

## MEMORANDUM

DATE: May 19, 2010

TO: Energy Bar Association Members

FROM: Andrew K. Soto, Vice-Chair, Natural Gas Regulation Committee

RE: Summary of Current Enforcement Perspectives Program

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On Monday, May 17, the Energy Bar Association Natural Gas Regulation and Compliance & Enforcement Committees hosted a Brown Bag Seminar & Teleconference at the Federal Energy Regulatory Commission entitled "Current Enforcement Perspectives."

The panelists included **Larry Parkinson**, Director of Investigations in the Office of Enforcement at the Federal Energy Regulatory Commission, **Mark C. Schroeder**, Vice President, General Counsel and Chief Compliance Officer for CenterPoint Energy, and **Mark Haskell**, a partner in the law firm of Morgan, Lewis & Bockius LLP.

**Larry Parkinson** noted that some have wondered about the impact on enforcement policy of former prosecutors leading FERC's Office of Enforcement. For his own part, Larry said that what he brings to the job is senior management experience and judgment and perspective. Larry stated that he considers himself to be careful and deliberative, and that he does not rush to judgment. He emphasized that as a former prosecutor he understands greatly the power of government to investigate, and the need to exercise that power carefully. He has considered his goal as a prosecutor to do justice, and to do the right thing. He understands FERC's enforcement goal is to be firm but fair. He considers it an important role for the office to foster compliance, but noted that a culture of compliance takes work. He listed the priorities of the office as investigating (1) fraud and market manipulation; (2) serious reliability issues; (3) anticompetitive conduct; and (4) conduct that threatens the transparency of the markets.

**Mark Schroeder** said that his experience has been in the pipeline industry, where he has seen a substantial change in the regulatory focus over the years. He said that in years past the focus has been on rate cases; whereas, now the focus is on participation in commodity markets. That focus not only brings in a lot of market participants that have not considered themselves to be regulated by FERC, but also changes the way companies look at compliance. He stated that compliance is integral to how we conduct our business. He explained that complying with FERC requirements is not unlike paying taxes – you have to do it. He said that as you would never ask, what is the appropriate level of resources needed to demonstrate that you're properly paying your taxes, the resource commitment to compliance with FERC requirements is part of your business planning.

**Mark Haskell** agreed that there has been a change in regulatory focus toward markets. As a result, a wide variety of types of entities are required to comply with FERC requirements. In Mark's view, there must be a flexible approach to compliance planning tailored to the type and size of the market participant. He said that companies must examine the scope of their activities and understand where FERC rules are applicable, and that there must be a shared understanding of compliance goals. Compliance should not be the province of a particular group that is separate from the business operations. Mark also noted a change in thinking about FERC rules. The idea that what is not specifically forbidden is permitted is no longer appropriate.