

# FERC

## Meeting Agenda Summary

---

### In this issue...

- Electric Items
  - Hydro Items
  - Certificates
- 

**22 September 2016**

**Authors:** [Daniel A. Hagan](#), [Jane E. Rueger](#)

Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's September 22, 2016 meeting, pursuant to the agenda as issued on September 15, 2016. Agenda item G1 has not been summarized due to its omission from the agenda.

### Electric

**E-1—Filing Requirements for Electric Utility Service Agreements, Electricity Market Transparency Provisions of Section 220 of the Federal Power Act, Revisions to Electric Quarterly Report Filing Process, Electric Quarterly Reports (Docket Nos. RM01-8-000, RM10-12-000, RM12-3-000, ER02-2001-000).** On June 16, 2016, the Commission issued an order (June Order) implementing certain clarifications to the existing Electric Quarterly Report (EQR) reporting requirements and the EQR Data Dictionary, pursuant to Sections 205 and 220 of the Federal Power Act (FPA). Particularly, the June Order clarified reporting requirements and associated fields in the EQR Data Dictionary related to "Increment Name" and "Commencement Date of Contract Terms." The June Order also affirmed the requirement that transmission providers must report transmission-related data in their EQRs. Additionally, the June Order made certain updates to the EQR Data Dictionary with respect to the "Time Zone" field options and deleted fields associated with reporting e-Tag ID data. The June Order also clarified that future minor or non-material changes to EQR reporting requirements and the EQR Data Dictionary, such as those outlined in the June Order, will be posted directly to the Commission's website and EQR users will be alerted via email of such changes. Several requests for rehearing, stay and/or clarification were filed. Agenda item E-1 may be an order on the requests for rehearing, clarification and/or motion for stay of the deadline implementing the June Order's changes.

**E-2—Modifications to Commission Requirements for Review of Transactions under Section 203 of the Federal Power Act and Market-Based Rate Applications under Section 205 of the Federal Power Act (Docket No. RM16-21-000).** Agenda item E-2 may initiate a new proceeding concerning a modification to the Commission's requirements for review of transactions under Section 203 of the FPA and applications for market-based rate authorization under Section 205 of the FPA.

---

**E-3—Public Service Commission of Wisconsin v. Midcontinent Independent System Operator, Inc., Midcontinent Independent System Operator, Inc., Michigan Public Service Commission v. Midcontinent Independent System Operator, Inc. (Docket Nos. EL14-34-003, ER14-1242-005, ER14-1243-007, ER14-1724-003, ER14-1725-003, ER14-2176-003, ER14-2180-003, ER14-2860-002, ER14-2862-002, ER14-2952-002, ER14-2952-005, EL15-7-001).** On February 19, 2015, the Commission issued an order on rehearing, accepting compliance filings, rejecting compliance filings and requiring further compliance, and dismissing a complaint (February Order), which addressed several proceedings related to the allocation of costs associated with the operation of System Support Resource (SSR) Units under the Midcontinent Independent System Operator, Inc.'s (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff. Among other things, the February Order reaffirmed the Commission's finding in a previously issued Public Service Commission of Wisconsin complaint order that it is unjust, unreasonable, unduly discriminatory or preferential for MISO to allocate SSR costs on a pro rata basis to all load-serving entities in the footprint of American Transmission Company LLC. On March 23, 2015, multiple entities requested rehearing and/or clarification of the February Order. Agenda item E-3 may be an order on the requests for rehearing and/or clarification.

**E-4—Reliability Standard for Transmission System Planned Performance for Geomagnetic Disturbance Events (Docket No. RM15-11-000).** On January 21, 2015, pursuant to Section 215(d)(1) of the FPA and Section 39.5 of the Commission's regulations, the North American Electric Reliability Corporation (NERC) filed a petition requesting Commission approval of proposed Reliability Standard TPL-007-1 (Transmission System Planned Performance for Geomagnetic Disturbance Events) and the accompanying definition of "Geomagnetic Disturbance Vulnerability Assessment or GMD Vulnerability Assessment." On May 14, 2015, the Commission issued a NOPR proposing to approve Reliability Standard TPL-007-1. Numerous entities filed comments on the NOPR. Agenda item E-4 may be an order on NERC's petition.

