

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

April 2012

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's April 19, 2012, meeting, pursuant to the agenda as issued on April 12, 2012. Agenda items E-14, E-15, E-16, C-4 and C-5 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 FERC's Market Update.

Electric Items

E-1: Midwest Independent Transmission System Operator, Inc. and Transmission Owners of the Midwest Independent Transmission System Operator, Inc. (Docket No. ER12-480-000)

On November 28, 2011, the Midwest Independent Transmission System Operator, Inc. (MISO) and the MISO Transmission Owners submitted proposed revisions to the cost allocation provisions for network upgrades in MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff. The proposed revisions are designed to establish a transition for the integration of Entergy Corporation and its Operating Companies (Entergy) into MISO. The proposed revisions would also apply to any utilities adjacent to Entergy that would integrate their transmission system into MISO during the transition period. The transition period is limited to five years. FERC rejected MISO's first proposed cost allocation rules for Entergy's transition into MISO. Numerous parties have intervened and filed comments in the proceeding. Agenda item E-1 may be an order on MISO's proposed tariff revisions.



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: PJM Interconnection, L.L.C. (Docket No. ER09-1063-004)

On June 18, 2010, PJM Interconnection, L.L.C. (PJM) proposed tariff revisions regarding scarcity pricing during times of operating reserve shortages in PJM. According to PJM, the proposed revisions would affect operations during emergency conditions, as well as the dispatch and pricing of energy, reserves and regulation during normal operations. This filing was made in compliance with Order No. 719, Wholesale Competition in Regions with Organized Electric Markets, and FERC's December 18, 2009, order on a PJM compliance filing. Monitoring Analytics, LLC, PJM's Independent Market Monitor, protested the filing and offered an alternative scarcity pricing proposal. Numerous other parties have intervened and filed comments in the proceeding. Agenda item E-2 may be an order on PJM's proposed tariff revisions.

E-3: Open Access and Priority Rights on Interconnection Facilities (Docket No. AD12-14-000); Priority Rights to New Participant-Funded Transmission (Docket No. AD11-11-000)

On March 15, 2011, FERC held a technical conference on priority access to new participant-funded transmission in the context of independent and/or merchant transmission and generator lead lines. At the technical conference, participants were encouraged to discuss the balance between open access requirements and the needs of project developers, including possible regulatory alternatives to pursue. Numerous parties were involved in the technical conference. Docket No. AD12-14-000 is a new docket, likely related to the subject of the technical conference. Agenda item E-3 may be an order related to the technical conference or the new docket.

E-4: Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators (Docket No. RM11-17-000)

On October 20, 2011, FERC issued a Notice of Proposed Rulemaking (NOPR) to revise its regulations to require that each regional transmission organization (RTO) and independent system operator (ISO) electronically deliver data related to the markets they administer to FERC on an ongoing basis. The data, which is already being collected by the RTOs and ISOs, would encompass physical and virtual offers and bids, market awards, resource outputs, marginal cost estimate, shift factors, financial transmission rights, internal bilateral contracts and interchange pricing. FERC stated that the data would help with the development of its policies and regulations and assist in detecting anti-competitive or manipulative behavior or ineffective market rules. Agenda item E-4 may be FERC's proposed Final Rule.

E-5: Standards for Business Practices and Communication Protocols for Public Utilities (Docket No. RM05-5-020)

On May 3, 2011, the North American Energy Standards Board (NAESB) submitted a status report to FERC on the second phase of measurement and verification of demand response products and services and the measurement and verification of energy efficiency products and services administered in wholesale electricity markets. The second phase of the demand response standards added more details to the definitions and business practice standards (including for Meter Data Reporting Deadline, Advanced Notification, Telemetry Interval, Meter Accuracy for After-the-Fact Metering, Meter Data Reporting Intervals and Adjustment Window). The energy efficiency standards are designed to create a standardized method for quantifying the energy reduction from energy efficiency measures and include energy efficiency use criteria in the wholesale markets, general requirements for measurement and verification plans and criteria for accepted measurement and verification methodologies. Agenda item E-5 may be an order on NAESB's report.

