

Energy, Infrastructure, Project and Asset Finance

# Summary of FERC Meeting Agenda

April 2013

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*Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission (FERC) April 18, 2013 meeting, pursuant to the agenda as issued on April 11, 2013.*

## Administrative Items

### A-1: Docket No. AD02-7-000

This administrative item will address customer matters, reliability, security and market operations.

### A-2: Docket No. AD02-1-000

This administrative item will address agency business matters.

## Electric Items

### E-1: NorthWestern Energy, Docket No. ER13-62-000

On October 10, 2012, NorthWestern Energy (NorthWestern) submitted its Order No. 1,000 (Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities) compliance filing concerning its South Dakota operations. Agenda item E-1 may be an order on NorthWestern's filing.

### E-2: California Independent System Operator Corporation, Docket No. ER13-103-000; Pacific Gas and Electric Company, Docket No. ER12-2709-000; San Diego Gas & Electric Company, Docket No. ER13-87-000

These dockets involve the parties' Order No. 1,000 compliance filings, which were submitted separately on the following dates: September 27, 2012 (Pacific Gas and Electric Company), October 11, 2012 (California Independent System Operator Corporation) and October 11, 2012 (San Diego Gas & Electric Company). Agenda item E-2 may be an order on the parties' filings.

### E-3: South Carolina Electric & Gas Company, Docket Nos. ER13-107-000,-001

On October 11, 2012, as amended on October 12, 2012, South Carolina Electric & Gas Company (SCE&G) submitted its Order No. 1,000 compliance filing. Agenda item E-3 may be an order on SCE&G's filing.



Each month, White & Case provides brief summaries of the agenda items for the Federal Energy Regulatory Commission's monthly meeting.

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**E-4: New York Independent System Operator, Inc., Docket No. ER13-102-000**

On October 11, 2012, the New York Independent System Operator, Inc. (NYISO) submitted its Order No. 1000 compliance filing. Agenda item, E-4 may be an order on the NYISO's filing.

**E-5: Alcoa Power Generating Inc. (Long Sault Division), Docket No. ER13-108-000**

On October 11, 2012, Alcoa Power Generating Inc. (APGI) (Long Sault Division) submitted its Order No. 1,000 compliance filing. Agenda item E-5 may be an order on Alcoa's filing.

**E-6: North American Electric Reliability Corporation, Docket No. FA11-21-000**

In August 2011, FERC's Division of Enforcement commenced a performance audit of the North American Electric Reliability Corporation (NERC) to evaluate NERC's budget formulation, administration and execution, and the costs and resources used to achieve its program objectives. On May 4, 2012, a final audit report was issued that made findings of fact and 42 recommendations in 11 areas. NERC subsequently contested the audit report's findings and conclusions. In June 2012, FERC issued an Order on Procedures establishing a paper hearing to address the 42 recommendations as well as disputed factual findings. Briefs were filed by several parties. On November 2, 2012, FERC issued an order that ruled on certain disputed audit recommendations and ordered NERC to submit a compliance filing, which was filed by NERC on February 2, 2013. In the interim, FERC and NERC reached a settlement on all issues and, on January 16, 2013, an Order Approving Settlement Agreement was issued that resolved all outstanding issues arising out of the 2012 performance audit. Agenda item E-6 may be an order on NERC's compliance filing.

**E-7: Version 5 Critical Infrastructure Protection Reliability Standards, Docket No. RM13-5-000**

On February 1, 2013, NERC submitted a petition for approval of ten proposed Critical Infrastructure Protection Reliability Standards (CIP Version 5) with associated definitions of terms, the associated implementation plan, and the Violation Risk Factors (VRFs) and Violations Severity Levels (VSLs). Agenda item E-7 may be an order on the petition.

