

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

May 2013

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's May 16, 2013 meeting, pursuant to the agenda as issued on May 9, 2013. Agenda items E-3, E-13, E-17 have not been summarized as they were omitted from FERC's agenda.

Administrative Items

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

This administrative docket is for Agency Business Matters.

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

This administrative docket is for Customer Matters, Reliability, Security and Market Operations.

A-3: Docket No. AD06-3-000

This administrative docket is the Market Update.

A-4: Docket No. AD05-9-000

This administrative docket is the Energy Market and Reliability Assessment.

Electric Items

E-1: ISO New England Inc., Docket Nos. ER13-193-000, ER13-196-000

These proceedings relate to the Order No. 1000 (Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities) compliance filing jointly submitted by ISO New England, Inc. and the Participating Transmission Owners Administrative Committee on October 25, 2012. Many parties filed protests and comments. Agenda item E-1 may be an order on the filing.

E-2: PacifiCorp, Docket No. ER13-64-000; Deseret Power Electric Cooperative, Docket No. ER13-65-000; NorthWestern Energy, Docket No. ER13-67-000, Portland General Electric Company, Docket No. ER13-68-000, Idaho Power Company, Docket No. ER13-127-000

These dockets involve the parties' Order No. 1000 compliance filings, which were submitted separately on October 10, 2012. Agenda item E-2 may be an order on the parties' filings.



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: SU FERC, L.L.C., Docket No. OA12-1-000

On October 11, 2012, SU FERC, L.L.C. requested a waiver of Order No. 1000 requirements. Agenda item E-4 may be an order on the request.

E-5: Reliability Standards for Geomagnetic Disturbances, Docket No. RM12-22-000

On October 18, 2012, FERC issued a Notice of Proposed Rulemaking (NOPR) proposing to direct the North American Electric Reliability Corporation (NERC) to submit for approval Reliability Standards addressing the impact of geomagnetic disturbances on Bulk Power System reliability. Geomagnetic disturbances can create serious grid reliability issues, including blackouts, as well as damage to critical or vulnerable equipment. FERC held a technical conference in October 2012, and many parties submitted comments in the proceeding. Agenda item E-5 may be a final order.

E-6: New York Independent System Operator, Inc., Docket No. ER11-4338-000

On August 19, 2011, the New York Independent System Operator, Inc. (NYISO) submitted a compliance filing pursuant to Order No. 745 (Demand Response Compensation). Agenda item E-6 may be an order on NYISO's compliance filing.

E-7: Midwest Independent Transmission System Operator, Inc., et al., Docket No. EL12-35-000

On May 17, 2012, the Commission initiated a proceeding to determine if the formula rate protocols under the Midwest Independent Transmission System Operator, Inc. (n/k/a Midcontinent Independent System Operator, Inc.) (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) are sufficient to ensure just and reasonable rates. Briefs were filed in June and July 2012. Agenda item E-7 may be an initial decision in the proceeding.

E-8: Transmission Planning Reliability Standards, Docket Nos. RM12-1-000, RM13-9-000

On April 19, 2012, the Commission issued an NOPR requesting comments on (1) modified TPL-001-2 (Transmission System Planning Performance Requirements) submitted for approval by NERC and (2) the Commission's proposed remand of modified TPL-001-2. NERC's proposed TPL-001-2 combines four currently effective TPL Reliability Standards, TPL-001-1, TPL-001-2b, TPL-003-1a and TPL-004-1, into one standard with proposed revisions and improvements to address prior Commission directives. NERC also requested retirement of the currently effective TPL standards. In the NOPR, the Commission agreed that NERC's proposed TPL-001-2 includes specific improvements

over the currently effective standard; however, the Commission found that proposed TPL-001-2's provision allowing a transmission planner to plan for load shedding following a single contingency, provided the plan is documented and alternatives are considered and vetted in an open and transparent stakeholder process, is vague and unenforceable because it does not adequately define the circumstance in which an entity can plan for non-consequential load loss following a single contingency. Section 215(d)(4) of the Federal Power Act (FPA) requires the Commission to remand to NERC (as the ERO) for further consideration a Reliability Standard that the Commission disapproves "in whole *or in part*," and therefore, the Commission indicated it is required to remand the entire proposed Reliability Standard. Agenda item E-8 may be an order on the petition.

