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FERC Notice of Alleged Violation Foreshadowed by Market Monitor Report in Southwest Power Pool

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On May 6, 2016, the Office of Enforcement of the Federal Energy Regulatory Commission ("FERC") issued a ***Staff Notice of Alleged Violations*** ("NAV"), disclosing a nonpublic investigation in which FERC staff has preliminarily determined that Saracen Energy Midwest, LP ("Saracen") violated Southwest Power Pool, Inc.'s ("SPP") ***Open Access Transmission Tariff*** ("Tariff"), Attachment AE, § 7.4.1(4) between August 2014 and March 2015. According to FERC staff, Saracen submitted bids for transmission congestion rights ("TCRs") at electronically equivalent settlement points, which is prohibited by § 7.4.1(4).

This issue was raised in the ***2014 State of the Market Report*** issued by the SPP Market Monitoring Unit ("MMU") on August 27, 2015. There, the MMU observed that the Tariff provision has not stopped the practice of bidding at electrically equivalent settlement points and recommended SPP *systematically block* such bids. (p. 121-22) According to the MMU, the prohibition prevents market participants from being awarded "infinite or near-infinite quantities" of TCRs at zero cost. The then-current practice was for SPP to publish a list of prohibited pairs on its Marketplace Portal and remove bids violating the rule from the auction.

Reports from the market monitors in independent operating systems ("ISO") and regional transmission operator ("RTO") generally identify issues of interest to the market monitors and can be used by companies to issue-spot and to update their traders regarding the focus of market monitors. The timing of the MMU report and the date range at issue in the NAV punctuate the value of MMU reports to compliance efforts, as the report was issued more than 8 months prior to the NAV. Although the reports often stop short of referencing ongoing violations and often trail referrals and investigations, reviewing the MMU reports for each ISO/RTO in which a firm participates may aid the compliance team in identifying potential compliance exposures.

If you have any questions about the information contained in this post, or any other general questions, please contact: ***Michael Brooks***, ***Catherine McCarthy***, ***David Perlman***, ***Bob Pease***, ***Stephen Hug*** or ***Serena Rwejuna***.