**E-5—Balancing Authority Control, Inadvertent Interchange and Facility Interconnection Reliability Standards (RM16-13-000).** On April 20, 2016, pursuant to Section 215(d)(1) of the FPA and Section 39.5 of the Commission's regulations, NERC filed a petition requesting Commission approval of: (1) proposed Reliability Standards BAL-005-1 (Balancing Authority Control) and FAC-001-3 (Facility Interconnection Requirements); (2) proposed new or revised definitions to be incorporated into the Glossary of Terms Used in NERC Reliability Standards; (3) proposed retirement of currently effective Reliability Standards BAL-005-0.2b, FAC-001-2, and BAL-006-2; (4) associated Implementation Plans; and (5) associated Violation Risk Factors and Violation Severity Levels. Agenda item E-5 may be an order on NERC's petition.

**E-6—North American Electric Reliability Corporation (Docket No. RD16-6-000).** On May 26, 2016, pursuant to Section 215(d)(1) of the FPA and Section 39.5 of the Commission's regulations, NERC filed a petition requesting Commission approval of proposed Reliability Standards IRO-018-1 (Reliability Coordinator Real-Time Reliability Monitoring and Analysis Capabilities) and TOP-010-1 (Real-time Reliability Monitoring and Analysis Capabilities), as well as approval of the associated implementation plan and Violation Risk Factors and Violation Severity Levels for the proposed standards. Agenda Item E-6 may be an order on NERC's petition.

**E-7—Midcontinent Independent System Operator, Inc. (Docket Nos. ER12-1266-005 and ER12-1266-006).** On September 30, 2013, MISO submitted a compliance filing pursuant to the Commission's Order on Rehearing and Compliance dated May 16, 2013 (May 16 Order). The May 16 Order contained directives from the Commission concerning Order No. 745-related issues (Demand Response Compensation in Organized Wholesale Energy Market). MISO's compliance filing addresses, among other things, the (a) net benefits price threshold and demand response compensation; (b) cost allocation across zones and between day-ahead and real-time market participants; (c) actual energy withdrawal; (d) demand response resource measurement and verification and registration procedures; and (e) other miscellaneous tariff issues. Several entities filed protests in opposition to the MISO compliance filing. On November 4, 2013, MISO submitted an answer to the protests. On June 15, 2016, Commission Staff held a conference call with MISO to discuss tariff administration issues related to the MISO compliance filing and to ensure the versions of the tariff sheets are accurate and complete. Subsequently, on July 8, 2016, MISO submitted a reconciliation filing in response to certain discrepancies identified by Commission Staff on the June 15 conference call. Agenda item E-7 may be an order on the MISO compliance filing.

---

**E-8—Midcontinent Independent System Operator, Inc. (Docket Nos. ER12-1265-005 and ER12-1265-006).** Similar to Agenda Item E-7, this proceeding concerns a companion MISO compliance filing submitted pursuant to the May 16 Order. The Commission's May 16 Order also contained directives on Order No. 719-related issues (Wholesale Competition in Regions with Organized Electric Markets). The MISO compliance filing is largely the same as in Agenda item E-7. Several entities filed protests in opposition to the MISO compliance filing. On November 4, 2013, MISO submitted an answer to the protests. On June 15, 2016, the Commission held a conference call with MISO to discuss tariff administration issues related to the MISO compliance filing and to ensure the versions of the tariff sheets are accurate and complete. Subsequently, on July 8, 2016, MISO submitted a reconciliation filing in response to certain discrepancies identified by Commission staff on the June 15, 2016, conference call. Agenda item E-8 may be an order on the MISO compliance filing.

