



NEW YORK STATE Public Service Commission



# Regulatory Monitoring

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# Regulatory and Market Monitoring

- Why is Monitoring Necessary?
  - Compliance with Commission Orders
  - Measuring safety and reliability of service
  - Measuring ability to keep customers satisfied
  - Assuring reasonableness of financial statements reported to investors
  - Measuring how effectively utilities implement public policy initiatives
  - Determining whether the competitive energy markets are operating in a manner that is consistent with the interests of the residents of New York State (Market Monitoring)



# Regulatory Monitoring

- Commission monitors utility activities in a variety of ways
  - Public Service Law
  - Rules and Regulations
  - Filing Requirements
  - Specific Orders



# Areas of Regulatory Monitoring

- Customer Service
- Safety
- Reliability of Service
- Financial and Operational Information



# Regulatory Monitoring

- Public Service Law
  - Establishes certain monitoring requirements to assure utilities are acting in a manner consistent with the Public Service Law
  - Allows Commission to establish other formal rules and regulations as it sees necessary
  - Allows Commission to establish monitoring requirements as part of rate cases, other proceedings, and inquiries into specific topics



# Filing Requirements

- New York Commission has established in its rules and regulations explicit filing requirements for many types of requests from utilities for Commission action
- Filing requirements establish criteria which can be used to monitor utility actions
- Differences between actual results and initial criteria establish the basis for additional Commission review



# Compliance With Commission Orders

- Commission regularly issued Orders covering a wide variety of issues
  - Rate cases
  - Financings
  - Tariff Modifications
  - Expense Deferrals
  - Transfers of Property
  - Mergers and Acquisitions
  - Construction of Transmission Lines
  - Other



## Compliance With Commission Orders

- Proof is necessary to assure utility compliance with Order
- Inefficient for Commission Staff to independently verify compliance
- Utility Orders condition approval of utility actions on providing evidence proving actions are consistent with Order





# Compliance With Commission Orders

- Rate cases: specific issues, revised tariffs, annual financial results, quality and reliability of service
- Financings: actual terms and conditions, justification of terms based on market conditions
- Tariff Modifications: proof of modification with supporting calculations
- Expense Deferrals: supporting calculations and accounting entries
- Transfers of Property: accounting entries
- Mergers and Acquisitions: synergy savings, efficiency gains, vertical and horizontal market power information, financial requirements



# Market Monitoring Program

## Competitive Wholesale Electric Markets

### **Goal:**

*To provide for the independent, impartial and effective monitoring of the competitive structure, performance and economic efficiency of the New York Electric Markets*



# Market Monitors

- Regulatory
  - NYISO Internal Market Monitor
  - NYISO External Market Monitor
  - FERC Market Monitor
  - NYPSC Market Monitor
  - Commodity Futures Trading Commission (CFTC)
- Judicial
  - Attorney General
  - Department of Justice



# Function of the NYISO Market Monitoring Program

- **Ensure competitive market outcomes**
  - Monitoring and mitigating anti-competitive actions
- **Ensure market transparency**
  - Allow sufficient data to the market participants and regulators
- **Ensure market signals are appropriate**
  - Proposals of market design changes



# What is Monitored?

- **Participant behavior (Conduct)**
  - Economic and physical withholding
  - Actions that cause operational impact
  - Uneconomic over-production from Electric Facilities
  - Persistent underbidding by LSEs
  - Virtual bidding
- **Market Outcomes (Impact)**
  - Energy, Ancillary Services, Bid Production Cost Guarantees
  - Physical and Virtual Load and Supply schedules
  - Single-hour and Multi-hour transactions
  - Transmission Congestion Contracts
  - TCC and ICAP Auctions
  - Physical Facilities



# Conduct Categories

- **Economic Withholding**
  - Submitting bids for an Electric Facility that are unjustifiably high so that 1) the Electric Facility is will not be dispatched or scheduled or 2) so that the bids will set a market clearing price
- **Uneconomic Production**
  - Increasing the output of an Electric Facility to levels that would otherwise be uneconomic in order to cause, and obtain benefits from, a transmission constraint
- **Physical Withholding**
  - Not offering to sell or schedule the output of or services provided by Electrical Facility capable of serving an ISO Administered Market



# Reference Levels

- **Established for each generator**
- **Basis for conduct and impact tests**
- **Reference level may substitute for generator bid**
- **Reference level calculation methods**
  - Bid-based
  - LBMP-based
  - Cost-based or NYISO determined
- **Updated for fuel prices**



# Violations

- **If monitoring finds behavior violating defined conduct and impact thresholds**
  - Mitigation
  - Penalty and/or sanction
  - Filing to FERC
- **If reporting indicates non-competitive outcomes (price divergence)**
  - Gather data and determine cause
  - Possible rule changes
  - Potential FERC involvement





