

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

September 2013

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's September 19, 2013, meeting, pursuant to the agenda as issued on September 12, 2013. Agenda items E-2, E-3, E-10 and E-12 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.

A-3: Docket No. AD12-12-000

This administrative item will address Coordination Between Natural Gas and Electricity Markets.

Electric Items

E-1: Southwest Power Pool, Inc., Docket Nos. ER12-1179-003, -004, -005, -000

On February 15, 2013, as supplemented on March 1, 2013, Southwest Power Pool, Inc. (SPP), in compliance with FERC's October 18, 2012 order, submitted tariff revisions for the implementation of the Integrated Marketplace (which is to include Day-Ahead and Real-Time Energy and Operating Reserve Markets and Transmission Congestion Rights markets). SPP also submitted proposed tariff revisions for its Integrated Marketplace on April 19, 2013 in compliance with FERC's March 21, 2013 order. On March 25, 2013, SPP submitted an informational filing regarding its readiness metrics related to commercial operations readiness and reversion plan for the Integrated Marketplace. In addition, on March 28, 2013, SPP filed additional proposed tariff revisions for its Integrated Marketplace. These proposed revisions, which were not ordered by FERC in its October 18, 2012 or March 21, 2013 orders, include the tariff language governing variable energy resources, manual commitment of resources for reliability, demand response and non-conforming load, calculation of market



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

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prices during system failure, start-up and no-load offer floors, market hub creation and revisions to the market participant service agreement to specify information requirements. Numerous parties filed comments in response to SPP's filings. Agenda item E-1 may be an order on SPP's filings.

E-4: Generator Requirements at the Transmission Interface, Docket No. RM12-16-000

On April 18, 2013, FERC issued a Notice of Proposed Rulemaking (NOPR) proposing to approve modifications to four existing Reliability Standards submitted by the North American Electric Reliability Corporation (NERC) – 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). The modifications would extend and/or clarify the applicability of those Reliability Standards to certain generator interconnection facilities. FERC proposed to also approve the related Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs) for the Reliability Standards and the implementation plan and effective dates submitted by NERC. Numerous parties filed comments in response to the NOPR. Agenda item E-4 may be an order on the NOPR.

E-5: Generator Verification Reliability Standards, Docket No. RM13-16-000

On May 30, 2013, NERC submitted a petition for FERC approval of five new Reliability Standards – MOD-025-2 (Verification and Data Reporting of Generator Real and Reactive Power Capability and Synchronous Condenser Reactive Power Capability), MOD-026-1 (Verification of Models and Data for Generator Excitation Control System or Plant Volt/Var Control Functions), MOD-027-1 (Verification of Models and Data for Turbine/Governor and Load Control or Active Power/Frequency Control Functions), PRC-019-1 (Coordination of Generating Unit or Plant Capabilities, Voltage Regulation Controls, and Protection) and PRC-024-1 (Generator Frequency and Voltage Protective Relay Settings). The proposed Reliability Standards are intended to ensure that generators will not trip off-line during specified voltage and frequency excursions or as a result of improper coordination between generator protective relays and generator voltage regulator controls and limit functions, as well as to have generator models accurately reflect the generator's capabilities and operating characteristics. NERC also submitted the associated implementation plans and VRFs and VSLs for the proposed Reliability Standards, as well as proposing to retire the existing MOD-024-1 and MOD-025-1 Reliability Standards. Agenda item E-5 may be an order on NERC's petition.

E-6: Integration of Variable Energy Resources, Docket No. RM10-11-002

On December 20, 2012, FERC issued Order No. 764-A in response to requests for rehearing and clarification regarding its ruling on intra-hour scheduling and forecasting reforms, statements addressing public utility transmission providers' obligation to offer generator regulation service and the estimated burden on small entities to comply with the Final Rule on the Integration of Variable Energy Resources. Iberdrola Renewables, LLC and Powerex Corp. filed separate requests for clarification or, in the alternative, rehearing of Order No. 764-A's statements on curtailment (including on Bonneville Power Administration's (BPA) Dispatched Standing Order 216) and e-Tagging practices. Agenda item E-6 may be an order on the requests for clarification or, in the alternative, rehearing.

E-7: PJM Interconnection, L.L.C., Docket Nos. ER11-2814-000, -001, ER11-2815-001, -002, -004

On May 31, 2011, FERC issued an order conditionally accepting proposed modifications to the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (OATT) and other PJM agreements related to American Transmission Systems, Inc.'s (ATSI) withdrawal from the Midwest Independent Transmission System Operator, Inc. (MISO) and integration into PJM, effective June 1, 2011. On June 30, 2011, as corrected on December 13, 2011, ATSI submitted a filing in compliance with the May 31, 2011 order with revisions to the PJM OATT to remove the PJM integration costs, the deferred internal integration costs, the MISO exit fee and the legacy MISO regional transmission project costs from its transmission rates. Numerous parties filed comments in response to ATSI's filings. In addition, on June 13, 2011, PJM also filed tariff revisions to correct two typographical errors in Attachment J (PJM Transmission Zones) of its OATT. Agenda item E-7 may be an order on PJM and/or ATSI's filings.

