

# FERC

## Meeting Agenda Summary

---

### In this issue...

- Electric Items
  - Gas Items
  - Hydro Items
  - Certificates
- 

**18 November 2015**

**Authors:** Daniel A. Hagan, Jane E. Rueger

Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's November 19, 2015 meeting, pursuant to the agenda as issued on November 12, 2015. Agenda items E-6, E-16, E-21, E-42 and C-1 have not been summarized as they were omitted from the agenda.

### Electric

**E-1 – Third-Party Provision of Primary Frequency Response Service (Docket No. RM15-2-000).** On February 19, 2015, the Commission issued a notice of proposed rulemaking, proposing to revise the regulations governing market-based rates for public utilities pursuant to the Federal Power Act (FPA) to permit the sale of primary frequency response service at market-based rates by sellers with market-based rate authority for energy and capacity. The rulemaking is intended to promote competition in anticipation of growing demand for the service as a result of a reliability standard that requires Balancing Authorities to meet a minimum frequency response obligation. Agenda item E-1 may be an order on the notice of proposed rulemaking.

**E-2 – Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators (Docket No. AD14-14-000).** On June 19, 2014, the Commission initiated a proceeding to evaluate issues regarding price formation in the energy and ancillary services markets operated by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs). Agenda item E-2 may be an order on the comments submitted and workshops conducted in the proceeding.

**E-3 – Reactive Power Requirements for Non-Synchronous Generation (Docket No. RM16-1-000).** Agenda item E-3 may initiate a new proceeding for a notice of proposed rulemaking on reactive power requirements for non-synchronous generation.

**E-4 – California Independent System Operator Corporation (Docket No. ER15-861-004).** On August 28, 2015, the California Independent System Operator Corporation (CAISO) submitted a filing in compliance with the Commission's July 21, 2015 order (July 21 Order) on CAISO's proposed tariff revisions to ensure the readiness of new entities commencing participation in the Energy Imbalance Market (EIM). CAISO's August

---

28 compliance filing includes in its tariff specific readiness requirements and criteria that apply to all prospective EIM entities, and clarifies certain tariff provisions in a previous compliance filing, as directed by the Commission. Numerous entities submitted comments. Agenda item E-4 may be an order on CAISO's compliance filing.

**E-5 – Nevada Power Company, Sierra Pacific Power Company, PacifiCorp (Docket Nos. ER15-2281-000, ER15-2282-001, & ER15-2283-000).** On July 27, 2015, pursuant to section 205 of the FPA and in compliance with a May 14, 2015 Commission order, Nevada Power Company, Sierra Pacific Power Company and PacifiCorp (collectively, the Berkshire EIM Utilities) filed certain revisions to their respective market-based rate tariffs to reflect their participation in the EIM administered by CAISO. Numerous entities filed motions to intervene and comments. Agenda item E-5 may be an order on the compliance filings.

#### **E-6 – Omitted**

**E-7 – Revisions to Public Utility Filing Requirements (Docket No. RM15-3-001).** On July 16, 2015, the Commission issued Order No. 812, a final rule that eliminates FERC-566 filing requirements for certain entities. FERC-566 is an annual report of a utility's 20 largest customers. On August 17, 2015, Dominion Resources Services, Inc. (Dominion) requested clarification or, in the alternative, rehearing of Order No. 812. Specifically, Dominion requested that the Commission clarify that an entity that is both an exempt wholesale generator and a qualifying facility is not required to file a FERC-566. Agenda item E-7 may be an order on Dominion's request for clarification or rehearing.

**E-8 – Availability of E-Tag Information to Commission Staff (Docket No. RM11-12-001).** On December 20, 2012, the Commission issued Order No. 771, a Final Rule that amended the Commission's regulations to grant the Commission access, on a non-public and ongoing basis, to the complete electronic tags (e-Tags) used to schedule the transmission of electric power interchange transactions in wholesale markets. In January 2013, numerous entities filed requests for rehearing and/or clarification of Order No. 771. On March 8, 2013, the Commission issued Order No. 771-A, an order on rehearing and clarification that addressed only those issues that needed to be answered on an expedited basis to allow entities affected by Order No. 771 to understand their obligations and comply with the requirement to ensure Commission access to the e-Tags covered by the Final Rule in a timely manner. The Commission stated in Order No. 771-A that it would issue an additional rehearing order, addressing the remaining issues raised on rehearing and clarification. Agenda item E-8 may be an additional rehearing order, addressing the remaining issues raised on rehearing and clarification.

**E-9 – Revisions to Emergency Operations Reliability Standards, Revisions to Undervoltage Load Shedding Reliability Standards, Revisions to the Definition of "Remedial Action Scheme" and Related Reliability Standards (Docket Nos. RM15-7-000, RM15-12-000, & RM15-13-000).** On June 18, 2015, the Commission issued a notice of proposed rulemaking, proposing to approve Reliability Standards and definitions of terms submitted in three related petitions by the North American Electric Reliability Corporation (NERC). Specifically, the Commission proposed to approve Reliability Standards EOP-011-1 (Emergency Operations) and PRC-010-1 (Undervoltage Load Shedding). The Commission also proposed to approve NERC's revised definition of the term "Remedial Action Scheme" as set forth in the NERC Glossary of Terms Used in Reliability Standards, and modifications of specified Reliability Standards to incorporate the revised definition. Further, the Commission proposed to approve the proposed implementation plans, and the retirement of certain currently effective Reliability Standards. Numerous entities filed comments. Agenda item E-9 may be an order on the notice of proposed rulemaking.

**E-10 – Transmission Operations Reliability Standards and Interconnection Reliability Operations and Coordination Reliability Standards (Docket No. RM15-16-000).** On June 18, 2015, the Commission issued a notice of proposed rulemaking, proposing to approve revisions to the Transmission Operations and Interconnection Reliability Operations and Coordination Reliability Standards, developed by NERC. The revisions are intended to strengthen coordinated efforts to plan and reliably operate the bulk electric system under normal and abnormal conditions. Numerous entities submitted comments. Agenda item E-10 may be an order on the notice of proposed rulemaking.

