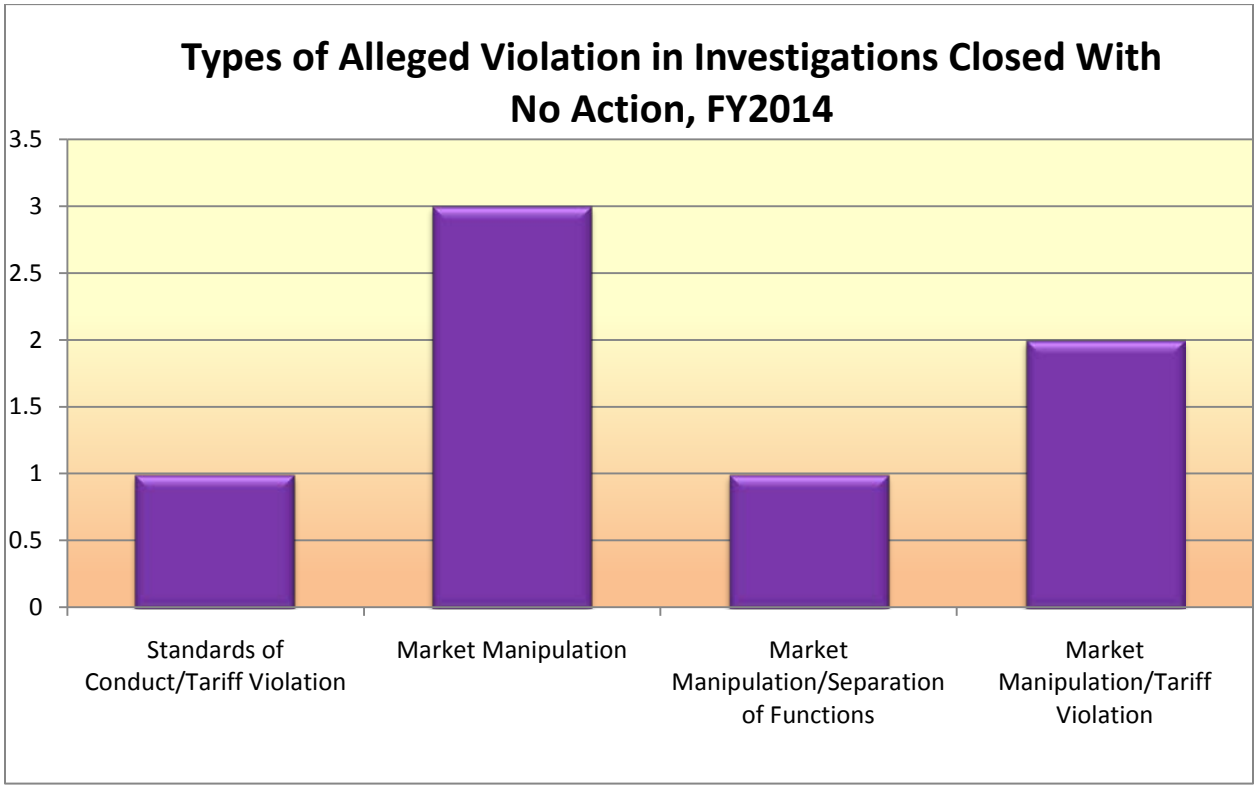
Disposition of Investigations, FY2011

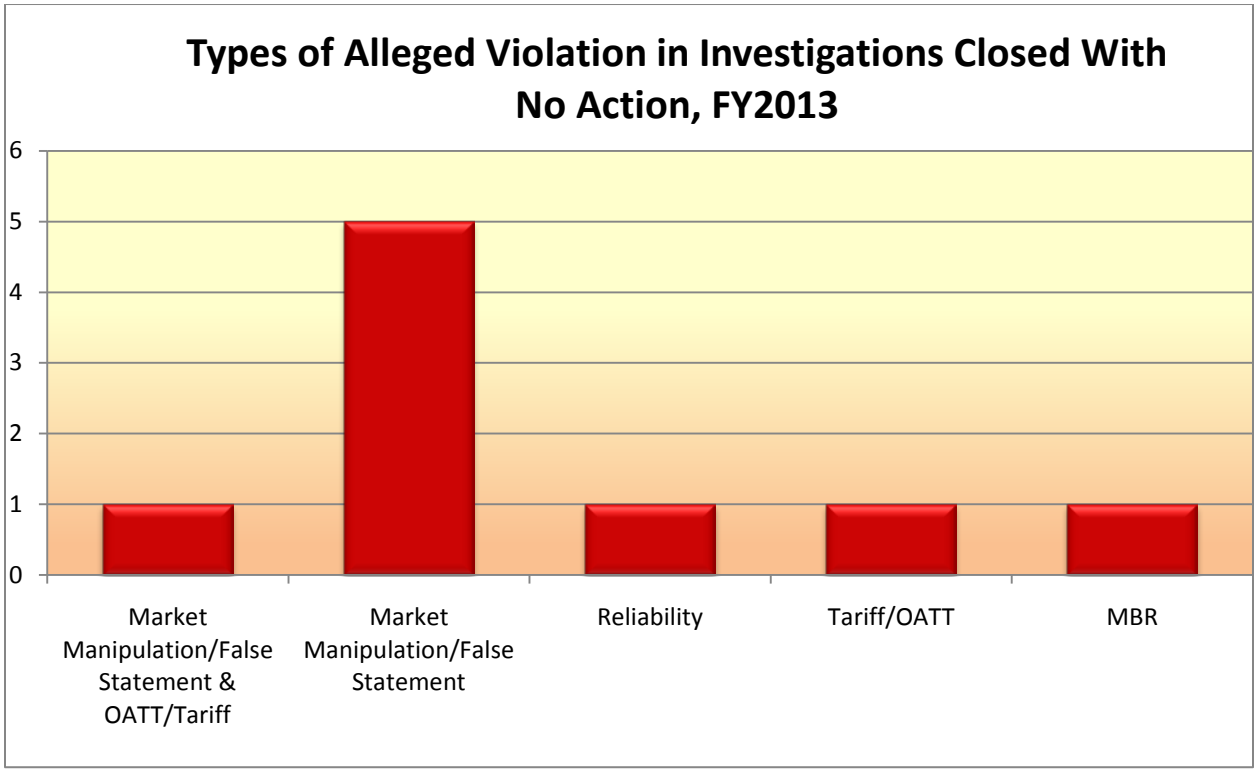


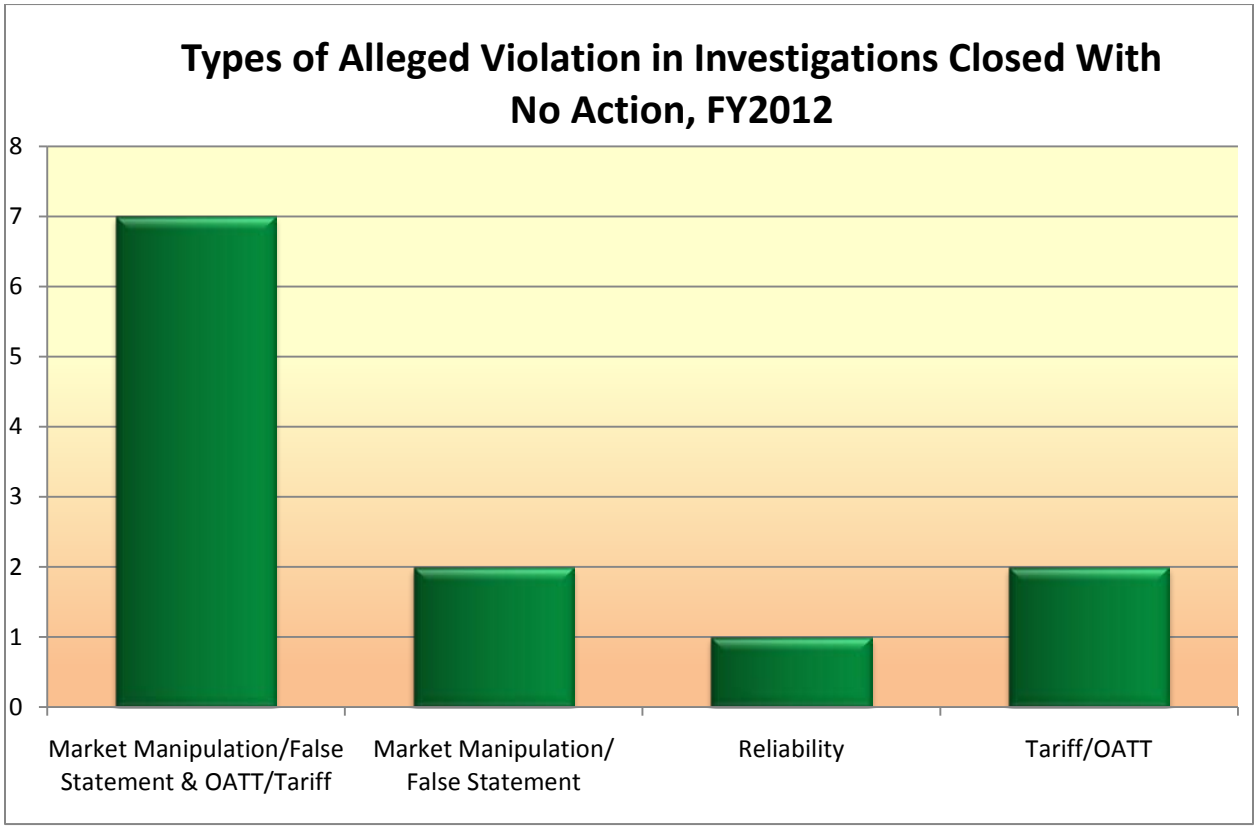
- Closed - Finding of Violation/No Sanctions
- Closed - Insufficient Evidence or No Violation
- Settlement
- Proceeded to Order to Show Cause
- Other