E-8: PJM Interconnection, L.L.C., Docket Nos. ER11-2814-000, -001, ER11-2815-000, -001, -002, -004; Midwest Independent Transmission System Operator, Inc., Docket Nos. ER11-3279-000, -001

In orders issued on May 31, 2011, FERC did not accept ATSI, MISO and MISO Transmission Owners' proposed mechanism in the MISO Tariff for collecting from ATSI zone transmission customers the costs associated with Legacy MISO Transmission Expansion Plan (MTEP) Projects constructed or approved for construction by the remaining MISO Transmission Owners. FERC also rejected proposed revisions to the PJM OATT for the recovery of Legacy MTEP Project costs from ATSI zone transmission customers, but without prejudice to ATSI's submitting a new filing to justify such recovery. In late 2011, the parties entered

into settlement negotiations regarding the collection and distribution of Legacy MTEP Project costs and ATSI's recovery from wholesale transmission customers of certain costs associated with its withdrawal from MISO and integration into PJM. On December 21, 2012, ATSI, MISO and MISO Transmission Owners and ATSI, American Municipal Power, Inc. (AMP) and Buckeye Power, Inc. submitted settlement agreements and offer of settlement to resolve these issues. The Ohio Consumers' Counsel filed comments in opposition to the proposed settlement to the extent that the settlement would impose additional costs on the Ohio customers of ATSI's distribution utility affiliates. Agenda item E-8 may be an order on the proposed settlement agreements and offer of settlement.

E-9: PJM Interconnection, L.L.C., Duke Energy Ohio, Inc., and Duke Energy Kentucky, Inc., Docket Nos. ER12-91-000, -002, -005, ER12-92-000, -002, -005

On February 4, 2013, Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. (collectively, the Duke Companies) filed a settlement agreement with AMP resolving issues in connection with the Duke Companies' move from MISO to PJM. Pursuant to the settlement, the Duke Companies agreed to reimburse AMP for a substantial portion of the Legacy MTEP and Transition Costs to which AMP would be subject under the PJM OATT and to reduce their Return-on-Equity rate. The Duke Companies would not have any other obligation to make payments for their withdrawal from MISO. On March 21, 2013, the Administrative Law Judge issued a Certification of Uncontested Settlement. Agenda item E-9 may be an order on the settlement.

E-11: Southwest Power Pool, Inc., Docket Nos. ER13-2031-000, ER13-2033-000

On July 25, 2013, SPP filed revisions to its tariff regarding the potential responsibility of members that withdraw from SPP for certain penalty costs incurred by SPP prior to the member's withdrawal. SPP also submitted proposed revisions to its Bylaws and Membership Agreement to establish financial obligations for members who withdraw from SPP related to the costs of transmission facilities approved for construction prior to that SPP member's withdrawal. Xcel Energy Services Inc. filed comments on the filing, and the Louisiana Public Service Commission requested an extension of time for state commissions to intervene and comment. Agenda item E-11 may be an order on SPP's filings.

E-13: Southwest Power Pool, Inc., Docket Nos. ER12-2292-001, -002, -003, ER13-1123-000

On September 20, 2012, FERC issued an order conditionally accepting SPP's proposed revisions to Attachment AE of its tariff to permit the systematic and automated curtailment of Non-Dispatchable Resources, including Qualifying Facilities (QFs), in SPP's Energy Imbalance Service Market, effective October 15, 2012. Acciona Wind Energy USA LLC filed a request for rehearing, arguing that TLR level 5 curtailment protection should be extended to QFs in areas where the PURPA purchase obligation has been waived and that FERC should mandate make-whole payments for curtailed Non-Dispatchable Resources. On March 1, 2013, SPP submitted its filing in compliance with FERC's directives in the September 20, 2012 order. In addition, on February 13, 2013, SPP filed a petition for waiver of the Attachment AE tariff revisions until March 19, 2013 in order to facilitate the determination of curtailment priorities of Non-Dispatchable Resources with firm transmission service and to have the required software to implement the systematic curtailment be fully functional. On March 18, 2013, SPP filed a second request for waiver of the Attachment AE revisions to June 1, 2013 for one Non-Dispatchable Resource based on the problems with applying different curtailment rules to two Non-Dispatchable Resources that have been registered in the SPP EIS market as a combined Resource. Agenda item E-13 may be on order on SPP's filings.

Gas Items

G-1: Gulf South Pipeline Company, LP, Docket Nos. RP12-813-002, -001

This proceeding involves a June 20, 2012 Demand Charge Credits tariff filing made by Gulf South Pipeline Company, LP (Gulf South) which proposed a change to its tariff definition of *force majeure* that addresses pipeline safety and integrity management obligations resulting from Department of Transportation and Pipeline and Hazardous Materials Safety Administration initiatives. Several parties protested the tariff filing, and on July 31, 2012, FERC issued a Letter Order accepting and suspending the tariff records, subject to refund and further Commission action. On December 20, 2012, the Commission issued an Order Accepting Tariff Records Subject to Conditions, of which parties sought rehearing, and Gulf South filed a January 18, 2013 Compliance Filing, which was protested. Agenda item G-1 may be an order on rehearing and/or the January Compliance Filing.

