Van Ness Feldman LLP

vnf.com

FERC Approves $927,990 Civil Penalty Against Green Plains Inc. for Natural Gas Trading Violations

JUNE 16, 2025

By Mosby Perrow and Mike Farber

On June 13, 2025, the Federal Energy Regulatory Commission (FERC) issued an order approving a stipulation and consent agreement between its Office of Enforcement and Green Plains Inc., resolving allegations that the ethanol producer engaged in manipulative natural gas trading during bidweek at the MichCon hub in early 2023. The case (Docket No. IN25-2-000) is notable both for the relatively small financial gain realized by the trader—$19,069—and the magnitude of the resulting penalty: a $927,990 civil fine, a $19,069 restitution payment to affected counterparties, multi-year compliance obligations, and a two-year trading restriction.

FERC's investigation focused on Green Plains' simultaneous participation in the physical and financial natural gas markets during bidweek—the last three trading days of the month prior to delivery. During bidweek in January through April 2023, Green Plains was a significant seller of physical gas at the MichCon hub, accounting for 25% to 36% of reported bidweek volumes used by Platts to publish the monthly IFERC MichCon index. While Green Plains did not report its trades directly to Platts, its transactions were included in index calculations via counterparties. At the same time, Green Plains held substantial short financial basis positions—many times larger than its physical inventory—that were settled using the MichCon index.

FERC took issue with this trading pattern, alleging that Green Plains intentionally sold physical gas at a loss or negligible profit to depress the MichCon index and thereby benefit its larger short financial positions. In FERC's view, the disproportion between the physical sales and the financial exposures—along with the repeated nature of the trading across multiple months—supported an inference of market manipulation in violation of Section 4A of the Natural Gas Act and the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.1.

Green Plains did not admit or deny wrongdoing but agreed to the stipulated facts. Notably, this conduct occurred after FERC's Division of Analytics and Surveillance (DAS) had raised concerns in 2021 about similar behavior by Green Plains during bidweeks in February, March, November, and December of that year. Although Green Plains implemented some compliance enhancements following DAS's inquiry, it failed to fully enforce them. FERC found this lack of follow-through to be an aggravating factor.

Energy trading and compliance professionals will recognize that the enforcement theory rests on the use of physical trading activity to benefit financial positions—a practice that may have legitimate business purposes in some contexts, such as storage hedging. For instance, financial short positions can act as a risk offset for entities holding physical inventory expected to be sold during the delivery month. However, FERC emphasized that Green Plains' financial short positions far exceeded its physical volumes, and that the bidweek physical sales were executed at prices below market norms or without commercial justification. FERC viewed this as evidence that the physical trades were not legitimate hedges, but rather tools to affect the index.

The settlement imposes a two-year restriction prohibiting Green Plains from engaging in MichCon bidweek trading in fixed price or physical basis if the company holds any related financial positions tied to the MichCon index. In addition, the company must continue compliance reforms—such as internal monitoring of trading positions, annual FERC-specific training, quarterly compliance meetings, and annual reporting to Enforcement—for at least three years.

This order underscores FERC's aggressive stance on cross-market manipulation and its willingness to impose significant penalties even where monetary gains are minimal. It also signals the Commission's heightened scrutiny of index-influencing behavior by entities with substantial market share, especially where those entities fail to report trades or enforce prior compliance commitments.

Relevant Precedents and Enforcement Context

FERC's enforcement action against Green Plains is consistent with prior cases involving similar cross-market manipulation strategies, where traders engaged in uneconomic physical transactions to benefit related financial positions. These cases provide precedent for the theory that even small index price movements—when induced by trades without legitimate commercial purpose—can constitute market manipulation under Section 4A of the Natural Gas Act and FERC's Anti-Manipulation Rule.

For example, in the landmark case against BP America Inc. (Docket No. IN13-15-000), FERC alleged that BP's trading at the Houston Ship Channel was designed to suppress index prices to benefit a related financial position. FERC ultimately imposed a $10.75 million civil penalty and emphasized that manipulative intent can be inferred from trading patterns inconsistent with rational economic behavior.

Similarly, the Commission initiated proceedings against Total Gas & Power North America, Inc. (Docket No. IN12-17-000), alleging that its traders engaged in physical sales designed to move index prices in the Southwest to benefit financial positions. Although the Commission did not finalize penalties due to procedural issues, the case remains a touchstone for understanding how FERC approaches physical-to-financial manipulation schemes.

Other notable proceedings include the 2016 action against Deutsche Bank Energy Trading LLC (Docket No. IN12-4-000), where FERC found that Deutsche Bank's uneconomic trades at the California ISO's Silver Peak node were designed to affect congestion revenue rights. Deutsche Bank paid a $1.5 million penalty and disgorged $172,645 in unjust profits.

Van Ness Feldman LLP
vnf.com

Collectively, these cases demonstrate that FERC views uneconomic or loss-making physical trades executed during critical price-setting windows—such as bidweek—as potential indicia of manipulative conduct, especially where paired with leveraged financial positions.

The Green Plains settlement fits squarely within this enforcement pattern. The extent to which FERC continues to challenge these types of trading patterns under new leadership bears close scrutiny in the coming months, as potential new FERC policies emerge.

In any event, to reduce enforcement risk, market participants should ensure that internal compliance programs rigorously assess the alignment of physical trading strategies with legitimate commercial needs and document the rationale behind any simultaneous financial positions—particularly when those positions are leveraged or directionally sensitive to index movements.

For More Information

Van Ness Feldman counsels, trains, and represents clients regarding a wide range of FERC matters including compliance, enforcement, investigations and litigation. If you would like more information regarding FERC enforcement and compliance activities, please contact Mosby Perrow, Mike Farber, or any member of the firm's Litigation & Investigations, Electric, or Pipeline & LNG Practice Groups at (202) 298-1800.

Photo courtesy of FERC.