**E-9—Midcontinent Independent System Operator, Inc. (Docket No. ER16-197-002).** On December 30, 2015, the Commission issued an order conditionally accepting changes to the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (MISO Tariff) setting forth the formula rate protocols applicable to certain MISO transmission owners (namely, Ameren Illinois, ATXI, Minnesota Power, MDU, NIPSCO, NSP Companies, Otter Tail and Vectren). Specifically, the Commission accepted the proposed revisions to the MISO Tariff subject to the condition that the formula rate remove references to the use of an IRS calculation for the annual true-up and to provide that annual true-up calculations will continue to use the average of the beginning-of-year and end-of-year balances for all Accumulated Deferred Income Tax (ADIT) accounts. On January 1, 2016, the MISO transmission owners filed a request for clarification or, in the alternative, rehearing of the December 30 Order. Agenda item E-9 may be an order on the request for clarification and/or rehearing.

**E-10—Midwest Independent Transmission System Operator, Inc. (Docket Nos. ER11-1844-001 and ER11-1844-002).** On October 10, 2010, pursuant to Section 205 of the FPA, MISO submitted for Commission approval revisions to the MISO Tariff that would provide for cost recovery from the New York Independent System Operator, Inc. (NYISO) and PJM Interconnection, L.L.C. (PJM), the neighboring regional transmission organizations, a portion of costs associated with installation of phase angle regulators (PARs) at Bunce Creek on the Michigan-Ontario border, constructed to better manage loop flow congestion issues around Lake Erie. The PARs were installed by International Transmission Company d/b/a ITC *Transmission*. Numerous parties subsequently intervened and filed protests. The principal contested issue concerns allocating cost among MISO, PJM, NYISO, or just to MISO and ITC *Transmission* customers. On December 30, 2010, the Commission issued an order accepting the proposed tariff sheets, temporarily suspending them, and establishing hearing and settlement judge procedures before an Administrative Law Judge (ALJ). Following a hearing, the ALJ issued its Initial Decision on December 18, 2012, rejecting MISO's proposed cost allocation approach and ruling that costs should be allocated to MISO customers only. The parties then filed briefs on exception and motions to lodge concerning certain evidentiary issues related to the Initial Decision. In addition, on or around January 21, 2011, a number of parties filed requests for rehearing of the Commission's December 30 order. Subsequently, on December 13, 2011, NYISO filed a motion to dismiss or for summary judgment. Agenda item E-10 may be an order on the Initial Decision and/or requests for rehearing and other related issues.

**E-11—PJM Interconnection, L.L.C., Virginia Electric and Power Company (Docket No. ER14-1831-003).** On April 30, 2014, Dominion Virginia Power (Dominion) filed proposed revisions to Attachment H-16A to PJM's Open Access Transmission Tariff (PJM Tariff) in order to change the methodology of calculating ADIT in Dominion's formula transmission rate. On June 27, 2014, the Commission issued an Order Accepting and Suspending Proposed Formula Rate Revisions and Establishing Hearing, but held the hearing in abeyance. Dominion received and supplemented the record with an Internal Revenue Service private letter ruling (IRS PLR). Dominion supplemented the record with the IRS PLR on August 14, 2014, and filed a compliance filing on October 30, 2015, stating that Dominion's proposed use of proration in calculating ADIT was generally consistent with the IRS PLR. On February 23, 2016, the Commission issued an order finding that Dominion's April 30, 2014, filing was consistent with the IRS PLR and accepting the filing effective May 1, 2014. On March 24, 2016, the Old Dominion Electric Cooperative, the North Carolina Electric Membership Corporation and

---

Virginia Municipal Electric Association No. 1 filed a request for rehearing of the February 23 Order. Agenda item E-11 may be an order on rehearing of the February 23 Order.