G-2: Rockies Express Pipeline LLC, Docket Nos. RP13-423-002, RP12-765-002

These proceedings involve (1) a May 31, 2012 tariff filing, as revised by a July 30, 2012 Compliance Filing, submitted by Rockies Express Pipeline LLC (REX) to address audit findings that required REX to revise specific reservation charge crediting provisions and the definition of *force majeure*; and (2) a December 28, 2012 tariff filing further modifying its reservation charge crediting provisions to incorporate a Monthly Maintenance Schedule and an anti-gaming limitation. On January 31, 2013, the Commission issued an Order Accepting Tariff Records and Requiring Additional Tariff Revisions. Certain shippers requested rehearing of the January 31 order, which was granted for further consideration on April 3, 2012. Agenda item G-2 may be an order on rehearing.

Hydro Items

H-1: Public Utility District No. 1 of Douglas County, Washington, Docket No. P-2149-160

On May 16, 2013, the Commission issued an Order on Rehearing and Clarification that addressed the relicensing of the Wells Hydroelectric Project, including the 40-year term of the license and the exclusion of a Habitat Conservation Plan. Douglas PUD filed for reconsideration of the May order. Agenda item H-1 may be an order on reconsideration.

H-2: Public Utility District No 2 of Grant County, Washington, Docket No. P-2114-261

On April 18, 2013, the Commission issued an Order Modifying and Approving Shoreline Management Plan (SMP) submitted by Public Utility District No. 2 of Grant County, Washington (Grant PUD). The April order found the provisions of the SMP to be in the public interest and would effectively manage the project shoreline. The Crescent Bar Island Homeowners requested rehearing of the April order, which was granted for further consideration on June 14, 2013. Agenda item H-2 may be an order on rehearing.

H-3: Alcoa Power Generating, Inc., Docket No. P-2197-103

On May 30, 2013, in an unpublished notice, FERC denied a request for late intervention in the above proceeding filed by New Energy Capital Partners, LLC (New Energy). FERC determined that New Energy had not demonstrated good cause for its late intervention and denied the request. New Energy requested rehearing of that decision, which was granted for further consideration on July 25, 2013. Agenda item H-3 may be an order on rehearing.

H-4: Boott Hydropower, Inc., and Eldred L. Field Hydroelectric Facility Trust, Docket No. P-2790-059

In April 2013, Boott Hydropower, Inc. and Eldred L. Field Hydroelectric Facility received Commission authorization to replace an existing wooden flashboard system on the Pawtucket Dam with a pneumatic gate system of the same height. Several parties, including the US Department of the Interior, filed for rehearing of the April order. Agenda item H-4 may be an order on rehearing.

H-5: New York Power Authority, Docket No. P-2216-081

On March 8, 2013, a delegated order authorized the New York Power Authority (NYPA) to grant a conveyance of interest in about 2.9 acres of project lands pursuant to article 411(d) of the license for the Niagara Project. The letter order stated that NYPA intends to approve the issuance of a land use permit to the Maid of the Mist Corporation in order to develop and operate a mooring and winter storage facility for its Niagara Falls excursion boat operation. The Niagara Preservation Coalition filed for reconsideration of the March letter order, which was granted for reconsideration on April 29, 2013. Agenda item H-5 may be an order on reconsideration.

H-6: Duke Energy Carolinas, LLC, Docket No. P-2232-598

On February 19, 2013, FERC issued an Order Modifying and Approving Non-Project Use of Project Lands and Waters which approved an "after-the-fact" application for a project undertaken at Stutts Marina, a lessee, at the Catawba-Wateree Hydroelectric Project. The order required Duke Energy Carolinas, LLC (Duke) to file certain plans for Commission approval within six months of the order. Duke filed for rehearing. Agenda item H-6 may be an order on rehearing.

Certificate Items

C-1: Missouri Interstate Gas, LLC, Missouri Gas Company, LLC, Missouri Pipeline Company, LLC, Docket No. CP06-407-008

On March 21, 2013, the Commission issued Opinion No. 525, an Order on Initial Decision in the captioned proceeding. Among other things, the order allowed MoGas Pipeline, LLC to continue to include its full purchase price of certain pipeline assets in rate base. The state of Missouri filed for rehearing on the basis that the order allows an acquisition premium to be part of the MoGas rate base, which it claims is contrary to longstanding policy and precedent. Agenda item C-1 may be an order on rehearing.

**C-2: Tennessee Gas Pipeline Company, L.L.C.,
Docket No. CP13-3-000**

On October 10, 2012, Tennessee Gas Pipeline Company (TGPL) filed for a Certificate of Public Convenience and Necessity to construct, install, modify, replace, operate and maintain certain compression facilities and to abandon other facilities located in Pennsylvania. Many parties are active in the proceeding and an Environmental Assessment was prepared and issued on February 12, 2013. Agenda item C-2 may be an order on the application.

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