E-6: Version 4 Critical Infrastructure Protection Reliability Standards (Docket No. RM11-11-000)

On February 10, 2011, the North American Electric Reliability Corporation (NERC) submitted a petition requesting approval of Version 4 of the Cyber Security Critical Infrastructure Protection Reliability Standards (covering topics such as Critical Cyber Asset Identification, Security Management Controls, Personnel and Training, Electronic Security Perimeters, Physical Security of Critical Cyber Assets, Systems Security Management, Incident Reporting and Response Planning and Recovery Plans for Critical Cyber Assets). NERC also submitted related Violation Risk Factors and Violation Severity Levels and an implementation plan. As part of the Version 4 Cyber Security Standards, NERC proposed to establish uniform "bright line" criteria for the identification of Critical Assets. On September 15, 2011, FERC issued a NOPR in which it proposed to approve the Version 4 Cyber Security Standards. Agenda item E-6 may be FERC's proposed Final Order.

E-7: Transmission Planning Reliability Standards (Docket No. RM12-1-000)

On October 19, 2011, NERC filed a petition seeking FERC approval of revised Reliability Standard TPL001-2—Transmission System Planning Performance Requirements, along with associated definitions and an implementation plan for the proposed Reliability Standard. NERC also sought to retire four existing Reliability Standards (TPL001-1—System Performance Under Normal (No Contingency) Conditions (Category A); TPL002-1b—System Performance Following Loss of a Single Bulk Electric System Element (Category B); TPL003-1a—System

Performance Following Loss of Two or More Bulk Electric System Elements (Category C); and TPL004-1—System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D)), along with the withdrawal of two pending Reliability Standards (TPL005-0—Regional and Interregional Self-Assessment Reliability Reports; and TPL006-0.1—Data from the Regional Reliability Organization Needed to Assess Reliability). NERC stated that the proposed new Reliability Standard established important transmission planning performance requirements to plan the Bulk Electric System reliably in response to potential contingencies. NERC also explained that the new proposed Reliability Standard subsumes and/or supersedes the Reliability Standards that NERC asked to be abandoned or withdrawn. Agenda item E-7 may be an order on NERC’s petition.

E-8: Transmission Planning Reliability Standards (Docket No. RM11-18-000)

On March 31, 2011, NERC filed a petition seeking FERC approval of four revised Reliability Standards (TPL001-1—System Performance Under Normal (No Contingency) Conditions (Category A); TPL002-1b—System Performance Following Loss of a Single Bulk Electric System Element (Category B); TPL003-1a—System Performance Following Loss of Two or More Bulk Electric System Elements (Category C); and TPL004-1—System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D)). At the same time, NERC asked to retire four Reliability Standards (TPL001-0.1—System Performance Under Normal (No Contingency) Conditions (Category A); TPL002-0b—System Performance Following Loss of a Single Bulk Electric System Element (Category B); TPL003-0a—System Performance Following Loss of Two or More Bulk Electric System Elements (Category C); TPL004-0—System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System Elements (Category D)). Agenda item E-8 may be an order terminating this proceeding in light of NERC’s request to retire the Reliability Standards proposed in this docket in Docket No. RM12-1-000 (see Agenda item E-7).

E-9: U.S. Department of Energy, Portsmouth/Paducah Project Office (Docket No. RC08-5-001)

On July 21, 2008, FERC issued an order denying the appeal of the U.S. Department of Energy, Portsmouth/Paducah Office (DOE Portsmouth) regarding NERC’s approval of ReliabilityFirst Corporation’s (RFC) decision to include DOE Portsmouth as a Transmission Owner, Transmission Operator and Distribution Provider on NERC’s Compliance Registry. The order remanded to NERC the issue of whether DOE Portsmouth was properly

registered as a Load-Serving Entity. On remand, NERC submitted a compliance filing upholding RFC’s decision to register DOE Portsmouth as a Load-Serving Entity. DOE Portsmouth filed a protest to NERC’s compliance filing. Agenda item E-9 may be an order on NERC’s compliance filing.

E-10: City of Holland, Michigan Board of Public Works (Docket No. RC11-5-000)

On September 2, 2011, the City of Holland, Michigan Board of Public Works (Holland BPW) filed an appeal regarding NERC’s approval of RFC’s decision to include Holland BPW as a Transmission Owner and Transmission Operator on NERC’s Compliance Registry. Holland BPW argues that it only operates facilities used in the local distribution of electric energy, and therefore, NERC’s action is outside of its authority. NERC responded that Holland BPW’s appeal is a collateral attack on the FERC-accepted definition of Bulk Electric System, the Statement of Registry Criteria and the Organization Registration and Certification Manual. Agenda item E-10 may be an order on Holland BPW’s appeal.

