

On the Subject

Energy & Commodities Advisory

January 29, 2010

FERC will determine based on the Notice of Inquiry whether to require previously excluded entities to participate in quarterly reporting.

FERC Seeks Information on Expanding Transparency in Electric Markets

On January 21, 2010, the Federal Energy Regulatory Commission (FERC) issued a Notice of Inquiry (NOI) seeking comments on whether it should expand the requirement to file electronic quarterly reports (EQRs) to market participants currently excluded from FERC's jurisdiction under section 205 of the Federal Power Act (FPA). FERC also seeks comments on whether to make certain additional refinements to EQRs generally. FERC will determine based on the NOI what changes, if any, should be made under the FPA's electric market transparency provisions.

Expanding EQR Reporting

FERC now requires jurisdictional market participants to file EQRs summarizing contractual terms and conditions in their agreements for all jurisdictional services, including market- and cost-based power sales and transmission service sales that are part of power sales. FERC seeks public comment on whether to extend this requirement to market participants not subject to FERC's section 205 jurisdiction (i.e., federal entities, municipalities and certain electric cooperatives with a de minimus market presence). FERC believes that it is authorized to request this type of information from excluded participants based on certain transparency provisions contained in the FPA.

FERC contends that expanding the EQR scope will increase FERC's ability to examine and monitor price formation, the number of sales and the market concentration occurring in markets where excluded participants play a large role. The increased transparency, according to FERC, will help facilitate the detection of market power and provide increased data for use

in FERC's process of reviewing requests for authority to make power sales at market-based rates.

FERC seeks comments on the following questions:

- Should the EQR filing requirement be extended to participants not subject to FERC's jurisdiction under Section 205? What would the burden be on these participants?
- What information should FERC require to be filed? Are there certain EQR filing requirements that should not be extended to these participants?
- Should FERC establish a threshold (and if so, at what level) pursuant to which currently excluded market participants with a de minimus market presence would not be subject to EQR filing requirements?
- Would extending the EQR requirement affect liquidity or the amount of power made available to the markets?

Additional EQR Refinements

As part of its NOI, FERC also is considering making additional refinements to its existing EQRs filing requirements. The refinements include reporting the trade date (i.e., date on which price is set) and the type of rate (i.e., fixed price, a formula or an index); reporting resales of financial transmission rights (FTRs) in secondary markets; standardizing the unit for reporting energy and capacity transactions; and omitting the time zone from the contract section of the EQR.

FERC seeks comments on the following questions:

- Should EQRs include the trade date? How should the trade date be defined?
- Should EQRs include FTR resale information? Would this enhance transparency?
- Should EQRs use a standardized unit for reporting transactions?

- Should FERC eliminate time zone reporting in the contract section of the EQR?

Public Comments

Comments are due on or before March 30, 2010.

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