E-9: Electric Reliability Organization Interpretation of Specific Requirements of the Disturbance Control Performance Standard, Docket No. RM13-6-000

On February 12, 2013, NERC submitted a petition for approval of its proposed interpretation of BAL-002-1 (Disturbance Control Performance). The purpose of this Reliability Standard is to provide that the Balancing Authority will be able to use its Contingency Reserve to balance resources and demand and return interconnection frequency within defined limits following a Reportable Disturbance. NERC's petition clarifies that the Reliability Standard BAL-002-1 is to be read as part of a whole, and it relies in part on the Compliance section of the Standard for information. NERC provided the clarification to ensure that Registered Entities would not shed load in order to avoid a violation of BAL-002. Agenda item E-9 may be an order on NERC's proposed interpretation.

E-10: Southern California Edison Company, Docket No. ER13-1133-000

On March 20, 2013, Southern California Edison Company (SCE) filed four agreements to adjust the monthly charge to recover the revenue requirement based on the rate most recently adopted by the California Public Utilities Commission for application to SCE's retail electric customers for added facilities. Agenda item E-10 may be an order on SCE's filing.

E-11: Peetz Logan Interconnect, LLC, Docket No. ER13-1121-000

On March 18, 2013, Peetz Logan Interconnect, LLC (PLI) submitted an application to support modification of its open access transmission tariff (OATT) for interconnection and transmission services over PLI's existing generation interconnection facility. Agenda item E-11 may be an order on PLI's application.

E-12: Entergy Services, Inc., Docket No. ER05-1065-013; Entergy Arkansas, Inc., Docket No. ER12-1071-000

On December 15, 2011, the Commission accepted, with modifications, a filing made by Entergy Services, Inc. (ESI), on behalf of its Operating Companies (Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc. and Entergy Texas, Inc. (together with ESI, Entergy)) revising Attachments C, D and E of Entergy's Open Access Transmission Tariff to comply with previous orders approving Entergy's Independent Coordinator of Transmission and with Order No. 890 (Preventing Undue Discrimination and Preference in Transmission Service). Union Power Partners, L.P. filed for clarification and/or rehearing of the December 15 order regarding five issues. On February 13, 2012, Entergy submitted its compliance filing in accordance with the December 15 order. Agenda item E-12 may be an order on rehearing and/or clarification and/or Entergy's compliance filing.

E-14: ITC Arkansas LLC, ITC Louisiana, LLC, ITC Mississippi LLC, ITC Texas LLC, Docket No. ES13-5-000

On October 31, 2012, the above-named companies (collectively, the ITC Midsouth Operating Companies) applied for Commission authorization to issue debt securities related to and necessary to complete a transaction by which the jurisdictional transmission assets of the Entergy Operating Companies will be merged into a newly created subsidiary of ITC Holdings Corp. (ITC), and ultimately owned and operated by the ITC Midsouth Operating Companies. Agenda item E-14 may be an order on the ITC Midsouth Operating Companies' request to issue debt securities.

E-15: Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, L.L.C., Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., Docket Nos. ES11-40-002

On October 31, 2012, the Entergy Operating Companies filed a request for authorization to act briefly as the guarantor for the Midsouth Operating Companies (see E-16 below) in order to complete a transaction by which the jurisdictional transmission assets of the Entergy Operating Companies will be merged into a newly created subsidiary of ITC Holdings Corp. (ITC), and ultimately owned and operated by the ITC Midsouth Operating Companies (see E-14 above). Agenda item E-15 may be an order on the Entergy Operating Companies' request.

E-16: Transmission Company Arkansas, LLC, Transmission Company Louisiana I, LLC, Transmission Company Louisiana II, LLC, Transmission Company Mississippi, LLC, Transmission Company New Orleans, LLC, Transmission Company Texas, LLC, Entergy Services, Inc., Docket No. ES13-6-000

On October 31, 2012, the above-named companies (collectively, the Midsouth Operating Companies) filed for FPA Section 204 authorization to participate in certain debt obligations which are components of a multi-step transaction culminating in the merger of jurisdictional transmission assets of the Entergy Operating Companies with the ITC Midsouth Operating Companies (see E-14 and E-15 above). The subject filing seeks authorization to (a) refinance the bridge facility entered into by the Midsouth Operating Companies prior to closing the Transaction, and (b) assume and draw down on the working capital revolving credit facility.

