

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

June 2013

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's June 20, 2013, meeting, pursuant to the agenda as issued on June 13, 2013.

Administrative Items

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

This administrative docket is for Agency Business Matters.

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

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

A-3: Docket No. AD12-16-000

On April 2, 2013, the Commission directed MISO and PJM to make presentations during an upcoming Commission meeting regarding: (1) the progress of their efforts to address whether existing market rules and operating protocols concerning the transfer of capacity between MISO and PJM act as barriers to the delivery of generation capacity between those markets; (2) the status of any remaining barriers to the transfer of capacity between those markets; and (3) the measures that the Commission should take to address any such barriers that may exist. Agenda item A-3 may be the requested MISO and PJM presentations.

A-4: Docket No. AD12-12-000

This administrative docket is for the Commission's ongoing review of Coordination Between Natural Gas and Electricity Markets.

Electric Items

E-1: Avista Corporation, (Docket Nos. ER13-93-000, ER13-94-000), Puget Sound Energy, Inc. (Docket Nos. ER13-98-000, ER13-99-000), MATL LLP (Docket No. ER13-836-000), United States Department of Energy—Bonneville Power Administration (Docket No. NJ13-1-000)

On October 11, 2012, Avista Corporation (Avista) and Puget Sound Energy (Puget Sound), in separate filings, submitted amendments to the Columbia Grid Planning and Expansion Functional Agreement. The amendments cover factors to be considered in selecting projects that qualify for cost allocation according to Order No. 1000 cost allocation methodology



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

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and factors for qualifying sponsors (both incumbent and non-incumbent) for such projects. Avista, Puget Sound, MATL LLP and Bonneville Power Administration also filed corresponding amendments to their tariffs in compliance with Order No. 1000. Numerous parties intervened and filed comments. Agenda item E-1 may be an order on Avista, Puget Sound, MATL LLP and Bonneville Power Administration's filings.

E-2: Tampa Electric Company; Duke Energy Carolinas, LLC; Florida Power & Light Company; Orlando Utilities Commission (Docket Nos. ER13-80-000; ER13-86-000; ER13-104-000; NJ13-2-000)

Each of these proceedings involves the respective transmission provider's Order No. 1000 compliance filing. The entities made their compliance filings on October 11 or 12, 2012, and several parties intervened in each docket. Agenda item E-2 is likely an order on the compliance filings.

E-3: ITC Holdings Corp.; Entergy Corporation (Docket Nos. EC12-145-000; EL12-107-000)

On September 12, 2012, Entergy Corporation ("Entergy") and ITC Holdings Corp. ("ITC") filed a joint application for authorization under Sections 203 and 205 of the Federal Power Act for Entergy to dispose of, and ITC to acquire, Entergy's FERC-jurisdictional transmission system. The parties also requested approval of certain corresponding tariff revisions and jurisdictional agreements and included a Petition for Declaratory Order that the proposed transaction will not violate Section 305(a) of the Federal Power Act. The transaction was proposed in anticipation of Entergy's planned integration into the Midcontinent Independent System Operator, Inc.'s ("MISO") region. Numerous parties have intervened. Agenda item E-3 may be an order on the application.

E-4: ITC Holdings Corp.; Entergy Corporation; Midwest Independent Transmission System Operator, Inc.; Entergy Services, Inc.; ITC Arkansas LLC; ITC Texas LLC; ITC Louisiana LLC; ITC Mississippi LLC (Docket Nos. ER12-2681-000; ER13-948-000; ER13-782-000)

This proceeding pertains to the same joint application referenced in Agenda item E-3, but involves proposed amendments to the formula rate under Attachment O of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff ("MISO Tariff") regarding the recovery of transmission revenue requirements for the Entergy operating companies and ITC, and proposed accounting and ratemaking treatments for certain pension and post-retirement welfare plan costs necessitated by the ITC's proposed acquisition of Entergy's transmission system. Agenda item E-4 is likely an order on the proposed tariff revisions and accounting and ratemaking treatments.