E-11: Southern California Edison Company (Docket Nos. ER09-187-000, -001, ER10-160-000)

On October 31, 2008 and December 5, 2008, Southern California Edison Company (SCE) submitted tariff revisions to update its transmission revenue requirement and transmission rates in order to implement Construction Work In Progress (CWIP) rate incentives for 2009. On December 19, 2008, FERC issued an order accepting and suspending the proposed rates, subject to refund, and establishing hearing and settlement judge procedures. On October 30, 2009, SCE updated its CWIP ratemaking mechanism and proposed to increase its CWIP transmission revenue requirements for 2010. On December 31, 2009, FERC issued an order accepting and suspending the proposed rates, subject to refund, and establishing hearing and settlement judge procedures. Agenda item E-11 may be an order on SCE’s proposed rates.

E-12: ISO New England, Inc. and New England Power Pool (Docket No. ER12-1155-000)

On February 24, 2012, ISO New England Inc. (ISO-NE) and the New England Power Pool (NEPOOL) submitted proposed tariff revisions in order to implement Coordinated Transaction Scheduling between New England and New York over certain AC interfaces. According to this filing, this Coordinated Transaction Scheduling was developed through a joint effort of ISO-NE and the New York Independent System Operator, Inc. to increase the market efficiency of energy imports and exports between the two regions. Agenda item E-12 may be an order on ISO-NE’s and NEPOOL’s filing.

**E-13: New York Independent System Operator, Inc.
(Docket Nos. ER12-701-000, -001)**

On December 28, 2011, as amended on January 13, 2012, the New York Independent System Operator, Inc. (NYISO) filed proposed amendments to its Open Access Transmission Tariff and Market Administration and Control Area Services Tariff to add new real-time External Transaction bidding and scheduling rules. NYISO proposed that the new real-time market rules, together known as “Coordinated Transaction Scheduling” or “CTS,” will be used at specifically designated Proxy Generator Buses between NYISO and ISO-NE. NYISO presented evidence that its Market Monitoring Unit endorses CTS as a “method for improving the efficiency of Energy trading across the external Interfaces for which it is implemented.” Agenda item E-13 may be an order on NYISO’s proposed tariff revisions.

E-17: Otter Tail Power Company (Docket No. OA09-31-000)

On July 1, 2009, Otter Tail Power Company (Otter Tail) filed a Common Facilities Agreement with Ashtabula Wind II, LLC (Ashtabula) regarding a 13-mile 230-kV interconnection line that would link Ashtabula’s and Otter Tail’s wind generating facilities to the grid. In its filing, Otter Tail indicated that construction was expected to be complete in 2009 and asked for an effective date for the Agreement of September 1, 2009. Otter Tail also requested confirmation from FERC that it would not have to file an Open Access Transmission Tariff as a result of entering into the Common Facilities Agreement, and that it would not have to assign control over the 13-mile interconnection line to MISO. FERC accepted the Agreement on August 28, 2009, in Docket No. ER09-1398-000. Agenda item E-17 may be an order related to Otter Tail’s confirmation requests.

E-18: PacifiCorp v. Utah Associated Municipal Power Systems (Docket No. EL12-13-000)

On December 2, 2011, PacifiCorp filed a Complaint pursuant to sections 206 and 306 of the Federal Power Act requesting an order finding that the Amended and Restated Transmission Services and Operating Agreement (TSOA) between PacifiCorp and Utah Associated Municipal Power Systems (UAMPS) requires UAMPS to provide operating reserves for its Hunter II resource identified in the TSOA, and that when UAMPS fails to provide such operating reserves, it is liable to PacifiCorp for PacifiCorp’s applicable charges for operating reserves, including interest. Agenda item E-18 may be an order on the Complaint.

