

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

November
2014

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's November 20, 2014 meeting, pursuant to the agenda as issued on November 13, 2014. Agenda Item E-5 has not been summarized as it was 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. AD07-13-008

This administrative docket addresses the 2014 Report on Enforcement.

Electric Items

E-1: Exelon Corporation and Pepco Holdings, Inc. (Docket No. 14-96-000).

On May 30, 2014, Exelon Corporation ("Exelon") and Pepco Holdings, Inc. ("Pepco") filed a request pursuant to Section 203 of the Federal Power Act for Commission approval of Exelon's acquisition of Pepco Holdings. Agenda item E-1 may be an order on Exelon and Pepco's Section 203 application.

E-2: Centralized Capacity Markets in Regional Transmission Organizations and Independent System Operators (Docket No. AD13-7-000)

On September 25, 2013, FERC conducted a technical conference to consider how current centralized capacity market rules and structures in the regions served by ISO New England Inc., New York Independent System Operator, Inc., and PJM Interconnection, L.L.C. are supporting the procurement and retention of resources necessary to meet future reliability and operational needs. In a post-technical conference notice dated October 25, 2013, the Commission invited all interested persons to file post-technical conference comments by December 9, 2013. Agenda item E-2 may be an order or report on the centralized capacity market rules in these regions.



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: Winter 2013 – 2014 Operations and Market Performance In Regional Transmission Organizations and Independent System Operators (Docket No. AD14-8-000)

On February 21, 2014, FERC issued notice of a Commission-led technical conference on Winter 2013 – 2014 Operations and Market Performance in Regional Transmission Organizations and Independent System Operators (RTO/ISOs) that was held on April 1, 2014. The Commission stated that it was establishing this technical conference to explore the impacts of recent cold weather events on the RTO/ISOs, and discuss actions taken to respond to those impacts. Agenda item E-2 may be an order or a report pertaining to this technical conference.

E-3: Kansas City Board of Public Utilities (Docket No. AD14-16-000)

On August 19, 2014, the Kansas City Board of Public Utilities (BPU) submitted a request to the United States Environmental Protection Agency (EPA) for a limited extension of time from April 16, 2016 to October 15, 2016 within which to comply with the EPA's Mercury and Air Toxics Standard (MATS Rule). Among its responses to the MATS Rule, BPU planned to upgrade its Nearman Station unit with an air quality control project ("AQC project"); however these controls are not expected to become operational until winter/early spring 2017. In addition to the extension request, BPU stated in its filing that it would not supply more than one-third of the potential annual output of BPU's Nearman I coal-fired unit to the grid, to avoid falling under the EPA's proposed greenhouse gas emissions rule, until April 16, 2017 or the date on which the AQC project becomes operational. Agenda item E-3 may be a FERC issuance related to BPU's request.

E-4: Physical Security Reliability Standard (Docket No. RM14-15-000)

On May 23, 2014, the North American Electric Reliability Corporation (NERC) submitted for Commission approval of proposed Reliability Standard CIP-014-1—Physical Security. NERC stated that the purpose of the proposed Reliability Standard is to enhance physical security measures for the most critical Bulk-Power System facilities and thereby lessen the overall vulnerability of the Bulk-Power System to physical attacks. NERC also requested approval of the associated Implementation Plan, the associated Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs). Agenda item E-4 may be an order on NERC's proposed Reliability Standard CIP-014-1.

E-5: OMITTED.

E-6: Real Power Balancing Control Performance Reliability Standard (Docket No. RM14-10-000)

On April 2, 2014, the North American Electric Reliability Corporation (NERC) submitted proposed Reliability Standard BAL-001-2—Real Power Balancing Control Performance for Commission approval. NERC stated that the purpose of proposed Reliability Standard BAL-001-2 is to maintain Interconnection frequency within predefined frequency limits. NERC also requested approval of the associated implementation plan, Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs), and retirement of Reliability Standard BAL-001-1. Agenda item E-6 may be an order on NERC's proposed Reliability Standard BAL-001-2.

E-7: Sunbury Generation LP (Docket No. ER14-2936-000)

On August 21, 2014, Sunbury Generation LP ("Sunbury") submitted a notice of cancellation for its cost-based Reactive Supply and Voltage Control from Generation Sources Services tariff. Agenda item E-7 may be an order on Sunbury's filing.

