

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

March 2013

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's March 21, 2013, meeting, pursuant to the agenda as issued on March 14, 2013. Agenda items C-1 and C-2 have not been summarized as they were omitted from the agenda.

Administrative Items

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

This administrative item will address Agency Business Matters.

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

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

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

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

Electric Items

E-1: PJM Interconnection, L.L.C. (Docket No. ER13-198-000); Indicated PJM Transmission Owners (Docket No. ER13-195-000); PJM Interconnection, L.L.C. and Public Service Electric and Gas Company (Docket No. ER13-90-000)

On October 25, 2012, as supplemented on October 26, 2012, PJM Interconnection, L.L.C. (PJM) submitted an amended Order No. 1000 compliance filing to revise its definitions section and Schedule 6 (the Regional Transmission Expansion Planning Protocol (RTEPP)) of PJM's Open Access Transmission Tariff (Tariff). Also on October 25, 2012, the Indicated PJM Transmission Owners submitted an Order No. 1000-A compliance filing, incorporating by reference PJM's Order No. 1000 compliance filing and proposing revisions regarding the right of first refusal (ROFR). The Indicated PJM Transmission Owners stated that they cannot submit independently alternative revised tariff sheets because such sheets relate to the PJM Tariff, and PJM would not include the proposed ROFR provisions in its eTariff filing.

On October 11, 2012, the PJM Transmission Owners submitted revised tariff sheets modifying Schedule 12 (Transmission Enhancement Charges) of PJM's Tariff regarding the allocation of costs of transmission system expansions and enhancements approved by PJM in its development of its RTEP. On January 31, 2013, the Commission conditionally accepted



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and nominally suspended the proposed cost allocation methods for filing (effective on February 1, 2013) subject to refund and to a future order in PJM's Order No. 1000 compliance filing.

Agenda item E-1 may be an order on the compliance filings and/or a further order on the cost allocation methods.

E-2: Midwest Independent Transmission System Operator, Inc. and the MISO Transmission Owners (Docket Nos. ER13-187-000, -001, ER13-186-000); MidAmerican Energy Company (Docket No. ER13-89-000); American Transmission Company LLC (Docket Nos. ER13-101-000, -001), Cleco Power LLC (Docket No. ER13-84-000); Entergy Arkansas, Inc. (Docket No. ER13-95-000)

On October 25, 2012, the Midwest Independent Transmission System Operator, Inc. (MISO) and the MISO Transmission Owners submitted an Order Nos. 1000, et al., compliance filing which proposes revisions to MISO's Tariff and the Transmission Owners Agreement. Also on October 25, MISO submitted proposed revisions to its Tariff to modify the cost allocation methodology for Baseline Reliability Projects (BRP).

On October 11, 2012, MidAmerican Energy Company, American Transmission Company LLC, Cleco Power LLC and Entergy Arkansas, Inc. submitted their Order No. 1000 compliance filings.

Agenda item E-2 may be an order on the Order No. 1000 compliance filings and/or MISO's BRP filing.

E-3: Public Service Company of Colorado (Docket No. ER13-75-000); Tucson Electric Power Company (Docket No. ER13-77-000); UNS Electric, Inc. (Docket No. ER13-78-000); Public Service Company of New Mexico (Docket No. ER13-79-000); Arizona Public Service Company (Docket No. ER13-82-000); El Paso Electric Company (Docket No. ER13-91-000); Black Hills Power, Inc. (Docket No. ER13-96-000); Black Hills Colorado Electric Utility Company, LP (Docket No. ER13-97-000); NV Energy, Inc. (Docket No. ER13-105-000); Cheyenne Light, Fuel and Power Company (Docket No. ER13-120-000)

On October 11, 2012, the above-named entities submitted their Order No. 1000 compliance filings. Agenda item E-3 may be an order on the compliance filings.

