

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

June 2010

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's June 17, 2010 meeting, pursuant to the agenda as issued on June 10, 2010. Agenda items E-4, E-8, E-11, E-16, E-19, and C-1 are not summarized as they were omitted from the June 10 agenda.

Administrative Items

A-1: (Docket No. AD02-1-000)

This administrative item will address Agency Administrative Matters.

A-2: (Docket No. AD02-7-000)

This administrative item will address Customer Matters, Reliability, Security, and Market Operations.

A-3: (Docket No. AD09-10-000)

This administrative item will address the National Action Plan on Demand Response.

Electric Items

E-1: California Independent System Operator Corporation (Docket Nos. ER09-1048-000, ER06-615-059)

On February 18, 2010, the California Independent System Operator Corporation (CAISO) filed with FERC amendments to its tariff intended to clarify its market monitoring provisions. The amendments are a part of CAISO's ongoing efforts in compliance with the requirement in Order No. 719 (Wholesale Competition in Regions with Organized Electric Markets) that RTOs/ISOs review and improve responsiveness to stakeholders. Agenda item E-1 may be an order on CAISO's proposed tariff amendments.

E-2: Midwest Independent Transmission System Operator, Inc. (ER09-1049-000)

On April 28, 2009, the Midwest Independent Transmission System Operator, Inc. (MISO) submitted a compliance filing, pursuant to Order No. 719, that contained a report and associated revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (ASM Tariff) regarding the role of demand response and market pricing in times of operating reserve shortage, long-term power contracting, policies concerning market monitoring and MISO's responsiveness to stakeholders. On October 2, 2009,



Each month, White & Case provides brief summaries of the agenda items for the Federal Energy Regulatory Commission's monthly meeting. For questions relating to any of these matters, please do not hesitate to contact any of the lawyers listed below.

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MISO submitted additional revisions to its ASM Tariff concerning the participation of Aggregators of Retail Customers in the MISO market and a compliance filing regarding the additional requirements contained in Order No. 719-A. Agenda item E-2 may be an order on the compliance filings.

**E-3: Southwest Power Pool, Inc.
(Docket Nos. ER09-1050-000, ER09-1192-000)**

On November 20, 2009, FERC issued an order, accepting in part and rejecting in part, Southwest Power Pool, Inc.'s (SPP) compliance filing and proposed revisions to its Open Access Transmission Tariff (OATT), made pursuant to Order No. 719. In response to FERC's November 20, 2009 order, SPP submitted, on February 18, 2010, a compliance filing with proposed amendments to the provisions of its OATT and Bylaws related to market monitoring. Agenda item E-3 may be an order on the compliance filing.

**E-5: PJM Interconnection, L.L.C.
(Docket Nos. ER09-1063-000, ER09-1063-001)**

On December 18, 2009, FERC issued an order conditionally accepting PJM Interconnection, L.L.C.'s (PJM) compliance filing and proposed revisions to its OATT and Amended and Restated Operating Agreement made pursuant to Order No. 719. On March 18, 2010, PJM submitted a compliance filing concerning the participation and treatment of demand response resources in PJM's ancillary services markets and certain market monitoring and mitigation matters. Agenda item E-5 may be an order on the compliance filing.

**E-6: New York Independent System Operator, Inc.
(Docket No. ER09-1142-000)**

On November 20, 2009, FERC conditionally accepted New York Independent System Operator, Inc.'s (NYISO) compliance filing and proposed revisions to its Market Administration and Control Area Services Tariff and OATT that were made pursuant to Order No. 719. NYISO submitted, on February 18 and 25, 2010, respectively, compliance filings concerning NYISO's market monitoring and demand response resources. These filings were accepted subject to further compliance filing on June 4, 2010 and April 23, 2010 respectively. NYISO submitted its compliance filing on June 2, 2010. Agenda item E-6 may be an order on the June 2, 2010 compliance filing.