**E-11 – Midwest Independent Transmission System Operator, Inc. (Docket No. ER11-4081-001).** On June 11, 2012, the Commission issued an order conditionally accepting Midcontinent Independent System Operator, Inc.'s (MISO) proposed resource adequacy construct, subject to further compliance filings. The Commission's June 2012 order also rejected MISO's proposed minimum offer price rule. In July 2012, multiple

---

parties filed requests for rehearing and/or clarification of the Commission's June 2012 order. Agenda item E-11 may be an order on the requests for rehearing and/or clarification.

**E-12 – Midwest Independent Transmission System Operator, Inc. (Docket No. ER11-4081-002).** On June 11, 2012, the Commission issued an order conditionally accepting MISO's proposed resource adequacy construct, subject to further compliance filings. The Commission's June 2012 order also rejected MISO's proposed minimum offer price rule. On July 11, 2012, MISO submitted a compliance filing and proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff consistent with the Commission's June 2012 order. Numerous entities filed comments. Agenda item E-12 may be an order on MISO's compliance filing.

**E-13 – Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation (Docket Nos. ER15-698-000 & ER15-698-001).** On December 22, 2014, pursuant to section 205 of the FPA, Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation (jointly the NSP Companies), submitted proposed revisions to the Restated Agreement to Coordinate Planning and Operations and Interchange Power and Energy between the NSP Companies (Interchange Agreement). On September 23, 2015, the NSP Companies submitted an amendment and informational report in reference to their previously filed proposed revisions to the Interchange Agreement. Agenda item E-13 may be an order on the NSP Companies' Interchange Agreement.

**E-14 – Idaho Power Company (Docket No. ER15-2292-000).** On July 28, 2015, pursuant to section 205 of the FPA, Idaho Power Company (Idaho Power) submitted a filing seeking two alternative Commission determinations. First, Idaho Power seeks Commission verification that the demand inputs to its transmission formula rate may, upon closing of a transaction with PacifiCorp, reflect: (1) the cancellation of 1,836 megawatts (MW) of terminated legacy agreements with PacifiCorp (the Legacy Agreements), and (2) the addition of 310 MW of demand associated with Long-Term Firm Point-To-Point Transmission Service reservations with PacifiCorp that replace the cancelled Legacy Agreements (the LTF PTP). In the alternative, if the Commission determines that Idaho Power's existing transmission formula rate does not provide authority for the proposed demand treatment, then Idaho Power requested that the Commission: (1) authorize Idaho Power to make a onetime adjustment to the demand portion of its formula rate to reflect the cancellation of the Legacy Agreements and addition of the LTF PTP transmission service, and (2) grant a limited, one-time waiver of several provisions within its formula rate necessary to effect the adjustments. Numerous parties filed motions to intervene and/or comments. Agenda item E-14 may be an order on Idaho Power's July 2015 filing.

**E-15 – PJM Interconnection, L.L.C. and American Transmission Systems, Inc. (Docket No. ER12-2399-003).** On August 3, 2012, FirstEnergy Service Company filed revisions to Attachments M-1 and M-2 of the Open Access Transmission Tariff (OATT) of PJM Interconnection, L.L.C. (PJM) (August 3 Filing). Attachment M-1 governs the Total Hourly Energy Obligation for both wholesale and retail load serving entities (LSEs) operating in the service territories of the FirstEnergy Electric Distribution Companies (EDCs) in PJM. Attachment M-2 governs the determination of Peak Load Contribution and Network Service Peak Load for each LSE in its respective FirstEnergy transmission pricing zone for the PJM planning year. On October 2, 2012, the Commission accepted and nominally suspended the August 3 Filing, to become effective August 3, 2012, subject to refund, and established hearing and settlement judge procedures to address questions of material fact which could not be resolved on the record before it. On September 27, 2013, the Commission accepted a partial settlement which revised Attachments M-1 and M-2, and settled all issues among the settling parties. The partial settlement did not address the issues raised by Old Dominion Electric Cooperative (ODEC), which were set for hearing procedures. On July 15, 2014, a Commission administrative law judge issued an initial decision finding, inter alia, that Attachments M-1 and M-2 apply to both ODEC and its load. Agenda item E-15 may be an order on the initial decision.

#### **E-16 – Omitted**

**E-17 – PJM Interconnection, L.L.C. (Docket Nos. ER15-2260-001 & EL14-24-000).** On March 20, 2014, the Commission issued an order initiating investigations under section 206 of the FPA into the day-ahead scheduling practices of the regional transmission organizations and independent system operators to determine if they are just and reasonable and to ensure that these entities' scheduling practices correlate with any revisions to the natural gas scheduling practices that may be adopted by the Commission in Docket No. RM14-2-000. On July 23, 2015, PJM submitted a compliance filing to address the Commission's directives in the March 2014 order and Order No. 809 from Docket No. RM14-2-000. PJM's compliance filing proposed to

---

shorten the time in which it clears its Day-Ahead Energy Market from four to three hours to accommodate proposed revisions to the PJM OATT and Amended and Restated Operating Agreement to modify the deadlines for: (1) posting the results of its Day-Ahead Energy Market from 4:00 p.m. to 1:30 p.m.; and (2) submitting bids and offers for the Day-Ahead Energy Market from 12:00 p.m. to 10:30 a.m. Numerous entities filed motions to intervene and/or comments. Agenda item E-17 may be an order on PJM's compliance filing.

**E-18 – New York Independent System Operator, Inc. (Docket No. EL14-26-000).** On March 20, 2014, the Commission issued an order in Docket Nos. EL14-22-000, et al., pursuant to FPA section 206, instituting an investigation into the justness and reasonableness of ISOs' and RTOs' day-ahead scheduling practices. Agenda item E-18 may be an order relating to the investigation as it pertains to New York Independent System Operator, Inc. (NYISO).