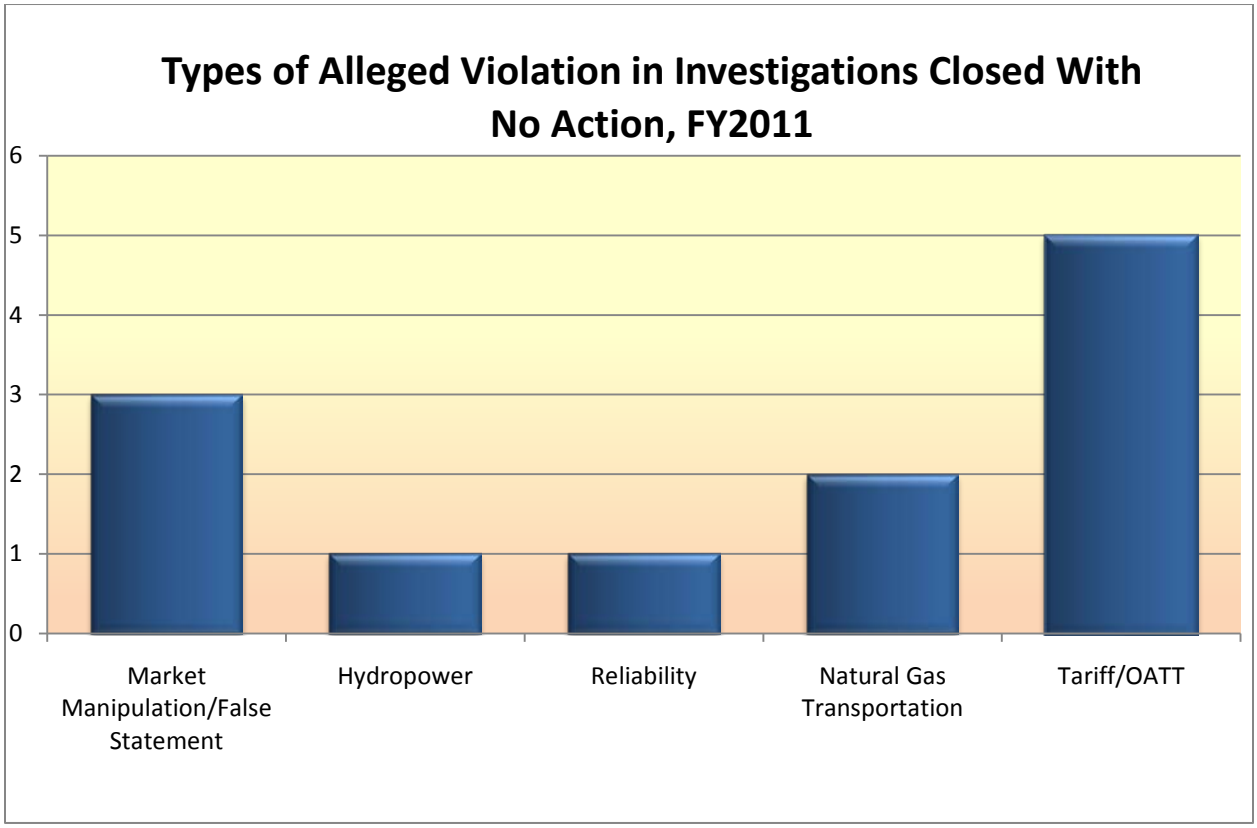


The following charts summarize the nature of the conduct at issue for those investigations that were closed without action in fiscal years 2011 through 2014.




Types of Alleged Violation in Investigations Closed With No Action, FY2013
6
5
4
3
2
1
0
Market Manipulation/False Statement & OATT/Tariff
Market Manipulation/False Statement
Reliability
Tariff/OATT
MBR


Types of Alleged Violation in Investigations Closed With No Action, FY2012
8
7
6
5
4
3
2
1
0
Market Manipulation/False Statement & OATT/Tariff
Market Manipulation/ False Statement
Reliability
Tariff/OATT



2. Illustrative Investigations Closed with No Action

The following describes the 7 investigations Enforcement closed in FY2014 without action. Like the self-report illustrations, these are intended to provide guidance to the public while preserving the non-public nature of DOI's investigations.

Interstate Commerce Act and Pipeline Tariff Violations. Staff investigated a Hotline tip that oil pipeline affiliates of a company violated the Interstate Commerce Act (ICA) and various tariffs by curtailing or interrupting interstate common carrier service and demanding concessions from another party before resuming service. The tip also claimed that various affiliates stopped scheduled deliveries without explanation, violating ICA section 1(6) (prohibiting unjust and unreasonable practices by jurisdictional pipelines); section 3(1) (prohibiting discriminatory service cancellation); section 6(3) (prohibiting service interruptions based on conditions not contained in tariffs); section 6(1) (requiring compliance with tariffs); and also various affiliate tariffs. Staff deferred action until a parallel agency investigation closed without action. After meeting with the company, reviewing relevant materials and tariffs, and mediating a dispute involving the company, staff concluded that no violation occurred and closed the investigation.

Separation of Functions. Following an anonymous Hotline tip alleging potential tariff violations relating to a transmission outage, staff investigated a utility to determine whether it had committed either market manipulation or violated the Commission's separation of functions requirement. At issue was the utility's allowing marketing function employees to provide input on curtailments of power flowing into the utility's system. After reviewing company communications, transactions, and audio recordings, staff determined that while the protocol for these curtailments was confusing, market function employees were not involved in curtailment decisions and that such curtailments were necessary from a reliability standpoint. Staff determined no violation occurred and closed the investigation.

Market Manipulation (Electricity). An RTO/ISO Market Monitor reported that an entity and affiliate engaged in market manipulation when they obtained Congestion Revenue Rights (CRRs) for two months in 2011 at an intertie that experienced import congestion. Two days after receiving the CRRs for the second month, the entity applied for a Resource ID for the intertie, which would enable it to schedule imports at that location. Later that month, as congestion abated at the intertie, the entity self-scheduled imports, daily increasing the import amounts until the end of the month, when the intertie experienced twelve hours of congestion that benefited the entity's position by over $30,000. Staff met with the entity's counsel, who offered valid reasons for the trading activity in question, and also met with the market monitor to discuss the case. Staff also analyzed data provided by the company and took testimony from the key trader. Staff closed the investigation with no further action after deciding that the evidence was insufficient to support a violation of the Commission's Anti-Manipulation Rule.

Market Manipulation (Electricity). Staff opened an investigation into whether a company and its affiliate violated the Anti-Manipulation rule by structuring certain transactions to avoid deviation charges that the relevant ISO assessed on day-ahead virtual increment offers and decrement bids. After taking testimony and reviewing relevant documents staff closed the investigation with no further action because it found that the company and its affiliate did not engage in market manipulation.

Market Manipulation (Electricity). Staff investigated whether a financial institution engaged in market manipulation when it significantly increased its CRR bid quantities and prices in two separate geographic locations and thereby held relatively large quantities of these CRRs. The institution scheduled price-taking physical import bids in one location that appeared to create or exacerbate congestion on the relevant intertie in order to increase revenues from intertie-sourced CRRs it had purchased in annual and monthly auctions. The Market Monitor which referred the matter was concerned that the institution may have purchased CRRs with the intention of profiting from congestion creation. The conduct increased the institution's CRR payments by nearly $1 million, and increased by almost $6 million the net revenue for other CRR holders. Staff determined that groups within the institution operated independently without coordination and that their behavior was based on economic fundamentals rather than intent to create artificial congestion, and thus closed the matter with no action.

Market Manipulation (Gas). Following a DAS daily screening program signal of unusually large physical natural gas trades at delivery points in California by one entity, staff investigated whether the entity, which held financial positions potentially benefitting from resultant price movements, engaged in market manipulation. DAS questioned the entity, which initially failed to provide consistent explanations for the questioned activity. Staff opened a preliminary investigation of trades at two California hubs to determine whether the entity violated the Commission's Anti-Manipulation Rule. Staff reviewed ICE data and data from the entity regarding its physical gas supply operations and obligations, as well as its physical and financial positions at the relevant trading hubs. Staff also interviewed the relevant traders and determined that the facts did not indicate intent to benefit the entity's financial positions or otherwise manipulate the market, rather, the facts showed legitimate trading activity. Thus, staff closed the matter with no action.

Market Manipulation (Gas). Staff opened a preliminary non-public investigation into allegations raised by a Hotline caller of potential market manipulation of natural gas trading at Henry Hub by one or more market participants, in violation of the Commission's Anti-Manipulation Rule. Staff examined whether monthly index prices or the price of next-day physical fixed gas at Waha or other trading points in west Texas, including but not limited to Waha and the Permian Basin, had been manipulated. After analyzing company trades and documents and taking testimony

from relevant witnesses, staff determined there was insufficient evidence of a manipulative trading scheme and closed the investigation.

F. Enforcement Hotline

DOI staff fields calls and other inquiries made to the Enforcement Hotline (Hotline).[14] 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. The Hotline also allows the public to obtain informal guidance and non-binding opinions on matters within the Commission's jurisdiction, including the applicability of Commission orders and policies in particular circumstances. When staff receives calls 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 FY2014, Enforcement received 211 Hotline calls and inquiries, 197 of which were promptly resolved within the fiscal year through advice provided by DOI staff and 14 of which remained pending as of the end of the fiscal year. In FY2014, staff converted no Hotline calls to preliminary investigations, although multiple FY2014 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

DOI staff assisted other divisions and offices within the Commission on important matters in FY2014, including:

Gas-Electric Coordination Issues. DOI staff participated on the Gas-Electric coordination team, including the preparation of the Final Rule on *Communication of Operational Information Between Natural Gas Pipelines and Transmission Operators* issued by the Commission in November 2013 and the *Order on Rehearing*, issued in June 2014.[15] DOI staff also provided advice to the Commission in the context of specific orders related to requests for waiver, gas supply issues, and resource compliance with RTO/ISO dispatch instructions.

Polar Vortex Review. DOI staff assisted DAS with an in-depth review of the Polar Vortex events that occurred in January and February 2014, to determine whether manipulative trading behavior contributed to high natural gas prices and elevated electricity costs that arose during the Polar Vortex. Staff found no evidence of widespread or sustained market manipulation; however, OE opened an investigation into whether downward price manipulation occurred during a single monthly natural gas index. Further, OE opened two additional non-public

[14] *See* 18 C.F.R. § 1b.21 (2014).

[15] *Communication of Operational Information Between Natural Gas Pipelines and Transmission Operators*, Order No. 787, FERC Stats. & Regs ¶ 31,350 (cross-referenced at 145 FERC ¶ 61,350 (2013)), *order on rehearing*, 147 FERC ¶ 61,228 (2014).

investigations to determine whether certain generators may have improperly benefited from the constrained conditions in the electric markets.

PJM Up-to Congestion Issues. DOI staff has been working 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 PJM's treatment of virtual supply and virtual demand. DOI staff also assisted with planning a technical conference on these issues, scheduled to occur in early 2015.

Intra-Office Coordination. DOI staff regularly coordinate with OGC and OEMR when applicants fail to timely submit filings to the Commission. In FY2014, the three offices coordinated on more than 100 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 OE. Occasionally, such coordination has resulted in referrals to DOI for further examination and inquiry. This year, one such combination of a referral and self-report from a prior year culminated in a settlement with the ITC companies (discussed above in subsection C), which involved 20 late FPA section 203 filings and 174 late FPA section 205 filings.

No-Action Letters. OE 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 they pursued particular transactions, practices or situations. The "No-Action Letter" is an effective 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.[16] FERC Staff is generally available to confer on a pre-filing basis for possible "No-Action" requests. During FY2014, one such request was submitted, but not acted upon until after FY2014.

Compliance Desk. In 2008, the Commission established the "Compliance Help Desk Portal" for entities to submit questions regarding particular compliance areas.[17] For various subjects, DOI and staff from other Commission offices are responsible for reviewing inquiries, and coordinating responses to the requestors. During FY2014, DOI staff was involved in 10 Compliance Desk inquiries.

Requests for Waivers of Standards of Conduct under Order No. 717. 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 20 such requests for waivers.

