

Energy, Infrastructure, Project and Asset Finance

# Summary of FERC Meeting Agenda

July 2012

## In This Issue...

- Administrative Items
- Electric Items
- Miscellaneous
- Gas Items
- Hydro Items
- Certificate Items

*Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's July 19, 2012, meeting, pursuant to the agenda as issued on July 12, 2012. Agenda items E-3 and C-2 have not been summarized as they were omitted from the agenda.*

## Administrative Items

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

This administrative item will address Agency Business Matters.

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

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

## Electric Items

### E-1: Midwest Independent Transmission System Operator, Inc. (Docket Nos. ER12-1265-000, -001, ER09-1049-005)

On April 28, 2009, the Midwest Independent Transmission System Operator, Inc. (MISO) submitted compliance filings in accordance with Order No. 719, and on October 2, 2009, MISO submitted a compliance filing in accordance with Order No. 719-A, to allow the participation of Aggregators of Retail Customers in the MISO Energy and Operating Reserve Markets. On December 15, 2011, the Commission accepted MISO's April filing, subject to a further compliance filing, and accepted in part and rejected in part, the October filing, subject to a further compliance filing. Rehearing and/or clarification of the December 15 order was requested by certain parties. On March 14, 2012, as amended on March 23, 2012, MISO submitted the required compliance filing. Several parties filed comments and/or protests of the March compliance filing. Agenda item E-1 may be an order on MISO's compliance filing and/or an order on rehearing and/or clarification of the December 15 order.

### E-2: Midwest Independent Transmission System Operator, Inc. (Docket Nos. ER12-1266-000, -001, ER11-4337-001)

On August 19, 2011, MISO submitted its Order No. 745 compliance filing regarding demand response compensation, which was accepted in part and rejected in part, subject to a further compliance filing, on December 15, 2011. Several parties filed for rehearing of the December 15 order. On March 14, 2012, as amended on March 23, 2012, MISO submitted



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

Donna Attanasio  
Partner, Washington, DC  
+ 1 202 626 3589  
dattanasio@whitecase.com

Daniel Hagan  
Partner, Washington, DC  
+ 1 202 626 6497  
dhagan@whitecase.com

Earle O'Donnell  
Partner, Washington, DC  
+ 1 202 626 3582  
eodonnell@whitecase.com

White & Case LLP  
701 Thirteenth Street, NW  
Washington, DC 20005-3807  
United States  
+ 1 202 626 3600

the required compliance filing. Several parties filed comments and/or protests of the March compliance filing. Agenda item E-2 may be an order on MISO's compliance filing and/or an order on rehearing and/or clarification of the December 15 order.

**E-4: Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based Participant-Funded Transmission Projects (Docket No. AD12-9-000); Priority Rights to New Participant-Funded Transmission (Docket No. AD11-11-000)**

In March 2011, the Commission held a technical conference to explore issues related to priority rights to use independent and/or merchant transmission lines and generator lead lines (AD11-11). In February 2012, the Commission held a workshop to obtain input on potential reforms to the Commission's policies governing the allocation of capacity on new merchant transmission projects and new cost-based participant-funded electric transmission projects (AD12-9). Many parties filed comments in the proceedings. Agenda item E-4 may be further action based on the technical conference and the workshop.

**E-5: North American Electric Reliability Corporation (Docket No. NP11-238-000)**

On July 28, 2011, the North American Electric Reliability Corporation (NERC) filed a Notice of Penalty (NOP) which assessed a US\$19,500 penalty to Southwestern Power Administration (SWPA) for violations of Critical Infrastructure Protection Reliability Standards CIP-004-1, Requirements R2.1, R3.2 and R.4.1 and CIP-007-1 Requirement R1. The US Department of Energy and SWPA filed a request for review of the NOP, arguing that NERC is not authorized to assess punitive monetary fines against agencies of the US federal government and on August 29, 2011, FERC initiated a review of the NOP. Agenda item E-5 may be an order on the NOP.

