

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

November 2013

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's November 21, 2013, meeting, pursuant to the agenda as issued on November 14, 2013. Agenda items E-7, E-8 and E-9 have not been summarized as they were omitted from the agenda.

Administrative Items

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

This administrative docket addresses Agency Business Matters.

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

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

A-3: Docket No. AD07-13-006

This administrative docket is the 2013 Report on Enforcement.

Electric Items

E-1: Small Generator Interconnection Agreements and Procedures, Docket No. RM13-2-000

On January 17, 2013, FERC issued a Notice of Proposed Rulemaking (NOPR) proposing four reforms to the Small Generator Interconnection Procedures (SGIP) and the Small Generator Interconnection Agreement (SGIA). The first reform would allow interconnection customers to request from transmission providers a pre-application report to help better evaluate points of interconnection before submitting a formal interconnection request. The second reform would revise the existing 2 MW threshold for participating in Fast Track Processing under section 2 of the pro forma SGIP. Instead, fast track consideration would be based on individual system and resource characteristics, up to a limit of 5 MW. The third reform would revise the customer options meeting and supplemental review for projects that fail the Fast Track screens that identify reliability or safety issues. Lastly, the fourth reform would revise the pro forma SGIP Facilities Study Agreement by allowing interconnection customers the chance to submit written comments on the upgrades that are necessary for the interconnection. FERC held a workshop on the proposed reforms in March 2013. Many parties filed comments on the proposed reforms. Agenda item E-1 may be a Final Order on the proposed reforms.



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: Version 5 Critical Infrastructure Protection Reliability Standards, Docket No. RM13-5-000

On April 18, 2013, the Commission issued a NOPR proposing to approve CIP Version 5 (CIP-002-5 through CIP-009-5, CIP-010-1 and CIP-011-1), which pertains to the cyber security of the Bulk Electric System. The NOPR stated, however, that certain limited aspects of CIP Version 5 as proposed are potentially ambiguous, which ultimately may affect the enforceability of the standards, and the NOPR proposed to direct NERC develop certain modifications to its proposed CIP Version 5. Many parties filed comments on the NOPR, and NERC submitted proposed modifications on September 30, 2013. In addition, on October 11, 2013, NERC submitted an informational filing describing a pilot program it intends to conduct during the transition from Version 3 of the CIP Reliability Standards to Version 5. Agenda item E-2 may be a Final Order and/or an order on NERC's September 30 filing.

E-3: Monitoring System Conditions—Transmission Operations Reliability Standard, Docket No. RM13-12-000; Transmission Operations Reliability Standards, Docket No. RM13-14-000; Interconnection Reliability Operations and Coordination Reliability Standards, Docket No. RM13-15-000

On April 16, 2013, NERC petitioned the Commission for approval of the following: in RM13-12, approval of proposed Reliability Standard TOP-006-3—Monitoring Systems Conditions and the associated implementation plan, as well as retirement of currently effective TOP-006-2; in RM13-14, approval of three TOP Standards (TOP-001-2—Transmission Operations, TOP-002-3—Operations Planning, TOP-003-2—Operational Reliability Data), one PRC Standard (PRC-001-2—System Protection Coordination), and the associated implementation plan, as well as retirement of nine existing Reliability Standards (8 TOP Standards and one PER Standard) and three requirements from an existing PRC Standard; and in RM13-15, approval of proposed Reliability Standards IRO-001-3—Reliability Coordination/Responsibilities and Authorities, IRO-002-3—Reliability Coordination/Analysis Tools, IRO-005-4—Reliability Coordination/Current Day Operations, and IRO-014-2—Coordination Among Reliability Coordinators, and the associated implementation plan, as well as the retirement of six IRO Reliability Standards. Agenda item E-3 may be a NOPR stemming from NERC's April 16 petitions.

E-4: Electric Reliability Organization Proposal to Retire Requirements in Reliability Standards, Docket No. RM13-8-000

On June 20, 2013, the Commission issued a NOPR proposing the retirement of 34 requirements within 19 currently effective Reliability Standards that are redundant or unnecessary and

where violations of the requirements pose lesser risk to Bulk Power System reliability. Agenda item E-4 may be a Final Order on the NOPR.