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

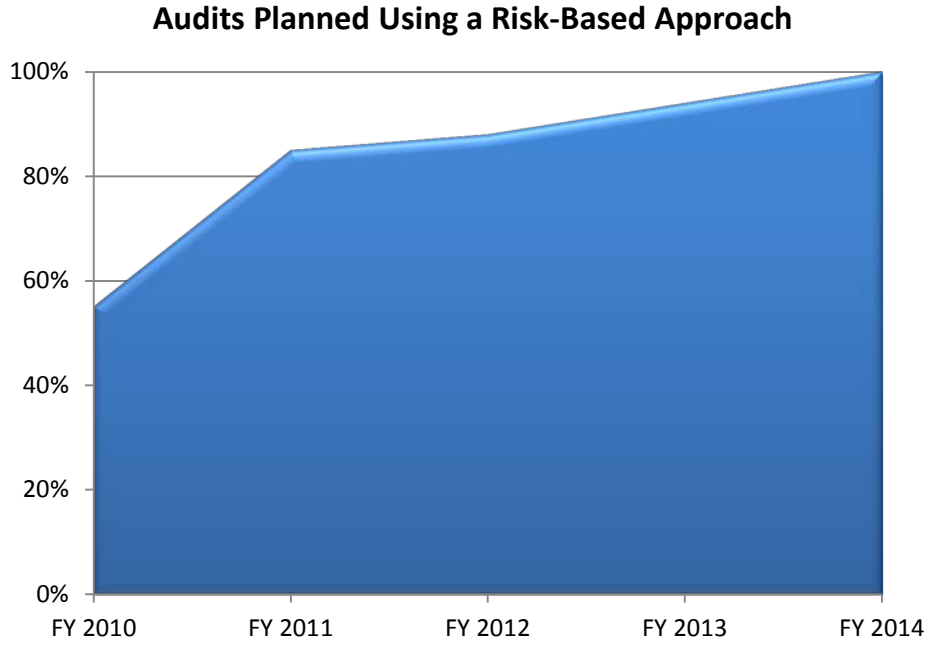
[17] *See Interpretive Order Modifying No-Action Letter Process and Reviewing Other Mechanisms for Obtaining Guidance*, 123 FERC ¶ 61,157 at P 30 (2008).

DIVISION OF AUDITS AND ACCOUNTING

A. Overview

The Division of Audits and Accounting within OE administers audit and accounting programs to foster the Commission's efficient, effective, and appropriate oversight of jurisdictional entities. DAA enables the Commission to achieve its strategic objectives by conducting various types of public audit and accounting activities to ensure compliance, accountability, and transparency. Audit and accounting activities are coordinated with other OE divisions and legal and technical experts in other Commission offices. Within OE, DAA consults with DAS, Market Oversight, and DOI to inform a risk-based approach in the selection of audit candidates within a particular audit scope area. Outside of OE, DAA interfaces with other offices, such as the Office of Energy Market Regulation, Office of Energy Policy and Innovation, Office of General Counsel, and OER, to coordinate actions addressing rates, tariffs, transparency, policy, law, reliability, and other areas the Commission deems necessary to accomplish its mission.

Since the vast majority of audits are initiated without any allegation of wrongdoing, risk assessments continue to be an important aspect of DAA's audit program. DAA's risk-based methodology typically includes surveying significant areas of risk facing the industries the Commission regulates using internal and external sources of information to inform the risk-based audit candidate selection process. Examples of internal sources informing the selection of risk areas include: discussions with agency officials and legal, technical, accounting, and other staff; and analysis of rate filings, financial forms, and reports. External sources include, but are not limited to: meetings and discussions with other regulatory agencies, review of financial and other forms filed with other regulatory agencies, routine monitoring of trade reporting sources, and compliance history. In FY2014, for the first time DAA, planned all of its audits using a risk-based methodology (see chart below).



Transparency is another hallmark of DAA's audit and accounting functions. DAA publicly issues its audit reports and commencement letters, providing audited entities and the industry with insight into the areas of emphasis and concern. DAA provides great detail in the audit scope and methodology section of its audit reports, enabling jurisdictional entities to be better informed, avoid noncompliance, and improve operational performance. The detail is designed to enable company staff to focus internal review on outlined program areas so companies can evaluate their own compliance programs in a similar fashion. DAA also uses its audits to inform effective Commission oversight, identify potential regulatory areas needing modification or addition, assist in policy formulation, and promote transparency. Similar transparency elements are used within the accounting program through publicly noticing accounting guidance as well as maintaining open access to DAA staff for all jurisdictional entities with accounting concerns.

DAA conducts industry outreach in many forums, including: participating in periodic scheduled meetings with trade associations, such as the Interstate Natural Gas Association of America (INGAA) and the Edison Electric Institute (EEI); attending and participating in industry workshops, conferences, and other public trade gatherings; and 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 oversight, accountability, transparency, operational efficiency and effectiveness, and compliance. Such outreach efforts further DAA's goal of strengthening each jurisdictional entity's compliance and operations as well as foster more effective communication.

B. Compliance Reviews and Alerts

1. Compliance Reviews

A core objective of DAA's audit and accounting programs is to assist jurisdictional companies to achieve robust compliance. Driven by the Commission's strategic plan, DAA's audit program has systematically reviewed and provided feedback to jurisdictional entities on compliance programs related to specific audit scope areas. DAA and audited entities have found that these transparency efforts promote more robust compliance cultures and programs. For example, DAA observed jurisdictional entities taking proactive measures to develop and integrate robust compliance practices, controls, and procedures into their operations even before audits were complete. This increased emphasis upon compliance and the proactive response by the industry has been encouraging. The new strategic plan for 2014 - 2018 continues to promote strong compliance programs but places a renewed emphasis on timely implementation of corrective actions. Based on experience, DAA believes that the proactive responses of audited entities to address corrective actions identified from compliance review will facilitate achieving the new emphasis on timely implementation of corrective actions. Thus, DAA will continue reviewing compliance programs during its audits.

While the structure of an internal compliance program may vary considerably based upon an entity's size, scope of activities, and other inherent factors, DAA examines some key features to assess what enables a company to increase the likelihood of abiding by and following the spirit of rules and regulations to comply with statutes, Commission rules, orders, regulations, and tariff provisions. These factors include:

- *A strong emphasis on risk assessment* - to encourage and promote self-detection of issues in a timely manner to prevent noncompliance proactively, rather than responding reactively to mitigate and remediate compliance failures.

- *The active involvement of senior management* - to provide a tangible demonstration of tone-from-the-top as well as the allocation of funds necessary for such programs.

- *The implementation of routine assessments of program effectiveness* - to foster a strong and sustainable culture of commitment to compliance on an enterprise-wide basis.

2. Compliance Alerts

In the course of conducting audits, DAA has observed certain areas in which compliance has been problematic for some entities. DAA believes that highlighting these areas for other jurisdictional entities and their corporate officials will disseminate 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 relate also 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, thereby avoiding enforcement action.

Formula Rate Matters. DAA continues to examine accounting that populates formula rate recovery mechanisms used in determining billings to wholesale customers. In recent formula rate audits, DAA observed certain patterns of noncompliance in the following areas:

- Merger Goodwill – including goodwill in the equity component of the capital structure absent Commission approval;
- Depreciation Rates – using state-approved or a blended depreciation rate consisting of Commission and state-approved depreciation rates without Commission approval;
- Merger Costs – including any merger-related costs in rates (e.g., third-party advisory fees, internal labor, severance, and other general and administrative costs) without Commission approval;
- Tax Prepayments – incorrectly recording tax overpayments not applied to a future tax year's obligation as a prepayment leading to excess recovery through working capital;
- Unused Inventory and Equipment – including the cost of materials, supplies, and equipment purchased for a construction project without removing the cost of items unused in whole or in part from the cost of a project;
- Allocated Labor – using labor cost allocators not based on a representative time study to determine the amount of indirect labor costs to distribute to construction projects;
- Asset Retirement Obligation (ARO) – including ARO amounts in formula rates, without explicit Commission approval;
- Below-the-Line Costs – including below-the-line costs in formula rates (e.g., lobbying, charitable contributions, fines and penalties, and compromise settlements arising from discriminatory employment practices) without Commission approval; and
- Improper Capitalization – seeking to include in rate base (and earn a return on) costs that should be expensed.

Consolidation. Commission accounting regulations require the equity method of accounting for an investment in subsidiaries. Recent audit activity has found jurisdictional companies incorrectly using the consolidated method for accounting for subsidiaries instead of the Commission's equity method. As a result, improper amounts were included in formula rate billings.

Nuclear Decommissioning Trust Funds. Some public utilities owning nuclear assets have failed to: make required Commission filings; secure required documents upon acquisition of nuclear assets; and separately report the wholesale portions of jurisdictional funds invested in external trust funds.

Allowance for Funds Used During Construction. Recent audit activity has shown deficiencies in how jurisdictional entities have calculated the Allowance for Funds Used During Construction (AFUDC) rate including: inclusion of goodwill-related equity in determining the equity component of AFUDC; failure to include short-term debt in computing the AFUDC rate; computing AFUDC on contract retention; inclusion of unrealized gains and losses from other comprehensive income; compounding of the rate more than semi-annually; and use of an AFUDC methodology not prescribed by the Commission.

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

Open Access Transmission Tariffs. An essential goal of open access is to support efficient and competitive markets. On recent OATT audits, DAA noted instances where company actions did not support this goal. Specifically, incorrect rates were billed to customers, available transfer capacity data was inaccurately posted, transmission capacity was not released in accordance with Commission approved tariffs, and scheduling protocols to ensure appropriate transmission reservations over constrained interfaces were not consistently followed.

Transmission and Distribution. Commission orders granting incentives to specific transmission projects require increased rigor in the proper accounting of costs to ensure that such incentives are applied only to approved projects. DAA noted instances in which cost allocation mechanisms improperly assigned costs to incentive projects, permitting a greater return than warranted. Additionally, in some audits, the controls over directly assigning costs to specific work orders for approved transmission projects were inadequate, resulting in certain costs being improperly assigned to incentive transmission projects.

For non-transmission incentive projects, DAA found that costs associated with construction of distribution plants were erroneously recorded in transmission plant accounts. DAA also observed instances of the cost of items in inventory, such as materials, supplies, and equipment, being included in the total cost of completed transmission construction projects when the items were not used for construction. These issues led to improper recovery of (and returns on) inappropriate costs through transmission rates.

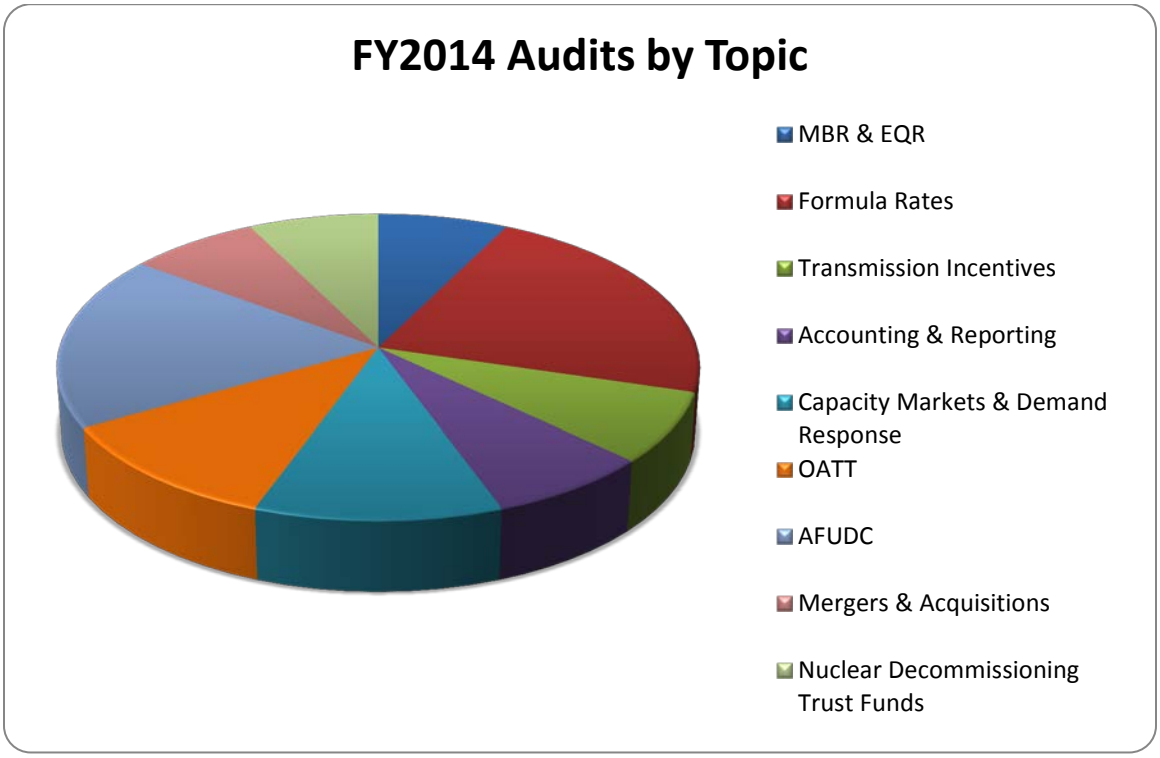
Untimely Filing of Commission Reports. DAA identified instances where companies have failed to timely file various reports with the Commission. These instances included reports such as decommissioning trust fund reports and required filings, and reports related to mergers. Failure to timely file these reports immediately impacts the Commission and industry's ability to use report-provided data. It also negatively impacts 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 have not been obtained from the original owner. Failure to maintain adequate records could impair the Commission's ratemaking and enforcement activities and ultimately impact an entity's ability to recover costs associated with those assets.