**E-8: Generator Requirements at the Transmission Interface, Docket No. RM12-16-000**

On July 30, 2012, NERC submitted a petition for approval of four proposed Reliability Standards (FAC-001-1 – Facility Connection Requirements; FAC-003-3 – Transmission Vegetation Management; PRC-004-2.1a – Analysis and Mitigation of Transmission and Generation Protection System Misoperations; and PRC-005-1.1b –

Transmission and Generation Protection System Maintenance and Testing), as well as the associated implementation plan, VRFs and VSLs, and retirement of currently effective Reliability Standards. The proposed Reliability Standards would be applicable to generators that would otherwise apply to the Transmission Owner (TO) and/or Transmission Operator (TOP) functions. NERC's proposal is in response to prior registration appeal proceedings involving certain Generator Owners and Generator Operators with generator interconnection facilities that were registered as TOs and TOPs. The goal of NERC's proposal is to avoid, unless individual circumstances warrant otherwise, the need for all generators with interconnection facilities to register as TOs and/or TOPs. Agenda item E-8 may be an order on the petition.

**E-9: Revisions to Electric Reliability Organization, Docket No. RM12-6-001; Definition of Bulk Electric System and Rules of Procedure, RM12-7-001**

On November 18, 2010, FERC issued Order No. 743, which sought to address its concerns over NERC's definition of "bulk electric system" (BES), in particular, potential gaps in the facilities covered under NERC's jurisdiction, given that NERC's existing definition provided regional entities with discretion to define the BES based on regional variations. In Order No. 743, FERC indicated what facilities it believed should be included in the definition of the BES, which included all facilities operated at 100 kV or above. FERC also allowed NERC the opportunity to propose an alternative approach to address its concerns. On January 25, 2012, NERC filed a revised definition of BES adopting the 100 kV at or above bright-line threshold for facilities and listing specific items for inclusion and exclusion. In addition, NERC filed proposed revisions to its Rules of Procedure to provide a case-by-case exception process to add or remove elements from the BES regardless of operating voltages. On December 20, 2012, FERC issued Order No. 773, approving NERC's proposals, but determining that it should be the decisional authority to designate sub-100 kV facilities or other facilities as part of the BES. FERC also stated that it would use the seven-factor test in Order No. 888 to distinguish transmission from local distribution facilities. Several parties sought rehearing and/or clarification of Order No. 773. Agenda item E-9 may be an order on rehearing and/or clarification.

**E-10: Electricity Market Transparency Provisions of Section 220 of the Federal Power Act, Docket No. RM10-12-002**

On September 21, 2012, FERC issued Order No. 768 revising the existing Electric Quarterly Reports (EQR) filing requirements in order to facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce. Order No. 768 requires market participants that are excluded from FERC jurisdiction under Federal Power Act section 205 and have more than a de minimis market presence to file EQRs with FERC.

In addition, certain new information was required in the EQR reporting process. Requests for rehearing and/or clarification of Order No. 768 were filed, along with requests for immediate stay of the “eTag ID” reporting requirement. On February 8, 2013, FERC partially extended the eTag ID compliance effective date to consider further the issues arising from the requests for a stay. Agenda item E-10 may be an order on rehearing and/or clarification and/or an order on the requests for a stay.

**E-11: Prairie Breeze Wind Energy LLC, Docket No. EG13-16-000**

On February 27, 2013, Prairie Breeze Wind Energy LLC (Prairie Breeze), an existing Electric Wholesale Generator (EWG), filed a notice of self-certification of EWG status to reflect a proposed increase in the size of its wind generation project. Agenda item E-11 may be an order on Prairie Breeze’s notice of self-certification.

**E-12: Southwest Power Pool, Inc., Docket No. ER12-1772-000**

On May 11, 2012, Southwest Power Pool, Inc. (SPP) submitted a compliance filing pursuant to previous FERC orders to revise Attachment O of its Open Access Transmission Tariff (OATT) regarding the provision of transmission planning data pursuant to confidentiality agreements to allow for market participants to review the system design software used in the transmission planning process. In addition, in the compliance filing, SPP revised its definition of “Competitive Duty Personnel” to remove certain restrictions FERC determined were unreasonable. Agenda item E-12 may be an order on SPP’s compliance filing.