E-7: Southwest Power Pool, Inc. (Docket No. ER10-1069)

On April 19, 2010, SPP submitted proposed revisions to its OATT concerning a new "Highway/Byway" cost allocation methodology for its regional transmission upgrades with a requested effective date of June 19, 2010. Under this proposed "Highway/Byway" approach, the costs for Extra High Voltage transmission facilities that operate at or above 300 kV would be fully allocated (i.e., 100 percent) to the regional rate that is spread across the SPP footprint. For mid-tier transmission facilities that operate between 100 kV and 300 kV, one-third of the cost would be allocated to the regional rate and two-thirds of the cost would be allocated on a zonal basis. For low-voltage transmission facilities that operate at 100 kV or below, the cost would be completely allocated (i.e., 100 percent) to the zonal rate. In collaboration with this new cost allocation methodology, SPP has also developed a revised planning process, the Integrated Transmission Planning Tariff. Agenda item E-7 may be an order on SPP's revised cost allocation methodology.

**E-9: Transmission Planning and Cost Allocation by
Transmission Owning and Operating Public Utilities
(Docket No. RM10-23-000)**

This is a new rulemaking docket. Agenda item E-9 may be an order initiating a new rulemaking.

**E-10: System Personnel Training Reliability Standards
(Docket No. RM09-25-000)**

On September 30, 2009, the North American Electric Reliability Corporation (NERC) filed a petition with FERC to approve two new Reliability Standards—PER-005-1 (System Personnel Training) and PER-004-2 (Reliability Coordination—Staffing). Reliability Standard PER-005-1 would replace the current PER-002-0 (Operating Personnel Training) and parts of PER-004-1 (Reliability Coordination—Staffing). The remaining provisions of Reliability Standard PER-004-1 still in effect would be contained in a revised PER-004-2 Reliability Standard. Reliability Standard PER-005-1 would mandate a systematic approach in developing System Operator training programs, verification that System Operators are able to perform required tasks, and require responsible entities to provide a minimum of 32 hours of emergency operations training every 12 months for each System Operator. Reliability Standard PER-004-2 would continue to ensure that there are enough competent staff available to allow the Reliability Coordinators to effectively perform their functions. Agenda item E-10 may be an order on NERC's petition.

E-12: Evergreen Wind Power V, LLC and Stetson Wind II, LLC (Docket No. ER10-1117-000)

On April 28, 2010, Evergreen Wind Power V, LLC (Evergreen) and Stetson Wind II, LLC (Stetson) filed with FERC a Shared Facilities and Sublease Agreement (SFA) between the two parties. The facilities encompass a discrete set of generator interconnection facilities that are used by Evergreen and Stetson to interconnect their generating facilities with a shared generator lead line. The parties requested an effective date of February 17, 2010, which is the date when Stetson started producing test energy and the parties started sharing the facilities subject to the SFA. The parties also requested waivers of the requirements of Order Nos. 888, 889 and 890 as well as waiver of the Standards of Conduct that apply to transmission providers. Agenda item E-12 may be an order on the SFA.

E-13: Ameren Corporation, Illinois Power Company, Central Illinois Light Company, Central Illinois Public Service Company, Ameren Energy Resources Company, LLC, Ameren Energy Resources Generating Company (Docket Nos. EL10-48-000 and EC10-52-000)

On March 15, 2010, Ameren Corporation (Ameren), Illinois Power Company, Central Illinois Light Company, Central Illinois Public Service Company, Ameren Energy Resources Company, LLC and Ameren Energy Resources Generating Company (collectively, Applicants) filed a request for authorization of an internal reorganization that would permit Ameren to merge its three Illinois utilities into a single entity called Ameren Illinois Company and consolidate its market-regulated generation in Illinois. Applicants also sought a declaratory order from FERC finding that the proposed reorganization would not be barred by Section 305(a) of the Federal Power Act (FPA). Agenda item E-13 may be an order regarding Applicants' petition and request for authorization of the proposed restructuring.

