



## REGULATORY UPDATE

FERC to hold Technical Conference on Proposed Rulemaking: in September, [FERC issued a Notice of Proposed Rulemaking](#) that would impose significant information-gathering requirements on participants in markets operated by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs). The proposed changes will affect market participants who own or have a role in operating FERC-jurisdictional assets, financial market participants, individual employees of market participants, and investors and affiliates of market participants. The rule would require each market participant to obtain a Legal Entity Identifier (LEI) and to report its LEI and extensive additional information about itself and its Connected Entities to its RTO/ISO, who would submit it to FERC. This proposed information requirement applies on a regular ongoing basis and must be updated as facts and circumstances change, to reveal direct as well as indirect, third party links between market participants that could afford the incentive and ability to engage in joint action to manipulate and defraud the markets. According to the NOPR, FERC needs the Connected Entity information to protect against market manipulation and abuse. Many parties were concerned about the implications of the NOPR, as it significantly expands the scope of FERC's reporting requirements to include information about entities not typically subject to regulation by the Commission, including certain individual employees, investors, and creditors. Further, it is designed to assist market monitors in their investigations of potential market manipulation and will enhance FERC and market monitors' ability to police electricity markets. Numerous parties requested that FERC hold a technical conference to discuss the proposed rule. FERC agreed to host a technical conference, which will be held on December 8, 2015. The Commission will be accepting comments until January 22, 2016.

FERC Reaffirms Reservation Charge Crediting Policies: the Commission issued an order on October 15<sup>th</sup> in an Algonquin Gas Transmission proceeding that re-affirmed its reservation charge credit policies. In general, the Commission requires all interstate pipelines to provide reservation charge credits to their firm shippers during both *force majeure* and *non-force majeure* outages. The Commission requires pipelines to provide full reservation charge credits for outages of primary firm service caused by *non-force majeure* events, where the outage occurred due to circumstances within the pipeline's control, including planned or scheduled maintenance. The Commission also requires the pipeline to provide partial reservation charge credits during *force majeure* outages, so as to share the risk of an event for which neither party is responsible. In response to a Petition that PGC and other trade associations sought in 2010 asking FERC to exercise its section 5 authority to enforce its reservation charge crediting policy and order pipelines to amend their tariffs in accordance with the policy, many pipelines subsequently revised their tariffs. However, Algonquin continued to insist that it should be permitted to retain its tariff provisions without reservation charge crediting provisions, which were the product of a 1994 settlement. FERC ordered Algonquin to file revised tariff language proposing how it desires to

implement reservation charge credits consistent with Commission policy. You can read FERC's order [here](#).

FERC Clarifies that Order No. 712 Exempts Supply AMAs from Buy/Sell Prohibition: on October 15, FERC issued an order finding that asset management agreements (AMAs) entered into by natural gas suppliers are exempt from the prohibition on buy-sell transactions. More than 20 years ago, when developing its capacity release program, FERC prohibited buy-sell transactions. A buy-sell is a transaction pursuant to which a shipper holding firm pipeline capacity purchases gas in the production area from a third party, transport the gas over the shipper's firm capacity, and re-sell the same gas to the same third party at the delivery point. FERC found that buy-sell transactions were likely to circumvent its capacity release program. FERC previously made clear that delivery AMAs were exempt from the buy-sell prohibition; the October 15 order confirms that supply AMAs are exempt as well. You can review the order [here](#).

Tallgrass Pipeline Files Section 4 Rate Case: Tallgrass Pipeline filed its first rate case in seventeen years on October 30, 2015 (Docket No. RP16-137). The pipeline is proposing significant changes to its rates and rate structure. It is also proposing a cost recovery mechanism to recover broad categories of costs, as well as a discrete list of projects. Interventions are due November 12<sup>th</sup>. You can review the filing [here](#).

FERC Issues Order Addressing Policies and Procedures for Market-Based Rate Applications for Natural Gas Storage: on October 15, FERC denied ANR Storage Company's application for market-based rates for natural gas storage services. This was the first fully-litigated proceeding where a gas storage provider has sought MBR, giving FERC the opportunity to announce its policies and procedures for MBR applications from gas storage providers. In the order, FERC held that the analysis of whether a gas storage provider can exercise market power includes the three steps from FERC's 1996 Policy Statement for natural gas pipelines: (1) define the relevant markets, (2) measure a firm's market share and market concentration, and (3) evaluate other relevant factors. You can read FERC's order [here](#).

## ENFORCEMENT UPDATE

Notice of Alleged Violation of Berkshire Power Company LLC: on October 23, FERC Staff issued a Notice of Alleged Violation to Berkshire Power Company LLC (Berkshire) and Powerplant Management Services LLC, claiming they engaged in a manipulative scheme to conceal maintenance work and associated outages from January 2008 through March 2011. Staff also preliminarily determined that Berkshire violated Commission-approved reliability standards by failing to provide outage information to its Transmission Operator and failing to inform its Transmission Operator and Host Balancing Authority of all generation resources available for use. The investigation is currently non-public.

## ON THE HORIZON

- **Given that the newsletter covers all pertinent updates this month, PGC will not be holding its monthly membership telephone meeting in November.**
- Next Commission Meeting: November 19, 2015

## CONTACT INFORMATION

If you have any questions, please contact Andrea Chambers at 202-661-7607 or via e-mail [here](#), or Katie Leesman at 202-661-2266 or via e-mail [here](#).