

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

April 2011

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's April 21, 2011 meeting, pursuant to the agenda as issued on April 14, 2011. Agenda items E-1, E-2, E-3, E-4, E-13, E-17, E-20, E-21 and E-22 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. AD06-3-000)

This administrative item is the 2010 State of the Markets Report.

Electric Items

E-5: Electricity Market Transparency Provisions of Section 220 of the Federal Power Act (Docket No. RM10-12-000)

On January 21, 2010, the Commission issued a Notice of Inquiry (NOI) seeking comment regarding whether Electric Quarterly Report filing requirements should apply to market participants that are not subject to the Commission's jurisdiction under Section 205 of the Federal Power Act (FPA), such as federal entities and municipalities. Agenda item E-5 may be an order regarding the NOI.

E-6: Availability of E-Tag Information to Commission Staff (Docket No. RM11-12-000)

Agenda item E-6 is a new docket regarding E-Tag information availability.



Each month, White & Case provides brief summaries of the agenda items for the Federal Energy Regulatory Commission's monthly meeting. For questions relating to any of these matters, please do not hesitate to contact any of the lawyers listed below:

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E-7: North American Electric Reliability Corporation (Docket No. RD11-4-000)

On February 11, 2011, the North American Electric Reliability Corporation (NERC) filed a petition for approval of revised Reliability Standard EOP-008-1 (Loss of Control Center Functionality) and the retirement of existing Reliability Standard EOP-008-0. Agenda item E-7 may be an order on NERC's petition.

E-8: Version One Regional Reliability Standard for Transmission Operations (Docket No. RM09-14-000)

On March 25, 2009, NERC submitted a petition for approval of Regional Reliability Standard TOP-007-WECC-1 (System Operating Limits) and the retirement of existing Regional Reliability Standard TOP-STD-007-0 (Operating Transfer Capability – WECC). On December 16, 2010, the Commission issued a Notice of Proposed Rulemaking (NOPR) in which the Commission proposed to approve the Regional Reliability Standard but sought additional information about several concerns regarding the standard. The Commission further proposed to direct the Western Electric Coordinating Council (WECC) to develop certain modifications to the Regional Reliability Standard and the associated violation risk factor and violation severity levels. Agenda item E-8 may be a final rule regarding the NOPR.

E-9: Version One Regional Reliability Standards for Facilities Design, Connections and Maintenance; Protection and Control; and Voltage and Reactive (Docket No. RM09-9-000)

On February 9, 2009, NERC sought the Commission's approval of four revised Regional Reliability Standards developed by WECC: FAC-501-WECC-1 (Transmission Maintenance), PRC-004-WECC-1 (Protection System and Remedial Action Scheme Misoperation), VAR-002-WECC-1 (Automatic Voltage Regulators), and VAR-501-WECC-1 (Power System Stabilizer). On December 17, 2010, the Commission issued a NOPR proposing to approve these four revised Regional Reliability Standards and to direct WECC to develop further modifications to the revised Regional Reliability Standards to address certain specified issues. Agenda item E-9 may be a final rule regarding the NOPR.

E-10: Electric Reliability Organization Interpretations of Interconnection Reliability Operations and Coordination and Transmission Operations Reliability Standards (Docket No. RM10-8-000)

On November 24, 2009, NERC filed a petition for approval of its interpretation of various requirements in Reliability Standards TOP-005-1 (Operational Reliability Information) and IRO-005-1 (Reliability Coordination—Current-Day Operations).

On December 16, 2010, the Commission issued a NOPR proposing to approve the interpretation as consistent with the existing Reliability Standards and to direct NERC to develop modifications to the Reliability Standards to address certain concerns. Agenda item E-10 may be a final rule regarding the NOPR.

E-11: Electric Reliability Organization Interpretation of Transmission Operations Reliability Standard (Docket No. RM10-29-000)

On July 16, 2010, as supplemented on February 14, 2011, NERC filed a petition with FERC seeking approval for an interpretation of Requirement 8 for Reliability Standard TOP-001-1 (Reliability Responsibilities and Authorities). Florida Municipal Power Pool requested the interpretation, which focuses on the responsibilities of Balancing Authorities and Transmission Operators during system emergencies and is intended to clarify the intent of Requirement 8 of the Reliability Standard. Agenda item E-11 may be an order concerning the proposed interpretation.