**E-13: Lockhart Power Company, Docket No. ER13-63-000**

On October 10, 2012, Lockhart Power Company submitted its Order No. 1,000 compliance filing. Agenda item E-13 may be an order on Lockhart’s filing.

**E-14: Midwest Independent Transmission System Operator, Inc., Docket Nos. ER11-3326-001,-002; ER11-3327-001,-002; ER11-3330-001,-002**

These proceedings relate to three agreements filed by the Midwest Independent Transmission System Operator, Inc. (MISO): two unexecuted amended generator interconnection agreements (Amended GIAs) in Docket No. ER11-3326—one among MISO as transmission provider, Settlers Trail Wind Farm, LLC (Settlers Trail) as interconnection customer, and Ameren Services Company, as agent for Ameren Illinois Company (Ameren Illinois), as the transmission owner, and the other, filed in Docket No. ER11-3327, among MISO as transmission provider, Pioneer Trail Wind Farm, LLC (Pioneer Trail) as interconnection customer, and Ameren

Illinois as transmission owner. The third agreement, filed in Docket No. ER11-3330, is an unexecuted Multi-Party Facility Construction Agreement (MPFCA) to which Ameren Illinois, Settlers Trail, Pioneer Trail, California Ridge Wind Energy, LLC (California Ridge) and MISO are parties. On June 10, 2011, FERC accepted and suspended the Amended GIAs and the MPFCA, subject to further modification, and subject to refund. The agreements were suspended subject to the outcome of Docket No. EL11-30, which is pending on rehearing, to become effective April 9, 2011 (for the Amended GIAs) and April 12, 2011 (for the MPFCA). On July 11, 2011, MISO filed the Amended GIAs and the MPFCA with revisions as directed by the June 10 Order. Also on July 11, 2011, the parties, in conjunction with other parties in the proceeding, filed a request for rehearing of the June 10 Order. Agenda item E-14 may be an order on rehearing and/or an order on the July 11 compliance filings.

## Gas Item

**G-1: Panhandle Eastern Pipe Line Company, LP, Docket Nos. RP12-455-000,-001**

On March 1, 2012, Panhandle Eastern Pipe Line Company, LP (Panhandle) filed to adjust its Fuel Reimbursement Percentages under section 4 of the Natural Gas Act. On March 30, 2012, FERC issued a Letter Order accepting Panhandle’s filing, but also requiring that Panhandle file tariff language providing for reservation charge credits when firm service is curtailed as well as to revise its tariff’s definition of force majeure or show cause why Panhandle should not have to do so. Panhandle submitted a response to the show cause order on April 30, 2012, as well as a request for rehearing. Agenda item G-1 may be an order on Panhandle’s show cause response and/or an order on rehearing.

## Hydro Items

**H-1: Public Utility District No. 2 of Grant County, Washington, Docket No. P-2114-208**

On March 2, 2010, as supplemented on October 27, 2010, Public Utility District No. 2 of Grant County, Washington (Grant PUD) submitted a proposed shoreline management plan (SMP) for the Priest Rapids Hydroelectric Project which included, among other things, general land use policies and a procedure for issuing permits and leases. FERC’s Office of Energy Projects reviewed the proposed SMP and prepared an environmental assessment of the SMP. Agenda item H-1 may be an order on Grant PUD’s proposed SMP and/or the environmental assessment.

