Outline

- Review
  - Strategy
  - Accomplishments

- Lessons Learned

- Challenges

- Recommendations

(Opinions expressed are Hederman’s, not those of Morgan Lewis or any firm client)
Review

Federal energy market monitoring has been part of a 3-prong strategy.
OMOI developed 3 essential processes to "Trust and Verify."

- Professionally skeptical
- Diverse (private/public sectors, disciplines)
- Highly skilled
- Team-oriented
Review

Monitor staff characteristics for success.

- Diverse (econ, finance, law, engineering, accounting, public policy)
- Highly skilled (79 advanced degrees)
- Public-spirited
- Team-oriented
- Self-motivated
- Motivated by challenges
- Sense of humor
Monitors work to empower responsible participants.
## Review

### A steady stream of accomplishments.

<table>
<thead>
<tr>
<th>Year</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1st Winter Assessment Report</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 2002
- Jan: Director Hired
- Feb: Observed CFTC Market Surveillance
- Mar: 1st Market Surveillance Report
- Apr: 1st Seasonal Assessment Report
- May: Re-organization OMOI Official
- June: FERC California Office Opens
- July: Cal Anomalous Bidding/Physical Withholding Handoff to OMOI
- Aug: Summer Assessment
- Sept: OMOI e-library
- Oct: Snapshot Report
- Nov: Reliant Settlement
- Dec: Standards of Conduct Order

### 2003
- Jan: Hotline Promotion Launched
- Feb: Critique of CPUC Report Issued
- Mar: Transco and Nicor Settlements
- Apr: 1st Price Index Technical Conference
- May: Calif Anomalous Bidding/Physical Withholding Handoff to OMOI
- June: Summer Assessment
- July: Cleco Settlement
- Aug: Price Reporting Policy Statement
- Sept: BLACKOUT*
- Oct: OMOI e-library
- Nov: Snapshot Report
- Dec: Reliant Settlement

### 2004
- Jan: 1st State of the Markets Report
- Feb: OMOI Fellows Lectures Begin
- Mar: ISO/RTO Monitors Present 1st Common Metrics
- Apr: Price Index Survey Report
- May: Summer Seasonal Assessment
- June: Williams Settlement
- July: Intranet Redesign
- Aug: Storage Data Settlements
- Sept: Storage Data Technical Conference
- Oct: Energy Engineering Ethics Conference
- Nov: Dynasty Settlement
- Dec: Winter Assessment

### 2005
- Jan: Enforcement Report to Congress
- Feb: Mirant Settlement
- Mar: Signals Briefings
- Apr: Summer Assessment
- May: Williams Compliance Settlement
- June: State of the Markets Report
- July: MISO Start-up Report
- Aug: EP Act 2005
- Sept: Powerex Order
- Oct: Hurricane Analysis
- Nov: MidAmerican Settlement
- Dec: Winter Assessment
- “No Action” Letter Announcement
- Open Meeting Presentations
- Reliant Settlement
Lessons

FERC has learned several lessons through OMOI.

- **Knowledge is critical.**
  - Regulators: market/business/regulation
  - Participants: price indices/storage data/”the Rules”
  - Human and analytic intelligence

- **Cooperation is helpful.**
  - Companies with FERC
  - FERC with
    - other feds
    - states
    - MMUs and other regional players

- **Change is difficult.**

- **Broad support is essential.**
Lessons

Lessons (continued)

- Market monitoring is far more challenging than traditional utility regulation.

- Natural Gas market restructuring provided massive benefits to U.S. gas customers.

- The excess natural gas production capacity from the difficult restructuring transition has only recently disappeared.

- A steady stream of concrete accomplishments is important.
Challenges

The relevant energy markets are complex. Natural Gas & Electric Market Space

Source: FERC-OMTR&OMOI
Challenges

- Tension between Commission support and independence.
- Relationships with MMUs remain imprecise.
- Talent drain.
**Recommendations**

**Monitors should be pro-active.**

- **Audits**
  - targeted
  - random

- **Educating regulators about markets**
  - OMOI own staff
  - Other FERC
  - State regulators
  - International

- **Rapid response to anomalies**

- **Market intelligence gathering**
  - ‘signals’ (data/alarms)
  - ‘human’
  - more scrutiny of opaque markets

- **Empowering key players**
  - compliance and risk officers
  - engineers
  - board members
  - more teaming
Recommendations

- Monitors need to continue integrating into FERC processes.
- Monitors must maintain continuous improvement.
- Commission and Congress need to explore alternatives to current arrangement.
- States need to maintain pressure regarding their responsibilities.
- It is time for competent, objective performance reviews.
- Industry should exert leadership on
  - Market behavior/ethics/rules
  - INPO is an interesting model
Recommendations

Companies ("entities") can lead or be led.

- Significant new penalty authority
  - civil
  - criminal
- Signals about how to reduce regulatory risk.
- Responsible parties can compete effectively.
- Market integrity helps everyone in a market.