E-12: North American Electric Reliability Corporation (Docket No. RD11-2-000)

On January 13, 2011, NERC filed a petition with FERC seeking approval of two new Interconnection Reliability Operations and Coordination Reliability Standards: IRO-006-5 (Transmission Loading Relief) and IRO-006-EAST-1 (Transmission Loading Relief Procedure for the Eastern Interconnection), as well as for a definition of "Market Flow" to be included in the NERC Glossary of Terms and the retirement of certain items pending FERC's approval of the new Reliability Standards. According to NERC, the purpose of the proposed new Reliability Standards is to describe the implementation and coordination requirements concerning Eastern Interconnection-wide congestion management procedures (in order to reduce potential conflict between the continent-wide congestion management procedures and regional standards or procedures). Agenda item E-12 may be an order on NERC's filing.

E-14: PJM Interconnection, L.L.C. (Docket Nos. ER11-2140-000, -001)

On November 17, 2010, as amended on February 22, 2011, PJM Interconnection, L.L.C. (PJM) submitted amendments to Schedule 12-Appendix of its tariff in order to incorporate cost responsibility assignments for 134 new baseline upgrades from the Regional Transmission Expansion Plan that was approved by the PJM Board of Managers in October 2010 (2 Regional Facilities that will operate at or above 500 kV and 132 Lower Voltage Facilities that will operate below 500 kV). Numerous parties filed protests and comments. Agenda item E-14 may be an order on PJM's filings.

E-15: Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Inc. (Docket Nos. ER10-209-000, -001, -002; EL10-12-000, -001, -002; ER11-2931-000), Midwest Independent Transmission System Operator, Inc. (Docket Nos. ER10-640-000, -001)

In November 2009, Commonwealth Edison Company and its wholly owned subsidiary, Commonwealth Edison Company of Indiana, Inc. (ComEd), filed a proposed Assignment Rate Schedule to its tariff, whereby ComEd would assign to the Ameren Companies (Ameren) certain of ComEd's transmission credits in association with a Withdrawal Settlement Agreement with the Midwest Independent Transmission System Operator, Inc. (MISO). ComEd also filed a petition for a declaratory order asking that FERC require MISO to recognize the assignment and to allow Ameren to take service under Schedule 10-A of the MISO tariff. On December 30, 2009, FERC issued an order accepting in part, rejecting in part, and nominally suspending ComEd's proposed Assignment Rate Schedule, subject to refund, and setting both filings for hearing and settlement judge procedures. In January 2010, MISO submitted proposed revisions to Attachment I of its Tariff (Index to Transmission Customers Eligible for Schedule 10-A) to remove Ameren and Illinois Power, and their affiliates, from the list of entities that are authorized to use Schedule 10-A. On March 26, 2010, FERC issued an order accepting in part, rejecting in part, and nominally suspending MISO's proposed tariff revisions, subject to refund, and setting it for combined hearing and settlement judge procedures along with the other issues in this proceeding. On January 20, 2011, the Administrative Law Judge issued an Initial Decision. On March 4, 2011, FERC issued an order staying the effectiveness of the Initial Decision in response to a filing by ComEd terminating the Assignment Rate Schedule with Ameren and withdrawing the other filings. ComEd and Ameren also requested that the Initial Decision be vacated. Agenda item E-15 may be an ordering related to the Initial Decision.

E-16: AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., AEP Oklahoma Transmission Company, Inc., AEP Southwestern Transmission Company, Inc., AEP West Virginia Transmission Company, Inc. (Docket Nos. ER10-355-000, -001)