**E-6: Regional Reliability Standard PRC-006-SERC-01—Automatic Underfrequency Load-Shedding Requirements (Docket No. RM12-9-000)**

On February 1, 2012, NERC submitted a petition for approval of Regional Reliability Standard PRC-006-SERC-01—Automatic Underfrequency Load-Shedding Requirements in the Southeastern Electric Reliability Council (SERC) Region, along with associated Violation Severity Levels and Violation Risk Factors, and an implementation plan for the proposed standard. The proposed standard provides regional underfrequency load-shedding requirements for registered entities in the SERC region. Agenda item E-6 may be an order on the proposed standard.

**E-7: FirstEnergy Solutions Corp. and Allegheny Energy Supply Company, LLC v. PJM Interconnection, L.L.C. (Docket No. EL12-19-001)**

On December 28, 2011, FirstEnergy Solutions Corp. and Allegheny Energy Supply Company, LLC (Petitioners) filed a complaint against PJM Interconnection, L.L.C. (PJM) claiming that FTR holders have experienced severe shortfalls in FTR revenues and must pay "uplift charges" to make up for incremental congestion in the real-time market that PJM cannot anticipate and as such are not recognized in the value of FTRs as established by the day-ahead market. On March 2, 2012, the Commission issued an Order Dismissing Complaint Without Prejudice based upon its finding of insufficient evidence as to the root cause of the FTR underfunding and PJM's commitment to develop a comprehensive report detailing the circumstances resulting in the FTR underfunding for stakeholder review and discussion. Petitioners and PPL EnergyPlus, LLC filed requests for rehearing and/or reconsideration. Agenda item E-7 may be an order on rehearing and/or reconsideration.

**E-8: Energy Spectrum, Inc. and Riverbay Corporation v. New York Independent System Operator, Inc. (Docket No. ER12-56-000)**

On April 12, 2012, Energy Spectrum, Inc. and Riverbay Corporation (Petitioners) filed a complaint against the New York Independent System Operator, Inc. (NYISO) alleging that NYISO has violated the Federal Power Act (FPA), the orders and policies of FERC, and NYISO's Market Administration and Control Area Services Tariff as a result of its issuance of Technical Bulletin No. 217 (TB 217) on April 6, 2012. TB 217 prohibits participating sellers from including energy consumed from "behind the meter" generation in NYISO's Special Case Resources (SCR) Program. Several parties filed comments in the proceeding. Agenda item E-8 may be an order on the complaint.

**E-9: Ameren Corporation (Docket No. AC11-46-000)**

On March 30, 2011, as supplemented on June 3, 2011, Ameren Corporation (Ameren) submitted final accounting entries regarding (1) the merger of Central Illinois Light Company and Illinois Power Company with and into Central Illinois Public Service Company to form Ameren Illinois Company and (2) the distribution of Ameren Energy Resources Generating stock to Ameren Energy Resources. On April 2, 2012, FERC requested additional information on Ameren's filings, to which Ameren responded on April 16, 2012. Several parties filed comments and/or protests of Ameren's submissions. Agenda item E-9 may be an order on the final accounting entries.

#### **E-10: United States Department of Energy—Bonneville Power Administration (Docket No. NJ08-2-001)**

On November 26, 2007, Bonneville Power Administration (BPA) filed a petition for declaratory order requesting that the Commission find its offering of two unexecuted long-term, firm point-to-point transmission service agreements to Caithness Shepherds Flat, LLC (Caithness) to be consistent with BPA's reciprocity tariff, and that the proposed service commencement dates are the appropriate dates under the tariff. On July 7, 2008, FERC granted BPA's petition finding that it followed the provisions of its Order No. 888 reciprocity tariff and that the service commencement dates are the appropriate dates under the tariff. Caithness filed for rehearing of the July order. Agenda item E-10 may be an order on rehearing.