**H-2: Fall River Valley Community Service District, Docket No. P-14433-001; KC Pittsfield LLC, Docket No. P-14434-001**

On January 17, 2013, the Commission issued an order dismissing without prejudice separate permit applications filed by Fall River Valley Community Service District (Fall River) and KC Pittsfield LLC. Both companies requested a preliminary permit in order to study the feasibility of developing the Kilarc Open-Channel Turbines Hydro Project. The proposed projects would both be located near the town of Whitmore in Shasta County, California, at the existing Kilarc canal, part of Pacific Gas and Electric Company's (PG&E) Kilarc-Cow Creek Project. However, in March 2009, PG&E applied to surrender its license for the Kilarc-Cow Creek Project requesting authorization to remove all project diversion dams; stop all water diversions; allow for the free passage of natural streamflow, fish and sediment in project-impacted streams; leave in place, breach or fill canal segments; and grade and fill the forebays. PG&E's request is still pending, and FERC determined that until a final order on PG&E's request is issued, it will not accept for processing preliminary permits or development applications for projects proposed on Kilarc-Cow Creek. Fall River and KC Pittsfield filed for rehearing of the January 2013 order, which was granted for further consideration on March 18, 2013. Agenda item H-2 may be an order on rehearing.

**H-3: Boott Hydropower, Inc. and Eldred L. Field Hydroelectric Facility Trust, Docket No. P-2790-055**

On August 10, 2010, Boott Hydropower, Inc. and Eldred L. Field Hydroelectric Facility submitted a request to amend the license for the Lowell Hydroelectric Project in order to replace an existing wooden flashboard system on the Pawtucket Dam with a pneumatic gate system of the same height. In December 2011, FERC issued a final environmental assessment of the proposed project. Agenda item H-3 may be an order on the license amendment request.

**Certificate Items**

**C-1: El Paso Natural Gas Company, L.L.C., Docket Nos. CP12-6-001, CP12-7-001**

On October 12, 2012, the Commission issued an Order Issuing Certificate and Amending Presidential Permits for El Paso Natural Gas Company's (EPNG) proposed Willcox Lateral 2013 Expansion Project (Willcox Project). As part of the order, FERC rejected a proposal by EPNG to apply an Incremental Fuel Charge to interruptible transportation shippers on the Willcox Project. EPNG filed for rehearing of that aspect of the October 2012 order, which FERC granted for further consideration on December 13, 2012. Agenda item C-1 may be an order on rehearing.

**C-2: Atlas Pipeline Mid-Continent WestTex, LLC and Pioneer Natural Resources USA, Inc., Docket No. CP12-468-001**

On May 30, 2012, Atlas Pipeline Mid-Continent WestTex, LLC (Atlas) and Pioneer Natural Resources USA, Inc., (Pioneer) jointly filed for authorization to construct, own, operate and maintain a 10.2-mile, 16-inch diameter pipeline in Midland County, Texas. On September 28, 2012, FERC issued an order granting the certificates requested; however, the order did not address whether the certificate granted was of limited jurisdiction. The applicants requested clarification that the September order was intended to grant a certificate of limited jurisdiction, thereby qualifying the project for an exemption from FERC's annual charges. Alternatively, the applicants requested rehearing of the September 2012 order to the extent it imposes the obligation to make Annual Charge Adjustment filings. Agenda item C-2 may be an order on clarification and/or rehearing.

**C-3: Northern Natural Gas Company, Docket No. CP10-449-001**

On March 30, 2011, FERC issued an Order Granting Certificate and Denying Authority to Charge Market-Based Rates to Northern Natural Gas Company (Northern). Northern requested authority in its application to: (1) increase the currently certificated maximum storage and withdrawal capacities at its existing Redfield storage facility by 1.0 billion cubic feet (Bcf) to provide for incremental firm storage service and to add associated base gas totaling up to approximately 4.2 Bcf; (2) increase the certificated withdrawal rate to 640 MMcf/d; and (3) provide storage services pursuant to market-based rates. The March 2011 order granted Northern the authority to construct the facilities but denied the authority to charge market-based rates, finding that Northern had not met the statutory standard for market-based rate authorization. Northern requested rehearing of the March 2011 order demonstrating its belief that it had met the statutory requirements for market-based rate authority and stating that it will not proceed with the storage project if it does not receive market-based rates authorization. Agenda item C-3 may be an order on rehearing.

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