E-5: Midwest Independent Transmission System Operator, Inc. (Docket No. ER12-2682-000)

On Sept. 24, 2012, MISO filed a proposed Module B-1 to the MISO Tariff, which would enable MISO to provide transmission service over the transmission facilities that are the subject of Agenda item E-3 for the period between the closing of the ITC/Entergy transaction, which is scheduled to occur in June 2013, and Entergy's integration into MISO, which is scheduled to occur in December 2013. Agenda item E-5 is likely an order on MISO's proposed tariff revisions.

E-6: Western Electricity Coordinating Council (Docket No. EL13-52-000)

On March 12, 2013, the Western Electricity Coordinating Council (WECC) submitted a petition for declaratory order requesting that FERC approve the funding arrangements proposed by WECC for its plan to establish a separate, independent company (the RC Company) to perform certain functions within the WECC footprint currently performed by WECC. WECC would transfer the registered functions of Reliability Coordinator and Interchange Authority to RC Company. Numerous parties filed motions to intervene and comment. NERC expressed strong support for the proposal to separate the Reliability Coordinator and Interchange Authority functions from WECC's role as the Regional Entity for the Western Interconnection. Agenda item E-6 may be an order on WECC's petition for declaratory order.

E-7: Electric Reliability Organization Proposal to Retire Requirements in Reliability Standards (Docket No. RM13-8-000)

On February 28, 2013, NERC submitted a petition to FERC for approval to retire 34 requirements within 19 currently effective Reliability Standards. NERC determined that those 34 requirements are redundant or otherwise unnecessary and that violations of those 34 requirements pose a lesser risk to bulk power system reliability. Agenda item E-7 may be an order on NERC's petition.

E-8: North American Electric Reliability Corporation (Docket No. RD13-3-000)

On December 31, 2012, NERC submitted a petition to FERC for approval of proposed Reliability Standard EOP-004-2 (Event Reporting), the associated implementation plan, Violation Risk Factors and Violation Severity Levels as well as retirement of the currently effective EOP-004-1 and CIP-001-2a Reliability Standards. NERC intends the proposed Reliability Standard to provide a comprehensive approach to reporting disturbances and events that have the potential to impact the reliability of the Bulk Electric System in accordance with FERC's directives. Pursuant

to the proposed Reliability Standard, Responsible Entities would be required to have an operating plan for reporting applicable events to NERC and others (such as Regional Entities, applicable Reliability Coordinators and law enforcements) within 24 hours of the events. Agenda item E-8 may be an order on NERC's petition.

E-9: North American Electric Reliability Corporation ("NERC") (Docket No. RC11-6-004)

On March 15, 2013, NERC made a compliance filing reporting to FERC on the implementation of the Find, Fix, and Track ("FFT") enforcement mechanism. FERC approved the FFT mechanism in an order issued March 15, 2012, on the condition that NERC report on the progress of the program one year later to allow FERC to reassess the program. Agenda item E-9 may be an order regarding the FFT program.

E-10: Ameren Corporation (Docket No. AC11-46-000)

On November 15, 2012, Ameren Corporation (Ameren) submitted a refund report and request for FERC guidance in response to FERC's directives in a July 19, 2012 order, which found that Ameren Illinois had improperly reflected US\$411 million in goodwill from certain acquisitions in the equity component of the formula rate used to determine Ameren Illinois's Annual Transmission Revenue Requirement and ordered Ameren Illinois to provide refunds associated with the removal of the goodwill from June 2005 onward. FERC also ordered Ameren Illinois's Corporation (Ameren Illinois) to adjust its formula rate billing to remove other acquisition premiums related to certain acquisitions that affected Ameren Illinois's and its predecessors' formula rates for transmission service. In its refund report, Ameren noted that no refunds are due from the removal of the acquisition premiums and that the required adjustments resulted in an amount of more than US\$19 million, plus interest, that Ameren Illinois has not billed or collected from customers. Wholesale Distribution Service Customers filed a protest to Ameren's refund report and request for FERC guidance. Agenda item E-10 may be an order on Ameren's refund report and request for FERC guidance.

