

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

November 2012

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's November 15, 2012 meeting, pursuant to the agenda as issued on November 8, 2012. Agenda items E-6, E-7, E-11 and E-13 have not been summarized as they were omitted from the Commission's 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. AD06-3-000

This administrative item is the 2013 Winter Assessment.

A-4: AD07-13-005

This administrative item is the 2012 Report on Enforcement.

Electric Items

E-1: Midwest Independent Transmission System Operator, Inc. (Docket Nos. ER12-480-001, -002)

This proceeding involves proposed tariff changes that the Midwest Independent Transmission System Operator, Inc. (MISO) originally filed on November 28, 2011 in anticipation of the integration of Entergy Corporation and its operating companies into MISO. FERC issued an order accepting the proposed tariff revisions, pending certain compliance filings, on April 19, 2012. Westar Energy, Inc. (Westar), Arkansas Electric Cooperative Corporation (AECC) and the East Texas Cooperatives (ETC) filed requests for rehearing and/or clarification in sub-docket 001. ETC later withdrew its request. On May 21, 2012, MISO submitted its compliance filing regarding a proposed transmission-expansion cost-allocation transition period in response to the April 19, 2012 order in sub-docket 002. Westar and AECC filed protests to the compliance filing. Agenda item E-1 may be an order on rehearing in sub-docket 001 and an order on the compliance filing in sub-docket 002.



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

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E-2: J.P. Morgan Ventures Energy Corporation (Docket No. EL12-103-000)

On September 9, 2012, FERC issued an order to J.P. Morgan Ventures Energy Corporation (JPMVEC) to show cause why FERC should not find that JPMVEC violated section 35.41(b) of the Federal Power Act by submitting misleading information and omitting material facts in communications with FERC, the California Independent System Operator Corporation (CAISO) and CAISO's Department of Market Monitoring (CAISO DMM). The order also directs JPMVEC to show cause why FERC should not suspend its authorization to sell electric energy, capacity and ancillary services at market-based rates. FERC also initiated an investigation proceeding into these matters. In the order, FERC explained that JPMVEC failed to timely respond to data requests that were issued by the CAISO DMM. In its response, JPMVEC apologized for unintentional mistakes outside counsel made in interpreting the application of the post-referral bar to CAISO DMM's data requests after CAISO had referred certain bidding activities to FERC's Office of Enforcement and submitted that suspension of its market-based rate authority is not an appropriate action under the circumstances. Agenda item E-2 may be an order pertaining to the Order to Show Cause.

E-3: Promoting Transmission Investment Through Pricing Reform (Docket No. RM11-26-000)

On May 19, 2011, FERC issued a Notice of Inquiry (NOI) seeking comment on its transmission incentives regulations and policies under Order No. 679. FERC noted that in the five years since it issued Order No. 679, more than 75 applicants have filed requests for incentives for over US\$50 billion in proposed transmission infrastructure. FERC sought comment on a number of overarching questions and more specific questions ranging from "[a]re the Commission's incentives policies appropriately promoting investment in transmission infrastructure in accordance with [FPA] section 219?" to "[w]hat types of information, data or studies should the Commission consider in evaluating whether an applicant has made an independent showing that satisfies [FPA] section 219(a)?" Numerous individuals and entities have filed comments in this proceeding, including several congressmen. Agenda item E-3 may be a notice of proposed rulemaking or other order related to the NOI.

E-4: Integration of Variable Energy Resources (Docket No. RM10-11-001)

On June 22, 2012, FERC issued Order No. 764, a Final Rule on removing barriers to the integration of variable energy resources that directed, among other things, transmission providers to allow transmission customers the option of scheduling transmission service at 15-minute intervals, and associated requirements.

Several parties filed requests for rehearing and/or clarification of the Final Rule. Agenda item E-4 may be an order on rehearing.

E-5: Revisions to Electric Quarterly Report Filing Process (Docket No. RM12-3-000)

On June 21, 2012, FERC issued a Notice of Proposed Rulemaking (NOPR) proposing revisions to the Electric Quarterly Report (EQR) filing process. FERC explained that the current system, which was established approximately ten years ago and is dependent on the software Microsoft Visual FoxPro, is "outmoded, ineffective and unsustainable." The NOPR proposes to move from the current software-based system to a web-based automated interface that would allow the EQR filer to enter data directly through FERC's website, in either a comma-delimited text format or an Extensible Mark-Up Language (XML)-formatted file. FERC is also proposing to eliminate the EQR "PIN" numbers and instead require EQR filers to file using the FERC-issued "Company Identifier" used to make tariff filings. FERC proposes to implement the new EQR filing procedures beginning with data from the third quarter 2013 to coincide with implementation of other changes to the scope and content FERC recently directed in Order No. 768. Agenda item E-5 may be a Final Rule in this proceeding.