**E-12—Entergy Services, Inc. (Docket No. ER10-1350-006).** On May 27, 2010, Entergy filed rates pursuant to Service Schedule MSS-3 of the Entergy System Agreement (Service Schedule MSS-3), implementing the Commission's decisions in Opinion Nos. 480 and 480-A relating to the annual calculation of payments and receipts under the Service Schedule MSS-3 "bandwidth formula." The Commission initially set Entergy's 2010 Bandwidth Filing for hearing and settlement judge proceedings by order issued on July 23, 2010, but held the proceeding in abeyance until certain issues that were pending before the Commission in various preceding bandwidth proceedings reached final determinations. The ALJ issued his initial decision on September 19, 2014. On December 17, 2015, the Commission issued an order accepting in part and rejecting in part the initial decision. The December 17 Order also directed Entergy to submit revised 2009 bandwidth formula calculations in a compliance filing due within 60 days. Entergy submitted its compliance filing on February 16, 2016. Agenda item E-12 may be an order on Entergy's compliance filing.

**E-13—Entergy Services, Inc. (Docket No. ER10-1350-005).** On December 17, 2015, the Commission issued an order accepting in part and rejecting in part the initial decision on Entergy's proposed rates under Service Schedule MSS-3 of the Entergy System Agreement. See Agenda Item E-12 above. On January 19, 2016, Entergy filed a request for rehearing of the December 17 Order. Agenda item E-13 may be an order on rehearing of the December 17 Order.

**E-14—Ameren Illinois Company (Docket No. ER16-1169-000).** On March 14, 2016, Ameren Illinois Company (AIC) submitted, pursuant to Commission orders and its formula rate protocols set forth in Attachment O of the MISO Tariff, an informational filing that reflects AIC's projected revenue requirement effective January 1, 2016, and a 2014 Annual True-Up. The projected net revenue requirement is based on projected cost data for calendar year 2016 and the Annual True-Up is based on actual cost data for calendar year 2014, as reported in AIC's 2014 FERC Form 1. Southwestern Electric Cooperative, Inc. (SEC) and Southern Illinois Power Cooperative, Inc. (SIPC) jointly filed a formal challenge to the informational filing. Agenda item E-14 may be an order addressing the informational filing, including the annual true-up and forward-looking projections, and/or the formal challenge of SEC and SIPC.

**E-15—AEP Texas Central Company, et. al. (Docket No. EC16-135-000).** On June 27, 2016, American Electric Power Service Corporation (AEPSC) filed, on behalf of AEP Texas Central Company (TCC), AEP Texas North Company (TNC), and AEP Utilities, Inc., pursuant to Section 203(a)(1)(B) of the FPA, a request for Commission authorization for an internal corporate reorganization in which TCC and TNC would merge into a single entity. On July 15, 2016, the Oklahoma Municipal Power Authority submitted a Motion to Intervene and Comments requesting that the Commission not address the jurisdictional status of transmission assets providing service within ERCOT. Agenda item E-15 may be an order on the proposed reorganization.

**E-16—Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, Duke Energy Florida, LLC (Docket No. AC15-174-001).** On August 27, 2015, Duke Energy Carolinas and its affiliates (collectively, Duke Companies) filed a request that the Commission grant waivers of the requirement that the Duke Companies account for the activities of their respective wholly owned financing subsidiaries using the equity method of accounting, and instead allow the Duke Companies to treat such subsidiaries on a consolidated basis. On February 12, 2016, the Commission accepted tariff amendments and rate schedules to provide the Duke Companies' use of the consolidated method of accounting for the operations of the wholly owned financing subsidiaries for ratemaking purposes. The February 12 letter order also stated that the Duke Companies should record the losses related to the sales discount of customer accounts receivable (A/R) in Account 426.5, Other Deductions. On March 14, 2016, the Duke Companies filed a request for rehearing of the February 12 letter order, arguing that the letter order's finding regarding the accounting treatment of the A/R discount should be reversed. Agenda item E-16 may be an order on the Duke Companies' request for rehearing of the February 12 letter order.