E-4: Southwest Power Pool, Inc. (Docket No. ER12-1179-002)

This proceeding stems from a February 29, 2012, filing, as amended on May 15, 2012, by Southwest Power Pool, Inc. of revisions to its Tariff to implement its Integrated Marketplace. FERC conditionally accepted the revised Tariff, subject to modifications, on October 18, 2012. Several parties filed for rehearing and/or clarification of the order, which FERC granted for further consideration on December 17, 2012. Agenda item E-4 may be an order on rehearing and/or clarification.

E-5: Revisions to Reliability Standard for Transmission Vegetation Management (Docket No. RM12-4-000)

On December 21, 2011, the North American Electric Reliability Corporation (NERC) filed for approval of Reliability Standard FAC-003-2, Transmission Vegetation Management, and associated Violation Severity Levels, Violation Risk Factors and Definitions. NERC also requested approval of an implementation plan for Reliability Standard FAC-003-2 and the retirement of the last version of the Reliability Standard, FAC-003-1. On October 18, 2012, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to adopt the three definitions, the implementation plan and the Violation Severity Levels. The NOPR further proposed that NERC revise the Violation Risk Factor for Requirement R2 and approved the remaining Violation Risk Factors. Many comments were filed on the NOPR. Agenda item E-5 may be a Final Rule in this proceeding.

E-6: Revisions to Modeling, Data and Analysis Reliability Standard (Docket No. RM12-19-000)

On August 24, 2012, NERC filed a petition for approval of proposed Reliability Standard MOD-028-2 to clarify the currently effective standard regarding the timing and frequency of Total Transfer Capability calculations needed for Available Transfer Capability calculations. NERC also requested approval of a corresponding implementation plan and approval to retire the currently effective version of the Reliability Standard. Agenda item E-6 may be a NOPR on NERC's petition.

E-7: North American Electric Reliability Corporation (Docket No. RD12-3-000)

On May 23, 2012, NERC filed a petition for approval of an interpretation of Requirement 1.1 of Reliability Standard CIP-006-4 to clarify the applicability of the standard to wiring that comprises an Electronic Security Perimeter. Agenda item E-7 may be an order on the petition.

E-8: New York Independent System Operator, Inc. (Docket No. ER13-780-002)

On January 18, 2013, the New York Independent System Operator, Inc. (NYISO) submitted an Interface Pricing compliance filing in response to orders issued in Docket Nos. ER08-1281-000, et al. The subject filing sets forth proposed additions and clarifications to NYISO's proposed interface pricing rules in its Market Administration and Control Area Services Tariff. On January 25, 2013, NYISO refiled the compliance filing to correct in the eTariff system the effective date of the proposed revisions. Agenda item E-8 may be an order on the compliance filing.

E-9: PJM Interconnection, L.L.C. (Docket No. EL05-121-008)

This proceeding stems from an April 19, 2007, order in which FERC approved a proposed postage stamp cost allocation methodology for new 500 kV and above transmission facilities in PJM's footprint. The order was appealed and remanded by the 7th Circuit. FERC issued an order on remand on March 30, 2012. Several parties filed requests for rehearing of the order on remand in this proceeding, which FERC granted for further consideration on May 29, 2012. Agenda item E-9 may be an order rehearing.

E-10: Louisiana Public Service Commission and the Council of the City of New Orleans v. Entergy Corporation (Docket Nos. EL00-66-016, -017); Louisiana Public Service Commission v. Entergy Services, Inc. (Docket No. EL95-33-011)

These proceedings involve various refund issues related to cost allocation procedures of Entergy Corporation and its affiliates (Entergy). On December 16, 2010, the Commission issued an order clarifying a previous order and stating that Entergy had paid refunds covering the 15-Month Refund Period that were due on October 19, 2008 (for the 15-month period May 19, 1995, through August 13, 1996). On January 13, 2011, the Louisiana Public Service Commission (LPSC) filed for clarification or rehearing that the December 16 order did not limit Entergy's obligation to pay interest on refund amounts that may result from the hearing procedures ordered to evaluate Entergy's proposed refund for that 15-month period asking that the Commission clarify that if additional payments are ordered then interest on those payments should accrue from October 19, 2008, until paid.