#### **E-11: Primary Power, LLC (Docket Nos. ER10-23-001, EL10-14-001)**

On November 10, 2009, Primary Power, LLC (Primary Power) filed a petition for declaratory order requesting approval of transmission rate incentives, a stated return on equity (ROE) and related determinations for its proposed Grid Plus Transmission System (Grid Plus). Primary Power also asked for Commission confirmation that (1) it is eligible to propose and be designated to build a project under the PJM Regional Transmission Expansion Plan, and (2) it is eligible for cost-based rates. Primary Power also requested acceptance or approval of proposed revisions to the PJM pro forma interconnection service agreement (ISA) related to the Grid Plus project. On April 13, 2010, the Commission issued an Order on Petition for Declaratory Order (Primary Power Order) that granted in part and denied in part Primary Power's requests. Both PJM Transmission Owners Group and PSEG Companies requested rehearing of (Primary Power Order) Agenda item E-11 may be an order on rehearing.

#### **E-12: Central Transmission, LLC v. PJM Interconnection, L.L.C. (Docket No. EL10-52-001)**

On March 25, 2010, Central Transmission, LLC (Central Transmission) filed a complaint against PJM alleging that Schedule 6 of the PJM Operating Agreement (OA) and Schedule 12 of the PJM Tariff are unjust and unreasonable and unduly discriminatory to the extent the provisions prevent PJM from designating Central Transmission to construct and own a proposed transmission project. The complaint alleged that PJM determined that it was unable to designate Central Transmission to construct and own the line, based on its reading of its Tariff. On June 17, 2010, the Commission found that Central Transmission is eligible to be designated by PJM to build the facilities in question under the Tariff and OA, consistent with its findings in (Primary Power Order) (see E-11 above). The PSEG Companies filed for rehearing of the Commission's June order. Agenda item E-12 may be an order on rehearing.

#### **E-13: Primary Power, LLC v. PJM Interconnection, L.L.C. (Docket No. EL12-69-000)**

On May 14, 2012, Primary Power filed a complaint and request for emergency interim relief against PJM for its decision not to designate Primary Power to construct, own and finance two static VAR compensators (SVC) that are part of its Grid Plus project. Primary Power states that in November 2011, PJM recommended that the two SVC projects, sponsored by Primary Power, be included in PJM's RTEP and that the projects be designated to Primary Power. The May complaint states that in April 2012, PJM reversed its decision and designated two incumbent transmission owners to construct, own and finance the SVCs. Primary Power alleges that PJM's actions have violated the Tariff and the OA, the FPA, (Primary Power Order) and the Commission's open access requirements, including Order No. 1000. Agenda item E-13 may be an order on Primary Power's complaint.

#### **E-14: Pioneer Transmission, LLC v. Northern Indiana Public Service Company and Midwest Independent Transmission System Operator, Inc. (Docket No. EL12-24-000)**

On February 8, 2012, Pioneer Transmission, LLC (Pioneer) filed a complaint seeking the right to construct the Pioneer Project, a 765-kV transmission project to be located in Indiana and included in the 2011 MISO transmission expansion plan. Pioneer also sought the ability to implement incentives previously granted to it by the Commission. The complaint asks the Commission to resolve a dispute between Pioneer and Northern Indiana Public Service Company (NIPSCO) over which party has the right to invest in and construct the first segment of the Pioneer Project. Pioneer also requested relief from MISO's interpretation of the provisions of the MISO Transmission Owners Agreement (TOA) affecting the eligibility of new transmission developers to become parties to the TOA and acquire the right to charge for transmission services under the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (OATT). Agenda item E-14 may be an order on Pioneer's complaint.

