

Energy, Infrastructure, Project and Asset Finance

# Summary of FERC Meeting Agenda

June 2014

## In This Issue...

- Administrative Items
- Electric Items
- Miscellaneous Item
- Gas Items
- Hydro Items
- Certificate Items

*Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's June 19, 2014 meeting, pursuant to the agenda as issued on June 12, 2014. Agenda items E-1, E-2, E-13, E-14 and E-15 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. AD14-14-000

This administrative docket is Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators.

## Electric Items

**E-3: Duke Energy Carolinas, LLC and Duke Energy Progress, Inc., Docket Nos. ER13-83-003,-004,-005; Louisville Gas and Electric Company and Kentucky Utilities Company, Docket Nos. ER13-897-001,-002; Alabama Power Company, Docket Nos. ER13-908-001,-002; Ohio Valley Electric Corporation, Docket Nos. ER13-913-001,-002**

These dockets involve the parties' Order No. 1000 Regional Compliance Filings and/or requests for rehearing on previously issued orders regarding the parties' proposals to comply with Order No. 1000 (*Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*). Duke Energy Carolinas, LLC, Duke Energy Progress, Inc., Louisville Gas and Electric Company, Kentucky Utilities Company, Alabama Power Company and Ohio Valley Electric Corporation are all public utility transmission providers that sponsor the Southeastern Regional Transmission Planning process (the SERTP Sponsors). The SERTP Sponsors stated the compliance filings were made under protest, to comply with the Commission's directives with regard to which they sought rehearing. Agenda item E-3 may be an order on rehearing and/or the compliance tariff filings.



Each month, White & Case provides brief summaries of the agenda items for the Federal Energy Regulatory Commission's monthly meeting.

Daniel Hagan  
Partner, Washington, DC  
+ 1 202 626 6497  
[dhagan@whitecase.com](mailto:dhagan@whitecase.com)

Earle O'Donnell  
Partner, Washington, DC  
+ 1 202 626 3582  
[eodonnell@whitecase.com](mailto:eodonnell@whitecase.com)

White & Case LLP  
701 Thirteenth Street, NW  
Washington, DC  
20005-3807  
United States  
+ 1 202 626 3600

**E-4: California Independent System Operator Corporation, Docket No. ER14-1386-000**

This docket involves the California Independent System Operator Corporation's (CAISO) creation of an Energy Imbalance Market (EIM). On February 14, 2014, CAISO submitted amendments to its tariff which would allow other balancing authority areas (BAA) in the western United States the ability to voluntarily participate in the real-time market for imbalance energy that CAISO currently operates within its BAA. The filing sets forth the rules and procedures governing the expansion of the real-time market as the EIM. Agenda item E-4 may be an order on CAISO's proposed tariff amendments.

**E-5: PacifiCorp, Docket No. ER14-1578-000**

On March 25, 2014, PacifiCorp filed revisions to its Open Access Transmission Tariff (OATT) to implement the EIM. PacifiCorp stated that the proposed changes are needed in order for it to participate in the EIM in the West as a balancing authority in CAISO. Agenda item E-5 may be an order on PacifiCorp's OATT revisions.

**E-6: Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities, Docket No. RM14-14-000**

This is a new rulemaking docket.

**E-7: Martha Coakley, Massachusetts Attorney General; Connecticut Public Utilities Regulatory Authority; Massachusetts Department of Public Utilities; New Hampshire Public Utilities Commission; Connecticut Office of Consumer Counsel; Maine Office of the Public Advocate; George Jepsen, Connecticut Attorney General; New Hampshire Office of Consumer Advocate; Rhode Island Division of Public Utilities and Carriers; Vermont Department of Public Service; Massachusetts Municipal Wholesale Electric Company; Associated Industries of Massachusetts; The Energy Consortium; Power Options, Inc.; and the Industrial Energy Consumer Group v. Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company d/b/a National Grid; New Hampshire Transmission LLC d/b/a NextEra; NSTAR Electric and Gas Corporation; Northeast Utilities Service Company; The United Illuminating Company; Unitil Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Vermont Transco, LLC, Docket No. EL11-66-001**

This proceeding involves a complaint filed September 30, 2011, regarding the base return on equity (ROE) recovered through ISO New England Inc.'s (ISO NE) OATT. Complainants (listed above)

contend that the then-current 11.14% base ROE is unjust and unreasonable and that due to changes in capital market conditions and changed economic circumstances, the ROE should be set at no more than 9.2%. On May 3, 2012, the Commission issued an order establishing hearing and settlement judge procedures and set a refund effective date of October 1, 2011. Subsequently, on October 2, 2012, the Chief Judge issued an order terminating the settlement judge procedures and designating an Administrative Law Judge (ALJ). On August 6, 2013, the ALJ issued an Initial Decision addressing the ultimate issue of ROE. Parties filed briefs on exceptions and briefs opposing exceptions. Agenda item E-7 may be a final order stemming from the Initial Decision's findings.

