

## EDITOR-IN-CHIEF'S PAGE

A new era has arrived regarding enforcement and compliance activities and issues in U.S. wholesale electricity, natural gas, and petroleum markets. The enforcement and compliance climate has changed considerably because there are multiple arenas for enforcement and compliance actions, multiple risks, and multiple challenges for energy market participants, federal enforcement authorities, federal regulators, and consumers. Further, market manipulation is a particularly contentious topic in energy markets.

The Energy Policy Act of 2005 exponentially increased the Federal Energy Regulatory Commission's enforcement tools in electricity and natural gas markets, providing the agency with clear authority to prohibit market manipulation and new authority to impose civil penalties of up to \$1 million per day per violation. The Energy Independence and Security Act of 2007 provided the Federal Trade Commission with substantial civil penalty authority to prohibit market manipulation in wholesale petroleum markets and the FTC's new market manipulation rule became effective within the last six months. In 2008, Congress gave the Commodity Futures Trading Commission substantial new civil penalty authority to punish market manipulation as well as new responsibilities with respect to certain energy contracts. And FERC just adopted, for the first time, guidelines for determining civil penalties modeled in large part on the U.S. Sentencing Guidelines.

The stakes for all concerned are high indeed. At the dawn of the new era in enforcement and compliance in energy markets, the Journal published a substantial article on multi-jurisdictional federal enforcement of manipulation and deception in energy markets. In this volume, we are pleased to present three important articles involving energy enforcement and compliance from multiple perspectives: an economist (Craig Pirrong), counsel for market participants (Bill Scherman and two of his colleagues), and two individuals from the FTC (Ted Gebhard and James Mongoven, although that article expresses their individual views and not those of the FTC or any individual Commissioner.)

On a personal note, as a young lawyer in FERC's Division of Enforcement in the 1980's, it would have been impossible to predict the direction of federal energy enforcement and compliance activities. Now, twenty-five years later, I've been asked to serve as the first chairman of a new Energy Bar Association Committee focused solely on compliance and enforcement. I'm reminded of the following observation from Albert Einstein: "It's not that I'm so smart, it's just that I stay with problems longer."

On behalf of the Foundation of the Energy Law Journal, we sincerely hope you enjoy these articles and the other timely and interesting materials in this volume of the Energy Law Journal.

Respectfully,

Bob Fleishman