BRACEWELL

INSIGHTS

FERC Audit Report Provides Guidance Regarding Reporting Of Uplift And Capacity Payments In Electric Quarterly Reports

October 21, 2016

*By: **Catherine P. McCarthy** and **David M. Perlman***

On October 14, 2016, the Federal Energy Regulatory Commission ("FERC") issued an order approving an audit report providing guidance regarding how to report certain types of transactions and payments received by those participating in the FERC-jurisdictional markets operated by Regional Transmission Organizations ("RTO") and Independent System Operators ("ISO") in a seller's Electric Quarterly Reports ("EQR"). The audit report highlights pitfalls that market-based rate sellers should avoid when submitting EQRs and provides insight into areas of likely FERC scrutiny.

In particular, FERC staff's audit report identified the following areas of non-compliance:

- **Uplift Payments:** FERC staff found that the subject of the audit, Dynegy Inc. ("Dynegy"), had made several errors when reporting uplift payments received in connection with its participation, and that of its affiliates, in RTO/ISO markets:
    - Uplift payments were incorrectly reported as involving transactions occurring between two Dynegy affiliates.FERC staff emphasized that uplift payments should have been reported as transactions with the RTO/ISO.
    - Inaccurate levels of uplift payments were reported—over-reporting in some time periods and markets and under-reporting in others.In part, FERC staff found that these errors were the result of settlement adjustments made by the relevant RTO/ISO that were not reflected in EQRs

- **Capacity Sales:** FERC staff determined that Dynegy had not reported capacity sales appropriately and, in some cases, reported capacity sales with volumetric and pricing data that did not conform to reporting standards or used the incorrect time period. More specifically:

- FERC staff found that capacity sales had been inappropriately reported on a net-capacity sales basis (*i.e.*, purchases minus sales rather than all sales).FERC staff stated that this error reflected the fact that EQR data obtained from MISO only reflected net-sales.FERC staff emphasized that RTO/ISO EQR data should be checked against a seller's internal records and that capacity sales should be reported on a gross (rather than net) basis.

- While bilateral capacity sales made outside of the MISO market had been timely reported, FERC staff found the quantity and price for these transactions had not been properly converted into the standardized quantity (MW-month) and price ($/MW-month), and the trade date for these transactions was not reported.

- **Regulation Service:** FERC staff found that credits received for providing regulation service were inappropriately reported as energy sales. FERC staff noted that the EQR data dictionary defines "Energy" as a "quantity of electricity that is sold or transmitted over a period of time" and, since the credits at issue were a settlement adjustment reflecting the provision of regulation service and were not denominated in MWH and $/MWH, they should not have been reported as energy sales. In its report, FERC staff noted that there was confusion in the MISO region among market participants as to how such credits should be reported.