

participants. Many issues raised at the April 24 conference affect energy markets generally. Recognizing this, the Commission has expanded the scope of the upcoming conference to consider the role of price indices in the formation of prices for electricity as well as natural gas.

The June 24 conference and workshop will consider both near-term improvements and long-term solutions to the current price formation process. To assist the industry in reaching consensus where possible, FERC staff outlines below possible criteria for price indices and questions which must be resolved in order to achieve a consensus solution and resolve the uncertainty. The criteria address both implementation issues and characteristics of good price reporting systems. We encourage parties to comment on these criteria and questions in written comments prior to the June 24 conference, and we encourage conference participants to address these issues in their remarks at the conference.

Implementation Criteria

1. *Near-term and long-term effectiveness.* Near-term improvements are needed to bolster confidence in current price indices. Staff encourages consensus among market participants on steps needed immediately to improve price reporting, the process of calculating and publishing indices, and the information needed for the market to gauge liquidity.

2. *Cost considerations.* The current system provides the service to the industry at moderate cost as part of the index providers' businesses. Any changes to the current system or any new approach to price formation that significantly upgrade the process for receiving and processing trade data will carry with it a need to fund the improvements or the new structure. Parties should address the problem of increased costs and the mechanism for funding changes in the current system.

3. *Applicability to electricity as well as gas.* Price discovery is as important for the electric industry as it is for the natural gas industry. Spot and longer-term forward markets exist for electricity. The spot market for electricity has taken two forms. One is the day-ahead and real-time markets administered by FERC-sanctioned RTOs and ISOs. The other is bilateral markets consisting of private transactions between market participants.³ Published

indices report these transactions, in which many of the same problems and concerns have been raised. We request comment on the extent to which the solutions previously discussed in the context of gas indices apply equally for reporting of electricity indices.

4. *Implementation.* The Commission has jurisdiction over natural gas sale-for-resale transactions that are not "first sales," transportation by natural gas pipelines, and wholesale power transactions by public utilities. Also, sales for resale of Canadian gas are exempt from our jurisdiction. We request comment on the steps the Commission could take within its existing authorities, or with reasonably achievable legislative changes, to implement changes. For example, should the Commission condition the grant of market-based rate authority or the use of interstate transportation facilities (gas and electric) on the users' agreements to provide accurate and complete price reporting? Would such requirements be sufficient to assure that indices are representative of the market? Would such requirements guarantee a sufficient number of reported trades to resolve the concern over determining the actual liquidity at various trading hubs and/or the concern that price indices accurately reflect actual market activity? Are there steps the Commission could take to encourage all segments of the market to participate in active negotiation of prices in daily and monthly markets to ensure a statistically significant base of price information upon which to calculate indices?

5. *Providing regulatory certainty.* Some market participants have suspended reporting trade data, partly out of concern over the present uncertainty in price index development. Such participants may be concerned that their reporting practices or errors in information reported could lead to accusations of providing inaccurate or incomplete data. One means of addressing this perceived risk would be adopting standard practices for reporting trade data. We recognize the need to provide as much regulatory certainty as possible for good faith reporting of trade data, while still enabling the Commission to take action against false reporting or attempted manipulation of price indices. We encourage industry consensus on

newly reactivated NYMEX-PJM West futures contract also uses the daily real time PJM prices for settlement at the end of the contract month. Outside of the organized ISO/RTO markets, the bilateral markets rely on published indices (such as Megawatt Daily's Mass Hub, PJM West, NY Zone-G, Into Cinergy, Into Entergy, etc.) for settlements.

reporting standards to facilitate regulatory certainty.

Price Index Criteria

Comments at the April 24 conference show that the industry is working on criteria for various aspects of reporting and processing trade data and producing better price indices. One group, the Committee of Chief Risk Officers, issued a White Paper proposing "Best Practices for Energy Price Indices." Those practices address desirable attributes for several aspects of determining price indices.⁴ We request comment on the following criteria for developing price indices.

1. *Confidential.* An index developer should provide confidentiality agreements to assure entities that commercially sensitive individual transaction data submitted will be held in confidence except to the extent necessary to verify the index and allow for any regulatory oversight.

2. *Complete.* Price reporting systems should maximize the amount of useful and appropriate information they collect and disseminate. Complete information would include actual transaction variables such as price, volume, delivery point, duration, date and time, whether the transaction is a purchase or sale, and the counterparties to the transaction. Useful information to disseminate includes price, volume, location, type of contract, time, and liquidity. In particular, there should be some measure that informs customers how many actual transactions led to an index price.⁵

3. *Transparent.* Customers of price reports should be able to know how the information was developed. They should know about index calculation methodologies including relevant formulas and algorithms, treatment of aberrant data, and use of judgments, assessments, or similar subjective adjustments.

4. *Verifiable.* Customers of indices should have faith that the information they rely upon has been verified by a sufficiently thorough and independent audit process. Quality control measures, including a verification and error

⁴ The recommended best practices include reporting full transaction-by-transaction data; publication by the index developer of the methodologies used, including definitions of sample size, treatment of double-counting and outliers, and method for determining a value when there is insufficient data; an error resolution process; strong confidentiality agreements; and periodic process audits for data suppliers and index developers. See www.ccro.org/bestprac.html.

⁵ We encourage the development of liquidity measures that classify trading points by liquidity and provide specific information about the number of trades or indicate graduated levels of activity.

³ The RTO/ISO markets are reliable and transparent. Many bilateral transactions are settled against prices set by the RTO/ISO markets. The