Demand Response/Energy Efficiency. 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 FY2014, DAA completed 19 financial and operational audits of public utilities and natural gas pipelines covering a wide variety of topics. Some audits addressed multiple topics. The audits resulted in 162 recommendations for corrective action and directed over $11.7 million in refunds and recoveries. Other recommendations directed improvements to internal company processes and procedures, enhancements to report accuracy and transparency and web sites, and more efficient and cost-effective operations. Collectively, these recommendations and savings benefit ratepayers and market participants.



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

1. Formula Rates

South Carolina Electric & Gas Company (SCE&G). At SCE&G, DAA evaluated whether SCE&G provided transmission services and calculated formula rate revenue requirements in accordance with its OATT and maintained its accounts and reported costs according to the Uniform System of Accounts (USofA) and FERC Form No. 1 reporting requirements.[18] DAA concluded that SCE&G misreported and overstated transmission materials and supplies inventory in its FERC Form No. 1. By overstating transmission inventory, SCE&G inflated its rate base and investment return on rate base, a major component of its annual transmission revenue requirement (ATRR). As a result of DAA's findings, SCE&G refunded $453,633, including interest, to wholesale customers.

[18] *South Carolina Electric & Gas Company*, Docket No. PA13-10-000 (June 10, 2014) (delegated letter order).

NSTAR Electric Company (NSTAR Electric). DAA evaluated whether NSTAR Electric complied with: (1) Schedule 21-NSTAR and Attachment F of the ISO New England Inc. (ISO-NE) Transmission, Markets, and Services Tariff; (2) various accounts in its transmission formula rate tariff; (3) accounting regulations in the USofA under 18 C.F.R. pt. 101; and (4) section 111.13, Forward Capacity Market, of ISO-NEs Transmission, Markets, and Services Tariff for efficiency resources within ISO-NE.[19] The findings mainly related to formula rate issues, as well as NSTAR's energy efficiency assets participation in the capacity markets. Regarding the formula rate, NSTAR Electric overbilled its transmission wholesale customers because it included merger-related internal labor costs in its calculations and assets as part of its transmission plant-in-service that were sold or served as a distribution function asset. Regarding capacity market participation, DAA was concerned with the accuracy of NSTAR's asset performance, classification and timely removal from the program upon expiration, as well as the improper treatment of revenues and expenses in company records. As a result of the audit report findings, NSTAR issued refunds of $186,771 to wholesale customers for including merger-related costs in it formula rate calculations. Also, NSTAR removed $915,155 of assets from its transmission plant-in-service thus eliminating recovery through future rates.

Idaho Power Company (Idaho Power). DAA evaluated whether Idaho Power complied with: (1) Idaho Power's OATT; (2) requirements for various accounts incorporated into its formula rate tariff; and (3) USofA accounting regulations.[20] DAA found that Idaho Power improperly included in transmission plant-in-service approximately $4,267,707 of jointly-owned Generator Step-up facilities and certain unrecoverable operation and maintenance expenses, as well as an electric plant held for future use unrelated to transmission, which was eliminated from being passed through future rates. Idaho Power also used balances unsupported by its 2010 FERC Form No. 1 to calculate its Transmission Wages and Salaries allocation factor. As a result of DAA's findings, Idaho Power refunded $720,554, including interest, to its wholesale customers.

San Diego Gas & Electric (SDG&E). DAA evaluated whether SDG&E calculated formula rate revenue requirements in accordance with its OATT and maintained its accounts and reported costs according to the USofA and FERC Form No. 1 reporting requirements.[21] At the audit's conclusion, SDG&E made a $2.9 million adjustment to the forecasted plant additions of its transmission formula rate for improperly accruing AFUDC on unpaid contract retention fees. SDG&E also refunded $33,000 with interest for improperly including amounts related to compromise settlements for employee discrimination suits in above-the-line rather than below-the-line accounts. Further, the audit identified several other accounting deficiencies requiring SDG&E to conduct comprehensive studies dating back to the inception of its transmission formula rate. The results of these studies will determine the total cost recovery impact on customer billings and necessary refunds.

2. Transmission Incentives

Southern Indiana Gas and Electric Company (Southern Indiana). DAA evaluated whether Southern Indiana complied with the conditions and requirements upon which the Commission approved its incentive rate treatments. The audit also evaluated Southern Indiana's compliance with: (1) its transmission cost-of-service formula rate schedule in Attachment O of the MISO OATT; (2) various accounts incorporated into its cost-of-service transmission formula rate; (3)

[19] *NSTAR Electric Company*, Docket No. FA12-10-000 (Mar. 25, 2014) (delegated letter order).

[20] *Idaho Power Company*, Docket No. FA12-9-000 (Dec. 11, 2013) (delegated letter order).

[21] *San Diego Gas & Electric Company*, Docket No. FA12-8-000 (June 10, 2014) (delegated letter order).

USofA accounting regulations for public utilities under 18 C.F.R. pt. 101; and (4) FERC-730, Report of Transmission Investment Activity, reporting regulations under 18 C.F.R. pt. 35.[22] As a result of the audit, Southern Indiana will refund approximately $78,000 with interest for improperly accounting for lobbying expenses in various above-the-line administrative and general accounts rather than below-the-line expense accounts.

Trans-Allegheny Interstate Line Company (TrAILCo). DAA evaluated TrAILCo's compliance with: (1) its transmission cost-of-service formula rate schedule in Attachment H-18 to the PJM OATT; (2) various accounts used in the formula rate; (3) USofA accounting regulations for public utilities under 18 C.F.R. pt. 101; and (4) FERC-730 reporting regulations under 18 C.F.R. pt. 35.[23] TrAILCo refunded $657,448 for improperly recovering merger-related internal labor costs without submitting the section 205 filing required by the hold harmless provision established in the Commission's Merger Order. TrAILCo is a wholly-owned subsidiary of FirstEnergy Corporation and was one of three affiliates that improperly recovered merger-related internal labor costs through its transmission formula rate mechanism.[24]

3. Mergers & Acquisitions

FirstEnergy Corporation (FirstEnergy). DAA evaluated FirstEnergy's compliance with the conditions established in the Commission's Order Authorizing Merger and Disposition of Jurisdictional Facilities between FirstEnergy and Allegheny Energy Inc. issued December 16, 2010.[25] DAA found that FirstEnergy pushed merger-related costs down to its regulated and non-regulated subsidiaries. FirstEnergy's regulated subsidiaries, Trans-Allegheny Interstate Line Co., Potomac-Appalachian Transmission Highline, LLC, and American Transmission System, Inc. improperly accounted for and recovered merger related costs associated with internal labor without making a section 205 compliance filing with the Commission to seek rate recovery of such costs. As a result, FirstEnergy's regulated subsidiaries refunded $1,168,609, with interest, to its wholesale customers. They also wrote off approximately $273,000 of capitalized labor costs related to the merger as a result of the audit.

BHE Holdings, Inc. (BHE Holdings). DAA evaluated BHE Holdings and its public utility affiliate's compliance with the conditions established in the Commission's December 16, 2010 Order Authorizing Merger and Disposition of Jurisdictional Facilities.[26] BHE's public utility affiliate, Maine Public Service Company, failed to file its post-merger transaction accounting entries within six months of the merger consummation date, as required by the Commission's December 16 Order. The company agreed to strengthen its processes for tracking and submitting compliance filings with the Commission in a timely manner.

[22] *Southern Indiana Gas and Electric Company*, Docket No. PA13-2-000 (Dec. 3, 2013) (delegated letter order).

[23] *Trans-Allegheny Interstate Line Company*, Docket No. PA12-18-000 (Dec. 11, 2013) (delegated letter order).

[24] *FirstEnergy Corporation*, Docket No. PA12-5-000 (Nov. 1, 2013) (delegated letter order).

[25] *FirstEnergy Corporation*, Docket No. PA12-5-000 (Nov. 1, 2013) (delegated letter order).

[26] *BHE Holdings, Inc.*, Docket No. PA13-8-000 (Jan. 27, 2014) (delegated letter order).

4. Accounting and Reporting

Tampa Electric Company (Tampa Electric). DAA evaluated Tampa Electric's compliance with the Commission's financial accounting and reporting requirements under 18 C.F.R. §§ 141.1, 141.400 and record retention requirements under 18 C.F.R. pt. 125.[27] The audit found that Tampa Electric improperly recorded fees related to lines of credit and letters of credit in the administrative and general expense account rather than in an interest expense account as required by the regulations. The audit also found other reporting issues related to Tampa Electric's FERC Form No. 1. As a result, Tampa Electric refunded approximately $9,800 for improperly recording fees related to lines of credit.

ETC Tiger Pipeline, LLC. (ETC Tiger). DAA evaluated ETC Tiger's compliance with the Commission's accounting and reporting requirements for calculating and accruing AFUDC.[28] ETC Tiger improperly included unpaid amounts associated with contract retention fees in the construction base component of its AFUDC calculation. This resulted in over-accruing AFUDC on ineligible construction costs, which ETC Tiger recorded to plant-in-service. This over accrual, however, was offset by the effect of semi-annual compounding, which ETC Tiger did not originally reflect in its AFUDC calculation.

5. Open Access Transmission Tariff

Florida Power & Light Company (FPL). DAA evaluated FPL's compliance with its OATT.[29] During the audit, NextEra Energy, Inc. (NEE), FPL's parent company, disclosed a compliance issue regarding the filing of nuclear decommissioning trust fund reports with the Commission by three entities that are subsidiaries of another NEE subsidiary, NextEra Energy Resources, LLC. This matter was added to the scope of the audit and included in the audit report. The audit report made findings related to improper counteroffers to transmission service requests, untimely release of transmission capacity, termination of network resources, transmission service billing, and nuclear decommissioning trust funds. The report also discusses two other matters with four recommendations, regarding the use of a unit power sales agreement, and internal coordination between FPL's energy marketing and trading group and FPL's transmission function.

Puget Sound Energy, Inc. (PSE). DAA evaluated PSE's compliance with its OATT.[30] The audit identified five findings: (1) PSE's merchant function acquired and used, with its transmission function's approval, unreserved non-firm transmission after-the-fact for four individual hours during the audit period; (2) PSE neither charged unreserved use penalties from offending transmission customers, nor did it allocate these unreserved use penalty amounts to non-offending transmission customers; (3) PSE improperly approved transmission service requests when the posted ATC was insufficient to grant the service; (4) PSE provided non-firm point-to-point transmission service to customers under expired transmission service agreements; and (5) PSE's quality controls over its EQR filings were inadequate to ensure accurate public reporting to the Commission.