**E-8: ENE (Environment Northeast), The Greater Boston Real Estate Board, National Consumer Law Center, and NEPOOL Industrial Customer Coalition v. Bangor Hydro-Electric Company, Central Maine Power Company, New England Power Company, New Hampshire Transmission LLC, NSTAR Electric Company, Northeast Utilities Service Company, The United Illuminating Company, Unitil Energy Systems, Inc., Fitchburg Gas and Electric Light Company, and Vermont Transco, LLC, Docket No. EL13-33-000**

On December 27, 2012, the Complainants (listed above) filed a formal complaint seeking an order to reduce the 11.14% base ROE used to calculate formula rates under the ISO NE OATT.

The parties requested the Commission find that 8.7% is a just and reasonable rate. Respondents requested the motion be dismissed on grounds that it is contrary to the refund limitation found in section 206(b) of the Federal Power Act (FPA) and that the Complainants failed to show that the ROE is in fact unjust and unreasonable. Agenda item E-8 may be an order on the complaint and/or the request for dismissal.

**E-9: Seminole Electric Cooperative, Inc. and Florida Municipal Power Agency v. Florida Power Corporation, Docket No. EL12-39-000**

This docket involves a complaint filed in late February 2012 by Seminole Electric Cooperative, Inc. (SECI) and Florida Municipal Power Agency (FMPA) against Florida Power Corporation (FPC) claiming that the FPC ROE of 10.8% is no longer just and reasonable due to changes in capital markets and utility equity capital. The complaint supports a new ROE of 9.02%. FPC filed a motion to dismiss on procedural grounds, claiming the filing was not served on "affected regulated agencies" as required by the Commission's regulations. Agenda item E-9 may be an order on the complaint and/or the request for dismissal.

**E-10: Seminole Electric Cooperative, Inc. and Florida Municipal Power Agency v. Duke Energy Florida, Inc., Docket No. EL13-63-000; Seminole Electric Cooperative, Inc. and Florida Municipal Power Agency v. Florida Power Corporation, Docket No. EL12-39-000**

On May 13, 2013, SECI and FMPA filed a formal complaint against Duke Energy Florida, Inc. (Duke Florida) alleging that the ROE (10.8%) in Duke Florida's transmission formula rate is unjust and unreasonable. The complaint supports a new ROE of 8.63%, using FERC's Discounted Cash Flow (DCF) methodology and both Standard & Poor's (S&P) and Moody's Investors Service for screening purposes, or 8.84%, using only the DCF methodology and S&P. Duke Florida filed an answer claiming that SECI and FMPA have not met their burden of proof that the ROE is in fact unjust and unreasonable and that the ROE is the product of a Commission-approved settlement agreement. Alternatively, Duke Energy requested that if the instant complaint is not denied, the Commission should consolidate the EL13-63 docket with the EL12-39 docket discussed above. Agenda item E-10 may be an order on the complaint and/or Duke Energy's requests to dismiss or consolidate.

**E-11: Golden Spread Electric Cooperative, Inc. v. Southwestern Public Service Company, Docket No. EL12-59-000**

This docket involves a complaint filed April 20, 2012 (amended April 24, 2013) by Golden Spread Electric Cooperative, Inc. (Golden Spread) against Southwestern Public Service Company (SPS) alleging that the formula rate of the Replacement Power Sales Agreement (RPSA) between Golden Spread and SPS and the formula rate of the Xcel Energy Operating Companies' Joint OATT that applies to pricing of transmission service over SPS facilities contain an unjust and unreasonable ROE. Golden Spread requested the Commission find that the appropriate base ROE for both the RPSA and the transmission formula rate should be set at 9.15% (for the RPSA) and 9.65% (for the OATT). SPS requested the complaint be dismissed, arguing that Golden Spread failed to meet its burden of proof to show that the current ROEs are not within a zone of reasonableness or that the proposed rates would result in just and reasonable rates. Agenda item E-11 may be an order on the complaint and/or the request to dismiss.