E-5: Bonneville Power Administration, Docket Nos. NJ12-7-000, NJ12-13-000

On March 29, 2012, in Docket No. NJ12-7-000, the Bonneville Power Administration (BPA) submitted amendments to its Open Access Transmission Tariff (OATT) and a Petition for Declaratory Order finding that BPA's tariff substantially conforms or is superior to the Commission's pro forma tariff and that BPA satisfies the requirements for reciprocity status. On September 4, 2012, the BPA submitted an additional filing, in Docket No. NJ12-13, amending its OATT to describe the implementation of a simultaneous submission window for short-term firm point-to-point transmission service in compliance with Order No. 890. Many parties filed comments and/or protests in the proceedings. Agenda item E-5 may be an order on BPA's Petitions for Declaratory Orders and/or tariff amendments.

E-6: Hudson Transmission Partners, LLC v. New York Independent System Operator, Inc., Docket No. EL12-98-000

On August 3, 2012, Hudson Transmission Partners, LLC (Hudson) filed a complaint pursuant to sections 206 and 306 of the Federal Power Act (FPA) alleging that the New York Independent System Operator, Inc. (NYISO) improperly implemented the "Mitigation Exemption Test" with respect to Hudson as a merchant transmission facility, which, Hudson claims, effectively bars it from participation in the NYISO capacity market. Hudson also claims that the current rules allow the NYISO to take the reliability benefits provided by Hudson and give them for free to Load Serving Entities, with Hudson receiving no compensation. Many parties participated in the proceeding. Agenda item E-6 may be an order on Hudson's complaint.

E-10: Regional Reliability Standard BAL-002-WECC-2—Contingency Reserve, Docket No. RM13-13-000

On July 18, 2013, the Commission issued a NOPR proposing to approve regional Reliability Standard BAL-002-WECC-2—Contingency Reserve, as well as associated violation risk factors and violation severity levels, implementation plan, and effective date. The NOPR also proposes retiring the currently effective WECC regional Reliability Standard—BAL-STD-002-0 (Operating Reserves) and removing two definitions, "Non-Spinning Reserve" and "Spinning Reserve," from the NERC Glossary of Terms. The proposed regional Reliability Standard specifies the quantity and types of contingency reserve required to ensure reliability under normal and abnormal conditions. Agenda item E-10 may be a Final Order.

E-11: Genesis Solar, LLC, Docket No. OA13-8-000

On September 18, 2013, Genesis Solar, LLC petitioned for waiver of the requirements of Order Nos. 888, 889 and 890, in particular, the requirement to file an OATT and establish an Open-Access Same Time Information System (OASIS), as well as waiver of the Standards of Conduct under Part 358 of the Commission's regulations. Agenda item E-11 may be an order on the request.

E-12: Trans Bay Cable LLC, Docket No. ER13-2412-000

On September 20, 2013, Trans Bay Cable LLC (Trans Bay) filed a proposed increase in its Base Transmission Revenue Requirement in connection with its 400 MW submarine transmission line and associated facilities. Several parties submitted protests and/or comments on the request. Agenda item E-12 may be an order on Trans Bay's request.

E-13: Arizona Public Service Company, Docket No. ER13-1612-000

On May 31, 2013, Arizona Public Service Company (APS) filed to update the transmission rate set forth in a "Reciprocal Transmission Service Agreement" (TSA) between APS and PacifiCorp. PacifiCorp protested the filing, and on July 31, 2013, FERC issued an "Order Accepting and Suspending Proposed Revisions to Transmission Service Agreement and Establishing Hearing and Settlement Judge Procedures." Subsequently, on September 30, 2013, APS withdrew the proposed revised TSA and requested the settlement judge procedures be terminated stating that it had agreed with PacifiCorp to terminate the TSA and enter into a conforming Transmission Service Agreement. The Chief Judge terminated the settlement judge procedures on October 2, 2013. Agenda item E-13 may be an order on the request to withdraw the revised TSA.

Gas Item

G-1: High Island Offshore System, LLC, Docket No. RP09-487-004

This proceeding involves a Section 4 rate case filed by High Island Offshore System, LLC (HIOS), which was ultimately approved by the Commission in April 2011 through an uncontested settlement. That settlement saved for later resolution an issue related to the applicability of a storm event tracker surcharge (Storm Event Surcharge) to certain Rate Schedule FT-2 shippers. On February 16, 2012, the Commission issued an Order on Reserved Issue finding that the Storm Event Surcharge is applicable to all Rate Schedule FT-2 shippers on HIOS' system. ExxonMobil requested rehearing of the holding in the February 16 Order

that the Storm Event Surcharge provided for in the settlement approved on April 29, 2011, applies to HIOS' negotiated rate shippers under Rate Schedule FT-2. Agenda item G-1 may be an order on rehearing.

