Outline

- Market Monitoring Role in FERC’s Strategy
- Market Behavior Rules
  - electric
  - natural gas
- Standards of Conduct
- Audit Program
- Next Steps

(Opinions are Harvey’s, not the Commission’s.)
FERC has a 3-pronged strategy.
Office of Market Oversight and Investigations (OMOI) - Knowledge/Skillsets -

- Director -
  - Planning
  - Perf. Mgmt.
  - Budgeting
  - Facilitation
  - Speaking
  - Knowledge of industry
  - Partnering

- Deputy Director -
  - Management & Communication
  - Division of Management & Communication
    - Career Dev.
    - HR
    - Recruiting
    - Contracting
    - Writing/Editing
    - Web design
    - Graphics
    - Presentation development

- Market Scanning -
  - Strategic Analysts
  - Library Science

- Division of Energy Market Oversight -
  - Electrical Engineers
  - Pipeline Engineers
  - Economists
  - Deep Industry Expertise
  - Information Analysis
  - Modeling
  - Operations Research
  - Market Design & Operation

- Division of Financial Market Assessment -
  - Financial Analysts
  - Accountants
  - Understanding of Investment
  - Derivatives Markets
  - Energy Trading

- Division of Integrated Market Assessment -
  - Engineers
  - Economists
  - Broad Industry Experience (Cross-Industry, Scenario, Regulatory Analysis; Market Microstructure Issues)
  - Operations Research
  - Writing/Presentation Skills
  - Policy Analysts

- Division of Information Development -
  - Information Analysis
  - Energy Industry Expertise
  - Software Applications (Large databases, Data Analysis, Statistical, Presentations (including Mapping)
  - Web Experience
  - Questionnaire & Survey Design
  - Statistical Analysis

- Division of Enforcement -
  - Attorneys
  - Litigation
  - Investigation
  - Knowledge of financial markets
  - Enforcement
  - ADR Training
  - Paralegal

- Division of Operational Investigations -
  - Forensic Auditors
  - Analytic ability
  - Statistical sampling
  - Documentation
  - Industry experience
  - Investigators
  - Examiners

- Division of Technical Investigations -
  - Gas Engineer
  - Electric Engineer
  - Mechanical Engineer
  - Quantitative Economist

- Deputy Director Investigations & Enforcement -
  - Hotline
    - Public Speaking
    - ADR
    - Phone answering
Market Oversight and Investigations uses many tools to assure integrity.

- **Traditional Enforcement**
  - Complaint → Investigation → Closure
  - Investigation → Settlement
  - Investigation → Other Enforcement

- **Enhanced Monitoring**
  - Market Analysis → Assessment → Report
  - Enhanced Audits → Assessment → Dismissal
  - Human Intelligence → Assessment → Settlement
  - Assessment → Other Enforcement
OMOI Enforcement Accomplishments to date.

- Compliance Plans: dozen +
- Refunds: $87 million
- Civil Penalties: $21 million
- OMOI has also participated in settlements of the California energy crisis, totaling approximately $628 million
New Market Behavior Rules Highlights
(Electricity Markets)

1. Unit operation must comply with Commission-approved rules of applicable market power.

2. Actions/transactions without a legitimate business purpose and that are intended to or foreseeably could manipulate prices are prohibited; no wash trades/false information/artificial congestion relief/collusion

3. Provide accurate information to FERC/ISO/RTOs and MMUs.

4. Voluntary price reporting must follow Price Index Policy Statement and sellers must tell Commission whether they report.

5. Retain relevant pricing records for 3 years.

6. Do not violate code of conduct or Order 889 Standards of Conduct.
1. Actions/transactions without a legitimate business purpose and that are intended to or foreseeably could manipulate prices are prohibited; no wash trades/collusion.

2. Voluntary price reporting must follow Price Index Policy Statement and sellers must tell Commission whether they report.

3. Retain relevant pricing records for 3 years.

See 18 CFR 284.288 (pipelines)
   18 CFR 284.403 (blanket marketing certificates)

For first time: sellers relying on blanket market certificates must ID themselves.
Highlights (continued)
Remedies

• Disgorgement of illegal profits
• Suspension or revocation of authority
• Other civil penalties await Congressional action
• OMOI to review efforts annually
Highlights (continued)

Market Monitoring Units

- MMUs: improve coordination with Commission
- MMUs can enforce matters
  - expressly set forth in tariff
  - involve objectively identifiable behavior
  - subject seller to consequences expressly approved by Commission and set forth in tariff
- Commission responsible to enforce other matters
- MMUs – OMOI to forge close working relationships
- Clear RTO/ISO rules to assist compliance with behavior rules
Standards of Conduct

GOAL: One set of standards of conduct to apply uniformly to natural gas pipelines and electric utilities or “transmission providers”

PRINCIPLES:

• The transmission function must operate independently from its marketing and energy affiliates; and,

• Transmission providers must treat all transmission customers, affiliated and non-affiliated, in a non-discriminatory manner, and cannot operate their transmission system to preferentially benefit an energy affiliate.
Standards of Conduct (continued)

Key Elements:

- Independent functioning requirement
- Emergency exception w/reporting to FERC
- Affiliates identified on OASIS or Internet Website
- Organization charts and job descriptions posted on OASIS
- Employee transfers posted on OASIS or Internet Website
- Standards of Conduct posted on OASIS or Internet Website
- Non-discrimination requirement
- Information sharing prohibitions
- Discounts posted on OASIS or Internet Website
Standards of Conduct (continued)

Important definitions
- transmission provider (TP) (not including RTO)
- energy affiliate (EA)
- marketing affiliate (MA)

Independent functioning
- of TP and MA/EA
- exceptions (e.g., certain personnel, emergencies)

Important postings (on OASIS/Internet)
- names, titles, job descriptions
- certain employee transfers
- potential merger partners
Standards of Conduct (continued)

Restrictions on information disclosure
- TP cannot share with MA/EA
- e.g., transmission, price, curtailment, storage, balancing, ancillary services, ATC, maintenance, customer or expansion information

Tariffs
- non-discriminatory application
- must post discounts

Chief Compliance Officer
- Conference in Houston
- Must be in compliance by September 1, 2004
Audits

• Targeted
  - Complaint-based (informal/formal)
  - Company-specific
  - Issue-specific

• Random

• Added Staff
  - more than 20 accountants from the Office of Regulatory Audits
OMOI Next Steps

• Continuous improvement
  - market surveillance reports
  - oversight meetings
  - seasonal look-aheads
  - definitions of market power, abuse, etc.

• Enhanced auditing
  - targeted
  - random
  - integrate new staff

• Empowering key market participants
  - board members
  - engineers
  - others

• Rapid response to observed anomalies
• More intense scrutiny of less transparent markets
• Expanded teaming
  - MMUs
  - states
  - other federal agencies
  - North American colleagues
Market Integrity is Everyone’s Business

FERC Hotline:
1-888-889-8030