**E-12: Golden Spread Electric Cooperative, Inc. v. Southwestern Public Service Company, Docket Nos. EL13-78-000, EL12-59-000**

On July 19, 2013, Golden Spread filed a complaint against SPS alleging that the formula rate under the RPSA by and between Golden Spread and SPS and the formula rate of the Xcel Joint OATT applicable to pricing of transmission service over the facilities of SPS (transmission formula rate) contain an unjust

and unreasonable ROE. Golden Spread requested a reduction to 9.15% for both the ROE input value in the RPSA formula rate and the base ROE input value in the SPS transmission formula rate. Golden Spread also requested this complaint docket be consolidated with its 2012 complaint filed in Docket No. EL12-59-000 (*see agenda item E-11 above*). SPS requested the complaint be dismissed arguing that Golden Spread failed to meet its burden of proof to show that the current ROEs are not within a zone of reasonableness or that the proposed rates would result in just and reasonable rates. Agenda item E-12 may be an order on the complaint, the request to consolidate and/or the request to dismiss.

**E-16: Grand Valley Rural Power Lines, Inc., Holy Cross Electric Association, Inc., Intermountain Rural Electric Association, Inc. and Yampa Valley Electric Association, Inc. v. Public Service Company of Colorado, Docket No. EL13-86-000**

On August 30, 2013, Grand Valley Rural Power Lines, Inc., Holy Cross Electric Association, Inc., Intermountain Rural Electric Association, Inc., and Yampa Valley Electric Association, Inc. (Complainants) filed a complaint against the Public Service Company of Colorado (PSCo) alleging that the ROE component to the production formula rate applicable to the Complainants under PSCo's Assured Power and Energy Requirements Service Tariff is unjust, unreasonable and contrary to section 205 of the Federal Power Act. The Complainants requested a determination that the appropriate ROE for the production formula rate should be set at 9.04%. The Complainants additionally requested the Commission consolidate this proceeding with the proceeding in Docket Nos. ER12-1589-000 and EL12-77-000 involving PSCo's transmission formula rate. PSCo requested the complaint be denied on the grounds that the Complainants did not meet their burden of proof that the current ROE is unjust and unreasonable and requested the motion to consolidate be denied. Agenda item E-16 may be an order on the complaint and/or the motion to consolidate.

**E-17: Modeling, Data, and Analysis Reliability Standards, Docket No. RM14-7-000**

On February 10, 2014, the North American Electric Reliability Corporation (NERC) submitted a petition requesting Commission approval of proposed Reliability Standard MOD-001-2—Modeling, Data, and Analysis—Available Transmission System Capability—as just, reasonable, not unduly discriminatory or preferential, and in the public interest. NERC also requested approval of the proposed associated implementation plan, Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs) and the proposed retirement of the currently effective Reliability Standards MOD-001-1a, MOD-004-1, MOD-008-1, MOD-028-2, MOD-029-1a and MOD-030-2. Agenda item E-17 may be a Notice of Proposed Rulemaking (NOPR) regarding the proposed Reliability Standard.

**E-18: Reliability Standard for Geomagnetic Disturbance Operations, Docket No. RM14-1-000**

On January 16, 2014, the Commission issued an NOPR stemming from a November 13, 2013 petition by NERC for approval of proposed Reliability Standard EOP-010-1 and the associated VRFs and VSLs. NERC stated the proposed EOP-010-1 is designed to mitigate the effects of geomagnetic disturbances on the Bulk Power System by requiring responsible entities to implement operating plans and operating procedures or processes. Agenda item E-18 may be a final order on the proposed Reliability Standard.

**E-19: North American Electric Reliability Standard, Docket No. RD14-7-000**

On April 11, 2014, NERC submitted a petition requesting Commission approval of proposed Reliability Standard PER-005-2—Operations Personnel Training—as just, reasonable, not unduly discriminatory or preferential, and in the public interest. The petition also requested approval of the associated Implementation Plan, VRFs and VSLs, and retirement of currently effective Reliability Standard PER-005-1. In addition, NERC submitted proposed glossary definitions for the terms “System Operator” and “Operations Support Personnel.” Agenda item E-19 may be an NOPR regarding the proposed Reliability Standard.