---

**E-17—Occidental Chemical Corporation v. Midwest Independent Transmission System Operator, Inc. (Docket No. EL13-41-001).** On January 17, 2013, Occidental filed a petition for declaratory order and complaint concerning MISO's proposed treatment of Qualifying Facilities (QFs) in the Entergy service territory. Occidental claimed that MISO's plan forces QFs to choose between either participating in the MISO markets or exercising their statutory rights under the Public Utility Regulatory Policies Act of 1978, as amended (PURPA) in violation of Sections 205 and 206 of the FPA and PURPA. On April 21, 2016, the Commission issued an order denying Occidental's complaint. Occidental filed a request for rehearing of the April 21, 2016, order on May 23, 2016. Agenda item E-17 may be an order on Occidental's request for rehearing of the April 21, 2016, order.

## Gas

### G-1—Omitted

**G-2—Tuscarora Gas Transmission Company (Docket Nos. RP16-299-000, RP16-1137-000 (not consolidated)).** On January 21, 2016, the Commission initiated several Natural Gas Act (NGA) Section 5 investigations of interstate natural gas pipeline rates, in order to determine if companies were charging "just and reasonable" rates for service. The chief judge established a procedural schedule and assigned an ALJ to preside over settlement discussions in this docket on January 27, 2016. Several parties filed motions to intervene and submitted substantive comments. On June 15, 2016, the joint participants in this docket reached a settlement in principle that would resolve all relevant issues. In July of 2016, a number of parties filed comments in support of the settlement; the ALJ filed a certification of uncontested settlement on August 1, 2016. Separately, in Docket No. RP16-1137-000, Tuscarora submitted a tariff filing pursuant to the rates furnished in the settlement. Agenda item G-2 may be an order on the settlement agreed upon in the proceeding under Docket No. RP16-299-000, and as a result, accepting the rates in the new tariff filing.

**G-3—Columbia Gulf Transmission, LLC (Docket No. RP16-302-000).** Agenda item G-3 also pertains to a pipeline rate investigation pursuant to the NGA initiated by the Commission on January 21, 2016, similar to agenda item G-2. An ALJ presided over settlement discussions on January 27, 2016. Many affected parties—including large companies operating on this particular pipeline—filed motions to intervene and substantive comments in the following period. In addition to a pre-hearing conference held in February of 2016, the parties convened an informal settlement conference on May 12, 2016. The ALJ filed a certification of uncontested settlement on August 15, 2016. Agenda item G-3 may be an order on the settlement agreed upon in this proceeding.

**G-4—Washington Gas Light Company (Docket Nos. PR15-5-002, RP15-238-000).** On December 2, 2014, Mountaineer Gas Company (Mountaineer) filed a complaint against Washington Gas Light Company (WGL) pursuant to Section 311 of the Natural Gas Policy Act. Mountaineer filed the complaint seeking to amend the applicable terms and conditions regarding firm transportation service, namely, by amending the existing agreement to include a standard meter error provision, as Mountaineer states is customary in such agreements. On March 4, 2015, the Commission issued an order on the tariff filing and complaint, requiring WGL to provide additional factual information prior to rendering a final decision. WGL submitted the requested information to the Commission on April 28 and 30, 2015. On February 3, 2016, Mountaineer submitted a letter informing the Commission that an agreement in principle had been reached, settling all of the contested issues in this docket. The settlement was officially filed on August 1, 2016, and Mountaineer subsequently requested to withdraw the initial complaint in this docket on August 3, 2016. Agenda item G-4 may be an order on the settlement agreed upon in this proceeding.

**G-5—Columbia Gas Transmission, LLC (Docket No. RP16-1082-000).** On June 30, 2016, Columbia Gas Transmission, LLC (Columbia) submitted a petition for approval of settlement, in order to implement "an equitable and more permanent framework for the allocation of lost and unaccounted for gas volumes (LAUF) between Columbia's transmission and gathering functions." Referencing prior negotiations in developing this settlement, Columbia stated that all customers had sufficient opportunity to engage and offer input in this agreement. Many of the parties involved in the negotiations filed motions to intervene; however, none

---

opposed the settlement, as Columbia indicated in the initial filing. Agenda item G-5 may be an order on the settlement agreed upon in this proceeding.