E-18: Sierra Pacific Power Company, Nevada Power Company, Docket No. EL13-14-000; Cargill Power Markets, LLC v. NV Energy, Inc., Docket No. EL13-42-000

On October 25, 2012, Sierra Pacific Power Company (SPPC) and Nevada Power Company (NVP), together, the Companies, submitted a Petition for Declaratory Order (Docket No. EL13-14-000) asking the Commission to confirm and approve the interim measures the Companies are using to manage customer transmission service requests (TSRs) in consideration of the January 2014 anticipated consolidation of the Companies into one Balancing Authority. The Companies plan to merge their two utilities in conjunction with the completion of the One Nevada Transmission Line, known as "ON Line," which will interconnect their two systems. Cargill Power Markets, LLC (Cargill) submitted a protest in response to the Petition for Declaratory Order, and on November 26, 2012, submitted a Complaint (Docket No. EL13-42-000) against NV Energy, Inc. (NVE), as agent for the Companies, requesting the Commission find that NVE is engaging in unjust, unreasonable, and unduly discriminatory and/or preferential behavior in its actions regarding Cargill's TSRs for north-to-south transmission capacity on the ON Line Project. Cargill claims NVE, which has established priority rights to the north-to-south transmission capacity, is requiring it to finance potentially unnecessary transmission upgrades to NVE's system in order for Cargill to receive north-to-south transmission service over the ON Line Project. Agenda item E-18 may be orders on the Petition for Declaratory Order and the Complaint.

E-19: J.P. Morgan Ventures Energy Corporation, Docket Nos. ER13-830-001,-002

On May 10, 2013, the Commission issued an Order Granting Rehearing, Dismissing in Part and Accepting in Part Compliance Filing in response to a March 29, 2013 compliance tariff filing submitted by J.P. Morgan Ventures Energy Corporation (JP Morgan). The March 29 filing was made in response to a March 19, 2013 order on JP Morgan's January 30, 2012 filing of two tariffs (a General Tariff (in three parts) and a California Independent System Operator Corporation (CAISO)-specific Tariff) to govern its new wholesale sales of energy, capacity and ancillary services to be effective during the six-month period starting April 1, 2013, in which the Commission has suspended JP Morgan's market-based rate authority. In the May 10 order, the Commission granted rehearing with respect to the conditions under which it accepted Part I (of III) of JP Morgan's General Tariff to ensure JP Morgan is not subject to a confiscatory rate and to limit the impact on organized electricity markets due to JP Morgan's market-based rate authorization suspension. The May 10 order dismissed the proposed revisions in the March 29 filing to Part I in light of its grant of rehearing and dismissed the portion of the March 29 filing labeled a Complaint. The May 10 order requires JP Morgan to submit an additional compliance filing within 15 days. Agenda item E-19 may be stricken from the meeting agenda based upon the May 10 order issued in the proceeding.

E-20: J.P. Morgan Ventures Energy Corporation, Docket No. ER10-2331-007, J.P. Morgan Commodities Canada Corporation, Docket No. ER10-2343-007, BE Alabama LLC, Docket No. ER10-2319-006; BE Allegheny LLC, Docket No. ER10-2320-006, BE CA LLC, Docket No. ER10-2317-005; BE Ironwood LLC, Docket No. ER10-2322-007; BE KJ LLC, Docket No. ER10-2324-006; BE Louisiana LLC, Docket No. ER10-2325-005; BE Rayle LLC, Docket No. ER10-2332-006; Cedar Brakes I, L.L.C., Docket No. ER10-2326-007; Cedar Brakes II, L.L.C., Docket No. ER10-2327-008; Central Power & Lime LLC, Docket No. ER10-2328-006; Triton Power Michigan LLC, Docket No. ER11-4609-005; Utility Contract Funding, L.L.C., Docket No. ER10-2330-007

On May 10, 2013, the Commission issued an Order Accepting Updated Market Power Analysis for the Central Region submitted on June 27, 2012 by JP Morgan and the above-named entities (the JP Morgan Sellers). The May 10 order accepted the triennial analysis submitted by JP Morgan and the JP Morgan Sellers and directed JP Morgan to submit a compliance filing within 15 days of the order revising the limitations and exceptions section of its market-based rate tariff to reflect the suspension of its market-based rate authority. Agenda item E-20 may be stricken from the meeting agenda based upon the May 10 order issued in the proceeding.

E-21: Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities, Docket No. RM04-7-010

As part of the ongoing proceeding relating to Order No. 697 (Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities), on January 20, 2011, the Commission issued an Order Denying Rehearing and Motion for Stay and Recession which, among other things, stated that resource-planning employees may not be shared under the Commission's market-based rate affiliate restrictions. On February 22, 2011, Ameren Services Company (Ameren) filed for rehearing of that aspect of the January 20 order. Agenda item E-21 may be an order on rehearing.