Hydro Items

H-1: Public Utility District No. 1 of Okanogan County, Washington, Docket No. P-12569-004

On July 9, 2013, the Commission granted Public Utility District No. 1 of Okanogan County, Washington, an original license to construct, operate and maintain the Enloe Hydroelectric Project, located on the Similkameen River near Okanogan County, Washington. Parties filed for rehearing claiming the order violates certain provisions of NEPA. Agenda item H-1 may be an order on rehearing.

H-2: FirstLight Hydro Generating Company, Docket No. P-2662-012; City of Norwich Department of Public Utilities, Docket No. P-12968-001

On August 31, 2010, FirstLight Hydro Generating Company (FirstLight) filed an application, in Docket No. P-2662, for a new license to continue to operate and maintain the Scotland Hydroelectric Project (Scotland Project). FirstLight is the current licensee for the project and proposes to increase the project's installed capacity from 2.0 megawatts (MW) to 3.026 MW. On August 27, 2010, the City of Norwich Department of Public Utilities (Norwich Public Utilities) filed a competing application, in Docket No. P-12968, for a new license for the project. Norwich Public Utilities proposes to increase the installed capacity at the project from 2.0 MW to 5.08 MW. On January 16, 2013, a Final Environment Assessment analyzing both applications was submitted to FERC. Agenda item H-2 may be an order on the applications.

Certificate Items

C-1: Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations, Docket Nos. RM12-11-000, -001

On April 2, 2012, the Interstate Natural Gas Association of America (INGAA) requested clarification of section 2.55 of the Commission's regulations that deals with auxiliary installations and which facilities that may be added, altered or replaced under a company's existing Natural Gas Act (NGA) section 7(c) certificate authorization without additional authorization. In response to INGAA's request, the Commission issued a NOPR on December 20, 2012, proposing to revise section 2.55(a) to clarify

that auxiliary facilities must be located within the certificated permanent right-of-way or authorized facility site and must use the same temporary work space that was used to construct the existing facilities. In response to the NOPR, INGAA filed a request for rehearing alleging that the revised section 2.55(a) implies a right-of-way limitation to the definition of auxiliary installations even though no such language exists in the regulation. Agenda item C-1 may be a Final Order and/or order on rehearing.

C-2: Columbia Gas Transmission, LLC, Docket No. CP13-8-000

In October 2012, as supplemented in July 2013, Columbia Gas Transmission, LLC (Columbia), filed an application to extend its Line MB by constructing a 21.1-mile extension of 26-inch diameter natural gas pipeline and appurtenant facilities between an existing metering and regulation station, in Baltimore County, Maryland, and a compressor station in Harford County, Maryland. Many participants filed comments in the proceeding, and on April 19, 2013, the Environmental Assessment was issued on the project. Agenda item C-2 may be an order on the application.

C-3: Transcontinental Gas Pipe Line Company, LLC, Docket No. CP13-30-000

On December 19, 2012, Transcontinental Gas Pipe Line Company, LLC (Transco) filed an application pursuant to Section 7(c) of the NGA and Part 157 of FERC's regulations for a certificate of public convenience and necessity authorizing the construction and operation of Transco's Southside Expansion Project. The project involves the construction and operation of approximately 91 miles of new pipeline facilities and approximately 7 miles of greenfield pipeline facilities, a new compressor station, and associated above and underground facilities. The expansion will provide 270,000 dekatherms per day of incremental firm transportation to two shippers. The Environmental Assessment of the project was available on June 14, 2013, and Transco submitted supplemental information on several occasions in 2013. Many parties filed comments on the application. Agenda item C-3 may be an order on the application.

C-4: Discovery Gas Transmission LLC, Docket No. CP12-516-001

On May 24, 2013, the Commission issued an Order Issuing Certificate to Discovery Gas Transmission LLC (Discovery) authorizing Discovery to construct and operate new offshore pipeline facilities that will extend Discovery's existing pipeline facilities to a new platform and related appurtenant facilities. On June 21, 2013, Discovery filed for rehearing of the Commission's modification of Discovery's design determinants for the initial rate. Agenda item C-4 may be an order on rehearing.

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