

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

December 2013

In This Issue...

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

Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's December 19, 2013, meeting, pursuant to the agenda as issued on December 12, 2013. Agenda items E-5, E-11, E-21 and E-26 have not been summarized as they were omitted from the agenda.

Administrative Items

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

This administrative docket addresses Agency Business Matters.

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

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

A-3: Docket No. AD14-4-000

This administrative docket is titled "FERC Retrospective."

Electric Items

E-1: Nevada Power Company, Docket Nos. ER13-1724-000, ER13-1860-000

On June 18, 2013, in Docket No. ER13-1724-000, Nevada Power Company, d/b/a NV Energy, filed an unexecuted Transmission Service Agreement (TSA) for conditionally firm service with ORNI 47, LLC (ORNI). ORNI protested the TSA stating that NV Energy has denied its request for completely firm service, and the conditions in the TSA make it commercially impractical. Further, on June 28, 2013, in Docket No. ER13-1860-000, Nevada Power submitted an unexecuted TSA with Cargill Power Markets, LLC (Cargill). Cargill protested the TSA stating it improperly imposes transmission upgrades and limitations of service. Agenda item E-1 may be an order on the TSAs.



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

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

E-2: Duke Energy Carolinas LLC and Carolina Power and Light Company, Docket Nos. ER13-83-001, -002; Alcoa Power Generating, Inc., Docket Nos. ER13-88-001, -002

These dockets relate to the entities' Order No. 1000 (*Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*) tariff filings. In February 2013, FERC issued orders rejecting the entities' initial Order No. 1000 compliance filings for failing to form a transmission planning region that met the regional scope requirements of Order No. 1000 and ordering additional filings. The second compliance filings were submitted in May 2013. Also, FERC granted rehearing for further consideration of both orders in May 2013. Agenda item E-2 may be an order on rehearing and/or the compliance filings.

E-3: Capacity Deliverability Across the Midwest Independent Transmission System Operator, Inc./PJM Interconnection, L.L.C. Seam, Docket No. AD12-16-000; Coordination of Energy and Capacity Across the Midcontinent Independent System Operator, Inc./PJM Interconnection, L.L.C. Seam, Docket No. AD14-3-000

In June 2012, the Commission issued a Notice of Request for Comments in Docket No. AD12-16 regarding whether the existing rules on transfer capability act as barriers to the delivery of generation capacity between the markets administered by the Midwest Independent Transmission System Operator, Inc. (now, the Midcontinent Independent System Operator, Inc.) (MISO) and PJM Interconnection, L.L.C. (PJM) and to the extent that barriers exist, whether those rules should be modified to mitigate such barriers. Many parties filed comments in response to the notice, and in April 2013, the Commission directed presentations on the subject, which were presented in June 2013. Further, in September 2013, MISO and PJM submitted an informational filing with a description of and schedule for Joint and Common Market initiatives. Agenda item E-3 may be an order stemming from the comments and presentations and/or informational filing submitted in AD12-16. Docket No. AD14-3-000 is a new docket.

E-4: Protection System Maintenance Reliability Standard, Docket No. RM13-7-000

On July 18, 2013, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to approve proposed Reliability Standard PRC-005-2 (Protection System Maintenance) and the associated Implementation Plan submitted by the North American Electric Reliability Corporation (NERC). Parties filed comments in September 2013, and on October 30, 2013, NERC submitted an Errata to correct language in the proposed Implementation Plan. Agenda item E-4 may be a Final Order stemming from the NOPR.

E-6: Midcontinent Independent System Operator, Inc., Docket No. ER13-2468-000

On September 27, 2013, MISO and Central Minnesota Municipal Power Agency (CMMPA) submitted a request for approval of CMMPA's transition from a historic to a forward-looking transmission revenue requirement and incentive rate treatments in order to allow CMMPA to participate as an investor in the CapX2020 Big Stone South to Brookings County transmission project. Agenda item E-6 may be an order on the parties' request.