E-11: Sky River, LLC (Docket Nos. ER13-388-001, ER13-388-002)

On November 15, 2012, Sky River LLC (Sky River) filed a Shared Facilities Agreement between Sky River and North Sky River Energy, LLC (North Sky). The Shared Facilities Agreement will enable both Sky River and North Sky to transmit their wind generation output to the point of interconnection and the transmission system of Southern California Edison Company. On April 24, 2013, Sky River filed an amendment to its filing, requesting that FERC grant Sky River a waiver of certain requirements to file an open access transmission tariff (OATT)

in Order Nos. 888 and 890, to establish an open-access same time information system (OASIS) in Order No. 889, and the Standards of Conduct under Part 358 of FERC's regulations. Agenda item E-11 may be an order on Sky River's filings.

E-12: San Diego Gas & Electric Co. (Docket No. ER13-941-000)

On February 15, 2013, San Diego Gas & Electric Co. (SDG&E) submitted revisions to its existing Transmission Owner (TO) tariff. SDG&E proposes three changes: (1) adoption of new formula rates to replace its formula rates set to expire on August 31, 2013; (2) revision of its Base Transmission Revenue Requirements (BTRR) and an increase in transmission rates for retail end-use and California Independent System Operator (CAISO) wholesale customers; and (3) revisions of the tariff for compatibility with CAISO terminology/protocols. Agenda item E-12 may be an order on SDG&E's tariff revisions.

E-13: Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., and Entergy Texas, Inc. (Docket No. ER12-2693-000)

On September 26, 2012, the Entergy Operating Companies submitted a request for the Commission to authorize, under FPA Section 205, cancellation of the transmission equalization service schedule MSS-2 of the Entergy System Agreement, following the divestiture of the Entergy Operating Companies' transmission assets to a subsidiary to be merged into ITC. Multiple parties have filed motions to intervene or for leave to file an answer. Agenda item E-13 may be an order on the cancellation of this service schedule or on the motions to intervene.

E-14: ISO New England Inc. and New England Power Pool (Docket No. ER12-1643-001)

On February 6, 2013, ISO New England Inc. and New England Power Pool submitted an Order No. 755 compliance filing to comply with required regulation market design changes. The ISO and the New England Power Pool submitted an earlier filing on April 30, 2012 to modify New England's regulation market to comply with Order No. 755, which were rejected by FERC because they did not provide for uniform prices and the proposed bundled payment mechanism did not have separate payments for capacity and performance. The February 6 filing proposes to address those concerns. Agenda item E-14 may be an order on ISO New England and New England Power Pool's Order No. 755 compliance filing.

E-15: Gerry E. Greenfield Jr. v. Benton County, Washington (Docket No. EL12-78-001)

On August 21, 2012, the Commission issued notice that it would decline to initiate an enforcement action against Benton County, Washington. Mr. Greenfield had filed a complaint alleging that Benton County violated the Public Utility Regulatory Policies Act of 1978 (PURPA) after finding that Greenfield's operation of two 25 kW wind turbines, which were qualifying facilities (QFs) under PURPA, violated multiple county zoning provisions. The Commission found that Benton County's actions did not violate PURPA as the statute does not exempt QFs from other local, state and federal laws regarding siting, construction, operation, licensing and pollution abatement, including zoning regulations. Mr. Greenfield filed a request for rehearing, clarification and a declaratory order on August 26, and a request for fast-track processing and a temporary injunction on February 7, 2013. Agenda item E-15 may be an order on Mr. Greenfield's motion for rehearing or his motion for a temporary injunction.

E-16: Idaho Wind Partners 1, LLC (Docket No. EL12-74-001)

On October 22, 2012, PacificCorp filed a request for clarification or, in the alternative, rehearing of the Commission's September 20, 2012 order in this proceeding, which granted Idaho Wind Partners, LLC's petition for a declaratory order requesting that the Commission declare that Idaho Power Company's new proposed Schedule 74 curtailment policy, filed with the Idaho Public Utilities Commission, for purchases from PURPA-qualifying facilities, would violate Section 210 of PURPA if approved. In its request for rehearing or clarification, PacificCorp asks for clarification regarding whether the Commission intended to hold that, where a QF is providing energy and capacity to a utility pursuant to a fixed avoided-cost rate contract, the avoided-cost rates are presumed to reflect average or composite costs and, thus, account for fluctuations in the value of the electricity in the contractually set price, regardless of what the particular facts and circumstances surrounding an individual agreement may prove or suggest. Agenda item E-16 is likely an order on PacificCorp's request for clarification, or in the alternative, rehearing of the September 20 order.