#### **E-15: Xcel Energy Services Inc. and Northern States Power Company, a Wisconsin Corporation v. American Transmission Company, LLC (Docket No. EL12-28-000)**

On February 14, 2012, Xcel Energy Services Inc. (XES), on behalf of its operating company affiliate, Northern States Power Company (NSPW, and together with XES, Xcel Energy), filed a complaint requesting the Commission resolve a dispute between XES and American Transmission Company, LLC (ATC) involving the rights and obligations of NSPW and ATC under rate schedules and tariffs previously accepted for filing, regarding construction and ownership of the "La Crosse—Madison Line," a proposed 145-mile, 345-kV electric transmission line connecting NSPW's

facilities in Wisconsin with ATC's facilities in Wisconsin. XES requested that the Commission find that ATC has not complied with the express terms and conditions of MISO's OATT and TOA. XES also asked the Commission to direct ATC to enter into negotiations with Xcel Energy to develop final terms and conditions for the shared ownership and construction of the La Crosse—Madison Line. Agenda item E-15 may be an order on XES's complaint.

**E-16: Northern Indiana Public Service Company (Docket No. EL12-49-000)**

On March 16, 2012, NIPSCO filed a petition for declaratory order requesting rate incentives for its Reynolds to Burr Oak to Hiple project, a 100-mile, 345-kV transmission project that is a "Multi-Value Project" approved under the MISO MTEP. NIPSCO requested recovery of construction work in progress and authorization to recover prudently incurred abandoned plant costs. Agenda item E-16 may be an order on NIPSCO's petition.

**E-17: SIG Energy, LLLP v. California Independent System Operator Corporation (Docket No. EL12-55-000)**

On April 4, 2012, SIG Energy LLLP (SIG Energy) filed a complaint alleging that the California System Operation Corporation's (CAISO) determination of the settlement price for Congestion Revenue Rights (CRRs) contracts at certain pricing nodes on August 17 and 19, 2011 was incorrect and resulted in unjust and unreasonable rates and direct and measurable harm to SIG Energy when its CRRs were undervalued. The complaint requests the Commission order CAISO to pay SIG Energy the amount it determined was the correct value of its CRRs. Agenda item E-17 may be an order on SIG Energy's complaint.

**E-18: Tampa Electric Company (Docket Nos. ER10-2061-000, -001, -002, -003, -004)**

On February 2, 2012, Tampa Electric Company (TEC) filed an Offer of Settlement in Docket No. ER10-2061-003, settling all issues in Docket Nos. ER10-2061-000 and ER10-2061-001 related to TEC's proposed inclusion in its Wholesale Requirements Tariff formula rates for wholesale requirements service. On March 13, 2012, the Settlement Judge issued a "Certification of Uncontested Offer of Settlement" and on March 14, 2012, the Chief ALJ issued an order terminating the settlement judge procedures in the dockets. TEC filed an amendment to include missing tariff sheets in the Offer of Settlement in Docket No. ER10-2061-004 on May 2, 2012. Agenda item E-18 may be a further order in the proceeding.

**E-19: Midwest Independent Transmission System Operator, Inc. (Docket No. ER11-4244-001)**

On August 5, 2011, MISO submitted a Notice of Termination of the Generator Interconnection Agreement (GIA) among Great River Energy (GRE), Lakeswind Power Partners, LLC (Lakeswind) and MISO based upon MISO's claim that Lakeswind had breached the terms of the GIA by its failure to comply with a milestone to provide security pursuant to the GIA. Lakeswind protested the termination stating it had delayed in providing the security required by the milestone because it was waiting for the results of a System Impact Restudy that indicated the amount due under the security milestone may be less. Lakeswind claimed it had cured the monetary default and requested the Commission to order MISO to amend the GIA to extend the milestones. MISO claimed extending the milestones would constitute a de facto suspension. On October 4, 2011, the Commission rejected the Notice of Termination finding that Lakeswind had cured its breach of the GIA and further finding that MISO had not shown that amending the GIA as requested by Lakeswind would disadvantage the project and would not constitute a de facto suspension. On November 3, 2011, MISO filed for rehearing or clarification of the October order. Agenda item E-19 may be an order on rehearing and/or clarification.

**Miscellaneous Items**

**M-1: Continuity of Operations Plan (Docket No. RM12-13-000)**

This is a new rulemaking docket.