E-7: Midcontinent Independent System Operator, Inc., Docket Nos. ER14-106-000, -001

On October 16, 2013, as amended on October 28, 2013, MISO submitted proposed revisions to its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) to address potential gaming behavior aimed at improperly extracting certain make-whole payments from the MISO market as identified by its Independent Market Monitor (IMM). A party protested one element of the proposed revisions claiming the potential for inadvertent harm to the legitimate operation of intermittent resources by the improper denial of Real-Time Offer Revenue Sufficiency Guarantee Payments and Day-Ahead Margin Assurance Payments. MISO and the IMM submitted an answer to the protest. Agenda item E-7 may be an order on the proposed tariff revisions.

E-8: Nevada Power Company, Docket No. ER14-146-000; Sierra Pacific Power Company, Docket No. ER14-147-000; NV Energy, Inc., Docket No. ER14-149-000

On October 21, 2013, Nevada Power and Sierra Pacific Power Company (Sierra Pacific, and together, Applicants) submitted Interim Joint Dispatch Agreements (JDA) for the joint dispatch and efficient operation of the Applicants' generation resources when the Applicants become directly interconnected through the One Nevada Transmission Line, which is expected to be placed into service on January 1, 2014. Also on October 21, 2013, NV Energy submitted on the Applicants' behalf an amended open access transmission tariff (OATT). Agenda item E-8 may be an order on the Interim JDAs and/or the amended OATT.

E-9: Entergy Louisiana, LLC, Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., Docket No. ER14-108-000

On October 16, 2013, Entergy Services, Inc. (ESI), on behalf of its public utility affiliates listed above, submitted a proposed reactive power revenue requirement rate schedule (Reactive Power Filing) to recover the revenue requirements for the reactive power production capabilities of select generating facilities to MISO. Agenda item E-9 may be an order on the Reactive Power Filing.

E-10: PacifiCorp, Docket No. ER02-653-002

In July 2002, in accordance with previous Commission orders, PacifiCorp submitted its Fourth Revised Volume No. 11 incorporating proposed changes to its OATT due to retail direct access in Oregon and generation interconnection requirements. Agenda item E-10 may be an order on the July 2002 OATT filing.

E-12: California Independent System Operator Corporation, Docket No. ER13-2452-000

On September 25, 2013, the California Independent System Operator Corporation (CAISO) submitted amendments to its OATT in order to lower the energy bid floor from negative US\$30/MWh to negative US\$150/MWh and to change the bid cost recovery settlement rules to pay bid cost recovery separately for the day-ahead and real-time markets rather than netting bid costs and market revenues across the two markets. The amendments also reflect a modification in payment rules for start-up and minimum load costs, unrecovered energy bid costs and residual imbalance energy. Parties filed comments and protests in the docket, and CAISO submitted an answer to the protests in October 2013. Agenda item E-12 may be an order on CAISO's tariff amendments.

E-13: California Independent System Operator Corporation, Docket No. ER14-291-000

On November 1, 2013, CAISO and the California Public Utilities Commission (CPUC) filed for a limited, one-time suspension of the effectiveness of the requirement in former CAISO Tariff section 24.4.2.3(b), which called for the siting approval agency, rather than the CAISO, to approve a project sponsor and which is applicable to projects approved in the 2012/2013 planning cycle. CAISO and the CPUC requested a one-time waiver so that CAISO, rather than the CPUC, could determine the approved project sponsor for the Sycamore-Penasquitos Line, which has competing developers vying for the project. Agenda item E-13 may be an order on the waiver request.

E-14: California Independent System Operator Corporation, Docket No. ER14-68-000

On October 9, 2013, CAISO petitioned for approval of the distribution of proceeds of penalties collected for violations of CAISO's Rules of Conduct. Agenda item E-14 may be an order on CAISO's petition.