# FERC Market Monitoring Role

- Decisions on referrals from other Market Monitors
- Focused more on real-time and day-ahead price outcomes
- Meets with internal and external Market Monitors regarding conditions of market
- Handles enforcement and potentially imposes penalties on Market Participants
- Seasonal and Annual reviews of market performance



# NYPSC Market Monitoring Role

- Monitoring of bids vs. reference prices in energy markets
- Periodic meetings with Internal Market Monitor
- Market price analysis: understand underlying causes of price trends over time.
- Periodic special case reviews



# Customer Service Monitoring

- Performance mechanisms for all major utilities
- Downward adjustments in revenues with declines in quality of service
- Annual reports of results and penalties
- Mechanisms periodically updated



# Customer Service Monitoring: Con Edison Example

- Complaints per 100,000 to Commission: \$9 million
- Customer Satisfaction Surveys
  - Emergency: \$6 million
  - Non emergency: \$6 million
  - Face to face at Customer Service Centers: \$6 million
- Outage Notification: \$8 million
- Call Answer Rate within 30 seconds: \$5 million
- Criteria and dollar amounts will vary by utility



# Other Customer Information

- Customer Collection Information
  - Accounts more than 60 days late
  - Accounts terminated
  - Accounts under deferred payment agreements
  - Write-off's of delinquent accounts



# Gas Safety

- 30 Member Natural Gas Safety Section
  - Inspects construction, operation and maintenance of gas and oil pipelines, to ensure that standards of safety and reliability are met.
  - Investigates accidents, service interruptions and company maintenance procedures relating to electric, gas and water operations.
  - Reviews proposed changes in gas utility procedures for maintenance and construction.
  - Conducts periodic gas leak and odor surveys.
  - Maintains liaison with, and conducts investigation of facility failures for, the Department of Transportation.
  - Conducts field monitoring of gas and water service operations based on cost effectiveness and feasibility.
  - Responsible for reviewing operations and maintenance (O&M) expenses and capital expenditures related to safety and reliability. Reviews the field component of O&M expenses.
  - Evaluates and monitors underground facility damage prevention practices and incidents, to foster compliance with applicable safety codes.



# Electric Safety

- Commission Modified Safety Standards in 2005
  - Electric utilities must annually check all of their publicly accessible transmission and distribution facilities (including street lights and traffic signals which the utility does not own)
  - Electric utilities must inspect all their facilities at least once every five years
  - Strict recordkeeping requirements
  - A penalty equivalent to a 75 basis point reduction in the return on equity occurs if the annual and 5-year requirements are not met



# Monitoring Safety and Reliability of Service

- Performance mechanisms for all major utilities
- Downward adjustments in revenues with declines in quality of service
- Annual reports of results and penalties
- Mechanisms periodically updated





## Example: Eight Con Edison Reliability Metrics

- Criteria and dollar amounts will vary by utility
- 1. System-wide performance
  - 5 components
  - \$5 million maximum penalty
- 2. Major outage metric
  - 2 components
  - \$30 million maximum penalty
- 3. Remote monitoring metric
  - 1 component
  - \$10 million per network with \$50 million maximum exposure



# Eight Con Edison Reliability Metrics

- 4. Restoration metric
  - Days to restoration based upon severity of weather event
  - Trial basis for metric with no penalty
- 5. Repairs to damaged poles: \$3 million maximum exposure



## Eight Con Edison Reliability Metrics

- 6. Removal of temporary shunts: \$1.5 million maximum exposure every 6 months (winter/summer)
- 7. Repair of street lights and traffic signals: \$1.5 million maximum exposure every 6 months (winter/summer)
- 8. Replacement of over duty circuit breakers: \$100,000 per breaker if Con Ed does not replace at least 60 per year



# Financial Monitoring

- Periodic audits of utility records
  - Usually part of rate case
  - Limited to large monetary items and controversial issues
  - Separate review of fuel and purchased power outside of rate case
- Quarterly and Annual Reports
  - Primarily based on Federal Energy Regulatory Commission Requirements
  - New York requires several additional forms



# Financial Monitoring

- Rate Cases and Other Specific Orders
  - Excess Earnings Measurement and Sharing Provisions
  - Use of Excess Earnings
    - Shareholder Benefit
    - Customer Benefit
    - Offset Unexpected Expenses
  - Cost Allocations
  - Affiliate Transaction Rules



# Financial Monitoring

- Rate Cases and Other Specific Orders
  - Minimum Bond Rating Objectives
    - Preference for A/BBB Investment Grade
  - Bond Rating Declines to BBB- or Lower
    - Restrictions on Ability to Pay Dividends
    - Restrictions on Ability to Easily Move Cash Out of the New York State operations
  - Other Requirements As Commission Determines Are Necessary