E-14: Duke Energy Carolinas, LLC (Docket No. ER09-1717-001)

On January 29, 2010, FERC accepted certain rate schedules filed by Duke Energy Carolinas, LLC (Duke), but found that Duke must use depreciation expenses from its 2008 FERC Form 1 when calculating 2009 rates under one rate schedule, as opposed to the depreciation expenses from its 2009 FERC Form 1. Duke sought rehearing of this requirement. Agenda item E-14 may be an order addressing the request for rehearing.

E-15: New York Independent System Operator, Inc. and New York Transmission Owners (Docket No. ER04-449-021)

On November 13, 2009, NYISO and the New York Transmission Owners made a compliance filing submitting tariff revisions to implement a funding mechanism to collect and distribute Load Serving Entity funds consistent with the cost allocation provisions previously approved in association with NYISO's Consensus Deliverability Plan. Agenda item E-15 may be an order on the compliance filing.

E-17: ISO New England, Inc. and New England Power Pool (Docket No. ER09-1051-000)

On April 28, 2009, ISO New England, Inc. (ISO-NE) and the New England Power Pool Participants Committee submitted revisions to its Transmission, Markets and Services Tariff in compliance with Order No. 719 pertaining to demand response, long-term contracting, market monitoring and ISO-NE responsiveness to stakeholders. Agenda item E-17 may be an order on the compliance filing.

E-18: Central Transmission, LLC v. PJM Interconnection, L.L.C. (Docket No. EL10-52-000)

On March 25, 2010, Central Transmission, LLC (Central Transmission) filed a complaint against PJM requesting that FERC find Schedule 6 of PJM's Operating Agreement and Schedule 12 of PJM's OATT to be unjust and unreasonable if they bar PJM from designating Central Transmission to construct and own the LaSalle transmission project (LaSalle Project) under the Schedule 12 cost recovery provisions applicable to entities that currently own transmission facilities in PJM. While Central Transmission had been the original sponsor of the LaSalle Project, PJM informed Central Transmission that under its interpretation of the above-noted provisions, PJM could not designate Central Transmission to construct and own the lines on the terms permitted under Schedule 12. Agenda item E-18 may be an order addressing the complaint.

E-20: Pacific Gas and Electric Company (Docket No. EL09-72-001)

On December 17, 2009, FERC issued a declaratory order finding that Pacific Gas and Electric Company (PG&E) may recover costs associated with developing a regional synchrophasor project in its transmission rates, including 100 percent of abandoned plant costs in the event the project is cancelled for reasons beyond PG&E's control. Several parties sought to intervene out-of-time and requested clarification or rehearing of the December 17 order. Agenda item E-20 may be an order addressing the request for clarification or rehearing.

E-21: United State Department of Energy—Bonneville Power Administration (Docket Nos. EL09-12-000, - 001)

On November 26, 2008, the Bonneville Power Administration (BPA) filed a request for declaratory order finding that BPA's Tiered Rate Methodology (TRM) does not prohibit BPA from recovering certain costs associated with the production, acquisition, marketing and conservation of electric power in its wholesale power rates. The TRM describes the way in which BPA tiers its Priority Firm power rates. BPA submitted an errata to its TRM on January 27, 2009 and again on September 1, 2009. Agenda item E-21 may be a declaratory order in response to BPA's request.

E-22: Regional Transmission Organization/Independent System Operator Responsiveness to Customers and Other Stakeholders: Best Practices (Docket No. RM10-24-000)

This is a new rulemaking docket. Agenda item E-22 may be an order initiating a new rulemaking.

Miscellaneous

M-1: Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines (Docket No. RM07-9-003)

On April 1, 2010, the American Gas Association (AGA) filed a motion requesting that FERC issue a notice of proposed rulemaking regarding the inclusion in financial reporting forms of functionalized fuel data and the amount of fuel that is waived or reduced as part of a discounted or negotiated rate agreement. Agenda item M-1 may be an order addressing the AGA's motion.