E-15: California Independent System Operator Corporation, Docket No. ER14-84-000

On October 15, 2013, CAISO petitioned for approval of the distribution of forfeited funds collected from generator interconnection customers that withdrew from CAISO's generator interconnection queue. Agenda item E-15 may be an order on CAISO's petition.

E-16: Sky River LLC, Docket Nos. ER11-3277-002, ER13-2273-000

On October 6, 2011, Sky River submitted a compliance filing in Docket No. ER11-3277-002 to address a previous Commission order accepting in part and rejecting in part its OATT. Subsequently, on August 28, 2013, in Docket No. ER13-2273-000, Sky River submitted in an additional OATT filing with revisions to its methodology to access Available Transfer Capability and conditional transmission services. Agenda item E-16 may be an order on Sky River's OATT filings.

E-17: Midwest Independent Transmission System Operator, Inc., Docket No. ER12-2706-002

On November 27, 2012, the Commission conditionally accepted proposed revisions to MISO's Tariff to address instances in which different providers serve Load during a Planning Year. The November order required MISO to describe how a Provider of Last Resort (POLR) could recover any potential administrative costs for procuring planning reserve margin requirements for any remaining demand under MISO's resource adequacy program and to include in its Tariff an assurance that the POLR would be held revenue neutral for such administrative procurement costs. Rehearing of the November order was granted for further consideration in January 2013. Agenda item E-17 may be an order on rehearing.

E-18: Midwest Independent Transmission System Operator, Inc., Docket No. ER12-309-005

This docket addresses proposed revisions in Attachment X—Generator Interconnection Procedures of MISO's Tariff intended to address backlogs in the generator interconnection queue and late-stage terminations of generator interconnection agreements. The Commission conditionally accepted the proposed revisions subject to compliance filings, one addressing Net Zero Interconnection Service, which MISO submitted on September 26, 2012. Agenda item E-18 may be an order on the Net Zero Interconnection Service compliance filing.

E-19: Midwest Independent Transmission System Operator, Inc., Docket No. ER12-2706-001

On November 27, 2012, the Commission conditionally accepted proposed revisions to MISO's Tariff to address instances in which different providers serve Load during a Planning Year. The November order required MISO to (1) describe how a POLR could recover any potential administrative costs for procuring planning reserve margin requirements for any remaining demand under MISO's resource adequacy program and to include in its Tariff an assurance that the POLR would be held revenue neutral for such administrative procurement costs; (2) clarify the description of peak load contribution and the daily peak load methodologies; and (3) specify procedures for load-serving entities to challenge demand forecasts submitted by electric distribution companies. MISO submitted a compliance filing and proposed Tariff revisions on December 27, 2012. Agenda item E-17 may be an order on the compliance filing.

E-20: ISO New England, Inc., Docket No. ER14-90-000

On October 15, 2013, ISO New England, Inc. (ISO NE) submitted its 2014 Capital and Administrative Budgets tariff filing (2014 Budget Filing) to reflect the collection of administrative costs for 2014. The Connecticut Public Utilities Regulatory Authority and the Connecticut Office of Consumer Counsel protested the 2014 Budget Filing's request to fund eight additional positions, which they state is inconsistent with a Budget Settlement Agreement that directed no additional positions would be added for existing and proposed new projects. Agenda item E-20 may be an order on the 2014 Budget Filing.

E-22: Gadwall Wind LLC, Docket Nos. EL13-54-000, QF11-141-002

On March 15, 2013, Gadwall Wind LLC (Gadwall) petitioned the Commission to bring an enforcement action against the Minnesota Public Utilities Commission (MPUC) for its alleged failure to remedy the State of Minnesota's improper implementation of the Public Utility Regulatory Policies Act (PURPA). Gadwall claims the State has established an avoided cost rule that does not provide for the payment of a utility's full avoided costs to a new qualifying facility which is in conflict with the requirements of PURPA. The MPUC submitted an Answer and Motion to Dismiss on April 26, 2013. Agenda item E-22 may be an order on the petition for enforcement and/or an order on the MPUC motion to dismiss.