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[27] *Tampa Electric Company*, Docket No. FA13-6-000 (Mar. 25, 2014) (delegated letter order).

[28] *ETC Tiger Pipeline, LLC*, Docket No. FA13-9-000 (Mar. 5, 2014) (delegated letter order).

[29] *Florida Power & Light Company*, Docket No. PA13-4-000 (Aug. 13, 2014) (delegated letter order).

[30] *Puget Sound Energy, Inc.*, Docket No. PA13-6-000 (Aug. 13, 2014) (delegated letter order).

6. Market-Based Rates and Electric Quarterly Reports

Tucson Electric Power Company (Tucson Electric). DAA evaluated Tucson Electric's compliance with the requirements of its market-based rate authorization and EQR filing requirements under 18 C.F.R. § 35.10b.[31] As a result of the audit, Tucson Electric refunded approximately $92,749, including interest, for selling ancillary services at market-based rates without Commission authorization.

Wisconsin Electric Power Company (Wisconsin Electric). DAA evaluated Wisconsin Electric's compliance with the requirements of its market-based rate authorization, EQR filings, and the market rules governing revenue sufficiency guarantee payments under MISO's OATT.[32] DAA found that Wisconsin Electric reported inappropriate information, misreported data and failed to report certain required information in its EQR. Wisconsin accepted all corrective actions.

7. Capacity Markets and Demand Response

Hess Corporation (Hess). DAA evaluated Hess's compliance with various tariffs governing the markets in which its resources operate. Audit staff focused on tariff provisions relevant to Hess's participation in wholesale markets that permit the use of demand response and energy efficiency.[33] The audit identified three areas of concern: (1) Hess failed to shed its capacity supply obligation in ISO-NE, and thereby overstated the amount of capacity its resources were able to provide to the market; (2) Hess had missing or incorrect data submissions to RTO/ISOs, which caused decreased payments to some customers, but which Hess since corrected and paid; (3) Hess failed to make an energy payment to one customer for its performance in a demand response event. Hess accepted all DAA-recommended corrective actions including strengthening its policies and procedures.

Massachusetts Electric Company (MECO). DAA evaluated MECO's compliance with ISO-NE's Markets and Services Tariff.[34] DAA focused on tariff provisions relevant to MECO's participation in the ISO-NE Forward Capacity Market and demand response programs. The audit identified areas of concern related to the accuracy of the reported capacity assets under the tariff and the manner in which the revenues and expenses were treated in financial reporting to the Commission. Some of the erroneous capacity reporting resulted in capacity payments that could not be corrected within the ISO settlement window. Therefore, DAA instructed MECO to work with ISO-NE to determine the overpayment amounts and to arrange refunds with interest. MECO accepted the findings and recommendations in the audit report and agreed to timely submit compliance filings with the Commission.

8. Oversight of ERO Audited-Related Activities to Ensure Reliability of the Bulk-Electric System

In 2014, DAA shifted its efforts to provide oversight of audit-related activities by the Electric Reliability Organization (ERO), NERC and its eight Regional Entities, to ensure compliance with Commission-approved mandatory reliability standards. These standards include both operation and planning standards and the critical infrastructure protection standards. This shift in approach was in response to the ERO's efforts to implement a more systematic use of risk-based elements in its Compliance Monitoring and Enforcement Program (CMEP). This effort has been

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[31] *Tucson Electric Power Company*, Docket No. PA13-7-000 (Dec. 3, 2013) (delegated letter order).

[32] *Wisconsin Electric Power Company*, Docket No. PA13-9-000 (July 1, 2014) (delegated letter order).

[33] *Hess Corporation,* Docket No. PA13-11-000 (Nov. 7, 2013) (delegated letter order).

[34] *Massachusetts Electric Company*, Docket No. PA12-12-000 (Sept. 25, 2014) (delegated letter order).

denoted as the Reliability Assurance Initiative (RAI). DAA is focusing on the auditing aspects of RAI.

DAA staff focused their efforts on RAI program elements related to Inherent Risk Assessment and Internal Control Evaluation and the manner in which these elements inform the audit process. Specifically, DAA staff monitored ERO workgroups, webinars, advisory groups, board meetings, web site postings and other public forums in which the ERO has sought to develop, test and document the RAI. In addition, DAA staff met directly with staff of NERC and regional entities to gain a better understanding of the intent, design, and proposed implementation of the RAI. DAA believes that these efforts have the capability to enhance the current CMEP by permitting a greater emphasis upon higher risk areas covered by the standards.

9. No Audit Findings

Kern River Gas Transmission Company (Kern River), Golden Pass Pipeline, LLC (Golden Pass), and Bison Pipeline, LLC (Bison). At Kern River, Golden Pass, and Bison, DAA evaluated the companies' compliance with Commission accounting and reporting requirements for calculating and accruing AFUDC under 18 C.F.R. pt. 201.[35] The evaluation focused on the components of construction costs eligible under Gas Plant Instruction No. 3 and, more specifically, the derivation of the AFUDC rate as promulgated in paragraph 17 for recent pipeline projects certificated under section 7 of the NGA. These audits did not result in any findings or recommendations requiring corrective action.

D. Accounting Matters

DAA administers the Commission's accounting program established for jurisdictional electric utilities, natural gas companies, centralized service companies, and oil pipeline carriers. DAA also is primarily responsible for maintaining the USofA and for processing jurisdictional company filings that aid in establishing and monitoring just and reasonable rates. DAA also advises the Commission and may act on filings submitted to the Commission involving current accounting issues affecting jurisdictional industries. Further, DAA provides accounting expertise to Commission program offices in developing Commission policies and proposed rulemakings. Finally, DAA monitors and participates in projects initiated by the Financial Accounting Standards Board, Securities and Exchange Commission, and International Accounting Standards Board to address issues that may impact the Commission or its jurisdictional entities.

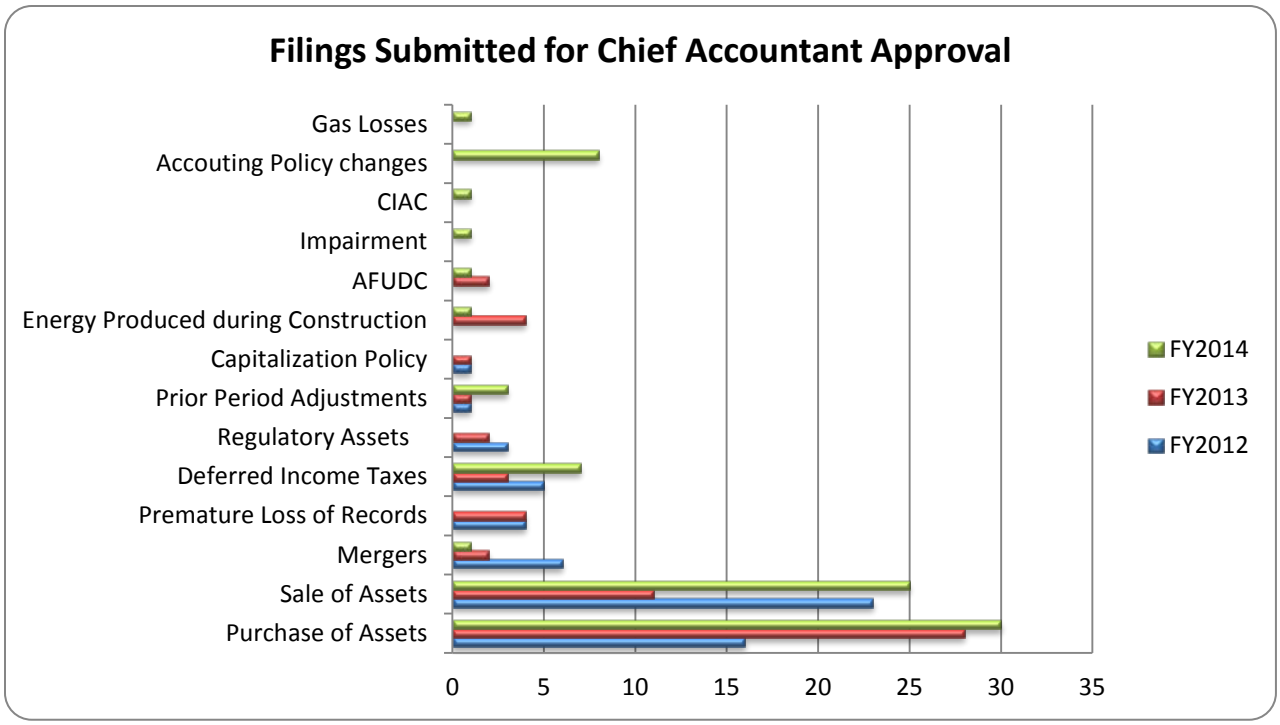
DAA receives accounting inquiries from Commission jurisdictional electric, natural gas, and oil entities then provides informal accounting and financial reporting advice based on the Commission's accounting and financial reporting regulations. Similarly, DAA responds to various accounting and financial reporting matters presented to staff during pre-filing, accounting liaison, and other meetings with jurisdictional entities. Although it is widely known that informal advice does not constitute a formal Commission action, DAA works diligently to aid entities in the process of complying with the Commission's accounting and financial reporting regulations when requests are made. Also, DAA continues to encourage jurisdictional entities to seek formal guidance on accounting issues of doubtful interpretation consistent with General Instruction No. 5 to enhance compliance with the Commission's accounting and financial reporting regulations.

[35] *Kern River Gas Transmission Company*, Docket No. PA13-11-000 (Jan. 8, 2014); *Golden Pass Pipeline, LLC*, Docket No. PA13-10-000 (Jan. 8, 2014); *Bison Pipeline, LLC*, Docket No. PA13-8-000 (Jan. 8, 2014) (delegated letter orders).

In FY2014, DAA reviewed 345 Commission filings. These filings and applications included requests for accounting approval, certificate authorizations, mergers and acquisitions, security and debt authorizations, and rate filings. Also, DAA provided informal guidance on 85 inquiries related to various aspects of Commission accounting, financial reporting, and record retention regulations. These inquiries came from jurisdictional entities, industry stakeholders, and consultants, as well as through the Commission's Compliance Help Desk, Office of External Affairs, Enforcement Hotline, and other Commission offices.

1. Requests for Approval of the Chief Accountant

In FY2014, the Chief Accountant responded to 79 accounting filings requesting approval of a proposed accounting treatment for a specific transaction or event. The matters covered in these accounting requests related to a substantial portion of the Commission's accounting and financial reporting requirements for electric, natural gas, and oil entities. Specifically, accounting requests sought guidance related to Commission-approved sale, purchases, mergers, and transfers of jurisdictional assets, test energy produced during construction, deferred income taxes, changes in accounting methods, prior-period adjustments, and AFUDC.



2. Certificate Proceedings

In FY2014, DAA reviewed 45 natural gas pipeline certificate application filings seeking Commission authorization to construct, own, and operate new pipeline facilities, abandon pipeline facilities, 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.