**E-19 – ISO New England Inc. (Docket No. EL14-23-000).** On March 20, 2014, the Commission issued an order in Docket Nos. EL14-22-000, et al., pursuant to FPA section 206, instituting an investigation into the justness and reasonableness of ISOs' and RTOs' day-ahead scheduling practices. Agenda item E-19 may be an order relating to the investigation as it pertains to ISO New England Inc. (ISO-NE).

**E-20 – Southwest Power Pool, Inc. (Docket No. ER15-2295-000).** On July 28, 2015, the Southwest Power Pool (SPP) filed for a waiver of the one-year billing adjustment limitation in Section 7.1 of the SPP's Tariff to facilitate SPP's resettlement of past invoices necessitated by computer software issues. Agenda item E-20 may be an order on SPP's waiver request.

#### **E-21 – Omitted**

**E-22 – New York Transco, LLC (Docket No. ER15-572-003).** On September 29, 2015, New York Transco moved for a temporary and limited waiver of the transmission formula rate implementation protocols of the NYISO Tariff to suspend temporarily its obligation to post the projected Net Adjusted Revenue Requirement pursuant to the protocols. Agenda item E-22 may be an order on NY Transco's waiver request.

**E-23 – Rancho Cucamonga Municipal Utility (Docket No. ER15-2550-000).** On August 27, 2015, RCMU petitioned the Commission to grant RCMU a limited waive of CAISO Tariff provisions. RCMU was required to provide a May 2014 Resource Adequacy plan and was sanctioned under Section 37.6.1 of the CAISO Tariff for failing to do so on time. Section 37.6.1 provides a \$500 per day penalty for each day that required information is late. RCMU requested a limited waiver of this tariff section for the period of time related to the CAISO sanction. Agenda item E-23 may be an order on RCMU's waiver request.

**E-24 – Eastside Power Authority (Docket No. ER15-2588-000).** On September 1, 2015, Eastside petitioned the Commission to grant Eastside a limited waive of CAISO Tariff provisions. Eastside was required to provide a May 2014 RA plan and was sanctioned under Section 37.6.1 of the CAISO Tariff for failing to do so on time. Section 37.6.1 provides a \$500 day penalty for each day that required information is late. Eastside requested a limited waiver of this tariff section for the period of time related to the CAISO sanction. Agenda item E-24 may be an order on Eastside's waiver request.

**E-25 – Seminole Electric Cooperative, Inc. and Florida Municipal Power Agency v. Florida Power Corporation (Docket Nos. ER12-39-000 & ER12-39-001); Seminole Electric Cooperative, Inc. and Florida Municipal Power Agency v. Duke Energy Florida, Inc. (Docket Nos. EL13-63-000, EL13-63-001, & EL14-90-000); Duke Energy Florida, Inc. (Docket Nos. ER13-1356-000, ER13-1356-001, ER14-1832-000, & ER15-1618-000).** On August 13, 2015, Duke Energy Florida (DEF) filed a motion to hold in abeyance its request for rehearing in this proceeding. The complainants in this proceeding alleged that the ROE in DEF's transmission Formula Rate is unjust and unreasonable. By order issued June 19, 2014, the Commission set the complaint for hearing and settlement procedures. On July 21, 2014, DEF submitted a rehearing request of this order. On July 21, 2015, the parties executed a Settlement Agreement that would resolve all issues in the above-captioned proceedings, and on August 12, 2015, the Chief Judge certified the Settlement to the Commission for approval. DEF requested that the Commission hold in abeyance its July 21, 2014 Rehearing Request pending action on the Settlement. Agenda item E-25 may be an order on DEF's motion.

**E-26 – Black Oak Energy, L.L.C., EPIC Merchant Energy, L.P. and SESCO Enterprises, L.L.C. v. PJM Interconnection, L.L.C. (Docket No. EL08-14-010).** Black Oak Energy, EPIC Merchant Energy, and SESCO Enterprises and other interested "virtual marketers" filed a complaint relating to the collection of certain charges for transmission line losses and the disbursement of the over-collection of these charges. On

---

September 17, 2009, the Commission directed PJM to pay refunds under FPA section 206(b) to certain Virtual Marketers who had contributed to the fixed costs of the transmission system. On July 21, 2011, the Commission granted rehearing of its refund requirement, finding that its initial direction to PJM to pay refunds conflicted with the Commission's policy of not requiring refunds to be paid for rate design and cost allocation changes. On appeal, the court affirmed the Commission's determination to grant rehearing; however, the court found that since PJM already had paid refunds to the Virtual Marketers, the Commission failed to justify permitting PJM to recoup those refunds. The court remanded the case for further consideration of the recoupment issue; however, the court did not vacate the Commission's order directing the recoupment, because it found it plausible that the Commission could redress its inadequate explanation on remand and could still reach the same result. On February 20, 2014, the Commission set a briefing schedule for the parties to submit briefs on the recoupment issue. Agenda item E-26 may be an order addressing the recoupment issue.

**E-27 – Entergy Arkansas, Inc. (Docket No. ER12-1384-001); Entergy Gulf States Louisiana, L.L.C. (Docket No. ER12-1385-002); Entergy Louisiana, LLC (Docket No. ER12-1386-001); Entergy Mississippi, Inc. (Docket No. ER12-1387-001); Entergy New Orleans, Inc. (Docket No. ER12-1388-001); Entergy Texas, Inc. (Docket No. ER12-1390-001); Louisiana Public Service Commission v. Entergy Corporation, Entergy Services, Inc., Entergy Louisiana, LLC, Entergy Arkansas, Inc., Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Gulf States Louisiana, LLC, and Entergy Texas, Inc. (Docket No. EL11-57-002 (Consolidated)).** The Louisiana Public Service Commission (LPSC) filed a complaint under FPA section 206 seeking to include certain cancelled plant costs in the bandwidth formula that comprises sections 30.11 through 30.14 of the Entergy System Agreement. Entergy filed under FPA section 205 to include in the bandwidth formula the very same cancelled plant costs as the LPSC had proposed. On June 6, 2013, the Administrative Law Judge in the proceeding issued an initial decision determining that the LPSC failed to prove by a preponderance of the evidence that the current bandwidth formula is unjust, unreasonable, unduly discriminatory or preferential and that Entergy failed to prove by a preponderance of the evidence that such a change to the Entergy System Agreement bandwidth formula is just and reasonable. Agenda item E-27 may be a Commission order on the initial decision.