## Hydro

**H-1—Percheron Power, LLC. (Docket No. EL16-50-000).** On June 27, 2016, Percheron Power, LLC (Percheron) submitted a petition to the Commission for a Declaratory Order that the Commission retains jurisdiction to authorize small conduit hydroelectric projects of 5 MWs or less within the Columbia Basin Project (CBP) under the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act. The petition specifically addresses five incidental features within CBP for which preliminary permits previously had been granted: the PEC 1973 Drop Hydroelectric Project, the Scootney Inlet Drop Hydroelectric Project, the Scootney Outlet Hydroelectric Project, the 16.4 Wasteway Hydroelectric Project and the 46A Wasteway Hydroelectric Project. On May 19, 2016, Columbia Basin Hydropower submitted a Motion to Intervene Out of Time and Comments in Opposition to the requested Declaratory Order. The Declaratory Order would presumably clarify whether the Commission or the Bureau of Reclamation has jurisdiction over small conduit hydroelectric projects at these sites. Agenda item H-1 may be an order in response to the petition for Declaratory Order.

**H-2—Fairlawn Hydroelectric Company, LLC. (Docket No. P-12715-008).** On July 18, 2006, Fairlawn Hydroelectric Company, LLC (Fairlawn) submitted an Application for Preliminary Permit for Jennings Randolph Hydroelectric Project. On April 30, 2012, the Commission issued an Order Issuing Original License for the Project to Fairlawn. On April 17, 2014, Fairlawn filed a request for a two-year extension of the due date to start construction. The Commission granted the extension of the commencement of construction deadline on May 13, 2014. On April 28, 2016, Fairlawn submitted a request for a two-year stay of the commencement and completion of construction deadlines established in the original license. Despite demonstrated progress in developing the required environmental plans and obtaining some of the required permits and authorizations, Fairlawn's license prevents it from advancing to the construction phase of project development without US Army Corps of Engineers approval. The requested extension is intended to provide additional time to obtain the required approval. Agenda item H-2 may be an order in response to Fairlawn's request for a two year stay.

**H-3—Domtar Paper Company, LLC. (Docket No. P-2212-049).** On June 10, 2016, Domtar Paper Company, LLC (Domtar) filed with the Commission, as required by its license, a request for approval of a reservoir drawdown plan that proposes to initiate a drawdown on September 12, 2016. Agenda item H-3 may be an order in response to Domtar's request for approval of the reservoir drawdown plan.

## Certificates

**C-1—ANR Pipeline Company (Docket No. CP16-64-000).** On January 20, 2016, ANR Pipeline Company (ANR) submitted an Abbreviated Application for a Certificate of Public Convenience and Necessity (CPCN), requesting authorization to construct, own and operate the Collierville Expansion Project located in Shelby County, Tennessee. On July 29, 2016, the Commission issued the Environment Assessment Report for the project, indicating that there would be no significant impact. Agenda item C-1 may be an order on the ANR application for a CPCN of the Collierville Expansion Project.

**C-2—Kinetica Deepwater Express, LLC (Docket No. CP16-78-000).** On February 24, 2016, TC Offshore LLC (TC Offshore) submitted an Abbreviated Application pursuant to Section 7(b) of the NGA, requesting authorization to abandon by sale to Avocet LNG, LLC, certain facilities of TC Offshore located in state and federal waters in Louisiana and the Gulf of Mexico. Among several motions to intervene filed by affected parties, a group of companies (the Indicated Shippers) filed a Protest on March 29, 2016, requesting that the Commission deny the application. On April 7, 2016, Kinetica Deepwater Express, LLC (Kinetica) submitted a motion to change the name of TC Offshore to Kinetica, reflecting a purchase of the company finalized on March 31, 2016. The Commission issued a finding of categorical exclusion in the Environmental Assessment Report on May 17, 2016. Kinetica and the Indicated Shippers submitted answers to requests for additional information during the course of the proceeding, particularly in April and May of 2016. Agenda item C-2 may be an order on the Kinetica application for abandonment.

---

White & Case LLP  
701 Thirteenth Street, NW  
Washington, District of Columbia 20005-3807  
United States

**T** +1 202 626 3600

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.