On July 11, 2011, the LPSC filed for rehearing of a June 9, 2011, order, which the LPSC alleges results in unjust and unreasonable rates by failing to require Entergy to issue certain refunds. The Commission issued an order establishing a paper hearing before deciding on the merits of LPSC's refund argument. Briefs were filed in December 2011. Agenda item E-10 may be an order on rehearing and/or clarification.

E-11: North American Electric Reliability Corporation (Docket No. RD12-5-000)

On August 1, 2012, NERC filed a petition for approval of an interpretation of Requirement 3 of Reliability Standard CIP-002-4, Critical Cyber Asset Identification, to clarify certain references to "control centers and backup control systems" and to explain the meaning of the phrase "essential to the operation of the Critical Asset." Agenda item E-11 may be an order on the petition.

E-12: Gregory R. Swecker and Beverly F. Swecker v. Midland Power Cooperative and State of Iowa (Docket No. EL11-39-002)

On December 15, 2011, FERC issued an order finding that Midland Power Cooperative's (Midland) disconnection of retail service to a qualifying facility was inconsistent with Midland's obligations under the Public Utility Regulatory Policies Act of 1978 (PURPA). The National Rural Electric Cooperative Association and Midland filed for rehearing and/or clarification of the December 15 order. Agenda item E-12 may be an order on rehearing.

E-13: Consumers Energy Company (Docket Nos. ER10-2156-002, ER12-420-001)

On April 6, 2012, FERC issued an order accepting Consumers Energy Company's (Consumers Energy) notice of cancellation of its Facilities Agreement with Midland Cogeneration Venture, Limited Partnership (Midland Cogen). The Facilities Agreement governed the facilities that connect Midland Cogen's facility to the transmission network formerly owned by Consumers Energy and currently owned by Michigan Electric Transmission Company, LLC (METC). FERC established an effective date of January 15, 2012, for the cancellation. METC filed a request for rehearing, arguing that FERC erred in establishing the effective date for the cancellation of the Facilities Agreement, in not addressing whether the termination would cause harm, and in not ordering the disclosure of a settlement agreement between Midland Cogen and Consumers Energy. In addition, in prior orders, FERC ordered Consumers Energy to provide refunds of amounts it collected under the Facilities Agreement prior to the effective date of the Facilities Agreement. On April 19, 2012, Consumers Energy filed a supplement to its prior refund report filings. Midland Cogen protested the refund report. Agenda item E-13 may be an order on the rehearing request and/or refund report.

Gas Items

G-1: Portland Natural Gas Transmission System (Docket No. RP10-729-000)

On May 12, 2010, Portland Natural Gas Transmission System (Portland Gas) submitted tariff sheets for a rate increase of approximately 47 percent for its firm transportation recourse reservation rates. Portland Gas proposed to revise its capital structure and increase its return on equity, increase its depreciation rates and negative salvage value and change its billing determinants. FERC accepted and suspended Portland Gas' filing, subject to refund, and set the matter for hearing. On December 8, 2011, the ALJ issued an Initial Decision, and the parties filed Briefs on Exceptions and Briefs Opposing Exceptions. Agenda item G-1 may be an order on the Initial Decision.

G-2: Portland Natural Gas Transmission System (Docket No. RP08-306-002)

On February 17, 2011, FERC issued an opinion and order on Initial Decision (Opinion No. 510), affirming and reversing in part the ALJ's findings on a general rate case filed by Portland Gas on April 1, 2008 to increase its rates from US\$0.85 per Dth to approximately US\$0.90 per Dth. Numerous parties filed requests for rehearing and/or clarification of the Opinion. Agenda item G-2 may be an order on rehearing and/or clarification.