**Gas Items**

**G-1: Standards for Business Practices for Interstate Natural Gas Pipelines (Docket No. RM96-1-037)**

On February 16, 2012, the Commission issued a Notice of Proposed Rulemaking (NOPR) in order to amend its regulations to incorporate by reference the latest version (Version 2.0) of business practice standards adopted by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB). The new standards provide for coordination between the natural gas and electric industries, standards for pipeline postings of information regarding waste heat, and general revisions to the standards designed to allow more efficient processing of wholesale natural gas transactions. The Commission also proposed to provide guidance on the standards the Commission applies to requests for waivers or extensions of time to comply with NAESB Standards. Several parties filed comments in the proceeding. Agenda item G-1 may be an order on the NOPR.

## Hydro Items

### H-1: Blue Heron Hydro LLC (Docket No. P-13226-004)

On April 12, 2012, the Commission granted a November 2010 application of Blue Heron Hydro, LLC (Blue Heron) for an original license to construct, operate and maintain the proposed 2,196-kW Ball Mountain Dam Hydroelectric Project No. 13226 to be located at the US Army Corps of Engineers' Ball Mountain Dam on the West River near the town of Jamaica, Vermont. The Vermont Department of Water Resources filed for rehearing of the April order's finding that it waived its right to certify the project by its failure to issue its certificate within the one-year time requirement. Agenda item H-1 may be an order on rehearing.

### H-2: Alabama Power Company (Docket No. P-2146-137)

On May 18, 2012, the Deputy Secretary at FERC issued an Order Denying Intervention of Mr. Pat Kelleher in Docket No. P-2146-136, a proceeding involving a request by Alabama Power Company to amend its license for the Coosa River Hydroelectric Project No. 2146 to allow for a concrete boat ramp and associated facilities to be installed within the project boundaries and for use by residents of the Lake Point subdivision, located on Logan Martin Lake in Talladega County, Alabama. Mr. Kelleher was denied party status for failure to show that his participation is in the public interest. Mr. Kelleher requested rehearing of the May 18 order. Agenda item H-2 may be a further order on Mr. Kelleher's motion.

### H-3: PPL Holtwood, LLC (Docket No. P-1881-076)

On May 22, 2012, the Deputy Secretary at FERC issued an Order Denying Intervention of Mr. Pat Kelleher in Docket No. P-1881-066, a proceeding involving a request by PPL Holtwood, LLC to, among other things, remove certain lands from the project boundary for the Holtwood Hydroelectric Project No. 1881, located on the Susquehanna River in Pennsylvania. Mr. Kelleher was denied party status for failure to show that his participation is in the public interest. Mr. Keller requested rehearing of the May 22 order. Agenda item H-3 may be an order on Mr. Kelleher's motion.

## Certificate Items

### C-1: Questar Pipeline Company (Docket No. CP12-40-000)

On January 4, 2012, Questar Pipeline Company (Questar) submitted a certificate application requesting authorization to construct and modify natural gas pipeline facilities located on Questar's southern transmission system to be located in Duchesne and Uintah Counties, Utah. Questar stated that it has reserved capacity on its project and, therefore, according to the terms of its Tariff, it must file for certificate authority to proceed with the project. On March 20, 2012, and May 11, 2012, Questar submitted additional data for the project in response to FERC data requests. Many parties intervened and/or protested Questar's application. Agenda item C-1 may be an order on Questar's application.

### C-3: Chipeta Processing LLC (Docket No. CP12-47-000)

On January 6, 2012, Chipeta Processing LLC submitted a petition for declaratory order requesting a Commission finding that proposed changes to the operations of the Chipeta Plant Complex do not affect the nonjurisdictional status of the Plant Interconnect Line under the "production" exemption of Section 1(b) of the Natural Gas Act. Chipeta states that due to the extension of Questar's Mainline 104, the Plant Interconnect Line will operate differently from the manner originally described in a Declaratory Order issued in 2009. Agenda item C-3 may be an order on Chipeta's petition.