**E-28 – Entergy Services, Inc. (Docket No. ER10-2001-004).** On January 8, 2013, the Commission issued an order affirming an initial decision issued on September 23, 2011 relating to issues involving the justness and reasonableness of Entergy's proposed production depreciation rates for Entergy Arkansas. The LPSC sought rehearing. Agenda item E-28 may be an order on rehearing of the January 8, 2013 order.

**E-29 – Consumers Energy Company (Docket No. ER10-2156-004).** In 1988, Consumers and Midland Cogeneration Venture Limited Partnership (MCV) entered into a Facilities Agreement under which Consumers agreed to provide certain interconnection services at MCV's generation facility in Midland, Michigan. The Facilities Agreement was not initially filed with the Commission as Consumers understood that the facilities and services provided for in that agreement were non-jurisdictional. By order of September 17, 2010, the Commission confirmed that the Facilities Agreement had been jurisdictional since its execution in 1988 and accepted it for filing. The Commission also ordered Consumers to refund the time value of the amounts that it had collected from MCV under the agreement prior to its filing, and ordered Consumers to file a refund report. By Order dated March 21, 2013, the Commission set the proceeding for hearing and settlement judge procedures to determine the time-value of the refunds that Consumers owed to MCV, and to address other matters related to the proceeding. On August 18, 2015, the Administrative Law Judge in the proceeding issued an initial decision. Agenda item E-29 may be a Commission order on the initial decision.

**E-30 – New York Independent System Operator, Inc. (Docket No. ER12-1653-005).** On April 30, 2012 and August 17, 2012, NYISO submitted compliance filings and proposed tariff changes to establish a revised compensation methodology governing the provision of frequency regulation service, as required by Order No. 755. On November 6, 2012, the Commission conditionally accepted in part and rejected in part NYISO's April 30, 2012 and August 17, 2012 Compliance Filings, subject to filing and reporting conditions. On August 26, 2014, NYISO submitted a filing containing a demonstration of how its interim market power mitigation proposal meets the requirements of Order No. 755 and the Commission's November 6, 2012 order as a permanent market power mitigation method. Agenda item E-30 may be an order on NYISO's August 26, 2014 filing.

---

**E-31 – California Independent System Operator Corporation (Docket No. ER15-2272-000).** On July 24, 2015, CAISO filed a request for Commission authorization to include EIM transfer constraints between the NV Energy balancing authority area and the CAISO and PacifiCorp East balancing authority areas in CAISO's local market power mitigation procedures, consistent with section 29.39(d)(2) of the CAISO tariff. Agenda item E-31 may be an order on CAISO's request.

**E-32 – California Independent System Operator Corporation (Docket No. ER14-2017-001).** On May 22, 2014, CAISO filed revisions to its tariff to implement modeling enhancements that included the authority to model unscheduled flow in CAISO's day-ahead market, the enforcement of power flow constraints in the day-ahead market, and the expansion of the full network model topology to include information on resources, load, and interchange schedules in other balancing authority areas. In a July 31, 2014 Order, the Commission accepted the May 22 Tariff Filing subject to a compliance filing. On September 2, 2014, CAISO submitted its compliance filing pursuant to the July 31, 2014 order. Agenda item E-32 may be an order on CAISO's July 31, 2014 compliance filing.

**E-33 – Joint Consumer Representatives v. PJM Interconnection, L.L.C. (Docket No. EL15-83-000).** On June 30, 2015, Joint Consumer Representatives in this proceeding filed a formal complaint against PJM pursuant to FPA Sections 206 and 306 alleging that PJM failed to update its 2015 PJM Region Peak Load Forecast values, for purposes of the upcoming Capacity Performance Transition Incremental Auctions and 2015 Base Residual Auction, to reflect the impact of recent enhancements to PJM's load forecasting model that will result in an enhanced load forecast. Agenda item E-33 may be an order on the complaint.

**E-34 – Louisiana Public Service Commission v. Entergy Corporation, Entergy Services, Inc., Entergy Louisiana, L.L.C., Entergy Arkansas, Inc., Entergy New Orleans, Inc., Entergy Mississippi, Inc., Entergy Gulf States Louisiana, LLC, and Entergy Texas, Inc. (Docket No. EL10-55-002).** On March 31, 2010, the LPSC filed a complaint against Entergy and its subsidiaries pursuant to Sections 206 and 306 of the FPA, seeking to change the depreciation and decommissioning data and rates in the bandwidth formula of section 30.12 of Service Schedule MSS-3 of the Entergy System Agreement. On July 1, 2010, the Commission issued an order establishing hearing and settlement judge proceedings. After hearing proceedings, on May 7, 2012, the Commission issued Opinion No. 519 affirming the decision of the Presiding Judge that the LPSC had not met its burden to show the existing bandwidth formula was unjust and unreasonable or unduly discriminatory and, in light of that conclusion, it was not necessary to evaluate proposed alternatives to the existing bandwidth formulas. On June 6, 2012, the LPSC filed a request for rehearing of Opinion No. 519. Agenda item E-34 may be an order on the LPSC's request for rehearing.