E-8: PacifiCorp (Docket Nos. ER11-4214-001,-000)

On August 3, 2011, PacifiCorp filed an Amended and Restated Interconnection Agreement with NV Energy, Inc. (NV Energy) to reinstate an agreement originally entered into in 1971, which it stated it had inadvertently canceled in 2000. NV Energy filed a protest, arguing that PacifiCorp lawfully terminated the agreement, and NV Energy did not want service under the agreement. FERC staff issued a letter order accepting the agreement on September 30, 2011. NV Energy filed for rehearing of the September 30 letter order. Agenda item E-8 may be an order on rehearing.

E-9: PJM Interconnection, L.L.C. (Docket Nos. ER12-469-000,-001)

On November 22, 2011, PJM Interconnection, L.L.C. (PJM) filed a petition to institute a proceeding to determine proper billing adjustments to correct certain overpayments of Balancing Operating Reserve credits that it alleged it paid to two generation owners, Ingenco Wholesale Power, L.L.C. (Ingenco) and Dominion Resources Services, Inc. (Dominion). PJM also sought waiver of certain tariff provisions in order to affect the billing adjustments. On April 10, 2012, FERC issued an order finding that billing adjustments were warranted and establishing hearing and Settlement Judge procedures to determine the proper adjustments. On May 10, 2012, certain financial marketers filed for rehearing of the April 10 order, alleging retroactive adjustments

would be improper. On September 26, 2012, PJM filed a Certification of Uncontested Settlement among itself, Ingenco, Dominion and the PJM Independent Market Monitor. Agenda item E-9 may be an order on the Uncontested Settlement and/or the Request for Rehearing.

E-10: Chehalis Power Generating, L.P. (Docket No. ER05-1056-006)

On March 18, 2011, TNA Merchant Projects, Inc. (TNA) filed for rehearing of a February 17, 2011 Order on Remand in the proceeding involving a proposed rate schedule for Reactive Supply and Voltage Control from Generation Sources Service to the Bonneville Power Administration filed by Chehalis Power Generating, L.P. On May 8, 2012, and again on October 25, 2012, TNA filed motions for action on the rehearing request. Agenda item E-10 may be an order on rehearing.

E-12: The Incorporated Village of Port Jefferson v. National Grid Generation LLC (Docket No. EL12-89-000)

On July 30, 2012, The Incorporated Village of Port Jefferson (Jefferson) filed a complaint alleging market manipulation within the Long Island Control Area against National Grid Generation LLC (NGG). Jefferson alleged that NGG and its affiliates were illegally exercising market power and engaging in fraudulent practices that resulted in artificially low capacity prices and artificially high energy prices. Jefferson also asked for orders requiring NGG to divest itself of ownership of its generating facilities located in the Long Island Control Area. NGG filed a response on August 20, 2012, asking FERC to deny the complaint. Several parties intervened and filed comments in this proceeding. Agenda item E-12 may be an order on the complaint.

E-14: Wyoming Colorado Intertie, LLC (Docket No. ER12-1753-000)

On May 9, 2012, Wyoming Colorado Intertie, LLC (WCI) filed a transmission service agreement with Wyoming Wind & Power, LLC (WWP) governing WCI's provision of transmission capacity to WWP along a new 180-mile, 850 MW, 345 kV merchant transmission line. WWP filed in support of the agreement. On July 5, 2012, FERC sent WCI a letter identifying several deficiencies in its submission. WCI submitted additional information on July 20 and September 21. Agenda item E-14 may be an order on the agreement.

E-15: Los Angeles Department of Water and Power v. PacifiCorp (Docket No. EL12-87-000)

On July 23, 2012, the Los Angeles Department of Water and Power (LADWP), as the operating agent for the Intermountain Power Project Direct Current Line (IPP DC Line), filed a complaint against PacifiCorp arguing that, in violation of its tariff, PacifiCorp was imposing unreserved use penalties against neighboring transmission operators (such as LADWP), and those penalties only served to compensate PacifiCorp for the difference between its maximum path transfer capability and the system operating limits established by the Western Electricity Coordinating Council (WECC). LADWP requested that FERC stop PacifiCorp from collecting the penalties as LADWP is not a transmission customer of PacifiCorp, and it does not use any transmission services under the PacifiCorp tariff when PacifiCorp limits power flows to meet WECC-directed or mutually agreed upon system operating limits. PacifiCorp responded that LADWP has taken intentional actions, in violation of the Plan of Service for the IPP DC Line 2400 MW upgrade approved by WECC, that require PacifiCorp to reserve firm point-to-point service on PacifiCorp's transmission system in order to accommodate LADWP's unauthorized and unreserved use, which results in a forced reduction by PacifiCorp of the Available Transfer Capability over certain paths on PacifiCorp's system due to the simultaneous interaction between LADWP's and PacifiCorp's paths. Agenda item E-15 may be an order on LADWP's complaint.