3. Merger and Acquisition Proceedings

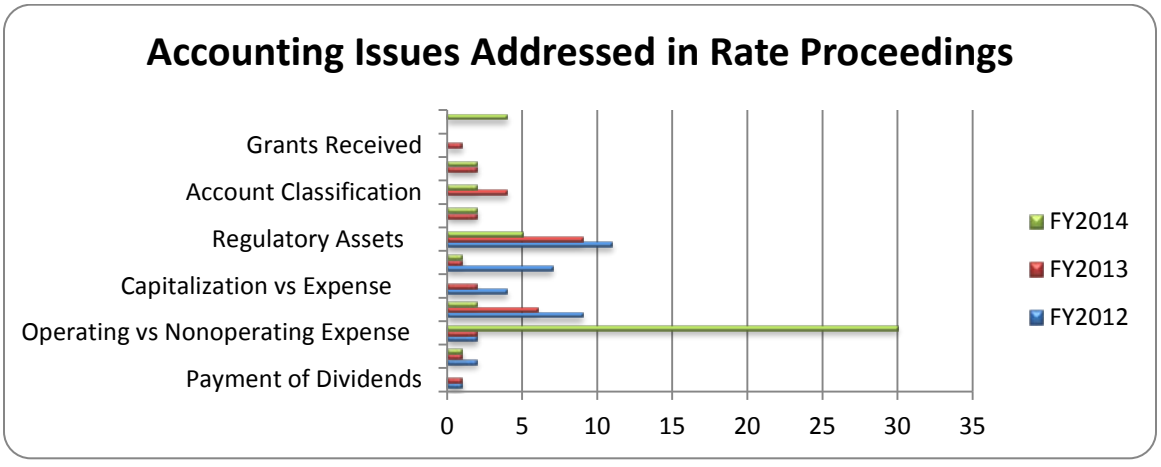
In FY2014, DAA reviewed one merger filing and approximately 111 acquisition filings from electric utilities. The accounting review for merger transactions entails examining proposed accounting for costs to execute the transaction, costs to achieve integration and synergies, fair-value adjustments to 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. For example, DAA ensures that an acquiring applicant maintains the appropriate original cost and historical accumulated depreciation of a utility plant and properly records an acquisition premium when appropriate. DAA reviews accounting entries that merger and acquisition applicants file to ensure they provide appropriate transparency to any rate implication resulting from such accounting for consideration by the Commission and all interested parties.

4. Debt and Security Issuance Proceedings

In FY2014, the Chief Accountant reviewed 48 electric utility security/debt applications. Section 204(a) of the FPA provides the Commission authority to grant electric utilities the authority to issue securities or assume liabilities. In reviewing filings under § 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 non-utility businesses. This also ensures that future issuance of debt is compatible with the public interest.

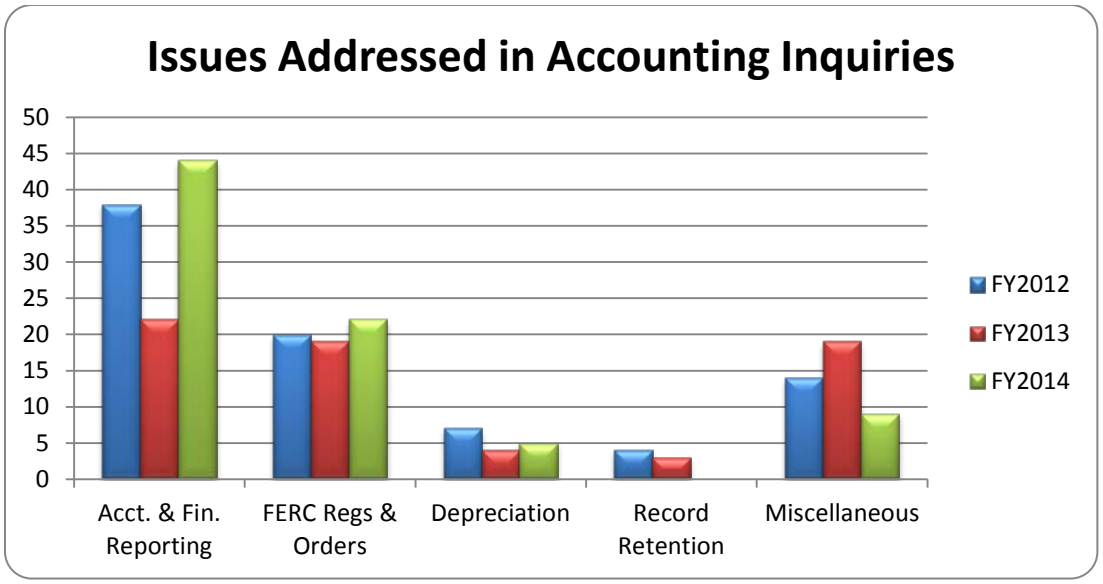
5. Rate Proceedings

In FY2014, DAA participated in 52 rate filings from electric, natural gas, and oil jurisdictional entities. In these rate filings, DAA reviews an applicant's filing and intervening comments or protests to uncover and evaluate all accounting issues arising in the filing. DAA works with other program offices to discuss these accounting issues and understand the effect accounting and financial reporting has on rates. Since many natural gas and electric rates are directly tied to a jurisdictional entity's financial reports (e.g., fuel trackers and cost of service formula rates), DAA works to ensure that accounting is not used as a tool to alter components of a FERC jurisdictional rate. DAA has also worked with other program offices to enhance financial transparency of financial information of costs recovered in formula rates. That is, formula rate informational filings should disclose: amounts that do not represent historical cost, merger-related costs, prior-period adjustments, or corrections of errors, among other things, to ensure all ratepayers can assess the costs they are billed.



6. Accounting Inquiries

In FY2014, 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,[36] the Accounting Inquiries phone line and e-mail,[37] or sent directly to DAA staff. The majority of accounting inquiries sought accounting and financial reporting direction on topics such as accounting for utility plant, construction activities, and revenues and expenses. Accounting inquiries also sought answers to specific questions on depreciation, the appropriate functional classification of costs, and record retention requirements. Other accounting inquiries requested assistance in finding specific Commission orders and regulations of interest. DAA responded to these accounting inquiries by providing informal accounting and financial reporting guidance based on Commission precedent and regulations and instructing individuals how to find documents and regulations using the Commission's eLibrary system[38] and the Code of Federal Regulations.[39]



7. International Financial Reporting Standards

International Financial Reporting Standards (IFRS) have been of special interest to the Commission and its regulated entities in recent years as a result of the steps taken to consider the convergence of U.S. Generally Accepted Accounting Principles and IFRS. The Chief Accountant 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. Following several comment letters by the Chief Accountant and others requesting an IFRS accounting standard for regulatory assets and liabilities, the IASB initiated a two-step comprehensive project to consider reporting regulatory assets and liabilities in IFRS financial statements. The first step entailed the January 2014 IASB issuance of IFRS 14, Regulatory Deferral Accounts, to serve as interim accounting

[36] Compliance Help Desk webpage can be found at: http://www.ferc.gov/contact-us/compliance-help-desk.asp.

[37] For Accounting Inquiries contact us at (202) 502-8877 or accountinginquiries@ferc.gov.

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

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

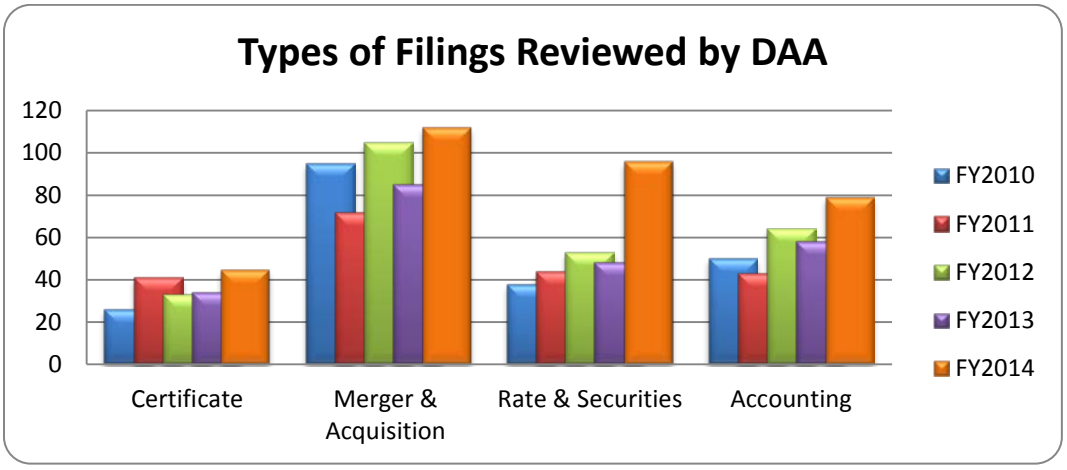
guidance allowing first-time adopters of IFRS to apply their previous accounting standards to recognize regulatory assets and liabilities in IFRS financial statements. The second step entails a comprehensive research project and employs a consultative group of experts to aid the development of a discussion paper on rate-regulated activities to inform the development of a permanent accounting standard. In FY2014, the Chief Accountant participated in several meetings with IASB staff as a member of the consultative group and provided expert advice and comments on drafts of the discussion paper issued in September 2014.[40] In FY2015, the Chief Accountant expects to continue providing expert advice to IASB staff to develop permanent standards on rate-regulated activities.

8. Energy Storage Assets

On July 18, 2013, the Commission issued Order No. 784 which, among other things, revised the Commission's accounting and financial reporting requirements to foster competition and transparency in ancillary services markets and enhance the accounting and financial reporting of energy storage asset transactions in public utility operations. DAA led the development of revisions to the Commission's accounting and financial reporting requirements. These reforms accommodate the increasing availability of new energy storage resources for use in public utility operations and help ensure that the activities and costs of energy storage operations are sufficiently transparent to enable stakeholders and state and Federal regulators to provide adequate oversight. Information gathered through these reforms is essential to developing and monitoring rates, making policy decisions, aiding compliance and enforcement initiatives, and informing the Commission and the public about the activities of subject entities. In FY2014, DAA also led the development of certain accounting and financial reporting clarifications in Order No. 784-A. Additionally, the Chief Accountant issued interim guidance directing the reporting and disclosure of energy storage assets and operations until the FERC Form No. 1 software is updated to accommodate changes of Order No. 784.

9. Accounting Filing Statistics

In its review of filings to the Commission, DAA has advised the Commission and acted on filings covering many different accounting matters with cost-of-service rate implications, such as accounting for mergers, asset dispositions, depreciation, acquisition premiums, waivers, and income taxes. Over the past four years, DAA has reviewed 889 Commission filings to ensure proper accounting is followed and advise the Commission on potential rate effects.



[40] http://www.ifrs.org/Current-Projects/IASB-Projects/Rate-regulated-activities/Discussion-Paper-September-2014/Pages/Discussion-Paper-and-Comment-letters.aspx.

DIVISION OF ENERGY MARKET OVERSIGHT

A. Overview

The Division of Energy Market Oversight (Market Oversight) within Enforcement is responsible for monitoring and overseeing the nation's wholesale natural gas and electric power markets. Market Oversight continuously examines the structure and operation of these markets to identify market anomalies, flawed market rules, tariff and rule violations, and other unusual market behavior. Staff performs daily oversight of wholesale natural gas and electric markets and related fuel and financial markets, identifying market events and trends. Market Oversight analyzes and reports its observations to the Commission and, as appropriate, to the public, and collaborates with other offices at the Commission to develop regulatory strategies addressing the issues identified. Staff assesses factors that relate to 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 Monitoring

Market Oversight staff continuously examines the structure, operation, and interaction of natural gas and electric markets. Market Oversight staff accesses data from a variety of sources to review market fundamentals and emerging trends.