**E-35 – North Carolina Waste Awareness and Reduction Network, Inc. v. Duke Energy Carolinas, LLC and Duke Energy Progress, Inc. (Docket No. EL15-32-001).** On December 16, 2014, the North Carolina Waste Awareness and Reduction Network, Inc. (NC WARN) filed a complaint pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, petitioning for an investigation into the practices of Duke Energy Carolinas, LLC and Duke Energy Progress, Inc. (collectively Duke Energy). NC WARN alleged that certain practices of Duke Energy have led to "excess capacity and waste" by continuing to seek authority to build "unnecessary" and "expensive" generation resources. On April 30, 2015, the Commission issued an order on the complaint, declining to grant the relief requested, finding NC WARN failed to show that Duke Energy's generation construction practices have led to unjust and unreasonable wholesale energy or transmission rates. On May 14, 2015, NC WARN filed a motion for reconsideration of the April 30 order, and renewed its petition for an investigation into Duke Energy's practices. Agenda item E-35 may be an order on NC WARN's motion for reconsideration.

**E-36 – NextEra Desert Center Blythe, LLC v. California Independent System Operator Corporation (Docket No. EL15-47-001).** On February 18, 2015, NextEra Desert Center Blythe, LLC (NextEra) filed a complaint against CAISO pursuant to Section 206 of the FPA. NextEra's complaint requested the Commission to require CAISO to allocate to NextEra Congestion Revenue Rights (CRRs) created by its investment in the Interim West of Devers upgrades project, or in the alternative if NextEra does not have CRRs, then find the CAISO tariff unjust and unreasonable and order revisions to permit NextEra to receive CRRs. On June 6, 2015, the Commission issued an order denying the complaint, finding that the project was not eligible to be allocated CRRs. On July 2, 2015, NextEra requested rehearing of the June 6 order. Agenda item E-36 may be an order on NextEra's request for rehearing.

---

**E-37 – Jeffers South, LLC v. Midwest Independent Transmission System Operator, Inc. (Docket No. EL10-86-004).** On September 1, 2010, Jeffers South, LLC (Jeffers South) filed a complaint against MISO, alleging that MISO violated its obligation regarding the study of network upgrades necessary to accommodate the interconnection of Jeffers South generation facility (Jeffers South Project). MISO had concluded Jeffers South was obligated to fund construction of the Dotson-New Ulm Line, determining that the line would not be needed “but for” the Jeffers South Project. On January 7, 2011, the Commission issued an order on the complaint establishing hearing and settlement procedures. Following a hearing, the Presiding Judge issued an Initial Decision in favor of MISO. On July 18, 2013, the Commission issued an order reversing the Initial Decision and granting Jeffers South the requested relief, concluding that the Jeffers South Project was one of a number of considerations used to justify construction of the Dotson-New Ulm Line, and therefore it was not possible to conclude that construction of the line would be unnecessary but for the Jeffers South interconnection request. On August 19, 2013, MISO filed a request for rehearing, or, in the alternative, a request for clarification, of the July 18 order. Agenda item E-37 may be an order on MISO’s request for rehearing and/or clarification.

**E-38 – Hudson Transmission Partners, LLC v. New York Independent System Operator, Inc. (Docket Nos. EL12-98-001 & EL12-98-002).** On August 3, 2012, Hudson Transmission Partners, LLC (HTP) filed a complaint against NYISO, alleging that NYISO improperly applied its New York City buyer-side market mitigation exemption test as to HTP’s new 660 MW high voltage, direct current merchant transmission facility. On November 21, 2013, the Commission issued an order granting in part and denying in part HTP’s complaint, and directed NYISO to submit a compliance filing as to calculations regarding the scaling factor used in the HTP project determination. On December 23, 2013, HTP filed a request for rehearing and clarification of the November 21 order. Relatedly, on February 21, 2014, NYISO submitted the requested compliance filing detailing certain calculations used to determine the scaling factor. Agenda item E-38 may be an order on HTP’s request for rehearing and/or the compliance filing.

**E-39 – New England Power Generators Association, Inc. v. ISO New England Inc. (Docket No. EL15-25-001).** On December 3, 2014, New England Power Generators Association, Inc. (NEPGA) filed a complaint against ISO-NE pursuant to Section 206 of the FPA. The complaint sought modification or elimination of ISO-NE’s Peak Energy Rent (PER) Adjustment mechanism contained in the rules governing the Forward Capacity Market. On January 30, 2015, the Commission issued an order denying the complaint, finding that NEPGA failed to meet its burden to demonstrate that ISO-NE’s existing tariff provisions governing the PER Adjustment were unjust and unreasonable, and declining to address NEPGA’s proposed alternatives. In addition, Commissioners Moeller and Clark issued a Joint Statement, noting that although NEPGA failed to satisfy its burden under the complaint, it and other parties had “raised valid concerns regarding continued application of the existing PER Adjustment in light of increases in the Reserve Constraint Penalty Factors in ISO-NE’s energy market put in place in 2014” and encouraged “ISO-NE and its stakeholders to consider potential changes to the PER Adjustment mechanism.” On March 2, 2015, NEPGA filed a request for rehearing of the January 30 order. Agenda item E-39 may be an order on the request for rehearing.

**E-40 – Chevron U.S.A Inc. (Docket No. EL15-62-000).** On April 29, 2015, Chevron U.S.A. Inc. (Chevron) filed a petition for a declaratory order and request for expedited consideration, requesting the Commission issue a declaratory order confirming that certain qualifying cogeneration facilities indirectly owned by or affiliated with Chevron are exempt from Section 203 of the FPA. Agenda item E-40 may be an order on the petition for a declaratory order.

**E-41 – Western Area Power Administration (Docket No. EF15-8-000).** On July 23, 2015, the Western Area Power Administration (WAPA) submitted for final Commission approval certain rate schedules concerning formula transmission and ancillary service rates for the Pick-Sloan Missouri Basin Program—Eastern Division, to be effective October 2, 2015. The rates pertain to the transfer and functional control of certain eligible WAPA—Upper Great Plains regions facilities to SPP. Interventions and comments were subsequently filed by Missouri River Energy Services and Northwestern Corporation. Agenda item E-41 may be an order on the WAPA rate schedules submitted for Commission approval.

