

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,
Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL05-6-000]

Establishing Reference Prices for Mitigation in Markets Operated by Regional Transmission Organizations and Independent System Operators; Notice Inviting Comments on the Establishment and Use of Reference Prices

April 1, 2005.

The Commission invites all interested persons to file comments addressing the roles of Regional Transmission Organizations (RTOs), Independent System Operators (ISOs) or their market

monitors (or contractors) in establishing reference prices to mitigate bids in order to limit non-competitive results in wholesale electric markets. The comments may focus on particular geographic region(s) of the United States or upon energy markets in general. A Commission staff document, which is appended to this notice as Attachment A, provides general background on ways that reference levels are calculated and how they are used.

The Commission is particularly interested in comments that address the following questions for RTOs and ISOs that use the conduct and impact approach to mitigation:

1. In practice: (a) When are reference prices used; (b) by whom are they developed; (c) what can be their effect, if any, on the wholesale market-clearing price and wholesale rates for electric energy; and (d) how often do they affect market-clearing prices?

2. In what ways do reference prices in the wholesale market function like bid caps, and in what ways are they like formula rates?

3. Under what circumstances do RTOs, ISOs, their market monitors, or their consultants use discretion in setting reference prices? What is the nature of the discretion used? Is their discretion within the parameters prescribed in the RTO or ISO's Commission-approved, filed tariff? Is discretion necessary in determining reference prices? If so, under what circumstances is discretion necessary? Can reference prices be developed without discretion on the part of the RTO, ISO or market monitor?

a. If RTOs, ISOs, their market monitors, or their consultants exercise discretion within the parameters prescribed in the RTO or ISO's Commission-approved, filed tariff, is such discretion an impermissible delegation of the Commission's authority or is it a permissible implementation of a Commission-approved tariff? With respect to possible impermissible delegations of authority, does it make a difference if it is the RTO, ISO or an internal market monitor that exercises discretion within the parameters of a Commission-approved, filed tariff, or if it is an external market monitor or other consultant that exercises such discretion?

b. How often do RTOs, ISOs and their market monitors consult with individual market participants to determine the appropriate reference prices(s) for that market participant's unit(s)? How is the consultation process carried out? Is this consultation process appropriate?

c. How do RTOs, ISOs and their market monitors resolve disagreements with market participants about methods used to determine their individual reference prices, or about the data used to calculate their reference prices?

4. Is there a reason why reference prices, once set, would need to be adjusted quickly?

5. How often are reference prices set based on the market monitor or RTO/ISO's estimate of a unit's generating costs, compared to other methods of calculating reference prices?

6. To the extent that the RTO, ISO or market monitor may affect the market-clearing price at one or more locations and time intervals by determining reference prices, is there a better system that can be employed to mitigate bids?

a. Should some method other than reference prices within a conduct and impact approach to mitigation be used? If so, what method? Would this alternative method involve discretion on the part of the market monitor, ISO or RTO?

b. Reference prices could be developed by the market monitor, but submitted to the Commission for its approval. Should reference prices be set in that manner?

The Commission encourages electronic submission of comments in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the comment to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All filings in this docket are accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and will be available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on May 2, 2005.

Magalie R. Salas,
Secretary.

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