E-22: Market-Based Rate Affiliates Restrictions, Docket No. RM10-20-001

On January 20, 2011, the Commission issued a Withdrawal of Notice of Proposed Rulemaking and Termination of Rulemaking Proceeding which, among other things, withdrew a proposed NOPR that proposed to find that resource-planning employees may not be shared under the Commission's market-based rate affiliate restrictions. The Commission withdrew the NOPR finding that existing rules already set forth the restriction and set a 90-day compliance period for public utilities. Ameren filed for rehearing of that aspect of the January 20 order arguing, first, that the prohibition is unnecessary given the lack of evidence of harm, and second, that the January 20 order did not address Ameren's request for a 180-day compliance period and that the Commission should grandfather existing sharing agreements. Agenda item E-22 may be an order on rehearing.

E-23: Midwest Independent Transmission System Operator, Inc., Docket Nos. ER12-1265-003,-002, ER09-1049-006

On August 20, 2012, in response to a Commission order issued July 19, 2012, in Docket Nos. ER12-1265-000,-001 and ER09-1049-005, MISO submitted a compliance filing (Docket No. ER12-1265-003) with proposed revisions to its Tariff to modify offer parameters for Demand Response Resources (DRR) Types I and II by permitting daily contingency reserve and regulating reserve limits. Also on August 20, 2012, the Midwest TDUs filed for rehearing of the July 19 order's acceptance of MISO's Order No. 719 (Wholesale Competition in Regions with Organized Electric Markets) compliance filing (Docket No. ER09-1049), subject to the outcome of the proceeding regarding MISO's compliance with the Order No. 745 (Demand Response Compensation in Organized Wholesale Energy Markets) requirements and an additional compliance filing, and finding that it is just and reasonable for MISO to compensate Aggregators of Retail Customers for demand response during non-net benefits hours (as defined

in Order No. 745) at the full Locational Marginal Price (LMP). Agenda item E-23 may be an order on MISO's compliance filing and/or the Midwest TDUs' request for rehearing.

E-24: Midwest Independent Transmission System Operator, Inc., Docket No. ER12-1266-003

On August 20, 2012, MISO submitted an Order No. 745 compliance filing to address issues raised in a July 19, 2012 Order on Rehearing and Compliance. In the July 19 order, the Commission accepted MISO's Order No. 745 compliance filing subject to the outcome of the proceeding regarding MISO's Order No. 719 compliance and a further compliance filing (the August 20 filing). Agenda item E-24 may be an order on MISO's compliance filing.

E-25: Entergy Services, Inc., Docket No. ER07-682-004

On January 11, 2010, the Commission issued Opinion No. 506, Opinion and Order on Initial Decision. Opinion No. 506 found, among other things, that including affiliate labor costs in the labor ratio used to allocate G&I plant costs and A&G expenses is just and reasonable and in line with principles of cost causation. In addition, the Opinion approved a functionalization charge by ESI related to Accounts 923 and 924. The Louisiana Public Service Commission and the Council of the City of New Orleans requested rehearing of Opinion No. 506. Agenda item E-25 may be an order on rehearing.

E-26: Entergy Services, Inc., Docket No. ER11-2161-002

On May 10, 2013, the Commission issued Opinion No. 526, Order Affirming Initial Decision, that affirms the findings of the Initial Decision by the Administrative Law Judge involving steam production plant depreciation rates filed by ESI on behalf of Entergy Texas. Opinion No. 526 affirms the ALJ's findings in the Initial Decision relating to the justness and reasonableness of ESI's proposed depreciation rates for Entergy Texas. Agenda item E-26 may be stricken from the meeting agenda based upon the May 10 order issued in the proceeding.

Gas Items

G-1: Filing, Indexing and Service Requirements for Oil Pipelines, Docket No. RM12-15-000

On October 18, 2012, in accordance with its efforts to reduce regulatory burdens, the Commission issued an NOPR requesting comments on its proposal to end unneeded filings by oil pipelines and update requirements for service and for posting tariff information. Agenda item G-1 may be a final order on the NOPR.

G-2: Tennessee Gas Pipeline, L.L.C., Docket No. RP13-464-000

On January 18, 2013, Tennessee Gas Pipeline, L.L.C. (Tennessee) submitted a filing with tariff changes to accommodate rich gas transportation service on a part of its pipeline system. Many parties participated in the proceeding submitting comments, protests and a request for a technical conference. Agenda item G-2 may be an order on Tennessee's filing and/or the request for technical conference.

G-3: Sea Robin Pipeline Company, LLC, Docket Nos. RP09-995-003, -004, RP10-422-001, -003, RP12-313-003, RP12-469-001

These proceedings relate to Sea Robin Pipeline Company's (Sea Robin) various filings regarding Sea Robin's proposed Hurricane Surcharge tariff records. Agenda item G-3 may be an order on Sea Robin's tariff filings regarding hurricane repair costs.