**E-42 – Omitted**

---

**E-43 – City of Alexandria, Louisiana (Docket No. TS15-1-000).** On December 31, 2014, the City of Alexandria, Louisiana (Alexandria) submitted a petition requesting waiver of Commission OATT, Open Access Same Time Information System (OASIS), and Standards of Conduct requirements and related Commission regulations that might otherwise apply to Alexandria. The request for waiver relates to certain Alexandria-owned transmission facilities in which functional control was turned over to MISO following integration of Alexandria's transmission system into the MISO network. Agenda item E-43 may be an order on the petition for waiver.

**E-44 – Chehalis Power Generating, L.P. (Docket No. ER05-1056-009).** In May 2005, Chehalis Power Generating, L.P. (now TNA Merchant Projects, Inc., (TNA)) filed a proposed rate schedule seeking financial compensation for the reactive power service it provided to the Bonneville Power Administration (BPA), spawning lengthy litigation over whether the rate was an initial or changed rate under section 205 of the FPA. In 2010, following remand from the Court of Appeals for the D.C. Circuit (D.C. Circuit), the Commission issued an order that the rate was a changed rate under section 205 of the FPA. After rehearing, Chehalis/TNA again appealed to the D.C. Circuit but in June 2013 the Commission filed a motion with the D.C. Circuit for a voluntary remand, explaining that it wanted to further consider arguments raised by Chehalis/TNA in its brief to the court. Thereafter, on October 17, 2013, the Commission issued its Voluntary Remand Order, affirming its finding that the rate was a changed rate and clarified its existing policy that generators providing jurisdictional reactive power service without compensation must file rate schedules. In light of the policy clarification, the Commission also ordered that Chehalis/TNA be permitted to recover amounts previously refunded to BPA. BPA and TNA requested rehearing of the Voluntary Remand Order, requesting payments for reactive power service, but on July 16, 2015, the Commission issued an order denying that request, finding it does not have the authority to order certain repayments under the FPA as BPA is an exempt government entity. On August 14, 2015, TNA requested rehearing of the Commission's July 16 order. Agenda item E-44 may be an order on the request for rehearing.

**E-45 – ISO New England Inc. and New England Power Pool (Docket Nos. ER14-1050-002 & EL14-52-001).** On January 17, 2014, ISO-NE and New England Power Pool (NEPOOL) submitted, pursuant to Section 205 of the FPA, two "jump ball" proposals to revise ISO-NE's Transmission, Markets and Services Tariff under Docket No. ER14-1050. ISO-NE's proposal involves significant changes to the Forward Capacity Market (FCM) design and NEPOOL's proposal involves incremental changes to the energy and ancillary services market and the FCM market while largely maintaining existing FCM rules. On May 30, 2014, the Commission issued an order rejecting both proposals, finding that neither was shown to be just and reasonable and requiring ISO-NE to submit tariff revisions reflecting a modified version of its proposal. In addition, the Commission found that ISO-NE's existing tariff is unjust and unreasonable because it fails to provide adequate incentives for resource performance, thereby threatening reliable operation of the system and forcing consumers to pay for capacity without receiving commensurate reliability benefits. The Commission instituted an investigation under Section 206 of the FPA as to ISO-NE's current tariff under a separate docket (Docket No. EL14-52). Multiple parties subsequently filed requests for rehearing or clarification under both the initial docket and separate Section 206 investigation docket. Agenda item E-45 may be an order on the requests for rehearing and/or clarification filed in relation to the May 30 order and/or the Section 206 investigation.

**E-46 – ISO New England Inc. (Docket Nos. ER14-2419-003 & EL14-52-002).** As detailed above in Agenda Item E-45, ISO-NE submitted revisions to its Transmission, Markets and Services Tariff to implement certain changes to its capacity market design. On July 14, 2014, under Docket ER14-2419, ISO-NE submitted a compliance filing containing revisions to its Tariff to implement the two-settlement capacity market design as directed by the Commission in its May 30 order under Docket No. ER14-1050. On October 2, 2014, the Commission issued an order on the compliance filing, accepting in part certain revisions and directing further compliance filings. Numerous parties filed requests for rehearing of the October 2 order. In addition, requests for rehearing of the October 2 order were filed in Docket No. ER14-52 (the Section 206 investigation noted in Agenda Item E-45) by the Connecticut Office of Attorney General and Vermont Electric Cooperative. Agenda item E-46 may be an order on the requests for rehearing filed in relation to the October 2 order.

**E-47 – Nevada Power Company (Docket Nos. ER15-2623-000 & ER15-2625-000).** On September 8, 2015, Nevada Power Company d/b/a NV Energy (Nevada Power) and Sierra Pacific Power Company d/b/a NV Energy (Sierra Pacific) submitted for Commission approval under Section 205 of the FPA a First Amended and Restated Transmission Use and Capacity Exchange Agreement among NV Energy Companies and Great Basin Transmission South LLC and Great Basin Transmission, LLC. Relatedly, on the same day, Nevada Power submitted an Operation and Maintenance Agreement and License and Sale Agreement between



---

Nevada Power and Desert Link, LLC. On October 29, 2015, Nevada Power submitted an Informational Notice notifying the Commission that certain approvals from the Public Utilities Commission of Nevada were received. Agenda item E-47 may be an order related to the agreements submitted for Commission approval.

## Gas

**G-1 – Alliance Pipeline L.P. (Docket No. RP15-1022-001).** On June 30, 2015, FERC issued an order accepting the revised tariffs records of Alliance Pipeline L.P. (Alliance), an open-access interstate natural gas pipeline, and suspending the tariff records to become effective December 1, 2015, subject to refund and further FERC action. FERC found that Alliance's filing was akin to a Natural Gas Act (NGA) section 4 general rate case and set for hearing all issues related to the proposed elimination of Authorized Overrun Service (AOS), IT revenue crediting, and the maintenance of its existing recourse rates. FERC also directed Alliance to provide additional support for its proposed modifications to the gas quality provisions in its tariff. Numerous parties filed requests for rehearing and/or clarification of the June 30, 2015 order. Agenda item G-1 may be an order on the requests for rehearing and/or clarification.

