

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

March 2015

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Below are brief summaries of the Agenda Items for the Federal Energy Regulatory Commission's March 19, 2015 meeting, pursuant to the agenda as issued on March 12, 2015. Agenda Items E-16 through E-18 have not been summarized as they were omitted from the agenda. There were no Gas Items included in this month's 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. AD06-3-000

This administrative docket addresses Market Updates.

A-4: Docket No. AD15-8-000

This administrative docket addresses OAL Contributions to the Work of the Commission.

Electric Items

E-1: Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities (Docket No. RM14-11-000)

On May 15, 2014, the Commission issued a proposed rulemaking that would amend its regulations to waive the Open Access Transmission Tariff requirements of CFR35.28 (2013), the Open Access Same-Time Information System requirements of Part 37 of its regulations, 18 CFR 37 (2013), and the Standards of Conduct requirements of Part 358 of its regulations, 18 CFR 358 (2013) for certain entities that only own interconnection facilities. The proposed rule would allow ICF owners to wait until a third party requests service before having to demonstrate their plans and milestones and would also allow a "safe harbor" where an ICF owner would not have to share its facilities for five years after being energized. Numerous parties filed comments. Agenda Item E-1 may be an order on FERC's proposed rulemaking.



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: North American Electric Reliability Corporation (Docket No. NP15-1-000)

On October 30, 2014, the North American Electric Reliability Corporation (NERC) submitted a Notice of Penalty for violations of the FERC reliability standards that the Texas Regional Entity alleges NextEra Energy Resources, LLC (NextEra) committed. On December 18, 2014, NERC filed its answer to NextEra's November 26, 2014 Application for Review of Penalty. Numerous parties filed motions to intervene and comments. Agenda Item E-2 may be an order on NERC's Notice of Penalty.

E-3: North American Electric Reliability Corporation (Docket No. RR15-4-000)

On December 11, 2014, pursuant to § 215(f) of the Federal Power Act and 18 C.F.R. § 39.10, NERC filed a petition requesting FERC's approval of revisions to implement the risk-based registration initiative to NERC's rules of procedures. The proposed revisions include (1) modifications of the NERC registry criteria; (2) changes to the risk-based application of sub-set lists of Reliability Standards for entities; and (3) procedural improvements to the registration process. On January 26, 2015, NERC filed a limited answer to comments of the PSEG Companies and the motion to intervene and protest of the Cogeneration Association of California and the Energy Producers and Users Coalition. Numerous parties filed motions to intervene and comments. Agenda Item E-3 may be an order on NERC's petition.

E-4: ISO New England, Inc. (Docket Nos. ER13-193-001, ER13-193-003, ER13-196-001 and ER13-196-002)

On November 15, 2013 (the "November filing"), ISO-NE and the Participating Transmission Owners Administrative Committee (PTO) filed amendments to the ISO New England, Inc. Transmission, Markets and Services Tariff and Transmission Operating Agreement in compliance with Order Nos. 1000 and 1000A. Agenda Item E-4 may be an order on ISO-NE and PTO's compliance filing.

E-5: Southwest Power Pool, Inc. (Docket No. ER13-1939-000); Duke Energy Carolina, LLC and Duke Energy Progress, Inc. (Docket No. ER13-1928-000); Louisville Gas and Electric Company (Docket No. ER13-1930-000); Ohio Valley Electric Corporation (Docket No. ER13-1940-000); Alabama Power Company (Docket No. ER13-1941-000 – not consolidated)

On July 10, 2013, Southwest Power Pool, Inc. (SPP), Duke Energy Carolina, LLC, Duke Energy Progress, Inc., Louisville Gas and Electric Company and Kentucky Utilities Company, Southern

Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (collectively, Southern Companies) and Ohio Valley Electric Corporation (collectively, SERTP Filing Parties) separately submitted, pursuant to section 206 of the Federal Power Act, revisions to each of their respective OATTs to comply with the interregional transmission coordination and cost allocation of Order No. 1000. On February 19, 2015 and January 23, 2015, the Commission conditionally accepted, subject to further compliance filings, the SPP Interregional Compliance Filing and the SERTP Filing Parties Compliance Filing, respectively. Numerous parties filed comments and motions to intervene. Agenda Item E-5 may be an order on SPP and SERTP Filing Parties' compliance filings.

