

INSIGHTS

FERC Asks for Comments on the Roles of RTOs and ISOs in Establishing Reference Prices for Mitigation

May 8, 2005

On April 1, 2005, [*FERC invited comments*](#) on the roles of Regional Transmission Organizations ("RTO"), Independent System Operators ("ISO"), or their market monitors in establishing reference prices to be used to lower or "mitigate" wholesale power prices deemed to be non-competitive. Public comments were due to FERC by May 2, 2005.

Several RTOs and ISOs "• including the New York ISO, ISO-New England, California ISO, and the Midwest ISO "• use "conduct and impact" tests in their wholesale day-ahead and real-time electricity markets to determine whether to apply mitigation to assure just and reasonable rates. The conduct test seeks to identify excessive bidding or economic withholding. A unit's bids are compared to the reference price for that unit, which is an approximation of the unit's marginal costs. If a bid exceeds the reference price by more than the set percentage or dollar amount stated in the tariff, then the bid has exceeded the conduct threshold, and therefore failed the conduct test. If a bid fails the conduct test, then the impact test is also applied to determine whether the bid has changed the market prices by more than a level stated in the RTO or ISO's FERC-approved tariff. If the impact exceeds this level, then the bid is mitigated "• it is replaced by a default bid. The unit's reference price serves as its default bid when the unit's bid fails both the conduct and impact tests.

RTOs and ISOs or their market monitors use a variety of methods to determine the reference price for a particular unit at a particular output level. Reference prices are set in advance of application of conduct and impact tests. The methods of determining the reference price, and the order in which these methods are used, are specified in the RTO's or ISO's FERC-approved tariff. The level at which reference prices are set for individual units may affect the market prices both by determining the point at which a unit's bid fails the conduct test (and thus may be subject to mitigation) and by the use of the reference price as a default bid.

FERC is particularly interested in understanding who develops reference prices; when reference prices are used and what effect they have on the wholesale market-clearing price; how reference prices in the wholesale market function like bid caps as opposed to how they function like formula rates; circumstances under which reference prices, once set, may require quick adjustment; how often the various methods of determining reference prices are used; and whether a better system for determining reference prices exists, what such a system would look like, and whether that system may involve the market monitor developing the reference prices and submitting them to FERC for approval. Finally, FERC is interested in the degree to which RTOs, ISOs and their market monitors employ discretion in setting reference prices, and in whether that discretion is appropriate under the RTOs' and ISOs' tariffs and is a proper delegation of FERC's authority. **[NEW MATTER]**