**G-2 – Zydeco Pipeline Company LLC (Docket Nos. IS14-607-000, IS14-608-000, IS14-609-000, & IS14-610-000).** On August 14, 2015, Zydeco Pipeline Company LLC (Zydeco) and the Liquids Shippers Group (Anadarko Petroleum Corporation, ConocoPhillips Company, and Pioneer Natural Resources USA, Inc.) submitted a settlement related to rates for transportation of petroleum on Zydeco's pipeline system to various points in Texas and Louisiana. The Presiding Administrative Law Judge (ALJ) certified the settlement as uncontested. Agenda item G-2 may be an order on the offer of settlement.

**G-3 – BP Pipelines (Alaska) Inc. (Docket Nos. IS09-348-004, IS09-395-004, IS10-204-002, IS10-491-000, IS09-348-006, IS09-395-006, IS10-204-004, & IS10-491-003), ConocoPhillips Transportation Alaska Inc. (Docket Nos. IS09-384-004, IS10-205-003, IS10-476-001, IS09-384-006, IS10-205-005, & IS10-476-003), ExxonMobil Pipeline Company (Docket Nos. IS09-391-004, IS09-177-005, IS10-200-002, IS10-547-000, IS09-391-006, IS09-177-007, IS10-200-004, & IS10-547-002), Unocal Pipeline Company (Docket No. IS09-176-004, IS07-41-005, IS08-53-005, IS10-52-001, OR10-3-001, IS10-490-000, IS11-3-000, IS09-176-006, IS07-41-007, IS08-53-007, IS10-52-003, OR10-3-004, IS10-490-002, & IS11-3-002), and Koch Alaska Pipeline Company, L.L.C. (Docket Nos. IS10-54-001, IS10-496-000, IS10-54-003, & IS10496-003).** On February 27, 2014, the Presiding ALJ issued an Initial Decision regarding the Trans Alaska Pipeline System (TAPS) Carriers 2009 and 2010 TAPS carriers filed rates and whether the TAPS Carriers prudently incurred the costs of the Strategic Reconfiguration (SR) project. Under the SR project, which has faced cost overruns and delays, the TAPS Carriers replaced gas fired turbine pumps with electric pumps at four pump stations on TAPS and upgraded control systems. The Initial Decision found that the SR expenses at issue were imprudently incurred and, as a result, cannot be flowed through rates. Parties have filed briefs on exceptions and briefs opposing exceptions. Agenda item G-3 may be an order on the Initial Decision.

**G-4 – Enterprise TE Products Pipeline Company LLC (Docket No. OR15-53-000).** This is a new docket. Agenda item G-4 may be an order regarding Enterprise TE Products Pipeline Company LLC's oil pipeline rates.

**G-5 – KPC Pipeline, LLC (Docket No. TS13-3-001).** On April 7, 2014, FERC issued an order denying KPC Pipeline, LLC's (KPC) request for a partial waiver of the Standards of Conduct requirements applicable to natural gas pipelines. FERC found that KPC has a greater quantity of pipeline facilities (over 1,000 miles) and is otherwise much larger than other entities that have been granted partial waiver. KPC filed a request for rehearing. Agenda item G-5 may be an order on the request for rehearing.

## Hydro

**H-1 – Marseilles Land and Water Company (Docket No. P-13351-021).** On October 16, 2015, Marseilles Land & Water Company (MLWC) submitted a request for FERC to stay the license for the unconstructed 10.26 MW Marseilles Lock and Dam Project. Pursuant to the license, MLWC must commence construction by December 15, 2015, but approval of the project plans and specifications from the U.S. Army Corps of Engineers is still pending. Agenda item H-1 may be an order on the request for stay.

---

**H-2 – Kevin Drone (Docket No. P-6142-008).** On April 16, 2015, FERC issued a notice to initiate proceedings to terminate the exemption by implied surrender for the Dardanelles Creek Hydroelectric Project in California due to the project being non-operational since 2009 and ongoing compliance issues with the Bureau of Land Management and the Bureau of Reclamation. Agenda item H-2 may be an order on the termination of exemption.

**H-3 – Pacific Gas and Electric Company (Docket No. P-2106-068).** On August 3, 2015, FERC issued a letter order declining to authorize a transfer of interest in certain project lands to Wyntoon Estate, LLC for the McCloud-Pit Project. FERC found that the request was premature since the new license has not been issued. Pacific Gas and Electric Company, owner and licensee of the McCloud-Pit Project, filed a request for rehearing arguing that the request was made pursuant to the existing project license and that FERC approval of the transfer would alleviate a nuisance problem. Agenda item H-3 may be an order on the request for rehearing.

**H-4 – Confederated Salish and Kootenai Tribes Energy Keepers, Incorporated (Docket No. P-5-101).** On September 1, 2015, FERC issued an order adding Energy Keepers, Incorporated (Energy Keepers) as a co-licensee for the Kerr Hydroelectric Project in Montana. Energy Keepers, which is a corporation wholly owned by the Confederated Salish and Kootenai Tribes of the Flathead Reservations (a co-licensee of the Kerr Hydroelectric Project), was added to the project license so that it can enter into power purchase, generation interconnection, and coordination agreements for the Kerr Hydroelectric Project. Numerous parties filed requests for rehearing. Agenda item H-4 may be an order on the requests for rehearing.

**H-5 – Seneca Generation, LLC (Docket No. P-2280-020).** On July 22, 2015, FERC issued an order granting a new license to Seneca Generation, LLC (Seneca) to continue operation and maintenance of the 452.35 MW Kinzua Pumped Storage Project on the Allegheny River in Pennsylvania. The U.S. Department of the Interior filed a request for rehearing concerning the effects of the licensing on the federally endangered mussel species. Seneca filed a request for rehearing and motion to stay regarding conditions imposed by the U.S. Forest Service. Agenda item H-5 may be an order on the requests for rehearing and/or motion to stay.