G-3: Annual Charge Filing Procedures for Natural Gas Pipelines (Docket No. RM12-14-000)

On October 18, 2012, FERC issued a NOPR in which it proposed to revise its filing requirements for natural gas pipelines that recover FERC-assessed annual charges through an annual charge adjustment (ACA) clause. Under the regulations currently in place, natural gas pipelines that use an ACA clause are required to make an annual tariff filing incorporating the revised ACA unit charge authorized by FERC for that fiscal year. In the NOPR, FERC proposes to eliminate this annual filing requirement and, instead, require natural gas pipelines using an ACA clause to incorporate the FERC-authorized annual charge unit rate by referencing that rate as published on FERC's website. Agenda item G-3 may be an order on the NOPR.

G-4: High Prairie Pipeline, LLC v. Enbridge Energy, Limited Partnership (Docket No. OR12-17-000)

On May 17, 2012, High Prairie Pipeline, LLC (High Prairie) filed a complaint against Enbridge Energy, Limited Partnership (Enbridge Energy) arguing that Enbridge Energy violated the Interstate Commerce Act and FERC's regulations by unduly discriminating against High Prairie by denying it capacity on Enbridge Energy's oil pipeline system extending downstream from Clearbrook, Minnesota. High Prairie argued that Enbridge Energy has permitted its affiliate to interconnect at Clearbrook and has enough unutilized capacity to accept 150,000 barrels per day from High Prairie at Clearbrook but has refused to grant High Prairie an interconnection except on terms that are unjust, unreasonable and unduly discriminatory. In its answer, Enbridge Energy requested that FERC dismiss the complaint, arguing that it has offered High Prairie two reasonable options that would allow High Prairie's proposed pipeline to connect with Enbridge Energy's pipeline system. Agenda item G-4 may be an order on the complaint.

G-5: Enbridge Pipelines (North Dakota) LLC (Docket No. OR13-6-000)

On November 2, 2012, Enbridge Pipelines (North Dakota) LLC (Enbridge Pipelines) submitted a petition for declaratory order, and a related offer of settlement, regarding the expansion and

extension of Enbridge Pipelines' oil pipeline system designed to transport crude oil production in North Dakota and Montana to downstream markets. Enbridge Pipelines requested that FERC confirm that it can recover the cost of expanding the existing system between Beaver Lodge, North Dakota, and Clearbrook, Minnesota, by imposing a rate surcharge on existing tariff rates and expanding the system from Clearbrook to Superior, Wisconsin, through cost-based rates applicable to shippers transporting volumes beyond Clearbrook. Agenda item G-5 may be an order on Enbridge Pipelines' petition.

G-6: Seaway Crude Pipeline Company LLC (Docket No. OR13-10-000)

On December 10, 2012, Seaway Crude Pipeline Company LLC (Seaway) submitted a petition for declaratory order regarding the rates to be charged to shippers that signed transportation services agreements during the 2011 and 2012 open seasons. Seaway stated that its "extraordinary petition" is necessitated by recent testimony of the Commission's Trial Staff advocating that the Commission lower the committed rates voluntarily agreed to in Seaway's transportation services agreements. Agenda item G-6 may be an order on Seaway's petition for a declaratory order.

G-7: Essar Steel Minnesota, LLC v. Great Lakes Gas Transmission Limited Partnership (Docket No. RP13-313-000)

On November 27, 2012, Essar Steel Minnesota, LLC (ESML) filed a complaint against Great Lakes Transmission Limited Partnership (Great Lakes) alleging that Great Lakes has failed to comply with the provisions of its Tariff in dealing with non-payment by ESML under a firm transportation service agreement (TSA) and has taken actions that are unjust and unreasonable in violation of its Tariff and the Natural Gas Act (NGA). In its petition, ESML stated that it experienced difficulty in financing the construction of a steel mill to be serviced under the TSA and claimed that it sought to negotiate a solution including a change in delivery points or an extension of time to commence service. Great Lakes sued ESML in the federal district court in Minnesota after ESML did not make its monthly payments claiming that ESML anticipatorily repudiated the TSA by not making monthly payments and by its acknowledgement that it was unable to secure financing for its steel mill. ESML's petition requests that the Commission find Great Lakes' conduct unjust and unreasonable under the NGA and that Great Lakes has not effectively terminated or suspended service to ESML. Great Lakes filed an answer on December 17 stating that the proceeding was duplicative of the pending federal court case, and, in any event, ESML should not be allowed to rewrite the TSA to avoid its contractual obligations. Agenda item G-7 may be an order on ESML's complaint.