E-23: Pioneer Wind Park I, LLC, Docket No. EL14-1-000

On October 2, 2013, Pioneer Wind Park I, LLC (Pioneer) filed a Petition for Declaratory Order requesting a finding that PacifiCorp's curtailment requirement is inconsistent with PURPA's purchase obligations. Pioneer claims that PacifiCorp's refusal to execute a Power Purchase Agreement (PPA) with Pioneer unless it allows PacifiCorp to curtail the Pioneer project ahead of other generators as if it were a non-firm transmission customer is inconsistent with PURPA's mandatory purchase obligation and Pioneer's entitlement to Network Resource Integration Service under its Standard Large Generator Interconnection Agreements (LGIA) with PacifiCorp, as well as the non-discrimination provisions of the LGIAs. Agenda item E-23 may be an order on the Petition.

E-24: Cargill Power Markets, LLC v. NV Energy, Inc., Docket No. EL13-42-001

This docket addresses a complaint filed by Cargill alleging that NV Energy engaged in unjust, unreasonable, and unduly discriminatory or preferential behavior regarding the manner in which Cargill's transmission service requests were processed for capacity on the ON Line, including that NV Energy has established a native load priority right to the project's north-to-south transmission capacity and that NV Energy failed to properly designate Network Resources to support its reservation of capacity for the service at issue. On May 17, 2013, the Commission denied Cargill's complaint, and on June 17, 2013, Cargill filed a request for rehearing and/or clarification. Agenda item E-24 may be an order on rehearing and/or clarification.

E-25: Northern Indiana Public Service Company v. Midcontinent Independent System Operator, Inc. and PJM Interconnection, L.L.C., Docket No. EL13-88-000

This docket involves a complaint filed by Northern Indiana Public Service Company (NIPSCO) against MISO and PJM purporting to remedy alleged flaws in the interregional planning process of the Joint Operating Agreement (JOA) between MISO and PJM. NIPSCO states that not one interregional transmission upgrade project has been approved under the JOA planning provisions which has caused unnecessary congestion costs and unjust and unreasonable rates. NIPSCO states that its filing contains "proposed solutions" for the Commission to adopt to address alleged failures in the transmission planning and cost allocation processes. Many parties filed comments in the proceeding. Agenda item E-25 may be an order on the complaint.

E-27: Kootenai Electric Cooperative, Inc., Docket Nos. EL13-59-001, QF11-178-003

These dockets involve a PURPA enforcement action requested by Kootenai Electric Cooperative, Inc. (Kootenai) against the Oregon Public Utilities Commission (Oregon PUC). Kootenai's complaint requested that the Commission initiate an enforcement action to correct an Oregon PUC order that rejected Kootenai's attempt to sell QF output to Idaho Power at avoided cost rates. The Oregon PUC order found that Kootenai was not entitled to a PURPA PPA in Oregon because the output would ultimately be delivered in the state of Idaho, despite previous Commission findings that Kootenai has the right to deliver all the way across the relevant transmission system. On June 14, 2013, the Commission issued a Notice of Intent Not to Act and Declaratory Order declining to initiate an enforcement action but finding that the Oregon PUC order misinterpreted a previous Commission order and is inconsistent with PURPA. Idaho Power filed for rehearing and/or clarification of the June 14 order. Agenda item E-27 may be an order on rehearing and/or clarification.

E-28: Smoky Mountain Transmission LLC, Docket No. ER13-911-000

On February 8, 2013, Smoky Mountain Transmission LLC (Smoky Mountain) filed for a waiver of the transmission planning requirements in Order No. 1000. Smoky Mountain states that it owns limited and discrete transmission facilities that are isolated geographically and not likely to be used or needed in any regional transmission plan. Agenda item E-28 may be an order on the waiver request.