**E-20: Constellation NewEnergy, Inc., Docket No. ER14-1626-000; Constellation Energy Commodities Group Maine, LLC, Docket No. ER14-1627-000; Exelon Generation Company, LLC, Docket No. ER14-1625-000**

These dockets involve the parties’ request to accept revised market-based rate tariffs to incorporate standard provisions for sales of ancillary services in the Southwest Power Pool market. Agenda item E-20 may be an order on the request.

**E-21: Southwest Power Pool, Inc., Docket Nos. ER13-1748-000, -001**

In compliance with previous orders, on June 21, 2013, Southwest Power Pool, Inc. (SPP) submitted revisions to its OATT to incorporate a two-part methodology for resources that provide regulation-up and regulation-down operating reserve products in the SPP Integrated Marketplace, as well as to adopt other tariff language as required by Order No. 755 (Frequency Regulation Compensation in the Organized Wholesale Power Markets). FERC requested additional information to address deficiencies in the filing, which SPP submitted on April 7, 2014. Agenda item E-21 may be an order on SPP’s proposed OATT revisions.

**E-22: Southwest Power Pool, Inc., Docket Nos. ER12-1179-018, ER13-1173-000**

These dockets relate to SPP’s OATT revisions to transition from the current Real-Time Energy Imbalance Service Market to the SPP Integrated Marketplace. SPP stated that the Integrated Marketplace includes Day-Ahead and Real-Time Energy and Operating Reserve Markets, a Transmission Congestion Rights market, and the formation of a new SPP Balancing Authority to consolidate and assume the responsibilities of the 16 separate Balancing Authority Areas currently operating within the SPP footprint. On February 26, 2014, SPP submitted a filing in Docket No. ER12-1179-018 to comply with the directives set forth by the Commission in a January 2014 order. In Docket No. ER13-1173-000, on March 28, 2013, SPP submitted revisions to its OATT to modify certain aspects of the SPP Integrated Marketplace, which the Commission accepted in part and rejected in part in the January 2014 order, subject to a further filing. Agenda item E-22 may be further orders on SPP’s Integrated Marketplace filings.

**E-23: California Independent System Operator Corporation, Docket No. ER13-2452-001**

On January 22, 2014, CAISO submitted a filing in compliance with a December 2013 order conditionally accepting an amendment to the CAISO OATT which would lower the energy bid floor and modify the bid cost recovery settlement rules to pay bid cost recovery separately for the day-ahead and real-time markets. In particular, CAISO submitted OATT revisions to remove the “catch-all” provisions from the relevant tariff provisions for both the day-ahead metered energy adjustment factor and real-time performance metric. CAISO also submitted information on steps it will take to improve the transparency of bid cost recovery uplift payments as requested by the December 2013 order. Agenda item E-23 may be an order on CAISO’s compliance filing.

**E-24: Southern California Edison Company, Docket No. ER08-375-006**

This docket involves the remand by the US Court of Appeals for the District of Columbia Circuit (Court) of previous Commission orders regarding the regulatory mechanism for the recovery by an investor-owned public utility of the cost of three transmission projects in its transmission rates. In 2007, the Commission granted various rate incentives to encourage the construction of three projects by Southern California Edison Company (SoCalEd) including incentives to be added to a base rate of return for the projects. Later in 2007, SoCalEd filed revisions to its transmission tariff to reflect changes to its transmission revenue requirements

and rates, implement the rate incentives and propose a base ROE. The Commission concluded that SoCal's base ROE should be set at the median, rather than the midpoint proposed, of the range established by a proxy group of publicly traded companies, and that the ROE for the relevant locked-in period (when the rate at issue was in effect) should be updated to reflect the most recently available financial data, based on the average yields on ten-year US Treasury bonds. SoCalEd challenged the Commission's (1) use of the median as contrary to Federal Power Act section 205, (2) update without considering proffered evidence as contrary to 5 U.S.C. § 556(e) and (3) use of the median and the update of the ROE for the locked-in period as arbitrary and capricious. The Court denied the petition as to the Commission's methodology for measuring the ROE, and granted the petition and remanded due to the Commission's failure to comply with 5 U.S.C. § 556(e), when it updated the ROE with information outside the record. Agenda item E-24 may be an order on remand.