Hydro Items

H-1: Idaho Power Company (Docket Nos. P-1975-101, -102; P-2061-085, -086)

On March 30, 2010, Idaho Power Company (Idaho Power) submitted the Bliss Rapids Snail Protection Plan, as required by License Orders issued August 4, 2004, as well as a 2004 Settlement Agreement between Idaho Power and the US Fish and Wildlife Service. In addition, on May 5 and May 11, 2010, Idaho Power submitted applications to amend the licenses of the Bliss and Lower Salmon Falls Hydroelectric Projects to include the operations allowed in the Snail Protection Plan. On March 14, 2013, FERC issued its Final Environmental Assessment of the potential environmental effects from the proposed change. Agenda item H-1 may be an order on the license amendments, the snail protection plan and/or the Final Environmental Assessment.

H-2: Power Site Reservation Fees Group (Docket No. EL13-24-000); Public Utility District No. 2 of Grant County, Washington (Docket No. P-2114-256); Public Utility District No. 1 of Chelan County, Washington (Docket No. P-2145-115); Public Utility District No. 1 of Snohomish County, Washington (Docket No. P-2157-209); Sabine River Authority of Texas (Docket No. P-2305-040); Alaska Electric Light and Power Company (Docket No. P-2307-063); City and Borough of Sitka, Alaska (Docket No. P-2818-024); Southeast Alaska Power Agency (Docket Nos. P-2911-036, P-3015-013); Alaska Energy Authority (Docket No. P-14241-003)

On November 21, 2012, the Power Site Reservation Fees Group submitted a petition for declaratory order requesting that FERC find that the collection of annual charges under Section 10(e)(1) of the Federal Power Act (FPA) for the use and occupancy of lands owned by hydropower licensees, but that are subject to a power site reservation under Section 24 of the FPA, is arbitrary and capricious. The Power Site Reservation Fees Group clarified that its petition does not involve the obligations of licensees to compensate third-party landowners for the use and occupancy of non-federal lands within the project boundaries. Agenda item H-2 may be an order on the petition.

Certificate Items

C-3: Missouri Interstate Gas, LLC, Missouri Gas Company, LLC, Missouri Pipeline Company, LLC (Docket No. CP06-407-007)

On August 24, 2010, the Commission issued a remand order addressing a decision by the US Court of Appeals for the DC Circuit (DC Circuit) to vacate the Commission's previous order allowing MoGas Pipeline LLC (MoGas) to continue to include the full purchase price of certain pipeline facilities in its initial rates following the merger of Missouri Pipeline Company, LLC and Missouri Gas Company, LLC, with Missouri Interstate Gas, LLC. In its order approving the merger, the Commission dismissed the protest of the Missouri Public Service Commission alleging that the approved rate base established for determining MoGas' initial rates included an unlawful acquisition premium for Missouri Interstate Gas. The DC Circuit held that the Commission erred by deferring consideration of the disputed acquisition premium to an NGA section 4 proceeding. Pursuant to the August 24 remand order, the proceeding was referred to a settlement judge; however, on the first date of settlement procedures the settlement judge recommended terminating the settlement proceedings, and the issue was set for hearing. On November 28, 2011, the ALJ issued an Initial Decision in the proceeding. Briefs on Exceptions and Brief Opposing Exceptions were filed. Agenda item C-3 may be a final order on the Initial Decision.