E-6: Independent Power Producers of New York v. New York Independent System Operator, Inc. (Docket No. EL13-62-000)

On May 10, 2013, Independent Power Producers of New York, Inc. (IPPNY) filed a complaint pursuant to sections 205 and 206 of the FPA against New York Independent System Operator, Inc. (NYISO). The Complaint requests the Commission order NYISO revise its Market Administration and Control Area Services Tariff (Services Tariff) to prevent alleged continued artificial suppression of prices resulting from below-cost offers of capacity from existing resources that would have exited the market were it not for payments under reliability must-run (RMR) contracts. The NYISO filed an answer seeking dismissal of the Complaint on May 30, 2013. On March 25, 2014, IPPNY moved to amend its Complaint, alleging that a recently executed term sheet between Niagara Mohawk Power Corp. d/b/a National Grid and Dunkirk Power, LLC for the repowering of certain coal-fired generating units will result in the retention of 425 MWs of uneconomic capacity, further contributing to the artificially suppressed capacity market prices. In addition, IPPNY has filed several motions to lodge. Agenda Item E-6 may be an order on the Complaint and/or the related filings.

E-7: New York Independent System Operator, Inc.; Niagara Mohawk Power Corp. (Docket No. ER14-543-000)

On December 6, 2013, Niagara Mohawk Power Corp., d/b/a National Grid (National Grid) filed proposed tariff revisions to certain National Grid-specific components of the Wholesale Transmission Service Charge formula under Attachment H of the New York Independent System Operator Inc.'s OATT. In the filing, National Grid proposed revisions to its formula rate to incorporate costs it incurs from Reliability Support Services (RSS) pursuant to two RSS Agreements with NRG Energy. The Commission

issued an order on February 4, 2014 granting a waiver of the FPA 60-day notice requirement and permitting the proposed revisions in the formula rate to become effective on July 1, 2013, subject to refund and further order of the Commission. In the Order, the Commission stated that it will issue a further order in this proceeding to consider the matters at issue raised by the parties' arguments. Agenda Item E-7 may be the further order referenced in the February 4, 2014 order.

E-8: Niagara Mohawk Power Corp. (Docket No. ER14-543-001)

Under Docket No. ER14-543-000 (see Agenda Item E-7 above), Niagara Mohawk proposed certain revisions to its formula rate to recover costs associated with Reliability Support Services (RSS). The Commission issued an order on February 4, 2014 granting a waiver of the FPA 60-day notice requirement and permitting the proposed revisions in the formula rate to become effective on July 1, 2013, subject to refund and further order of the Commission. On March 6, 2014, the Municipal Electric Utilities Association of New York requested rehearing of that February 4 Order under the instant subdocket. Agenda Item E-8 may be an order on the request for rehearing.

E-9: ER14-2869-000/EL14-71 Black Hills Power, Inc. (Docket Nos. ER14-2869-000/EL14-71-000)

On July 17, 2014, the Commission, pursuant to section 206 of the FPA, issued an order instituting an investigation into the justness and reasonableness of Black Hills Power, Inc.'s (Black Hills) formula rate protocol. In the Order, the Commission noted that Black Hills' formula rate protocols may be deficient in (1) the scope of participation; (2) the transparency of the information exchange; and (3) the ability to challenge Black Hills' implementation of its formula rate as a result of the information exchange. The Commission ordered Black Hills to file revisions to the formula rate protocols of its tariff or, alternatively, to show cause why it should not be required to do so. In compliance with the Order, Black Hills filed proposed revisions to its formula rate protocols under Docket No. ER14-2869 on September 12, 2014. Agenda Item E-9 may be an order on proposed revised formula rate protocols.

E-10: UNS Electric, Inc. (Docket Nos. ER14-2875-000 and EL14-72-000)

On July 17, 2014, in Docket No. EL14-72, FERC instituted an investigation into the justness and reasonableness of UNS Electric's (UNS) lack of formula rate protocols under its Tariff. On September 15, 2014, UNS submitted a tariff filing proposing formula rate protocols. Agenda Item E-10 may be an order on UNS's proposed formula rate protocols.

E-11: The Empire District Electric Company (Docket Nos. ER14-2882-000 and EL14-73-000)

On July 17, 2014, in Docket no. EL14-73, FERC instituted an investigation into the justness and reasonableness of the Empire District Electric Company's (Empire) formula rate protocols under its Tariff. On September 15, 2014, Empire submitted revisions to its transmission formula rate protocols. Agenda Item E-11 may be an order on Empire's proposed revisions to its formula rate protocols.

E-12: Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company, Kansas City Power and Light Company and KCP&L Greater Missouri Operations Co. (Docket Nos. ER14-2884-000, EL14-74-000 and EL14-75-000)

On July 17, 2014 in Docket Nos. EL14-74-000 and EL14-75-000, FERC instituted an investigation into the justness and reasonableness of the formula rate protocols under the KCP&L Greater Missouri Operations Co.'s Tariff. On September 15, 2014, KCP&L submitted proposed revisions to its formula rate protocols. Agenda Item E-12 may be an order on KCP&L's proposed revisions to its formula rate protocols.

