

FERC Launches Initiatives to Refine Wholesale Electricity Markets

FERC envisions better accommodation of renewable energy resources; also proposes to extend market reporting requirements to non-jurisdictional utilities and to revise credit requirements

On January 21, 2010, the Federal Energy Regulatory Commission (FERC) launched several initiatives that would refine the operation and oversight of wholesale electricity markets in the United States. In potentially the most far-reaching initiative, FERC invites comments on how best to accommodate wind and solar generation resources. In a second initiative, FERC proposes to extend market reporting requirements to non-jurisdictional entities, including rural electric cooperatives. FERC also seeks comments on what reported information should be required from all utilities. In a third initiative, FERC proposes to tighten billing and payment cycles and credit requirements in organized markets. Finally, FERC proposes to relax regulatory review of certain transfers of utility securities. Additional information about these initiatives is provided below. Public comments are due by March 29, 2010.

Accommodation of renewable energy resources

FERC contemplates a significant increase in the number of "variable energy resources" that participate in the wholesale electricity market. "Variable energy resources" are renewable energy resources that cannot store fuel, such as wind, solar and certain hydroelectric resources. FERC intends to facilitate the development of these resources through non-discriminatory transmission rates and access while effectively addressing the technical challenges that are presented by these resources. FERC invites comments on any matter pertaining to the accommodation of variable generation resources, including transmission rates, open access requirements, market rules and reliability standards. In addition, FERC poses specific questions on forecasting, scheduling, forward markets, reliability commitments, balancing authority operations, reserves, capacity markets, and real-time dispatch and curtailment. The notice of inquiry is available at: <http://www.ferc.gov/whats-new/comm-meet/2010/012110/E-4.pdf>.

Market reporting requirements

At present, FERC requires all FERC-jurisdictional utilities to file quarterly reports that summarize the utility's market activities. The reports cover price, quantity, duration, terms, and receipt and delivery points for the utility's sales of electricity. FERC now proposes to extend the reporting requirement to non-jurisdictional utilities (i.e., utilities that are exempt from FERC rate regulation because they are publicly or cooperatively

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owned as specified in the Federal Power Act). FERC asserts authority to extend the reporting requirement to non-jurisdictional utilities on the grounds that FERC has broad authority to ensure the transparency of wholesale electricity markets. FERC seeks comments on whether there should be a de minimis exception under which certain utilities would be exempt from the reporting requirement. Beyond the matter of non-jurisdictional utilities, FERC seeks comment on what information should be included in quarterly reports from all utilities. The notice of inquiry is available at: <http://www.ferc.gov/whats-new/comm-meet/2010/012110/E-3.pdf>.

Revised credit requirements

FERC hopes to reform credit practices in organized electricity markets with the goal of reducing both the risk and cost of credit. To that end, FERC proposes new rules that would require organized electricity markets to limit the amount of unsecured credit, shorten the billing/payment cycle, allow offsetting of obligations, and take other specified measures. The proposed rule is available at: <http://www.ferc.gov/whats-new/comm-meet/2010/012110/E-2.pdf>.

Relaxed review of certain transfers of utility securities

Section 203 of the Federal Power Act authorizes FERC to review certain transfers of utility securities. FERC's review typically analyzes the effect of the transfer on market power. FERC now proposes to relax review under section 203 when holding companies acquire up to twenty percent of the interests in an utility company. FERC proposes a related change to FERC's definition of affiliation. To be eligible for relaxed review, the holding company would need to make an affirmation about lack of control and would be subject to a reporting requirement. The proposed rules are available at: <http://www.ferc.gov/whats-new/comm-meet/2010/012110/E-1.pdf>.

If you have any question about the FERC initiatives or regulation of electricity markets, please contact Laura Wilson at lwilson@orrick.com or (202) 339-8538.

