



REGULATORY UPDATE

Commissioner Moeller to Leave FERC in October: FERC Commissioner Philip Moeller announced Oct. 6 that he is leaving the agency at the end of the month. His [public statement](#) indicated he plans to pursue other opportunities in the energy field.

FERC Denies Rehearing of Gas Day/Scheduling Order: On September 17, FERC denied a request from the Desert Southwest Pipeline Stakeholders (DSPS) for rehearing of Order No. 809, which was issued in April to revise FERC's regulations related to the scheduling of transportation service on interstate natural gas pipelines. DSPS had objected to FERC's decision in the rule to maintain the no-bump rule. FERC responded that "[w]e continue to find insufficient justification for revising the nationwide no-bump cycle and overturning the natural gas industry consensus that was achieved." The Commission noted the benefits that the no bump rule provides interruptible shippers, finding "[a]s several commentators maintained, and as the Commission has previously recognized, interruptible shippers need some stability in the nomination process...retaining the no-bump rule cycle was strongly supported in the NAESB process and a consensus of the gas industry, as well as many in the electric industry, voted to maintain the No-Bump Rule in the last intraday cycle." FERC also requested when it adopted Order No. 809 that the natural gas and electric industries, through NAESB, explore the potential for faster, computerized scheduling when shippers and confirming parties all submit electronic nominations and confirmations. In August, NAESB filed a report "indicating that due to the press of implementing the revised nomination standards by April 1, 2016, it would not begin the development of computerized scheduling standards until after that date." However, in the September 17th order, FERC ordered that implementation should begin sooner, finding that "while we recognized the time commitments in implementing the revised nomination timeline, the Commission requests that the natural gas and electric industries, through NAESB, begin considering the development of standards related to faster, computerized scheduling and file such standards or a report on the development of such standards with the Commission by Oct. 17, 2016."

FERC Proposes Initial Reforms to ISO/RTO Price Formation Practices: on September 17, FERC released for public comment a [Notice of Proposed Rulemaking](#) considering whether the price formation processes of the energy and ancillary services markets operated by ISOs and RTOs need to be reformed. The NOPR specifically mentions ISO New England Inc., Midcontinent Independent System Operator Inc. and PJM Interconnection LLC for dispatching resources every five minutes, but settling the transactions for those dispatches based on the average price of all the dispatch intervals across an hour. In contrast, the California ISO, New York ISO, and Southwest Power Pool Inc. settle transactions every five minutes to reflect their real-time dispatch intervals. The NOPR states that the misalignment in intervals in ISO-NE, MISO and PJM "may distort the price signals sent to resources and fail to reflect the actual value of resources responding to operating needs because compensation will be based on

average output and average prices across an hour rather than output and prices during the periods of greatest need within a particular hour." FERC therefore proposed to require each RTO and ISO to settle real-time energy and operating reserves transactions financially at the same time interval that it dispatches energy and prices operating reserves.

Department of Energy Inspector General Approves FERC's Office of Enforcement Conduct: in response to requests from several U.S. Senators who have questioned the way that FERC has been investigating alleged energy market manipulation, the DOE inspector general launched an investigation. The Senator's questions were sparked, in part, by an *Energy Law Journal* article asserting that the Commission's enforcement process has become "lop-sided and unfair." In particular, the lawmakers asked the inspector general to look at whether FERC's practices are transparent and fair, the agency is providing proper notice of the types of conduct it considers to be market manipulation, and the targets of FERC investigations are being afforded the due process required by the agency's own regulations and precedents and comparable to that provided by other federal enforcement agencies. In relevant part, the report concluded that "nothing came to our attention to indicate that FERC's enforcement practices were inconsistent with its own operating policies and procedure." The full report is [here](#).

