

# RESOURCE ADEQUACY AND FEDERAL- STATE REGULATORY APPROACHES TO MARKETS AND TO AFFILIATE TRANSACTIONS

A PRESENTATION TO THE NARUC  
ELECTRICITY COMMITTEE

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# Affiliate Transactions

## Historical Perspective

The Issue is Not New:

- PUHCA
- Grand Gulf (Cost Allocation and Prudence)
- Ohio Power (FERC and PUC's vs. SEC)
- Narragansett (States Cannot Second Guess FERC)
- Nantahala (Filed rate doctrine)
- Pike County (Prudence of Power Purchases)
- Reliability Issues (Fallout of 1965 Blackout)

# Affiliate Transactions (con't)

## Caveat

- "State Concerns" Does Not Necessarily Mean All States
- "FERC Approach" Does Not Necessarily Mean All Commissioners

## FERC Perspective: Promote and Protect Competition in Bulk Power Markets

- FERC Approach to Intra-Company Asset Transfers
  - Views on Market Effects
    - No Change in Market Concentration
    - Safety Net Could Skew Competitive Balance

## FERC Perspective: Promote and Protect Competition in Bulk Power Markets (con't)

- Imposition of Market Discipline (Edgar Standard)
  - Direct Head to Head Competition (Competitive Solicitation), or
  - Benchmark Studies of Comparable Transactions, or
  - Evidence that Non-Affiliates Will Pay Similar Prices

## FERC Perspective: Promote and Protect Competition in Bulk Power Markets (con't)

- Determining Compliance With Edgar
  - Transparency: Open and Fair Process, and
  - Definitions: Precise Definition of Product(s)
  - Evaluation: Standardized Criteria Applied to All Bidders
  - Oversight: Independent Third Party Administration & Evaluation plus State Commission Oversight

# State Concerns

FERC Sect. 205 Oversight of Power Purchases Unnecessary & FERC's Sect. 203 Oversight of Asset Transfers Unnecessary Because:

- PUC's Can and Do Protect Consumers From Monopoly Abuse

## State Concerns (con't)

- PUC's Should Be Free to Make Their Own Resource Selections
  - Fuel Diversity
  - Promote Utilization of Local Resources
  - Deal With Consequential Local Externalities
  - States Best Positioned to Promote Energy Efficiency and DSM

## State Concerns (con't)

- PUC's Should Be Free to Take Appropriate Steps to Assure Resource Adequacy
  - Purchased Power or Vertical Integration
  - How Much Reliability to Pay For
  - Can States Have Higher or Lower
  - Reliability Standards Than NERC Requires?

## State Concerns (con't)

- PUC's Should Be Able To Determine How Much/Little to Rely on Market Forces To Meet Consumer Needs
- PUC's Should Be Able to Determine How To Meet POLR Responsibilities
  - Differences Between States With Bidding for POLR Service and States Which Impose POLR Obligations on Local Utility

# Policy Queries

- Are State Concerns and FERC Approaches Reconcilable?
  - Has FERC Precluded State Discretion Over Retail Market Design?
  - Has FERC Limited State Resource Decisions?
  - Has FERC Impaired States' Ability to Assume of Reliability of Supply/Resource Adequacy?
  - Is There Inherent Benefit to States Being Able to Perpetuate Vertical Integration?

# Pricing Implications of Terms and Conditions of Market Access

- FERC Perspective: Promote and Protect Competition in Bulk Power Markets
- FERC Approach:
  - De-Verticalization
  - Independent Control of Dispatch and Transmission
  - Incentives for Transmission Investment
  - Location Specific Pricing

# Pricing Implications of Terms and Conditions of Market Access (con't)

- State Concerns:
  - Native Load Priority (Those Who Paid Get First Dibs)
  - Fear Of Reduced Reliability
  - Socializing Transmission Costs Is More Equitable

# Policy Queries

- Effect of Transmission in Retail Rate Base?
  - Does Interaction of State and Federal Transmission Policies Preclude Meaningful Price Signals and Incentives?
- Who Should Pay What for Transmission?
  - Should Cost Causers / All Users Pay Fully Allocated Costs or Should Retail Customers Pay Premium for Priority Use?

## Policy Queries (con't)

- Risk / Reward Scenarios:
  - Should Retail Customers or Investors Bear Residual Revenue Obligation for Grid?
  - Should Retail Customers or Investors Reap Rewards for Efficient Use of Grid?
  - Should Retail Customers or Investors Bear Risks for Inefficient Use of Grid?