AEP Transmission Company, L.L.C., a subsidiary of American Electric Power, Inc. (AEP), is a holding company for seven new transmission-only public utility subsidiaries (the AEP Transmission Companies) that plan to construct and own new transmission facilities. Five of the AEP Transmission Companies propose to build facilities in PJM, and the other two AEP Transmission Companies

propose to build facilities in the Southwest Power Pool (SPP). In December 2009, American Electric Power Service Corporation, another subsidiary of AEP, filed an application requesting that FERC accept formula rates for the recovery of the investment costs in the transmission facilities owned by the AEP Transmission Companies. Numerous parties intervened and filed protests. On January 28, 2010, FERC issued an order accepting the proposed formula rates for filing, to be effective July 1, 2010, subject to refund and to hearing and settlement judge procedures. Arizona Electric Cooperative Corporation and Golden Spread Electric Cooperative, Inc. filed a motion for clarification, or in the alternative rehearing, of the January 28 order. Under settlement judge procedures, a settlement was reached in the proceeding (even though the settlement does not have the support of all of the parties). On November 9, 2010, the Administrative Law Judge issued a report on the Offer of Settlement. Agenda item E-16 may be an order on the settlement or the clarification/rehearing request.

E-18: San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services (Docket No. EL00-95-255), Investigation of Practices of the California Independent System Operator and the California Power Exchange Corporation (Docket No. EL00-98-237), Puget Sound Energy, Inc. v. Sellers of Energy and/or Capacity (Docket No. EL01-10-066), Investigation of Anomalous Bidding Behavior and Practices in Western Markets (Docket No. IN03-10-068), Fact-Finding Investigation Into Possible Manipulation of Electric and Natural Gas Prices (Docket No. PA02-2-083), American Electric Power Service Corporation (Docket No. EL03-137-030), Enron Power Marketing, Inc. and Enron Energy Services Inc. (Docket No. EL03-180-059), California Independent System Operator Corporation (Docket No. ER03-746-033)

On February 22, 2011, Sacramento Municipal Utility District (SMUD) and the California Parties (Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison, the People of the State of California ex rel. Kamala D. Harris, Attorney General and the Public Utility Commission of California) (collectively, the Parties) submitted a Joint Offer of Settlement to FERC in order to resolve claims (both monetary and non-monetary) related to events and transactions that occurred in the Western Energy Markets from January 1, 2000 through June 20, 2001. SMUD currently has numerous challenges before FERC to settlements related to the California refund proceedings from events during this time period. If the Settlement Offer is approved by FERC, SMUD would receive US\$31 million from the receivables at the California Power Exchange Corporation and also withdraw all related pending protests and rehearing requests before FERC in these matters. Agenda item E-18 may be an order on the Offer of Settlement.

E-19: Black Hills Power, Inc. (Docket No. TS10-2-000), Cross-Sound Cable Company, LLC (Docket No. TS10-1-000), The Empire District Electric Company (Docket Nos. OA97-93-001, TS04-178-001), Golden Spread Electric Cooperative, Inc. (Docket No. OA11-1-000), Golden Spread Panhandle Wind Ranch, LLC (Docket No. OA11-2-000), Muscatine Power & Water (Docket No. TS09-7-000), Northern California Power Agency (Docket Nos. TS09-10-000, OA98-7-001), Old Dominion Electric Cooperative (Docket No. TS04-282-001), Otter Tail Power Company (Docket Nos. TS09-8-000, OA97-139-001), City of Roseville, California (Docket No. TS10-4-000), City of Santa Clara, California (Docket Nos. TS09-9-000, EL99-4-001), Southern California Edison Company (Docket No. TS07-3-001), Wolverine Power Supply Cooperative, Inc. (Docket No. OA08-116-001), Xcel Energy Services Inc. (Docket Nos. TS04-268-000, -001)

These dockets involve requests for waiver of transmission Standards of Conduct or changes in status after a waiver of the Standards of Conduct has been granted by FERC. Agenda item E-19 may be an order regarding the applicability of the Standards of Conduct.

E-23: Midwest Independent Transmission System Operator, Inc. (Docket No. ER06-356-002)

On April 17, 2006, MISO and Horizon Wind Energy, LLC (Horizon) filed rehearing and clarification requests in response to FERC's March 17, 2006 order accepting in part and rejecting in part certain proposed revisions to MISO's Large Generator Interconnection Procedures and Large Generator Interconnection Agreement that would incorporate, with modifications, standard procedures and technical requirements for interconnection of large wind generators. MISO argued FERC's decision failed to consider MISO's status as an independent entity and its operating characteristics based on its geographic size and location and also created an undue preference for large wind facilities. Horizon requested clarification that if the system impact study of a particular wind generating facility supported the use of a less onerous power factor range than the range accepted by FERC in the March 17 order, then that entity would not be held to the accepted standard. Agenda item E-23 may be an order on the requests for clarification and/or rehearing.