PHMSA Proposes New Safety Regulations for Hazardous Liquid Pipelines: on October 1, the Department of Transportation's Pipeline and Hazardous Safety Administration (PHMSA) announced proposed regulations pertaining to the safety of hazardous liquid pipelines. Among other things, the proposed rule would require that all hazardous liquid pipelines have a system for detecting leaks and establish a timeline for inspections of affected pipelines following an extreme weather event or natural disaster. Specifically, under the proposed rulemaking, operators have to inspect within 72 hours of an extreme weather event all pipeline facilities that could have been affected, taking into consideration physical characteristics, operating conditions, location and prior history of the affected line. If the operator finds problems, the rule would require the company to address them. PHMSA is accepting written comments Through January 8, 2016. You can view the proposed rule [here](#).

ENFORCEMENT UPDATE

MISO Auction Enforcement Action: FERC on Oct. 1 announced that its Office of Enforcement will conduct a nonpublic formal investigation into whether market manipulation or other violations of commission orders, rules or regulations occurred in connection with the Midcontinent Independent System Operator Inc.'s most recent planning resource auction.

Notice of Alleged Violation Issued to:

- Total Gas & Power, North America, Inc.: on September 21, 2015, FERC issued a [Staff Notice of Alleged Violations](#) stating that Staff preliminarily determined that Total Gas & Power, North America, Inc. (TGPNA) and TGPNA's West Desk traders and supervisors Therese Nguyen and Aaron Hall, violated the Natural Gas Act by devising and executing a scheme to manipulate the price of natural gas in the southwest United States between June 2009 and June 2012. Staff alleges that the scheme involved making largely uneconomic trades for physical natural gas during bid week designed to move indexed market prices in a way that benefited the company's related positions. Staff also alleges that the West Desk implemented the bid week scheme on at least 38 occasions during the period of interest. Staff further alleges that Therese Nguyen and Aaron Hall each implemented the scheme and supervised and directed other traders in implementing the scheme. FERC's investigation is ongoing.

- Coaltrain Energy LP and Individuals: on September 11, 2015, FERC issued a [Staff Notice of Alleged Violations](#) stating that Staff has preliminarily determined that Coaltrain Energy L.P.; its co-owners Peter Jones and Shawn Sheehan; traders Robert Jones, Jeff Miller, and Jack Wells; and analyst Adam Hughes violated the Commission’s Anti-Manipulation Rule by devising and executing a scheme involving manipulative Up-To Congestion trading in PJM Regional Transmission Organization between June and September 2010. Staff alleges that the individuals (on behalf of Coaltrain) planned and executed Up To Congestion transactions in PJM that were designed to falsely appear to be spread trades but that were in fact a vehicle to collect certain payments (called “Marginal Loss Surplus Allocation,” or MLSA) from PJM. Staff alleges that through these trades, Coaltrain sought not to profit from changes in price spreads but rather to profit by clearing large volumes of Up –To-Congestion transactions with the goal of collecting MLSA. Staff further alleges that during the investigation, Peter Jones, Shawn Sheehan, and their agents (on behalf of Coaltrain) made false statements and omitted material information in responding to deposition questions and data requests. FERC’s investigation is ongoing.

LEGISLATIVE UPDATE

House Panel Advances Energy Bill Despite Protests: on September 30, the House Energy and Commerce Committee approved [a broad energy bill](#), despite objections from Democrats frustrated by the Republican party’s decision to advance the bill without bipartisan support. The North American Energy Security and Infrastructure Act (H.R. 8) includes measures on gas infrastructure siting, energy efficiency, and electric grid reliability and security. Democrats in the Committee have said they will not support the bill at this time. The Act currently does not include any language on NGA Section 5 reform. Further hearings on the bill are not yet on the House calendar.

ON THE HORIZON

- Next PGC Meeting: October 9, 2015, 12:00 p.m. ET [Dial In: 888-857-7121; Passcode: 202 661 7607]
- Upcoming Natural Gas Council Meeting: October 8-9, 2015
- Next Commission Meeting: October 15, 2015

CONTACT INFORMATION

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