



**Federal Energy Regulatory Commission
November 21, 2019
Open Commission Meeting
Staff Presentation
Item A-3**

Good morning Chairman Chatterjee and Commissioners.

Today, the Office of Enforcement (OE) is releasing its thirteenth annual Report on Enforcement. As in previous years, OE staff prepared this report to provide information about its activities over the last fiscal year. The Report discusses the activities performed by OE's Divisions of Investigations, Audits and Accounting, Analytics and Surveillance, and Market Oversight during the last fiscal year.

The Report summarizes audits, market reports, litigation filings, and settlements which were approved by the Commission. These resources are also publicly available on e-Library. OE's Report also includes discussion of non-public activities, including summaries of closed investigations and self-reports that were closed without further action by the Division of Investigations. For the first time, the Report also includes illustrative examples of the market monitor referrals received by OE that staff reviewed and closed without opening an investigation. These summaries can be helpful to companies seeking to comply with the Commission's regulations and orders. To maintain confidentiality, the companies and individuals whose conduct was under review in these matters are not identified in these summaries. However, this year's Report provides additional details on these matters to make these summaries more useful to the regulated community and increase the transparency of OE's non-public work.

The Division of Audits and Accounting has included illustrative compliance alerts that cover nearly a dozen distinct areas where there have been consistent concerns or noncompliance of significant impact. New this year, this section of the Report now includes citations to docket numbers relevant to the recurring, problematic compliance issues discussed in the alerts. Additionally, a representative sample of audits completed in FY2019 summarizes staff's recommendations for corrective action and provides context for audits that resulted in refunds and recoveries.

The Division of Analytics and Surveillance provides a comprehensive review of its surveillance program and describes how it analyzed transactional and market data in

FY2019 to detect potential manipulation, anticompetitive behavior, and other anomalous activities in the energy markets. Additionally, this section of the Report includes greater and new details about DAS's processes and practices related to reviewing market monitor referrals and data management.

The Division of Energy Market Oversight summarizes its recent Market Reports and Assessments and describes other measures to monitor and analyze the nation's wholesale natural gas and electric power markets. Additionally, the report describes Market Oversight's role in the administration of certain Commission filing requirements and certain public outreach conducted by the division last fiscal year. This section of the Report identifies which Commission Program Office is now responsible for each of the functions previously performed by Market Oversight following the September 2019 realignment, which moved Market Oversight's functions to other Commission offices and OE divisions to improve organizational efficiency and centralize management expertise.

OE's enforcement priorities have remained the same, as we continue to focus on four distinct areas: (1) fraud and market manipulation; (2) serious violations of the Reliability Standards; (3) anticompetitive conduct; and (4) conduct that threatens transparency in regulated markets.

In FY2019, the Commission approved two settlement agreements between Enforcement and subjects to resolve pending investigative matters. The settlements totaled more than \$14 million dollars, which included \$7.4 million in civil penalties and disgorgement of another \$7 million. In FY2019, DOI staff opened 12 new investigations and brought 14 pending investigations to closure with no action. The investigations that staff closed with no action included matters in which staff found no violation, or staff found that there was not enough evidence to conclude that a violation had occurred. In several other matters, DOI found a violation but exercised its discretion to not pursue a sanction and closed the investigation. DOI also closed 130 self-reports without further action, closed 10 MMU referrals without opening full investigations, and resolved 148 calls made to the Commission's Enforcement Hotline. In addition, DOI continues to litigate three cases in federal district court on the Commission's behalf.

In FY2019, the Division of Audits and Accounting completed 11 audits of public utility and natural gas companies covering a wide array of topics. The audits resulted in 76

findings of noncompliance and 286 recommendations for corrective action, and directed \$161.2 million in refunds and recoveries. Additionally, DAA acted through the Chief Accountant's delegated authority on 120 accounting filings requesting approval of a proposed accounting treatment or financial reporting matter. Among its other work, DAA advised and acted on 433 proceedings at the Commission covering various accounting matters with cost-of-service rate implications. These proceedings included requests for declaratory orders, natural gas certificate applications, merger and acquisition applications, electric and natural gas rate filings, applications for issuance of securities, and accounting requests for approval. In many of these cases, DAA served in an advisory role, identifying and analyzing the accounting implications of those requests.

In FY2019, the Division of Analytics and Surveillance continued monitoring for market manipulation and other anomalous activities in the markets and identified potential investigative subjects. Natural gas surveillance screens produced approximately 7,629 screen trips which were reviewed by DAS staff, resulting in 20 additional in-depth inquiries into specific trading behavior. On the electric side, each month during FY2019, DAS ran and reviewed 83 electric surveillance screens, as well as monthly, hourly and intra-hour sub-screens, and reports for over 37,000 hub and pricing nodes within the six ISO/RTOs. This surveillance activity identified 23 instances of market behavior that required further analysis. DAS staff made a total of six surveillance-related referrals to the Division of Investigations during the fiscal year. During FY2019, DAS also worked with DOI on approximately 45 investigations involving allegations of manipulation in the Commission-jurisdictional natural gas and electricity markets, or violations of tariff provisions. In these efforts, DAS (1) provided analytical and data-based assessments of market activity related to ongoing investigations; (2) supported DOI in its fact-finding; and (3) calculated the amount of unjust profits and market harm resulting from alleged violations to assist with determining a civil penalty recommendation under the Commission's Penalty Guidelines. DAS's work in these areas informs the structure and substance of investigative fact-finding, settlement discussions, and Commission actions.

Finally, during the fiscal year, the Division of Energy Market Oversight continued to monitor the jurisdictional markets to identify market trends, and also continued its efforts to enhance its analytical capabilities related to the ongoing eForms refresh project. As in prior years, Market Oversight issued its State of the Markets Report and

seasonal Market and Reliability Assessments, which reviewed trends and events in natural gas and power markets, including trends in prices, supply, and demand. The State of the Markets Report also reviewed the development of U.S. pipeline infrastructure and the rapid increase in the LNG export industry. Market Oversight also continued to provide its market-based rate *ex post* analysis, which evaluates transactions against market fundamentals to identify instances of anti-competitive market outcomes. During FY2019, the Division also held one EQR user group meeting to conduct outreach with the filing community and to discuss potential system improvements and enhancements.

Copies of OE's Annual Report are now available on the Commission's website. This concludes the presentation. My colleagues and I will be happy to take any questions you may have. Thank you.