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 FY2014, such presentations included the following:

1. 2013 State of the Markets Report

Market Oversight annually presents a State of the Markets report assessing the significant events of the past year. Presented March 20, 2014, the 2013 annual report observed that natural gas spot prices rose across the U.S, driving production growth from shale gas plays. As a result, total U.S. natural gas supplies reached record levels. Wholesale power prices followed rising natural gas prices. Despite the recent spot price run-up, long-term natural gas futures prices fell in 2013, encouraging long-term demand growth. A changing generation mix led the electric sector to begin making changes to address increased dependence on natural gas and the integration of renewable generation. Financial trading volumes for natural gas fell on the Intercontinental Exchange (ICE), while financial trading volumes for electricity rose. The rise in financial electric trading is related to a shift from over-the-counter trading to exchange-based trading. Finally, extreme weather throughout the U.S. in early 2014 stressed natural gas and power markets. Electricity spot prices rose across the country in 2013, despite a slight decline in demand. Natural gas remained a major driver of electricity prices, with regional prices reflecting, in part, regional variations in natural gas prices. The largest increases were in the Northeast, where prices rose as much as 54 percent, and in the West where prices rose to 66

percent in some areas. Nationally, electricity demand fell for the third consecutive year, dropping by 0.1 percent.[41]

2. Seasonal Market Assessments

Market Oversight prepares seasonal assessments presented at Commission meetings and made available to the public on the Commission website. In FY2014, Market Oversight staff's seasonal assessments included the following:

Winter 2013/2014 Energy Market Assessment, October 17, 2013. Market Oversight staff presented the outlook for natural gas markets and noted that conditions going into the winter were generally positive. Nationally, natural gas prices increased 40-50% from the previous year, but remained below historic highs. Natural gas power burn decreased 13% from 2012, with the largest decline in the Midwest where power burn fell 36%. As natural gas prices recovered from the previous year's lows, coal became more economic in certain regions, including the Southeast and MidAtlantic. Natural gas and power futures prices for the winter were comparable to the year before across the country, except in New England. Natural gas storage was more than adequate for a normal winter, and gas production continued to grow, particularly in the Northeast and liquids-rich production regions such as the Eagle Ford Shale in Texas. Staff anticipated localized price spikes in New England during periods of high demand, due to ongoing constraints.42

Summer 2014 Energy Market and Reliability Assessment, May 15, 2014. This assessment reviewed the outlook for the electric market for summer 2014. OER contributed an analysis of NERC's market review, which indicated that reserve margins would exceed planning targets for all assessment areas for the summer. Market Oversight staff examined electric grid operations and market prices, noting that conditions over the summer would reflect exceptional gas burn and storage withdrawals form the winter, and the anticipation of a warmer-than-normal summer for much of the country. The possibility of a summer El Nino might moderate temperatures and associated market impacts, and deep drought could affect California's electric and gas markets as gas-fired generation increases to offset lower hydro generation.

C. Outreach and Communication

Market Oversight makes available to the public its analyses by posting reports on the Market Oversight 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 the Market Oversight website, at http://www.ferc.gov/market-oversight/market-oversight.asp, 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 several other relevant markets, including LNG, coal, and emissions markets.

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[41] The 2013 State of the Markets Report is available at http http://www.ferc.gov/market-oversight/reports-analyses/st-mkt-ovr/2013-som.pdf.

[42] The Winter 2013-2014 Energy Market Assessment is available at http://www.ferc.gov/market-oversight/reports-analyses/mkt-views/2013/10-17-13-A-5.pdf.

2. Snapshot Calls

Market Oversight held eight 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 are compiled monthly and 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 FY2014, Market Oversight conducted thirteen 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 the management of the Market Monitoring Center resources to support its oversight function.

D. Forms Administration and Filing 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. The Commission uses these reports for analyses, including evaluation of whether existing rates continue to be just and reasonable. Other government agencies and industry participants use these reports for a variety of business purposes. Accordingly, accurate reporting is a critical aspect of monitoring markets. During FY2014, over 10,000 FERC forms were submitted.

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. During FY2014, Commission staff implemented a new filing system which automated over 150 compliance checks, ensuring accuracy, and assisted filers to come into compliance with Commission requirements. 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 (2006), and 18 C.F.R. Part 35 (2014), 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.[43]

FERC staff implemented a new EQR platform in accordance with Order Nos. 768, 768-A, and 770.[44] Staff continues to address any issues with the platform as they arise, with major changes included in a second version of the EQR platform in the future. In FY2014, Commission staff reviewed nearly 9,000 EQR submittals from over 1,900 individual respondents. Commission staff determines whether sellers have timely complied with the requirements set forth in Order No. 2001 and whether the data is accurate and reliable.

E. 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. During FY2014, Market Oversight staff continued to support Commission efforts to increase electric market transparency under § 220 of the FPA. 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. As such, Market Oversight provided support for the following:

1. Winter 2013-2014 Operations and Market Performance in RTOs and ISOs

In light of the cold weather events last winter, the Commission issued a notice on February 21, 2014 announcing a Commissioner-led Technical Conference on Winter 2013-2014 Operations and Market Performance in RTOs and ISOs on April 1, 2014 (Docket No. AD14-8).[45] The Technical Conference explored the impacts of the cold weather events on the RTOs/ISOs and discussed actions taken in response to inform the Commission of the challenges posed by these events. Staff provided natural gas and electric market expertise on the effects of the 2013-2014 cold weather events and submitted a presentation. Staff also participated in industry outreach calls in coordination with the Division of Analytics and Surveillance exploring market participant behavior.[46]

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[43] *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).

[44] *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*, Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g and clarification*, Order No. 768-A, 143 FERC ¶ 61,054 (2012); *Revisions to Electric Quarterly Report Filing Process*, Order No. 770, 141 FERC ¶ 61,120 (2012).

[45] Complete event details, including all presentations and transcripts are located at http://www.ferc.gov/EventCalendar/EventDetails.aspx?ID=7272&CalType=%20&CalendarID=116&Date=04/01/2014&View=Listview.

[46] The Winter 2013-2014 Operations and Market Performance in RTOs and ISOs presentation is located at http://www.ferc.gov/CalendarFiles/20140401083844-Staff%20Presentation.pdf.

2. Gas-Electric Coordination

Market Oversight provided ongoing market support to the Gas-Electric Coordination initiative. Per Docket No. AD12-12, staff conducts industry outreach and updates the Commission quarterly through publicly posted reports on the Commission's website. Staff closely monitored regional Gas-Electric Coordination activities and coordinated outreach calls with national and regional industry stakeholders. Staff provided natural gas subject matter expertise for the November 2013 Commission Final Rule which allowed interstate natural gas pipelines and electric transmission operators to share non-public, operational information with each other to promote the reliability and integrity of their systems (Order No. 787).[47] To protect against undue discrimination and ensure that the shared information remains confidential, the order also adopts a No-Conduit Rule that prohibits disclosure by recipients of non-public information to an affiliate or a third party. The Final Rule took effect on December 23, 2013. Staff also contributed to the March 20, 2014 issuance of the Commission's Notice of Proposed Rulemaking (NOPR) in Docket No. RM14-2-000 regarding the Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities.[48]

[47] *Communication of Operational Information Between Natural Gas Pipelines and Electric Transmission Operators*, 144 FERC ¶ 61,043 (2013).

[48] *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, 146 FERC ¶ 61,201 (2014).

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) transactional analysis. 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, to detect anomalous activities in the markets, and to identify potential investigative subjects.

In FY2014, the Commission continued to enhance its ability to conduct surveillance of the natural gas and electric markets and to analyze individual market participant behavior by gaining access to the Commodity Futures Trading Commission's (CFTC) Large Trader Report (LTR) data. In addition, DAS led an extensive review of the Polar Vortex events that occurred in January and February of 2014 to determine whether manipulative trading behavior contributed to the high natural gas prices and elevated electricity costs. LTR data was essential to this effort as it allowed DAS to quickly and efficiently evaluate natural gas and electric market participants' financial incentives during the Polar Vortex events.

Large Trader Report. In FY2014, the Commission began receiving a daily feed of data from the CFTC's Large Trader Report, which includes the open financial positions for natural gas and electric products that are traded on exchanges for each large trader. DAS has integrated this information into its automated surveillance screens and uses it in its continuous surveillance of the natural gas and electric markets. The LTR data is particularly useful in identifying manipulative schemes that employ a "tool" to attack a "target" price setting mechanism to improve the value of a "benefiting position." In this type of scheme, a market participant takes a loss or engages in sub-optimal trades in physical markets as the tool used to target a price index or indices, resulting in increased value for products in the market participant's financial portfolio, its benefiting position. Using the LTR data, FERC staff is often able to determine quickly and efficiently whether a market participant whose physical energy trading indicates potential manipulation holds a financial position that would benefit from the market participant's conduct in Commission jurisdictional markets.

Polar Vortex Review. In addition to DAS' ongoing surveillance of the natural gas and electric markets, DAS (with the support of DOI and Market Oversight) conducted an in-depth review of the Polar Vortex events that occurred in January and February 2014. DAS conducted this review to determine whether manipulative trading behavior contributed to the high natural gas prices and elevated electricity costs that arose during the Polar Vortex. DAS worked closely with RTO/ISOs and market monitors as they reviewed the winter events and checked for improper conduct. In addition, staff evaluated whether market participants illegally took advantage of constrained conditions. For example, DAS staff evaluated whether market participants engaged in electric offer behavior that was meant to increase the level of uplift payments received by a generating resource.

As part of this effort, staff interviewed more than 30 natural gas and electric market participants, including those who were actively trading during the price spikes and whose conduct tripped DAS' surveillance screens. DAS staff also interviewed generators that received

high levels of uplift as compensation for their natural gas costs during the events. DAS conducted extensive analysis to verify information obtained during the interview process. Using ICE and LTR data, staff evaluated the physical natural gas trading of market participants to determine if entities had an incentive to influence natural gas prices to benefit financial positions. DAS also (1) requested additional information from specific market participants to evaluate further their trading and to test explanations they provided during the interviews; (2) reviewed generator offer behavior; (3) responded to hotline calls and tips the Commission received that expressed concern over natural gas trading at certain locations; and, (4) reviewed generator outages to determine whether (a) any outages constituted economic withholding and (b) generators with capacity supply obligations took outages for economic, not physical reasons.

Staff found no evidence of widespread or sustained market manipulation. However, OE has opened a non-public investigation related to the formation of a single monthly natural gas index. This investigation is examining potential downward price manipulation. OE has opened two additional non-public investigations to determine whether certain generators may have improperly benefited from the constrained conditions in the electric markets.

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 LTR data to look for potential financial incentives that might cause a market 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. 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 (a) compares the trading to that at other hubs and (b) 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 recommends that DOI open 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 FY2014, staff ran monthly screens that 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 developed and deployed 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 FY2014, DAS continued to develop and improve its surveillance capabilities by incorporating new data sources such as the LTR data. DAS continues to use the data from the RTO/ISOs under Order No. 760[49] and the e-Tag data from Order No. 771[50] extensively. In addition, staff continued to work closely with the Market Monitoring Units of each RTO and ISO.

D. Analytics

During FY2014, 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' investigative activities generally include: (1) assessing market conditions during periods of suspected manipulation; (2) 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; and, (5) calculating the amount of unjust profits 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.