E-8: California Independent System Operator Corporation (Docket No. ER14-2963-000)

On September 29, 2014, the California Independent System Operator Corporation (CAISO) submitted a tariff amendment to eliminate Section 22.1.2.2 of the CAISO tariff, a provision tracing back to the original CAISO tariff that requires an independent party to annually review CAISO management's compliance with policies and procedures related strictly to operations. Agenda item E-8 may be an order on CAISO's proposed tariff revision.

E-9: FPL Energy Oklahoma Wind, LLC (Docket No. OA14-3-000)

On March 23, 2005, the Commission accepted a shared facilities agreement between Oklahoma Wind and its affiliate FPL Energy Sooner Wind, LLC ("Sooner Wind"), which enabled Sooner Wind to transmit output from its facilities to the point of interconnection with OKG&E. FPL Energy Oklahoma Wind, LLC requests that the Commission grant waivers pertaining to certain requirements of Orders 888, 889 (to file an OATT), 890 (to file an OASIS) and Section 35.28, Part 37 and Part 358 (the Standards of Conduct) of the Commission's regulations. Agenda item E-9 may be an order for the Commission to grant a waiver(s).

E-10: North American Electric Reliability Cooperation (Docket No. RR14-5-000)

On July 21, 2014 The North American Electric Reliability Cooperation (NERC) filed its Five-Year Electric Reliability Organization (ERO) Performance Assessment Report. In August 2014, several Regional Coordinating Facilities and parties filed motions to intervene including: ReliabilityFirst, Midwest Reliability Organizations, Inc., Florida Reliability Coordinating Council, Texas Reliability Entity, Inc., Northeast Power Coordinating Council, Inc., Western Electricity Coordinating Council, Southwest Power Pool, American Public Power Association and an individual. On August 27, 2014, The North American Electric Reliability Cooperation filed an answer and comments to the individual's doc-less motion to intervene and comments requesting that the Commission deny the individual's request for an extension of time and request for additional information from NERC. Agenda item E-10 may be an order on the request for an extension of time and additional information.

E-11: PJM Interconnection, LLC (Docket No. EL15-15-000)

This is a new docket for PJM Interconnection.

Gas Items

G-1: Cost Recovery Mechanisms for Modernization of Natural Gas Facilities (Docket No. PL15-1-000)

This is a new docket regarding cost recovery mechanisms for modernization of natural gas facilities.

G-2: Natural Gas Act Pipeline Maps (Docket No. RM14-21-000)

On July 17, 2014, the Commission proposed to amend the filing requirements for natural gas pipeline system maps that would require companies to maintain only one copy of its map on its website, which is updated quarterly instead of annually, and remove the requirement to maintain a second copy of its map with its tariff filings. On September 29, 2014, the Natural Gas Supply Association (NGSA) filed comments and a motion to intervene to request that the Commission (1) reconsider changing the requirement to update its maps quarterly and (2) require pipelines to include more details in its maps. Agenda item G-2 may be an order on the request for the Commission's proposed changes to its natural gas pipeline system map filing requirements.

G-3: Texas Eastern Transmission, LP (Docket Nos. RP12-318-003, RP12-318-005)

On September 20, 2012, the Commission issued an order directing Texas Eastern Transmission to make changes to its tariff regarding the crediting of reservation charges when service is not provided due to a non-force majeure outage, which the Commission considered unjust and unreasonable. Indicated Shippers filed a motion for rehearing on November 5, 2012. On November 20, 2012, Texas Eastern Transmission, LP filed with the Commission its motion for leave to answer and answer to the request for rehearing of Indicated Shippers November 5, 2012 filing. Agenda item G-3 may be an order on the Texas Eastern Transmission's request for its motion for leave.

G-4: Dominion Transmission, Inc. (Docket No. RP13-431-003)

On February 20, 2014 the Commission accepted Dominion Transmission, Inc.'s changes to provisions of its tariff related to reservation charge credits for unavailability of injection services, as earlier required by the Commission's February 27, 2013 order. On March 24, 2014 Indicted Shippers submitted a request for rehearing of the Commission's February 20, 2014 order, which the Commission approved on April 23, 2014. Agenda item G-4 may be an order on the request for rehearing.