Miscellaneous Item

M-1: Coordination Between Natural Gas and Electricity Markets (Docket No. AD12-12-000)

On February 15, 2012, in response to the increased reliance on natural gas in electricity generation, FERC requested comments on gas-electric interdependence issues. In August 2012, FERC held a series of regional technical conferences to discuss the coordination between natural gas and electricity markets, as well as ways to improve communication and coordination between the two industries. Numerous parties participated in the technical conferences and filed comments in response. Agenda item M-1 may be an order related to the technical conferences on the coordination between the natural gas and electricity markets.

Gas Items

G-1: Wyoming Interstate Company, L.L.C. (Docket No. RP13-184-000)

This appears to be a new docket.

G-2: Viking Gas Transmission Company (Docket No. RP13-185-000)

This appears to be a new docket.

G-3: Enhanced Natural Gas Market Transparency (Docket No. RM13-1-000)

This appears to be a new rulemaking docket.

G-4: Texas Gas Service Company, a Division of ONEOK, Inc. v. El Paso Natural Gas Company (Docket No. RP10-951-000)

On September 7, 2011, the ALJ issued an Initial Decision on the Complaint of Texas Gas Service Company, a Division of ONEOK, Inc. (Texas Gas) challenging El Paso Natural Gas Company's (El Paso) collection of fuel costs on a postage stamp basis and proposing, as an alternative, a zone-based methodology. Texas Gas argued that El Paso's postage stamp fuel charge did not reflect the distance of haul (which resulted in an improper cross-subsidy between the rates charged to shippers by El Paso) and, therefore, El Paso's rates are unjust and unreasonable. In the Initial Decision, the ALJ found that Texas Gas did not satisfy its burden of showing that El Paso's rates are unjust and unreasonable. The parties have filed briefs on exceptions and briefs opposing exceptions to the Initial Decision. Agenda item G-4 may an order on the Initial Decision.

Hydro Items

H-1: Alabama Power Company (Docket No. P-2165-030)

On March 31, 2010, the FERC Office of Energy Projects issued an order granting Alabama Power Company (APC) a new major license to continue operating its existing 211.485 MW Warrior River Hydroelectric Project. The Smith Lake Improvement Stakeholders Association (SLISA) filed a request for rehearing of the FERC order (as well as other orders from other federal agencies related to the hydroelectric project). SLISA argued that the license issued to APC would not be in the best interest of a comprehensive development plan for the area over the next 30 years and violated the agencies' regulatory authority. Agenda item H-1 may be an order on rehearing.

H-2: Pacific Gas and Electric Company (Docket No. P-2479-012)

On July 18, 2012, the FERC Office of Energy Projects issued an order granting Pacific Gas and Electric Company (PG&E) a subsequent license to continue operation and maintenance of 13.27 miles of transmission line for the French Meadows Transmission Line Project, which is located within the Middle Fork American River drainage in Placer County, California. PG&E filed a request for rehearing, requesting that FERC stay the effectiveness of the license order until the conclusion of its alternative conditions proceeding (pursuant to section 33 of the Federal Power Act) for the conditions submitted by the US Forest Service for its subsequent license under section 4(e) of the Federal Power Act. Placer County Water Agency (PCWA) also filed a limited request for rehearing, requesting that FERC modify article 401 of the subsequent license in order to have PCWA listed as an entity to be consulted concerning any plans or agreements required by the section 4(e) conditions. Agenda item H-2 may be an order on the requests for rehearing.

Certificate Item

C-1: Panhandle Eastern Pipe Line Company, LP (Docket No. CP11-546-000)

On September 16, 2011, as supplemented, Panhandle Eastern Pipe Line Company, LP (Panhandle) submitted an Abbreviated Application for authorization to abandon its remaining three compressor station units and appurtenant facilities at the Adams Compressor Station in Texas County, Oklahoma. Panhandle is seeking to abandon the facilities since the demand for transportation services related to supply receipts from the Adams Compressor Station Field area have vastly declined over time. Panhandle also does not expect any additional production from the upstream gas reservoirs and stated that it has no firm transportation contracts associated with the facilities to be abandoned. DCP Midstream, LP, Anadarko Petroleum Corporation and Anadarko Energy Services Company protested the application, arguing that the abandonment would discontinue service to a small-volume production region that may result in the shut-in of production and the potential loss of future production and reserves. Agenda item C-1 may be an order on Panhandle's application.



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