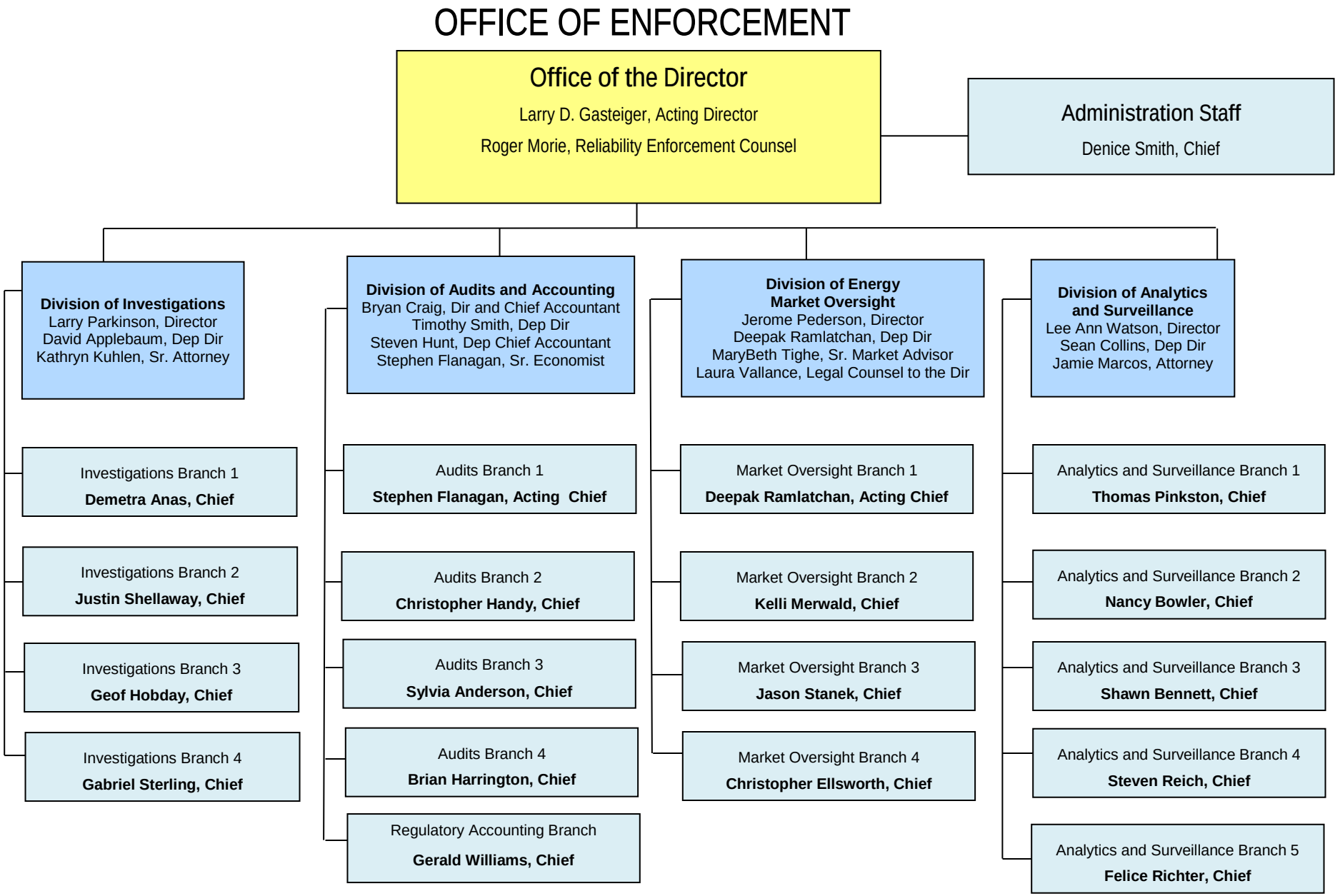
[49] *Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators*, Order No. 760, FERC Stats. & Regs. ¶ 31,330 (2012).

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

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



APPENDIX B: FY2014 CIVIL PENALTY ENFORCEMENT ACTIONS[51]

Subject of Investigation and Order Date	Total Payment	Explanation of Payments and Compliance Plans
Direct Energy Services, LLC, 148 FERC ¶ 61,114 (August 11, 2014)	$20,000 civil penalty; $31,935 disgorgement; compliance measures and monitoring.	The Commission approved a settlement arising from a self-report by Direct Energy that led to an investigation in which Staff concluded that two traders formerly employed by Direct Energy manipulated the price of physical natural gas at two hubs on several days in May 2012 to benefit related financial positions. Staff also concluded that Direct Energy promptly (i) discovered the trades, (ii) suspended the traders, (iii) investigated the situation, (iv) fired the traders, and (iv) self-reported, after which it cooperated fully in Staff's investigation.
Imperial Irrigation District, 148 FERC ¶ 61,108 (August 7, 2014)	$12,000,000 civil penalty, offset by $9,000,000 in reliability enhancements; mitigation; compliance monitoring.	The Commission approved a settlement resolving findings under ten Requirements of four Reliability Standards for failures to perform necessary operational planning studies, coordinate those studies with neighboring transmission operators, establish valid system operating limits, conduct near-and long-term planning studies that consider the most severe system results, and operate the system to prevent any disturbance from creating emergency operating conditions.
Arizona Public Service Company, 148 FERC ¶ 61,009 (July 7, 2014)	$3,250,000 civil penalty, offset by $1,250,000 in reliability and compliance enhancements; mitigation; compliance monitoring.	The Commission approved a settlement resolving findings under four Requirements of two Reliability Standards for failure to perform necessary operational planning studies, coordinate those studies with neighboring transmission operators, and operate the system to prevent any disturbance from creating emergency operating conditions.
Indianapolis Power & Light Company, 148 FERC ¶ 61,007 (July 3, 2014)	$32,500 civil penalty; $301,000 disgorgement to MISO; compliance enhancements; compliance monitoring.	The Commission approved a settlement resolving admitted violation of section 39.2.5 (c) of the MISO tariff for failure to adjust real-time offers for a unit to reflect the unit's actual capacity on two days when conditions limited the available output.

[51] A list of all EPAct 2005 civil penalty orders is available at http://www.ferc.gov/enforcement/civil-penalties/civil-penalty-action.asp.

International Transmission Company, Michigan Electric Transmission Company, LLC, ITC Midwest LLC, ITC Great Plains, LLC, 146 FERC ¶ 61,172 (Mar. 11, 2014)	$750,000 civil penalty; compliance enhancements; compliance monitoring.	The Commission approved a settlement resolving findings under FPA section 205 for failure to timely file jurisdictional contracts and under FPA section 203 for failure to timely seek Commission authorization for jurisdictional transactions.
MISO Virtual and FTR Trading (Louis Dreyfus Energy Services), 146 FERC ¶ 61,072 (Feb. 7, 2014)	Louis Dreyfus: $4,072,257 civil penalty, $3,334,000 disgorgement compliance enhancements; compliance monitoring. Xu Cheng: $310,000 civil penalty	The Commission approved a settlement resolving findings under the Anti-Manipulation Rule, 18 C.F.R. § 1c.2, for virtual transactions made to increase the value of the company's position in financial transmission rights.
In re Erie Boulevard Hydropower, L.P., 146 FERC ¶ 61,027 (Jan. 15, 2014)	$4,000,000 civil penalty; $1,700,000 public safety enhancements; compliance and operational enhancements.	The Commission approved a settlement resolving findings under Part 12 of the Commission's regulations for failure to adequately maintain and operate dam safety mechanisms.
Constellation Energy Commodities Group, Inc., 145 FERC ¶ 61,062 (Oct. 18, 2013)	$500,000 civil penalty; $145,928 disgorgement; compliance monitoring.	The Commission approved a settlement resolving admitted violation of 18 C.F.R. § 35.41(b), and a related CAISO tariff provision, for falsely designating transactions to improperly ensure awards of bids at multiple interties.

APPENDIX C: FY2014 NOTICES OF ALLEGED VIOLATIONS[52]

Issue Date	Subject of Investigation	Description of Alleged Misconduct	Dates of Alleged Misconduct
August 25, 2014	City Power Marketing, LLC and K. Stephen Tsingas	Violation by City Power and Tsingas of Commission's Anti-Manipulation Rule 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. Violation by City Power of 18 C.F.R. 35.41(b) through false statements and omissions (by Tsingas) in sworn deposition testimony and data responses.	July 2010 (violation of Anti-Manipulation Rule); October 2010-August 2014 (violation of 35 C.F.R. 35.41(b)).
August 5, 2014	Houlian 'Alan' Chen; HEEP Fund Inc., CU Fund Inc (which were solely owned and operated by Chen); and Powhatan Energy Fund, LLC	Chen and the three funds for which he traded (HEEP Fund, Inc., CU Fund, Inc., and Powhatan Energy Fund, LLC) are alleged to have violated the Commission's Anti-Market Manipulation Rule, 18 C.F.R. § 1c.2 (2013), by placing large volumes of offsetting Up To Congestion spread trades in PJM as an intentional strategy designed to cancel out the financial consequences of the spreads in order to improperly collect large payments, known as "Marginal Loss Surplus Allocation" from PJM.	June 1, 2010–August 3, 2010
July 9, 2014	Direct Energy LLC	The subject is alleged to have violated the Commission's Anti-Market Manipulation Rule, 18 C.F.R. § 1c.1 (2013), by manipulating natural gas prices during May 2012 at Algonquin and Transco Zone 6 in order to benefit its related financial positions.	May 1, 2, 7, 8, 9, and 11, 2012.

[52] A list of all notices of alleged violations is available at http://www.ferc.gov/enforcement/alleged-violation/notices.asp.

June 12, 2014	Twin Cities Power-Canada, U.L.C., Twin Cities Energy, L.L.C., Twin Cities Power, LLC, Allan Cho, Jason F. Vaccaro, Gaurav Sharma	The subjects are alleged to have violated the Commission's Prohibition of Electric Energy Market Manipulation, 18 C.F.R. 1c.2 (2013) by scheduling and trading physical power in MISO to benefit related swap positions that settle off of real-time MISO prices.	January 1, 2010–January 31, 2011
April 1, 2014	Indianapolis Power & Light	IPL is alleged to have violated the MISO Energy and Operating Reserve Markets Tariff when it operated its Petersburg 2 unit at a derated capacity during two days in July 2012 but failed to adjust the unit's real-time offer to reflect the derate.	July 5–6, 2012
February 11, 2014	International Transmission Company Michigan Electric Transmission Company, LLC ITC Midwest LLC ITC Great Plains, LLC	The ITC Companies are alleged to have violated Section 203(a)(1)(B) and 205 of the FPA and/or Part 33 as well as Part 35 of the Commission's regulations, by acquiring certain Commission-jurisdictional transmission assets without prior approval and failing to timely file Commission-jurisdictional agreements.	Period between 2003 and 2011
January 22, 2014	Arizona Public Service; California Independent System Operator; Imperial Irrigation District; Southern California Edison; Western Area Power Administration-Desert Southwest Region; Western Electricity Coordinating Council Reliability Coordinator	The entities are alleged to have violated various mandatory Reliability Standards, as set forth in the Notice of Alleged Violations, in connection with a system disturbance on September 8, 2011.	Period surrounding and including September 8, 2011.
January 6, 2014	Louis Dreyfus Energy Services L.P.	Louis Dreyfus Energy Services L.P. is alleged to have violated the Commission's Prohibition of Electric Market Manipulation, 18 C.F.R. § 1c.2 (2013), when it engaged in virtual trading at a node in North Dakota, which enhanced the value of its nearby Financial Transmission Rights.	November 2009–February 2010
October 4, 2013	Constellation Energy Commodities Group	Constellation Energy Commodities Group is alleged to have violated 18 CFR § 35.41(b) and the parallel provision of the CAISO tariff, § 37.5.1, by not providing accurate information to CAISO.	January 22, 2010 through March 24, 2010.