Public Utility Quarterly Filing Requirements of
Federal Energy Regulatory Commission, USA

Since later 2002, the Federal Energy Regulatory Commission (FERC) requires electricity industry participants to file data showing rates, terms, and conditions of jurisdictional services under the Federal Power Act. The objective of these requirements is to enable FERC to carry out its Congress-mandated role of industry oversight by providing greater price transparency, promoting competition, and enhancing confidence in the fairness of markets. Using this data also allows FERC, along with the Federal Trade Commission, Department of Justice and various state regulators, to better detect and discourage discriminatory trade practices and more vigorously police the exercise and abuse of market power.

Data requirements

Via an order[1] dated April 25, 2002, the FERC amended its filing requirements for public utilities (includes trading licensees). The new filing requirements mandate utilities to electronically file Electric Quarterly Reports summarizing (in the standard form of service agreement or contracts) the contractual terms and conditions in their agreements for open-access transmission tariff, cost-based power sales tariff and other generally applicable services. Public utilities and power marketers (traders) were required to file both transaction data and contract for market-based power sales tariff if the contract did not conform to standard forms of service agreements. The rule clarified that book outs[2] must be reported in Electric Quarterly Reports.

The rule replaced earlier requirements that public utilities file all service agreements for market-based sales of electricity, service agreements for generally applicable services such as point-to-point transmission service, and Quarterly Transaction Reports summarizing their short-term sales and purchases of power at market-based rates.

Data use

Changes in the electricity industry, particularly growth in wholesale market sales by traditional public utilities, prompted FERC to review its reporting requirements. These changes overwhelmed FERC with large amounts of inconsistent and insufficient data. The revised filing requirements allowed FERC to perform regulatory functions over transmission and cost-based power sales while providing information on market-based power sales. This information can also be used by electricity suppliers, customers and consumer agencies to check cases of discrimination or other unfair practices.

The Electric Quarterly Reports (earlier called Quarterly Transaction Reports) are filed electronically on a database on the Commission's website[3], and can be easily accessed via the Internet. Attachments B and C of the order list the exact information fields that the utilities must file.

FERC considerations

As part of the rule-making process, FERC was sensitive to needs to various parties. Major concerns raised and addressed include:

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[1] http://ferris.ferc.gov/idmws/common/opennat.asp?fileID=9512346

[2] A "book out" (or netting) is the offsetting of opposing buy-sell transactions. So, if A sells B 10 MW and B sells A 8 MW, both under identical terms, this is "booked out" as a 2 MW net transaction. The new rule requires disaggregated reporting of the book out.

[3] http://ferc.gov/docs-filing/eqr/eqr-reports.asp

- Confidentiality Power marketers were concerned that information on market-based sale will be used competitively and should be confidential. In particular, the reports would reveal the marketer's supply curve and information on any innovative marketing or pricing strategies. The pricing data could also facilitate anti-competitive collusion among suppliers. In response to these concerns, FERC ruled that the data requested is already required under existing guidelines and that the reports do not violate existing information disclosure laws. Competitive and robust markets demanded more, not less transparency of data and the rule advanced that goal. FERC and other agencies would take action against marketers in anti-trust and collusion cases regardless of availability of data. Better data availability would in fact aid the successful prosecution of such cases.

- Market-Based Rates Power marketers argued that FERC failed to consider that market-based rates were only granted when the Commission found that an entity lacked ability to manipulate markets or act in an anti-competitive manner. Thus, the across-the-board rule is not needed covering a utility's wholesale power sales functions. FERC replied that even if it allows the market to set rates, it still has a responsibility to ensure that the rates are just and reasonable, and that the quarterly reports will achieve this.

- Avoiding transaction-specific data Power marketers were concerned that transaction-specific data would appealed for requiring only aggregate data, increasing the time between a transaction and its reporting, and reducing the frequency of filing to semi-annually. FERC ruled that disaggregate data is already required under existing guidelines, and that aggregate data would prevent customers from filing complaints in individual cases of market power abuse or discriminatory pricing. The time lag of 30 days is sufficient to mitigate competitive disclosures, and existing reports are quarterly, not semi-annually.

Overall, FERC's responses indicate that its primary concern is towards the health of the overall market, rather than protecting the interests of individual competitors within the market.

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Prayas wishes to thank Mr. Tarun Jain, (University of Virginia, USA) for assisting us in doing this summary. Earlier Mr. Jain has been involved in analysis for regulatory oversight in the USA, to check market power in case of mergers, take-over, and trading licenses