G-5: BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc. and ExxonMobil Pipeline Company (Docket Nos. OR14-6-000, OR14-6-001)

On November 8, 2013, FERC dismissed as untimely a complaint by Flint Hills Resources Alaska, LLC ("Flint Hills") against BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc. and ExxonMobil Pipeline Company (the owners of the Trans Alaska Pipeline System (TAPS)), and initiated an investigation into whether the formula used by TAPS Quality Bank (QB) to value Resid (i.e., the portion of the petroleum stream remaining after distillation of all other cuts) is just and reasonable. On May 8, 2014, the Administrative Law Judge issued an initial decision, recommending that FERC uphold the existing QB methodology for the TAPS. Numerous parties have filed briefs on exceptions and briefs opposing exceptions to the initial decision. Flint Hills also filed a request for rehearing of the November 8, 2013 order, arguing that FERC should reinstate its complaint as being timely filed. Agenda item G-5 may be an order on the request for rehearing and/or the initial decision.

Hydro Items

H-1: Hydraco Power, Inc. and Warren David Long (Docket No. P-12588-010)

On August 7, 2014, FERC issued a notice of intent to terminate the exemption (5 MWs or less) of Hydraco Power, Inc. ("Hydraco") for the A.H. Smith Dam Hydroelectric Project in Caldwell County, Texas. According to the notice, Hydraco is in violation of Article 10 of its exemption since actual construction on the project did not begin by June 1, 2008 and was not completed by June 1, 2010. Hydraco has also not submitted an adequate plan regarding its schedule for completing construction or for surrendering its exemption. Agenda item H-1 may be an order on the notice of intent to terminate the exemption.

H-2: Public Utility District No. 1 of Snohomish County, Washington (Docket Nos. P-12690-007, P-12690-009, EL14-47-001)

On June 19, 2014, at the request of Public Utility District No. 1 of Snohomish County, Washington, licensee of the Admiralty Inlet Pilot Tidal Project, FERC issued a declaratory order finding that, as a result of the Washington State Department of Ecology waiving its consistency certification under the Coastal Zone Management Act, the Federal Power Act preempts any supplementary or inconsistent state or local requirements under Washington's Shoreline Management Act. PC Landing Corp. ("PC Landing") and the Tulaiup Tribes of Washington ("Tribes") filed separate requests for rehearing of the June 19, 2014 order. PC Landing and the Tribes also have pending requests for rehearing regarding FERC's May 20, 2014 order granting a pilot license for the Admiralty Inlet Project. Agenda item H-2 may be an order on the requests for rehearing.

H-3: Richard A. Glover, Jr. (Docket No. P-13997-002)

On June 24, 2014, FERC issued an order denying an extension of term for a preliminary permit for the proposed East Branch Dam Hydroelectric Project to be located in Elk County, Pennsylvania. The preliminary permit to study the feasibility of the project was issued on July 20, 2011 and expired on June 30, 2014. FERC found that Mr. Glover, the permit holder, has not performed activities under the permit with reasonable diligence and that he is engaging in site banking by attempting to hold the site until conditions at the site become more favorable. Mr. Glover filed a request for rehearing. Agenda item H-3 may be an order on the request for rehearing.

H-4: Appalachian Power Company (Docket No. P-2210-248)

On September 15, 2014, FERC issued a notice dismissing the request for reconsideration and rehearing of Automatic Boat Covers of VA & NC, LLC and Innovative Marin Technologies (collectively, ABC/IMT) regarding orders approving Appalachian Power Company's shoreline management plan update for the Smith Mountain Pumped Storage Project. In response, ABC/IMT filed a renewed request for reconsideration and/or rehearing. Agenda item H-4 may be an order on the request for reconsideration and/or rehearing.

Certificate Items

C-1: Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations (Docket No. RM12-11-002)

On November 22, 2013, FERC issued Order No. 790, a Final Rule amending its regulations regarding locating auxiliary installations within authorized rights-of-of-way or facility sites and notifying landowners before entering their property to install auxiliary or replacement facilities or to conduct maintenance activities. These new regulations affect natural gas companies. The Interstate Natural Gas Association of America and National Fuel Gas Supply Corporation and Empire Pipeline, Inc. filed separate requests for rehearing and/or clarification. Agenda item C-1 may be an order on the requests for rehearing and/or clarification.

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