E-24: Midwest Independent Transmission System Operator, Inc. (Docket No. ER09-411-006)

On October 29, 2010, MISO made a compliance filing in response to FERC's August 30, 2010 order in an ongoing proceeding in which MISO is seeking certain revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff. Specifically, MISO filed to identify its Revenue Sufficiency Guarantee exemptions per FERC's August 30 order. Several parties protested or commented on MISO's compliance filing. Agenda item E-24 may be an order related to MISO's compliance filing.

Gas Items

G-1: Brian Hunter (Docket No. IN07-26-004)

Brian Hunter was a former natural gas trader for the now-collapsed Amaranth Advisors hedge fund. In July 2007, FERC filed an enforcement action against Hunter for alleged violation of FERC's Market Manipulation Rule in connection with his trading activities for Amaranth. The presiding Administrative Law Judge issued an Initial Decision on January 22, 2010, concluding that Hunter violated the Market Manipulation Rule. On March 4, 2010, Hunter filed a Brief on Exceptions to the Initial Decision. Also on March 4, 2010, Trial Staff filed a Memorandum of Points of Authorities Addressing Penalty Issues Reserved to the Commission. Agenda item G-1 may be an order related to the pending matters in this proceeding.

G-2: Natural Gas Supply Association, American Forest and Paper Association, American Public Gas Association, Independent Petroleum Association of America and Process Gas Consumers Group (Docket No. RP11-1538-000)

On November 17, 2010, the Natural Gas Supply Association, the Independent Petroleum Association of America, the Process Gas Consumers Group, the American Public Gas Association and the American Forest and Paper Association (collectively, Petitioners) filed a petition requesting FERC to enforce its policies on pipeline credits during outages by requiring that all pipelines amend their tariffs to provide crediting during times of service interruptions if the tariff does not already have such a provision. Petitioners alleged that there is a widespread problem of tariff provisions that are contrary to FERC's policy that pipelines must provide shippers with appropriate credits during outages. Agenda item G-2 may be an order on the petition.

G-3: Southern Natural Gas Company (Docket Nos. RP11-60-000, -001)

On October 13, 2010, Southern Natural Gas Company (SNGC) filed certain revised tariff sections of its FERC Gas Tariff, Eighth Revised Volume No. 1. The revisions consist of miscellaneous updates, clarifications, error corrections and enhancements. On November 30, 2010, FERC issued an order accepting and suspending the revised tariff sections to be effective December 1, 2010, subject to refund, conditions and further review. FERC also directed SNGC to file certain revised tariff sections, which SNGC submitted on December 20, 2010. Agenda item G-3 may be an order on SNGC's compliance filing.

G-4 Kern River Gas Transmission Company (Docket No. RP10-1410-000)

On September 30, 2010, Kern River Gas Transmission Company (Kern) made a compliance filing in response to FERC's August 6, 2010 order on certain proposed revisions to Kern's Rate Schedule KRF-1. In the August 6 order, FERC directed Kern to revise Rate Schedule KRF-1 to provide reservation charge credits during outages in force majeure and non-force majeure circumstances. In the September 30 filing, Kern proposed to add a new Section 9, "Reservation Charge Adjustments," to its Rate Schedule KRF-1. Agenda item G-4 may be an order on Kern's compliance filing.

Hydro Items

H-1: City of Spearfish, South Dakota (Docket No. P-12775-001)

On September 10, 2008, the City of Spearfish, South Dakota (Spearfish) filed a license application for an unlicensed major, 4 MW hydroelectric project that had previously been operating under a right-of-way that had expired. On March 9, 2011, the South Dakota Historic Preservation Officer filed a Programmatic Agreement between the Commission and the South Dakota Historic Preservation Office for managing historic properties that may be affected by the issuance of a license to Spearfish. Pursuant to the Programmatic Agreement, upon issuance of a license, Spearfish would be required to implement a historic properties management plan. Agenda item H-1 may be an order addressing the license application.