#### **E-25: Ameren Corporation, Docket No. AC11-46-000**

This docket involves the accounting entries and refund report provided by Ameren Corporation (Ameren) regarding the appropriate rate treatment of certain acquisition premiums in connection with Ameren's 2003 acquisition of CILCORP, Inc. and the 2004 acquisition of Illinois Power Company. Pursuant to previous orders, on July 22, 2013, Ameren submitted a refund report and request for Commission guidance. Parties objected to Ameren's continued finding that no refunds are due. Agenda item E-25 may be an order on the refund report and/or request for guidance.

#### **E-26: Ameren Corporation, Docket Nos. AC11-46-002, -003**

These dockets involve rehearing of the orders associated with the appropriate rate treatment of certain acquisition premiums as discussed above in agenda item E-25.

### **Miscellaneous Item**

#### **M-1: Communication of Operational Information Between Natural Gas Pipelines and Transmission Operators, Docket No. RM13-17-001**

On November 15, 2013, the Commission issued Order No. 787 (Communication of Operational Information Between Natural Gas Pipelines and Electric Transmission Operators), a final rule that allows interstate natural gas pipelines and electric transmission operators to share non-public operational information in order to promote the reliability and integrity of their systems. Order No. 787 authorized interstate natural gas pipeline and electric transmission operators to voluntarily share non-public, operational information; however, to protect against undue discrimination

and ensure that the shared information remains confidential, the rule also adopts a No-Conduit Rule that prohibits recipients of the information from disclosing it to an affiliate or a third party. Order No. 787 established that the No-Conduit Rule applies only to the information that an interstate natural gas pipeline or an electric transmission operator exchange pursuant to this final rule. Order No. 787 further states that the No-Conduit Rule does not affect current communications among interstate and intrastate natural gas pipelines, local distribution companies and gatherers regarding conditions affecting gas flows between these physically interconnected parties, nor does it affect communications between transmission system operators and load-serving entities. In addition, the order provides that electric transmission operators may seek Commission authorization if they wish to share information received from an interstate pipeline with a local distribution company. Parties filed for rehearing of Order No. 787, which was granted for further consideration on January 13, 2014. Agenda item M-1 may be an order on rehearing.

### **Gas Items**

#### **G-1: National Fuel Gas Supply Corporation and Empire Pipeline, Inc., Docket No. RP14-380-000**

On January 21, 2014, as supplemented on February 20, 2014, National Fuel Gas Supply Corporation (National Fuel) and Empire Pipeline, Inc. (Empire) (collectively, the National Fuel Pipelines) filed a petition for a limited waiver of the No-Conduit Rule found in Order No. 787 to address two circumstances in which employees shared between National Fuel Pipelines and National Fuel Gas Distribution Corporation receive, or potentially could receive, operational information from an electric system operator or other public utility, relating to National Fuel's pipeline operations. Agenda item G-1 may be an order on the petition for limited waiver.

#### **G-2: Enable Gas Transmission, LLC and Enable Mississippi River Transmission, LLC, Docket No. RP14-453-000**

On February 6, 2014, Enable Gas Transmission, LLC (EGT) and Enable Mississippi River Transmission, LLC (MRT) (together, the Enable Interstate Pipelines) filed a petition for a limited waiver of the Order No. 787 No-Conduit Rule to allow Enable Interstate Pipelines' employees with responsibilities, including affiliated intrastate and gathering operations, to receive non-public information from electric transmission operators while continuing to prohibit any further dissemination of non-public information beyond the Enable Interstate Pipelines and their intrastate pipeline and gathering affiliates. Agenda item G-2 may be an order on the limited waiver request.

## Hydro Items

### **H-1: Public Utility District No. 1 of Snohomish County, Washington, Docket Nos. P-12690-008, -007; EL14-47-000**

On May 6, 2014, the Public Utility District No. 1 of Snohomish County, Washington (District) filed a petition for declaratory order requesting that the Commission find that (1) the Federal Power Act preempts the regulatory authority of Island County, Washington (Island County) and the Washington State Department of Ecology (Ecology) under Washington's Shoreline Management Act (SMA) over the District's action to construct, operate, and maintain the Admiralty Inlet Pilot Tidal Project (Project) under its license; and (2) accordingly, the District is not required to obtain the approval of Island County and Ecology in the form of a Shoreline Conditional Use Permit under the SMA in order to construct, operate and maintain the Project. Agenda item H-1 may be an order on the petition for declaratory order.

