

the SMA, such as what the generation dominance screen should measure, how rigorous the screen should be (e.g., should it examine annual peak or monthly peak), how to factor in internal or external transmission constraints, and whether to look at installed capacity or uncommitted capacity.

6. As noted above, the SMA screen and related mitigation measures were designed as an interim measure for analyzing generation market power pending a generic review of new methods for analyzing markets and market power. The Commission has stated that it intends to launch a generic rulemaking proceeding to address other aspects of its market-based rate program.² The purpose of the technical conference will be to pursue what changes, if any, should be made to the SMA screen and to the mitigation measures applicable to entities failing the screen so that the interim screen for generation market power can be finalized and implemented (with mitigation measures where appropriate). Thus, the upcoming conference will be limited to a discussion of the alternative interim screens and mitigation measures.

7. Transcripts of the conference will be immediately available from Ace Reporting Company (202-347-3700 or 1-800-336-6646), for a fee. They will be available for the public on the Commission's e-Library two weeks after the conference. Additionally, Capitol Connection offers the opportunity for remote listening of the conference for a fee. Persons interested in this service should contact David Reininger or Julia Morelli at the Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.gmu.edu> and click on "FERC."

8. For more information about the conference, please contact Kermit Banks at 202-502-8217 or Kermit.Banks@ferc.gov.

Filing Requirements for Paper and Electronic Filings

9. Comments, papers, or other documents related to this proceeding may be filed in paper format or electronically. However, the Commission strongly encourages electronic filings. Those filing electronically do not need to make a paper filing.

10. For paper filings, the original and 14 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426 and should refer to the above-referenced Docket Nos.

11. Documents filed electronically via the Internet must be prepared in MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at www.ferc.gov, click on "E-Filing" and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments. User assistance for electronic filing is available at 202-502-8258 or by e-mail to efiling@ferc.gov. Comments should not be submitted to the e-mail address.

12. All written comments will be placed in the Commission's public files and will be available for inspection at the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, during regular business hours.

Magalie R. Salas,
Secretary.

Attachment—Staff Paper Technical Conference on Supply Margin Assessment Screen and Alternatives

This paper sets forth Staff options for the Supply Margin Assessment (SMA) or alternative interim generation market power screen in electricity markets, and the appropriate mitigation to impose on those that fail the adopted screen. This paper is intended to serve as a focus for discussion at an upcoming technical conference that will be held on these matters. Staff stresses that the focus of this paper, and of the upcoming technical conference, is the appropriate interim generation market power screen, which is only one prong of the Commission's four-part test in reviewing applications for market-based rates, which examines: (1) Generation (horizontal) market power; (2) transmission (vertical) market power; (3) other barriers to entry; and (4) affiliate abuse. As the Commission has previously stated, it intends to initiate a generic rulemaking proceeding on potential new analytical methods for assessing markets and market power.³ Thus, the Commission would be positioned to address all aspects of its market-based rate program as part of the generic rulemaking proceeding, while the focus of this paper and technical conference is on just one aspect of that market-based rate program.

In the SMA Order, the Commission announced a new generation market power screen, the Supply Margin Assessment (SMA), to be applied to market-based rate applications on an interim basis pending a generic rulemaking proceeding. Since the markets were evolving, the Commission felt its test for generation market power should also evolve. The SMA screen was to be applied to all sales other than those in

independent system operator (ISO) or regional transmission organization (RTO) markets with Commission-approved market monitoring and mitigation.

In a Notice Delaying Effective Date of Mitigation and Announcing Technical Conference, issued on December 20, 2001, the Commission deferred the date by which the companies in the above-captioned proceedings or any other public utilities failing the SMA screen must implement the mitigation for spot market energy sales set forth in the SMA Order, and announced its intention to hold a technical conference open to all interested persons, not only parties to the dockets captioned in the SMA Order.

On August 23, 2002, the Commission issued a notice establishing Docket No. PL02-8-000, Conference on Supply Margin Assessment, to provide an opportunity for all interested persons to comment. In preparation for the technical conference, the Commission invited all interested persons to submit written comments regarding the SMA screen and related mitigation measures. Those comments were filed on October 22, 2002. Concerns expressed in the comments regarding the SMA screen included the conditions and factors that impact available supply when implementing the SMA screen (e.g., the generation capacity of an applicant that is used to meet native load, pre-existing wholesale contractual obligations, and operating reserves). Commenters also expressed concern about the mitigation measures and their implementation, such as spot market energy sales mitigation. They objected to the split-the-savings requirement and argued that requiring the posting of incremental/decremental cost information would be ineffective and harmful to the competitive market.

In an effort to address concerns raised by commenters regarding the SMA screen and the price mitigation measures contained in the SMA Order, and to provide a framework for the technical conference, the Commission asked Staff to prepare a paper identifying possible modifications or alternatives to both the SMA screen and price mitigation measures.

The purpose of this paper is to outline Staff's current thinking on potential interim generation market power screens and methods for mitigation. While Staff is not recommending one screen over another or a mitigation method over any other, Staff is seeking comments and welcomes suggestions from commenters and technical conference participants.

Persons interested in participating in the technical conference should be prepared to discuss the proposals in this staff paper, and to propose alternative approaches and why any such alternatives are improvements to the SMA screen/mitigation measures and the proposals contained herein.

I. SMA Screen and Mitigation

SMA Screen

The SMA screen as adopted by the Commission in the SMA Order assesses whether an applicant has generation market power. In determining the geographic market, the SMA considers transmission constraints into the applicant's respective control area(s).

² SMA Order, 97 FERC ¶ 61,219 at 61,967.

³ See *AEP Power Marketing, Inc., et al.*, 97 FERC ¶ 61,219 at 61,967 (2001) (SMA Order).