H-2: Grand Coulee Project Hydroelectric Authority (Docket No. P-13681-001)

On March 8, 2010, the Grand Coulee Project Hydroelectric Authority (GCPHA) submitted an application for a preliminary permit to study the feasibility of a proposed pumped storage project (North Dam Project). GCPHA indicated that the North Dam Project would use Banks Lake, impounded by North Dam and Dry Falls Dam, as the upper reservoir and Franklin D. Roosevelt Lake as the lower reservoir. On December 14, 2010, Commission Staff issued an order dismissing the preliminary permit application because it appeared that the project would use the same water resource, Banks Lake, as the Banks Lake Pumped Storage Project, FERC Project No. 13296. GCPHA filed a request for rehearing of the December 14 order. Agenda item H-2 may be an order addressing the permit application and/or the request for rehearing.

H-3: PacificCorp (Docket No. P-2342-021)

On October 21, 1999, PacifiCorp filed an application for amendment of license and approval of offer of settlement regarding its Condit Project. PacifiCorp proposed to extend the Condit Project's current license term until October 2006 and remove the project thereafter. The Commission issued a declaratory on December 21, 2001 and a clarification order on March 15, 2002, in which the Commission determined that PacifiCorp's application was effectively an application to surrender PacifiCorp's existing license with a future effective date. Thereafter, PacifiCorp requested extensions of the dates by which it proposed to cease operations under its license and begin project removal. On December 16, 2010, the Commission issued an order accepting surrender of PacifiCorp's license with terms and conditions. In January 2011, PacifiCorp, the Washington Department of Ecology (WDOE) and American Whitewater, American Rivers and Trout Unlimited submitted requests for rehearing of the December 16 order. Each of these parties argued that the Commission erroneously concluded that WDOE had waived certification of the Condit Project under Section 401 of the Clean Water Act. PacifiCorp also argued that certain aspects of the December 16 order may be inconsistent with PacifiCorp's proposal or may make implementation of the decommissioning proposal difficult or impossible. Agenda item H-3 may be an order addressing the requests for rehearing.

Certificate Items

C-1: Florida Gas Transmission Company, LLC (Docket No. CP11-16-000)

On October 28, 2010, Florida Gas Transmission Company, LLC (FGT) submitted an application requesting a certificate of public convenience and necessity for FGT to construct and operate approximately 2.98 miles of 24-inch natural gas pipeline, a pig receiver at Compressor Station No. 22 and appurtenant facilities, all located in Miami-Dade County, Florida. On March 18, 2011, the Commission's Office of Energy Projects issued an environmental assessment report in which it recommended that the Commission order on the application contain a finding of no significant impact and include certain mitigation measures as conditions to any certificate the Commission may issue. Agenda item C-1 may be an order on the application.

C-2: Northern Natural Gas Company, Southern Natural Gas Company, Florida Gas Transmission Company, LLC, Transcontinental Gas Pipe Line Corporation, LLC, Enterprise Field Services, LLC (Docket No. CP10-82-000)

On March 5, 2010, Northern Natural Gas Company (Northern), on behalf of itself, Southern Natural Gas Company, FGT, Transcontinental Gas Pipe Line Company, LLC, and Enterprise Field Services, LLC (collectively, Applicants), submitted a joint application for permission and approval to abandon in-place certain offshore and onshore facilities located in Texas, collectively known as the Matagorda Offshore Pipeline System (MOPS). Applicants indicated that the MOPS facilities are underutilized and uneconomic to operate and that the volumes transported on these facilities are very low and decreasing. Agenda item C-2 may be an order addressing the joint application.

C-3: CenterPoint Energy-Mississippi River Transmission Corporation (Docket No. CP11-51-000)

On December 15, 2010, CenterPoint Energy-Mississippi River Transmission Corporation (MRT) submitted an application requesting that the Commission permit MRT to abandon approximately 1.2 Bcf of cushion gas and reclassify it as working gas in its East and West Unionville Storage Fields, located in Lincoln Parish, Louisiana. MRT indicated that there would be no service or fuel loss impact to MRT's customers as a result of this abandonment and reclassification. Agenda item C-3 may be an order addressing MRT's application.