G-4: SFPP, L.P., Docket No. IS12-390-001

On June 29, 2012, the Commission issued an order accepting SFPP's proposed index rate increase of 5.4 percent, subject to refund and the outcome of Docket No. IS09-437-000, for SFPP's East Line interstate rates. Requests for rehearing of several aspects of the June 29 order were submitted by oil companies, pipelines and airlines. Agenda item G-4 may be an order on rehearing.

G-5: SFPP, L.P., Docket No. IS12-501-001

On August 3, 2012, the Commission issued an order accepting SFPP's proposed index rate increase of 5.4 percent, subject to refund and the outcome of the underlying West Line base rate case in Docket No. IS08-390 and its 2011 West Line index case in IS11-444. Requests for rehearing of several aspects of the August 3 order were submitted by oil companies, pipelines and airlines. Agenda item G-5 may be an order on rehearing.

G-6: NuStar Logistics, L.P., Docket No. IS12-503-001

On August 3, 2012, the Commission issued an order accepting tariffs submitted by NuStar Logistics, L.P. on July 5, 2012, proposing an index-based rate increase of approximately 8.29 percent. Valero Marketing and Supply Company protested the original filing and requested rehearing of the August 3 order. Agenda item G-6 may be an order on rehearing.

Hydro Items

H-1: Public Utility District No. 1 of Douglas County, Washington, Docket No. P-2149-154

On November 9, 2012, the Director of the Office of Energy Projects issued a new, 40-year license to Public Utility District No. 1 of Douglas County, Washington (Douglas PUD) to continue to operate and maintain the existing Wells Hydroelectric Project, located on the Columbia River in Washington State. Douglas PUD requested rehearing of certain aspects of the order, including the 40-year term and the inclusion of Article 204 regarding Canadian storage into the new license terms. Bonneville Power Administration and the US Army Corps of Engineers also filed for rehearing regarding the calculation of encroachment compensation. Agenda item H-1 may be an order on rehearing.

H-2: Greybull Valley Irrigation District, Docket Nos. P-12595-003, P-12604-003

On January 11, 2013, the Commission issued two orders denying preliminary permit applications for two projects, the Upper Sunshine Project (P-12595) and the Lower Sunshine Project (P-12604) to be located on the Greybull River and Sunshine Creek near Meeteetse in Park County, Wyoming. Greybull Valley Irrigation District (GVID) previously received preliminary permits in 2005 and 2008 to develop the projects; however, the Commission denied the third preliminary permit finding that GVID did not show due diligence and good faith during the term of the previous preliminary permit, and no extraordinary circumstance or factor exists to grant a third preliminary permit. GVID filed for rehearing of the January 2013 order. Agenda item H-2 may be an order on rehearing.

Certificate Items

C-1: Transcontinental Gas Pipe Line Company, LLC, Docket Nos. CP12-30-001

On November 2, 2012, the Commission issued an Order Issuing Certificate and Granting Abandonment authorizing Transcontinental Gas Pipe Line Company, LLC (Transco) to construct and operate the Northeast Supply Link Project. The Project is intended to add 250,000 Dth/day of incremental year-round firm transportation service by expanding and upgrading Transco's existing system and abandoning certain pipeline equipment. The target in-service date of the Project is November 1, 2013. Many individuals and citizen's groups, as well as utility companies, participated in the initial proceeding. The North Carolina Utilities Commission and one individual sought rehearing of the Order. Agenda item C-1 may be an order on clarification and/or rehearing.

C-2: Dominion Transmission, Inc., Docket No. CP12-72-001

On December 20, 2012, the Commission issued an Order Issuing Certificate authorizing Dominion Transmission, Inc. (DTI) to construct and operate compression, pipeline and storage facilities to be located in Frederick County, Maryland; Monroe County, Ohio; Lewis County, West Virginia; and Tioga County, Pennsylvania (Allegheny Storage Project). The Project is intended to provide an additional 111,868 Mcf/day of firm transportation services as well as an additional 75 Bcf of firm storage capacity and 125,000 Dth/day (121,596) of additional storage withdrawal service. The Commission authorized the Allegheny Storage Project subject to conditions, including eleven Environmental Conditions. Many individuals and citizen's groups, as well as utility companies, participated in the initial proceeding. Several individuals and a citizen's group sought rehearing of the Order. Agenda item C-2 may be an order on clarification and/or rehearing.