E-29: Terra-Gen Dixie Valley, LLC, Docket Nos. ER13-76-000, ER13-1837-000

On October 11, 2012, Terra-Gen Dixie Valley, LLC (Terra-Gen) filed its Order No. 1000 compliance filing in Docket No. ER13-76-000. Subsequently, on June 14, 2013 in Docket No. ER13-1837-000, Terra-Gen filed for waiver of the requirement to file tariff amendments in order to implement the regional and interregional planning and cost allocations requirements of Order No. 1000. Agenda item E-29 may be an order on the compliance filing and/or the waiver request.

E-30: Peetz Logan Interconnect, LLC, Docket No. ER13-109-000; Sagebrush, a California Partnership, Docket No. ER13-110-000; Sky River LLC, Docket No. ER13-111-000

On October 11, 2012, the above-named entities filed for waiver of the transmission planning requirements in Order No. 1000. The entities state that they each own radial transmission facilities that are generator tie lines and are subject to an OATT as a result of receiving transmission service requests from unaffiliated third

parties. None of the radial lines operate as part of integrated transmission systems or serve any load. The entities state that their OATTs are consistent with the principles adopted in Order No. 890, and no third party should be harmed by granting waiver from the extended transmission planning requirements set forth in Order No. 1000. Agenda item E-30 may be an order on the requests for waiver.

E-31: South Louisiana Electric Cooperative Association, Docket No. RC13-4-001

On July 18, 2013, the Commission granted the registration appeal of South Louisiana Electric Cooperative Association (SLECA) and reversed a NERC Board of Trustees Compliance Committee decision that upheld SLECA's registration as a Distribution Provider and Load Serving Entity in the SERC Reliability Corporation Regional Entity footprint. NERC filed for rehearing of the order. Agenda item E-31 may be an order on rehearing.

E-32: Silver Merger Sub, Inc., NV Energy, Inc., Nevada Power Company, Sierra Pacific Power Company, MidAmerican Energy Holding Company, Docket No. EC13-128-000

On July 12, 2013, as supplemented, Silver Merger Sub, Inc. (Merger Sub), NV Energy, Inc. (NV Energy), Nevada Power Company, Sierra Pacific Power Company, and MidAmerican Energy Holding Company (MidAmerican) filed for merger authorization under Section 203 of the Federal Power Act. The transaction would result in NV Energy, as well as its two wholly owned public utility subsidiaries, becoming indirect, wholly owned subsidiaries of MidAmerican, the parent of Merger Sub. Agenda item E-32 may be an order on the application.

Gas Items

G-1: Iroquois Gas Transmission System, L.P., Docket No. RP13-1041-000

Pursuant to the directives of a January 4, 2013 Audit Report by the Division of Audits of the Commission's Office of Enforcement, on July 2, 2013, as amended, Iroquois Gas Transmission System, L.P. (Iroquois) filed modifications to its FERC Gas Tariff, Second Revised Volume No. 1 – General Terms and Conditions, Section 20 (Impairment of Deliveries) and Section 21 (Force Majeure and Remedies). The filing contains revisions to the reservation charge crediting provisions of Iroquois' FERC Gas Tariff for non-force majeure interruptions that conform to current Commission policy, as well as certain clarifying and conforming language changes related to the modifications. Agenda item G-1 may be an order on the proposed modifications.

G-2: High Point Gas Transmission, LLC, Docket Nos. RP12-945-001, AC13-112-000

In compliance with a June 2012 order, on August 14 and 16, 2012, as further supplemented, High Point Gas Transmission, LLC (High Point) filed revised jurisdictional rates, calculated using a cost of service which included only the costs deemed by the Commission to be related to the transmission function. High Point stated that it did not include separately stated gathering rates in its compliance filing and that a new affiliate would become the owner of the gathering facilities and unutilized facilities. Parties filed protests to the filing, and on September 28, 2012, the Commission accepted High Point's tariff records, subject to further review and refund. Parties filed for rehearing and/or clarification of the September order, which the Commission denied on June 5, 2013, but stated that it would be reviewing responses to data requests submitted by High Point at a later time and would issue a further order in Docket No. RP12-945. Also, on May 1, 2013, as amended, High Point submitted its Final Accounting Entries. Agenda item G-2 may be a further order in Docket No. RP12-945 addressing the data responses and/or an order on the Final Accounting Entries.