Hydro Items

H-1: City of Seattle, Washington (Docket No. P-2144-040)

On April 19, 2013, the Public Utility District No. 1 of Pend Oreille County, Washington (District) requested a rehearing of FERC's March 20, 2013 order that issued a new license to the city of Seattle, Washington (Seattle) for the Boundary Hydroelectric Project. In particular, the District contested the Director of the Office of Energy Project's (Director) decision not to include the license article requested by Seattle and the District to continue the

assignment 48 MWs of power from the Boundary Project to the District at a cost consistent with Article 49 of the original license, arguing that the assignment of power to the District should continue as an exception to the Commission's policy of relying on market forces to allocate power in the absence of federal legislation. Agenda item H-1 may be an order on the request for rehearing.

H-2: Public Utility District No. 2 of Grant County, Washington (Docket No. P-2114-257)

On September 27, 2012, a Joint Use Application was filed for non-project use of lands owned by Grant County Public Utility District (Grant PUD), the licensee for the Priest Rapids Project No. 2114. Specifically, the application requested non-exclusive vehicle access along a 26-foot-wide easement of the Priest Rapids Hydroelectric Project lands. On December 17, 2012, the Commission informed the applicant that the property in question was not a project recreation facility identified during the assessment of recreation needs involved in the recent relicensing process for Grant PUD. As a result, the Commission informed the applicant that Grant PUD has the right to restrict access, and that permission to access the property may be requested directly of Grant PUD. The applicant filed a motion to intervene as well as a rehearing request on FERC's order. Agenda item H-2 may be an order on the request for rehearing.

H-3: Alabama Power Co. (Docket Nos. P-2146-111, P-618-000, P-82-000)

On July 28, 2005, Alabama Power (Alabama) filed an application for a new license for its Coosa River Hydroelectric Project, which includes the 690.9 MW Coosa River (No. 2146), 170 MW Mitchell (No. 82) and 100 MW Jordan (No. 618) Alabama Power projects. In 2010, FERC staff issued an environmental assessment recommending FERC combine the projects and relicense under the Coosa River name and number. Agenda item E-3 may be an order on Alabama's application for relicense of these hydroelectric developments.

Certificate Items

C-1: Northern Natural Gas Company (Docket No. CP13-53-000)

On January 18, 2013, Northern Natural Gas Company (Northern) submitted a Section 7 application to amend its existing Certificate of Public Convenience and Necessity issued by the Commission on March 15, 1976. The amendment requests that Northern be allowed to install LNG offloading facilities at its Garner, Iowa LNG plant, and to provide LNG liquefaction and delivery service to third parties on an interruptible basis. Upon the Commission's request, Northern produced certain environmental data on

March 12, 2013 and responded to a request for additional information on March 28, 2013. On May 15, 2013, FERC issued its Environmental Assessment of the project, concluding that approving the project as proposed would not constitute a major federal action significantly affecting the quality of the human environment, and recommending that the Commission's order on Northern's application include a finding of no significant impact, along with enumerated mitigation measures as a condition of any project authorization. Agenda item C-1 may be a final ruling on Northern's application.

**C-2: Kinder Morgan Texas Pipeline LLC
(Docket No. CP13-94-000)**

On March 1, 2013, Kinder Morgan Texas Pipeline LLC (KM Texas) submitted an application to FERC to amend its NGA Section 3 presidential permit, allowing KM Texas to increase the authorized design capacity of its border facilities from about 425 MMcf per day to 700 MMcf per day. Such modification would align KM Texas's authorizations with the planned capabilities of its cross-border facilities to provide Pemex-Gas Y Petroquimica Basica (Pemex) and other potential end-users in Mexico with increased gas supplies. Agenda item C-2 may be a final ruling on KM Texas's application for an amendment to its NGA Section 3 presidential permit.