**H-6 – Minneapolis Leased Housing Associates IV, Limited Partnership (Docket No. P-14628-006).** On September 4, 2015, FERC issued an order granting an original license to Minneapolis Leased Housing Associates IV, Limited Partnership to construct, operate and maintain the proposed 600 kW A-Mill Artist Lofts Hydroelectric Project in Minnesota. Northern States Power Company (Northern States) filed a request for rehearing, arguing that the license allows the project to withdraw water from the reservoir of Northern States' St. Anthony Falls Hydroelectric Project and could interfere with Northern States' ability to generate electricity at the St. Anthony Falls Hydroelectric Project under low flow conditions. Agenda item H-6 may be an order on the request for rehearing.

**H-7 – Hudson River-Black River Regulating District, Green Island Power Authority and Albany Engineering Corp., Erie Boulevard Hydropower L.P. FH Opco LLC, Curtis/Palmer Hydroelectric Co., New York State Electric & Gas Corp., Fort Miller Associates GR Catalyst One. LLC, Northern Electric Power Co. and Niagara Mohawk Power Corp., South Glens Falls Limited Partnership and Niagara Mohawk Power Corp. and Albany Engineering Corp. (Docket Nos. HB81-09-2-003, P-12252-033, P-13-032, P-2047-059, P-2318-052, P-2482-099, P-2554-072, P-2385-028, P-2609-045, P-2934-027, P-4226-006, P-4684-069, P-5276-063, P-5461-050 & P-6032-074).** In 2006, Albany Engineering Corp filed a complaint with the Commission, challenging certain assessments made by the Hudson River-Black River Regulating District (District) that were made under authority of New York state law for headwater benefits related to the District's operation of the Great Sacandaga Lake Project. Albany Engineering Corp claimed the assessments were improper because FPA Section 10(f) governing reimbursements related to headwater benefits preempted New York state law. The Commission agreed, but found no preemption for assessments beyond the "interest, maintenance, and depreciation," as contained in the text of FPA Section 10(f). However, on appeal, the D.C. Circuit ruled that FPA Section 10(f) preempted all state assessments for headwater benefits, regardless of purpose. On remand, the Commission issued an order in July 2012, finding that it lacked authority to order refunds for the unauthorized collection of state assessments, but determined that those overpayments could be offset against future charges, and directed the parties to determine the break-even point when the annual section 10(f) assessments would be offset by prior overpayments and when the licensee would begin making 10(f) payments to the District. After numerous subsequent filings were made in response to the July 2012 order, on August 21, 2015, the Commission issued an order regarding the overpayments. Several parties subsequently filed requests for rehearing of the August 21 order. Agenda item H-7 may be an order on the request for rehearing.

---

**H-8 – Safe Harbor Water Power Corporation (Docket No. P-1025-086).** On March 16, 2015, the Commission issued an order approving Safe Harbor Water Power Corporation’s proposal to increase the permanent normal maximum water surface elevation of Lake Clarke. On March 30, 2015, Gerald S. Book of the Lancaster County Bird Club (Bird Club) filed a request for rehearing of the March 16 order. On June 8, 2015, the Commission convened a technical meeting to determine any additional information Commission staff may need to determine the merits of the Bird Club’s rehearing request. In addition, comments regarding the impact of the increase in water surface elevation were filed by the United States Department of Fish and Wildlife Service on August 27, 2015. Agenda item H-8 may be an order related to the request for rehearing.

## Certificates

### C-1 – Omitted

**C-2 – Tennessee Gas Pipeline, L.L.C. (Docket No. CP11-161-002).** On June 6, 2014, the D.C. Circuit issued a decision vacating and remanding a FERC ruling that a Tennessee Gas Pipeline, L.L.C. (Tennessee Gas) pipeline upgrade project would not have a significant environmental impact. The court found that FERC, in its National Environmental Policy Act review, should have evaluated the cumulative impacts of related Tennessee Gas pipeline upgrade projects. The Delaware Riverkeeper Network has filed repeated requests that FERC address the D.C. Circuit’s decision. Agenda item C-2 may be an order on remand.

**C-3 – National Fuel Gas Supply Corporation and National Fuel Gas Supply, LLC (Docket No. CP15-100-000).** On February 26, 2015, National Fuel Gas Supply Corporation (NFGSC) and National Fuel Gas Supply, LLC (NFGSL) requested authorization under NGA section 7 for a corporate reorganization pursuant to which NFGSC would merge into NFGSL, with NFGSL as the surviving entity. Agenda item C-3 may be an order on the application.

**C-4 – Dominion Transmission, Inc. (Docket No. CP14-555-000).** On September 30, 2014, Dominion Transmission, Inc. (DTI) filed an abbreviated application under NGA section 7 for a certificate of public convenience and necessity to construct, install, own, operate and maintain certain facilities for the Lebanon West II Project. The Lebanon West II Project is intended to provide 130,000 dekatherms per day of firm transportation service from Pennsylvania to Ohio and is fully subscribed pursuant to a precedent agreement with R.E. Gas Development, LLC. An environmental assessment of the project has been completed. Agenda item C-4 may be an order on DTI’s application.

**C-5 – Impulsora Pipeline, LLC (Docket No. CP14-513-001).** On May 14, 2015, FERC issued an order granting a presidential permit and authorization under NGA section 3 for Impulsora Pipeline, LLC (Impulsora) to site, construct and operate border-crossing facilities at the international boundary between the United States in Webb County, Texas and Colombia, Nuevo Leon in Mexico in order to export natural gas to Mexico. Needmore Dolores LLC, the owner of property on which the proposed facilities would be sited, filed a request for rehearing, arguing that the order should be vacated since Impulsora has not acquired the necessary property rights to construct the proposed facilities. Agenda item C-5 may be an order on the request for rehearing.

White & Case LLP  
701 Thirteenth Street, NW  
Washington, District of Columbia 20005-3807  
United States

T +1 202 626 3600

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.