### **H-2: PacifiCorp, Docket No. P-2082-058**

On May 12, 2012, the Hoopa Valley Tribe (Tribe), an intervenor in the docket, filed a petition for declaratory order regarding the re-licensing of the Klamath Hydroelectric Project (Project). The Tribe requested that the Commission find that PacifiCorp, the license applicant, has failed to vigilantly pursue re-licensing of the Klamath Project, and therefore it should order that PacifiCorp's re-license application be dismissed and direct PacifiCorp to file a plan for decommissioning of the Project facilities. In the alternative, the Tribe asked that the Commission issue a declaratory order finding that the State of California Water Resources Control Board (SWRCB) and the Oregon Department of Environmental Quality (ODEQ) have failed to act on PacifiCorp's applications for water quality certification, first filed in 2006, within the one-year time limit required under Section 401 of the Clean Water Act and have waived their certification authority. The petition requests that the Commission re-assert its jurisdiction over the re-licensing of the Klamath Project and require PacifiCorp to either comply with current applicable law in a new license, or alternatively dismiss PacifiCorp's license application and proceed to decommission the Project. Agenda item H-2 may be an order on the petition for declaratory order.

### **H-3: Green Energy Storage Corp., Docket No. P-14589-000**

On February 24, 2014, Green Energy Storage Corp. filed an application for a preliminary permit proposing to study the feasibility of the Sacaton Pumped Storage Project to be located off-stream near Casa Grande, Arizona. The proposed 150-MW closed loop pumped storage project would use the available head between a new upper reservoir and an existing open pit mine. Agenda item H-3 may be an order on the application.

### **H-4: BOST3 Hydroelectric LLC, Docket No. P-12756-004**

On April 14, 2014, the Commission issued an Order Issuing License to BOST3 Hydroelectric LLC (BOST3) to construct, operate and maintain the proposed Red River Lock and Dam No. 3 Hydroelectric Project. The proposed 36.2 MW project is to be located at the US Army Corps of Engineers' Lock and Dam No. 3 on the Red River near the town of Colfax, in Natchitoches Parish, Louisiana. On May 12, 2014, BOST3 requested rehearing regarding submittal dates established in the April order. Agenda item H-4 may be an order on rehearing.

### **H-5: H2O Holdings, LLC, Docket No. P-12714-004**

On August 14, 2013, H2O Holdings, LLC (H2O Holdings) filed an application for a third preliminary permit to study the feasibility of the proposed Phantom Canyon/South Slope Pumped Storage Project No. 12714 to be located on Phantom Creek, near Canon City, in Fremont, Pueblo and El Paso Counties, Colorado. The project would occupy federal lands administered by the US Bureau of Land Management (BLM). On January 31, 2014, the Commission issued an Order Denying Preliminary Permit stating that it rarely issues a third consecutive preliminary permit to the same applicant, for the same site, unless some extraordinary circumstance or factor outside the control of the permittee is present. The order stated that three years should be enough time to consult with resources agencies and conduct any studies necessary to prepare a development application, and six years should be more than enough time. Allowing a site to be reserved for nine years (i.e., three preliminary permit terms) would allow site banking. Thus, in considering H2O Holdings' third preliminary permit application, Commission staff reviewed whether H2O Holdings was diligent in satisfying the terms of its second preliminary permit against an even higher standard than was applied to its application for its original preliminary permit. Because H2O Holdings did not meet the heightened standard of due diligence and good faith during the term of its previous preliminary permit, its application for a third preliminary permit was denied. H2O Holdings filed for rehearing of the January order. Agenda item H-6 may be an order on rehearing.

### **H-6: FFP Qualified Hydro 14, LLC, Docket No. P-13579-003; Western Minnesota Municipal Power Agency, Docket No. P-14491-001**

On February 1, 2013, at 8:30 a.m., FFP Qualified Hydro 14, LLC (FFP) filed a preliminary permit application to study the feasibility of the Saylorville Dam Water Power Project No. 13579 to be located at the existing Saylorville Dam and Lake on the Des Moines River, in the City of Johnston in Polk County, Iowa. At the same time, Western Minnesota Municipal Power Agency (Western Minnesota)

filed a competing preliminary permit application (revised in March 2013) for the proposed Saylorville Hydroelectric Project No. 14491, to be located at the same site. Western Minnesota claimed entitlement to municipal preference pursuant to section 7(a) of the FPA. On November 19, 2013, the Commission issued a preliminary permit to FFP and denied Western Minnesota's application. Western Minnesota filed for rehearing. Agenda item H-6 may be an order on rehearing.