Gas Items

G-1: Transparency Provisions of Section 23 of the Natural Gas Act (Docket No. RM07-10-002)

On March 25, 2010, FERC held a technical conference to address the following issues related to the new Form No. 552: discrepancies in reporting upstream transactions in the natural gas supply chain and whether the transactions contribute to wholesale price formation; whether transactions involving balancing, cash-out, operational and in-kind transactions should be documented on Form No. 552; and the appropriateness of the use of TBtu as a unit of measurement in the form. FERC has since extended the deadline for submitting Form No. 552, noting that it may adopt changes to the form as a result of the technical conference. Agenda item G-1 may be an order regarding an update to the Form No. 552.

G-2: Texican N. La. Transport, LLC v. Southern Natural Gas Company (Docket No. RP09-1086-001)

On January 27, 2010, Texican N. LA. Transport, LLC (Texican) filed a request for rehearing of FERC's December 28, 2009 order dismissing Texican's complaint against Southern Natural Gas Company (Southern). In its complaint, Texican argued that Southern violated the Natural Gas Act, Southern's FERC Gas Tariff and FERC precedent when it awarded capacity in an open season pursuant to a new methodology. Agenda item G-2 may be an order addressing the request for rehearing.

Hydro Items

H-1: FPL Energy Main Hydro LLC (Docket No. P-2283-072)

On April 26, 2010, FPL Energy Maine Hydro, LLC (FPLE) submitted a request for rehearing of the FERC's March 25, 2010 order which modified and approved FPLE's recreation plan and land/trail management plan. In its request for rehearing, FPLE argues that FERC should not have directed FPLE to assess, analyze and potentially acquire "lands at risk for excessive or inappropriate development." Agenda item H-1 may be an order addressing the request for rehearing.

H-2: Exelon Generation Company, LLC (Docket No. P-2355-013)

On March 29, 2010, Exelon Corporation Company, LLC (Exelon) submitted a request for rehearing of the FERC's March 1, 2010 order which directed Exelon to conduct a study that would include radio-tagging adult eels during Muddy Run pumping operations to approximate the percentage of out-migrating adult eels at the Project. Agenda item H-2 may be an order addressing the request for rehearing.

H-3: Eugene Water and Electric Board (Docket No. P-2496-219)

On May 17, 2010, the Oregon Department of Fish and Wildlife and the National Marine Fisheries Service submitted requests for rehearing of the FERC's April 15, 2010 Order approving Leaburg Fish Screen Hydraulic Evaluation. The parties argue, among other things, that the fish screens will not operate within the hydraulic design parameters originally set for the Leaburg Waterville project unless the licensee is required to implement additional adjustment and balancing of the fish screen hydraulics. Agenda item H-3 may be an order addressing the requests for rehearing.

**H-4: Southern California Edison Company
(Docket No. P-382-085)**

On April 19, 2010, American Whitewater, California Sportfishing Protection Alliance, Trout Unlimited, Friends of the River and Sierra Club (Conservation Groups) collectively submitted a request for rehearing of FERC's March 18, 2010 Order approving amendment of Southern California Edison's (SCE) license for the Borel Hydroelectric Project. The amendment eliminates the prior requirement that SCE release flows into the bypassed reach for recreational purposes. The Conservation Group argues, among other things, that the amendment will impact the timing and volume of SCE's diversion and use of water for power purposes and reroute water intended for the purpose of enhancing whitewater recreation back through SCE's powerhouse. Agenda item H-4 may be an order addressing the request for rehearing.

Certificate Item**C-2: Midcontinent Express Pipeline, LLC
(Docket No. CP08-6-004)**

On September 8, 2009, Ditzler H. and Lisa Jones filed a motion for rehearing of FERC's August 6, 2009 order setting forth the method Midcontinent Express Pipeline, LLC may use to conduct noise compliance testing of the offsite noise of its gas compressor station in Lamar County, Texas. Agenda item C-2 may be an order addressing the motion for rehearing.

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