E-14: Louisville Gas and Electric Co. and Kentucky Utilities Co. (Docket Nos. ER14-2866-000 and EL14-76-000)

On July 17, 2014, in Docket No. EL14-76, FERC instituted an investigation into the justness and reasonableness of Louisville Gas and Electric Co. and Kentucky Utilities Co.'s (LG&E/KU) lack of formula rate protocols under its Tariff. On September 12, 2014, LG&E/KU submitted revisions to Attachment O of its Tariff to adopt new formula rate protocols. Agenda Item E-14 may be an order on LG&E/KU's proposed formula rate protocols.

E-14: Westar Energy, Inc. (Docket Nos. ER14-2852-000 and EL14-77-000)

On July 17, 2014, the Commission issued an order pursuant to section 206 of the Federal Power Act directing Westar Energy, Inc. (Westar) to file revisions to the formula rate protocols under Westar's Open Access Transmission Tariff and Southwest Power Pool Inc.'s (SPP) Open Access Transmission Tariff, or show cause why it should not be required to do so. On September 11, 2014, Westar submitted revisions to its transmission formula rate protocols that address the scope of participation, the transparency of information exchange and the ability to challenge Westar's implementation of its formula rate as a result of the information exchange. In October 2014, several parties protested and commented on Westar's proposed revised formula rate protocols. Agenda Item E-14 may be an order on the proposed revised formula rate protocols.

E-15: Revised Exhibit Submission Requirements for Commission Hearings (Docket No. RM15-5-000)

Agenda Item E-15 may be an order on revised exhibit submission requirements for Commission hearings.

E-20: New York Independent System Operator, Inc. (Docket Nos. EL07-39-006 and ER08-695-004 (consolidated) and ER10-2371-000)

On May 20, 2010, the Commission issued an order on clarification, rehearing and compliance filing regarding the New York Independent System Operator, Inc.'s (NYISO) proposals to strengthen the mitigation of market power in the New York City (in-City) Installed Capacity Market. In June 2010, TC Ravenswood, the NRG Companies and the Independent Power Producers of New York, Inc. filed requests for rehearing and the NYISO filed a request for clarification of the Commission's May order. On August 12, 2010, the NYISO submitted a compliance filing in response to the May order. Agenda Item E-20 may be an order on the requests for rehearing, request for clarification and compliance filing.

Hydro items

H-1: Hydraco Power, Inc. and Warren David Long (Docket No. P-12588-011)

On November 20, 2014, the Commission issued an order terminating, by implied surrender, the exemption for the 150-kilowatt A.H. Smith Dam Project No. 12588, located on the San Marcos River in Caldwell County, Texas. On December 19, 2014, Warren David Long and Hydraco Power, Inc. requested rehearing of the Commission's November order. Agenda Item H-1 may be an order on the request for rehearing.

H-2: Clark Canyon Hydro, LLC (Docket No. P-12429-013)

On June 27, 2014, Commission Staff issued a notice of probable termination of the Clark Canyon Dam Hydroelectric Project License because construction on the project had not commenced within the period required under the FPA and the project license. Clark Canyon Hydro, LLC opposed the notice. Agenda Item H-2 may be an order on the notice of probable termination.

Certificate Items

C-1: Transcontinental Gas Pipe Line Company, LLC (Docket No. CP14-504-000)

On June 23, 2013, Transcontinental Gas Pipe Line Company, LLC (Transco) filed an application for a certificate authorizing Transco to construct and operate the Rock Springs Expansion Project, which is intended to enable Transco to provide 192,000 dekatherms per day (dth/day) of incremental firm transportation capacity from Mercer County, New Jersey to a proposed generating facility in Cecil County, Maryland. Agenda Item C-1 may be an order on Transco's application.

C-2: Southern Natural Gas Company, L.L.C., AMP Gathering I, LP (Docket Nos. CP15-30-000 and CP15-34-000)

On December 15, 2014, Southern Natural Gas Company, L.L.C. (Southern) filed an abbreviated application requesting authority to abandon by sale to AMP Gathering I, LP (AMP) approximately 34 miles of its Carthage Lateral Pipeline located in Texas and Louisiana. Southern also requested authorization to abandon by retirement certain remaining facilities related to the Carthage Lateral Pipeline. Also on December 15, 2014, AMP filed a related petition for declaratory order finding that the facilities it acquires from Southern will perform a gathering function once acquired by AMP and therefore be exempt from the Commission's jurisdiction. Agenda Item C-2 may be an order addressing these related applications.

C-3: Tres Palacios Gas Storage LLC (Docket No. CP14-27-000)

On December 6, 2013, Tres Palacios Gas Storage LLC (Tres Palacios) filed an application for abandonment of up to 22.9 Bcf of working gas storage capacity in the Tres Palacios Gas Storage Project. Agenda Item C-3 may be an order on Tres Palacios' request.

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