#### **H-7: Eagle Crest Energy Company, Docket No. P-13123-002**

This docket relates to a final application for license for the Eagle Mountain Pumped Storage Project (Project) initially submitted by Eagle Crest Energy Company (Eagle Crest) in 2009. The Project would be located in two depleted mining pits in the Eagle Mountain Mine in Riverside County, California, near the Town of Desert Center, California, and would occupy federal lands administered by the US BLM and private lands owned by Kaiser Eagle Mountain, LLC. The Commission issued a Notice of Application and Soliciting Additional Study Requests in July 2009. Many parties filed comments on the application, and Eagle Crest amended its application based on further review and comments received. A draft Final Environmental Impact report was submitted in February 2013. Agenda item H-7 may be an order on the application.

### **Certificate Items**

#### **C-1: Cameron LNG, LLC, Docket No. CP13-25-000; Cameron Interstate Pipeline, LLC, Docket No. CP13-27-000**

These dockets involve the proposal by Cameron LNG, LLC and Cameron Interstate Pipeline, LLC (together, Cameron) to construct and operate facilities to export 12 million tons of liquefied natural gas (LNG) per year from its modified terminal in Cameron and Calcasieu Parishes, Louisiana. The applications state that the project would use the facilities at the existing Cameron LNG Terminal, including the existing berthing facilities and LNG storage tanks, as well as the existing Cameron Interstate Pipeline, and that operation of the project would not increase LNG marine carrier traffic beyond that previously authorized for the existing Cameron LNG Terminal. On April 30, 2014, the Final Environmental Impact Statement (EIS) was issued, which concluded that the approval of the proposed Project, with the mitigation measures proposed by Cameron and recommended in the EIS, would not result in significant impacts in the project area. Agenda item C-1 may be an order on the application.

#### **C-2: Dominion Transmission, Inc. and Tennessee Gas Pipeline Company, L.L.C., Docket No. CP13-545-001**

On September 6, 2013, Dominion Transmission, Inc. (Dominion) and Tennessee Gas Pipeline Company, L.L.C. (Tennessee) jointly filed an application under section 7(b) of the Natural Gas Act (NGA) for authorization for Tennessee to abandon capacity it leases on Dominion's system between Ellisburg and Leidy, Pennsylvania. On January 16, 2014, the Commission approved Tennessee's request for NGA section 7(b) authorization to abandon its leased capacity on Dominion's system and granted Dominion NGA section 7(c) authorization to reacquire the capacity. Dominion filed for rehearing of certain aspects of the January 16 order. Agenda item C-2 may be an order on rehearing.

#### **C-3: EcoEléctrica, L.P., Docket No. CP13-516-000**

On July 3, 2013, as supplemented, EcoEléctrica, L.P. (EcoEléctrica) filed an application to site, construct and operate the LNG Supply Pipeline Project (EcoEléctrica Project) at its existing LNG terminal and cogeneration facility site in Peñuelas, Puerto Rico. The EcoEléctrica Project, which EcoEléctrica will own and operate, consists of an approximately 0.4-mile, 4-inch-diameter LNG transfer pipeline; an approximately 0.4-mile, 6-inch-diameter boil-off gas, return pipeline; an approximately 0.4-mile, 1.5-inch diameter LNG recirculation pipeline; and associated equipment. EcoEléctrica stated the EcoEléctrica Project is being developed to supply LNG to Gas Natural Puerto Rico, Inc.'s proposed non-jurisdictional LNG Truck Loading Facility, which will be utilized to distribute LNG by truck to various industrial end-users in Puerto Rico. Agenda item C-3 may be an order on the application.

This Client Alert is provided for your convenience and does not constitute legal advice. It is prepared for the general information of our clients and other interested persons. This Client Alert should not be acted upon in any specific situation without appropriate legal advice and it may include links to websites other than the White & Case website.

White & Case has no responsibility for any websites other than its own and does not endorse the information, content, presentation or accuracy, or make any warranty, express or implied, regarding any other website.

This Client Alert is protected by copyright. Material appearing herein may be reproduced or translated with appropriate credit.