G-3: Viking Gas Transmission Company, Docket No. RP13-185-000

On September 20, 2013, a Certification of Uncontested Settlement was issued regarding an offer of settlement purporting to resolve all issues in the proceeding. The settlement stemmed from a November 15, 2012 order instituting a Natural Gas Act (NGA) section 5 investigation as to Viking's existing rates. Agenda item G-3 may be an order on the settlement.

Hydro Items

H-1: FFP Qualified Hydro 14, LLC, Docket No. P-13579-002; Western Minnesota Municipal Power Agency, Docket No. P-14491-000

These dockets involve competing applications to study the feasibility of a hydroelectric project to be located at the US Army Corps of Engineers (Corps) Saylorville Reservoir in Polk County, Iowa. The projects would use the same water resource, i.e., surplus water released by the Corps from the Saylorville reservoir. On October 10, 2013, the Commission announced a filing priority drawing for the applications after determining that as neither of the applicants' plans is better adapted than the other to develop, conserve and utilize in the public interest the water resources

at issue, a drawing is appropriate to break the tie. Prior to the announcement, Western Minnesota Municipal Power Agency filed a motion to withdraw from the drawing claiming filing priority should not be an issue under the circumstances. On October 23, 2013, the Commission issued a notice stating that the drawing determined FFP Qualified Hydro 14, LLC to be the priority applicant. Agenda item H-1 may be an order on the applications.

H-2: Alabama Power Company, Docket No. P-2146-139

On March 19, 2013, Alabama Power Company (APC) submitted a request to FERC to authorize APC to permit non-project uses at Clear Creek Cove, specifically, approval to permit existing and proposed facilities associated with a 15.5-acre recreational vehicle park on Lake Logan Martin. On May 15, 2013, FERC issued a "Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene and Protests" regarding the application. Many parties filed comments in the proceeding, and on July 12, 2013, APC filed a letter to address the comments and issues raised. Agenda item H-2 may be an order on the application.

Certificate Items

C-1: Columbia Gas Transmission, LLC, Docket No. CP13-477-000

On May 15, 2013, as supplemented, Columbia Gas Transmission, LLC (Columbia) filed an application under section 7 of the NGA to construct new compressors and a new compressor station, install additional compressor units at an existing compressor station, install new station pipeline, control system and other appurtenant facilities at two existing compressor stations, as well as other sites on its existing pipeline system. On October 29, 2013, an Environmental Assessment of the project was issued. Agenda item C-1 may be an order on Columbia's application.

C-2: Gulf South Pipeline Company, LP, Docket Nos. CP13-91-000, CP13-92-000, CP13-93-000

On March 1, 2013, Gulf South Pipeline Company, LP (Gulf South) filed an abbreviated application pursuant to section 7(b) of the NGA for authorization to abandon by sale or inter-corporate transfer to an affiliate certain natural gas pipeline facilities located in Louisiana. In addition, Gulf South requested the Commission find that, after the transaction, the subject facilities will qualify as Hinshaw pipeline facilities, exempt from Commission jurisdiction. Agenda item C-2 may be an order on the application.

C-3: Transcontinental Gas Pipe Line Company, LLC, Docket No. CP12-497-001

On August 16, 2013, Transcontinental Gas Pipe Line Company, LLC (Transco) filed for rehearing of one aspect of a July 18, 2013 Order Issuing Certificate and Approving Abandonment. Specifically, Transco requested rehearing of the “grant” of a “presumption favoring rolling of costs of the [replacement project] into the incremental rates for service on the [expansion project] in Transco’s next NGA section 4 rate proceeding.” Agenda item C-3 may be an order on rehearing.

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