Gas Items

**G-1: Kern River Gas Transmission Company
(Docket Nos. RP10-1410-001, -002, -003)**

In response to a December 18, 2009, FERC order, Kern River Gas Transportation Company (Kern River) submitted a compliance tariff filing on September 30, 2010, to provide for 2010 Reservation Charge Credits. The December order required Kern River, in part, “to modify Rate Schedule KRF-1 consistent with Commission policy that requires that pipelines provide full reservation charge credits for all scheduled gas not delivered to a non-force majeure event and partial reservation charge credits during force majeure events,” pursuant to section 5 of the Natural Gas Act. On April 21, 2011, FERC rejected the September 30 compliance filing as non-compliant. Kern River made a subsequent compliance filing on May 11, as amended on May 19, 2011. BP Energy Company (BP) filed a Request for Rehearing of the April order arguing that it was inconsistent with prior orders in the proceeding by “stating, for the first time, that Kern River may propose a different reservation charge crediting method than was contemplated” by earlier orders, and by holding that “Kern River need not provide reservation charge credits when service is curtailed at secondary receipt points.” BP argued that FERC’s holding would inequitably undercompensate Kern River’s firm shippers for disruptions in service that result from constraints on the pipeline. Agenda item G-1 may be an order on Kern River’s compliance filings and/or rehearing.

**G-2: Tennessee Gas Pipeline Company, L.L.C.
(Docket Nos. RP11-1566-003, -004, -008, -009, -011,
RP11-2066-001)**

These dockets pertain to a general rate case filing by Tennessee Gas Pipeline Company (Tennessee) in Docket No. RP11-1566-000, and a related tariff filing by Tennessee to update its Fuel and Loss Retention percentages. On November 30, 2010, Tennessee filed a system-wide general increase in rates, as well as proposed changes to Tennessee’s rate schedules, General Terms and Conditions, and pro forma service agreements. After much debate, a Stipulation and Agreement and related materials (collectively, Settlement) settling the various issues in these proceedings was submitted on September 30, 2011. Agenda item G-2 may be a certification of the Settlement.

Hydro Items

H-1: East Texas Electric Cooperative, Inc. (P-12632-004)

On August 26, 2011, the Director of the Office of Energy Projects granted an Order Issuing Original License to East Texas Electric Cooperative, Inc. (ETEC) for a 50-year license for the proposed Lake Livingston Hydroelectric Project (Project). The Project is planned to be located on Trinity River Authority of Texas's (TRA) existing Lake Livingston dam on the Trinity River in San Jacinto, Polk, Trinity, and Walker Counties, Texas. On September 26, 2011, the City of Houston and TRA filed a joint Motion for Rehearing and/or Clarification, arguing that the License Order imposes certain performance requirements that usurp local jurisdiction over Lake Livingston and could hinder the primary purpose of the lake, which is a water supply for the surrounding communities. ETEC also filed a Motion for Rehearing and/or Clarification and request for technical conference, stating that although the License Order contains several reasonable provisions, it also "includes several terms and conditions that could unnecessarily conflict with TRA's ability to manage Lake Livingston for its principal purpose." For example, the Licensing Order failed to acknowledge ETEC and TRA's request to "grandfather" TRA's regulatory program for lake and shoreline activities and ordered ETEC to comply with all future FERC orders, without adopting certain requested conditions that would serve to protect TRA's rights. Agenda item H-1 may be an order on rehearing and/or clarification.

H-2: Turlock Irrigation District and Modesto Irrigation District (Docket No. P-2299-076)

This proceeding stems from an application to relicense the Modesto and Turlock Irrigation Districts' Don Pedro Project. On April 3, 2008, FERC Staff accepted the licensees' Ten Year Summary Report on fishery resources. Certain conservation groups filed requests for rehearing. FERC granted rehearing and directed that an Administrative Law Judge (ALJ) conduct an expedited fact-finding proceeding on possible interim measures to benefit Central Valley steelhead and fall-run Chinook salmon pending relicensing. The ALJ assigned to the case issued her final report on November 20, 2009, and the parties filed their comments on January 5, 2010. On December 28, 2010, Tuolumne River Preservation Trust, California Trout, Friends of the River and California Rivers Restoration Fund (collectively, Conservation Groups) filed a request that FERC take final action on the proceeding and determine whether interim measures are necessary to protect the salmon and steelhead. Agenda item H-2 may be an order on the ALJ's report.

H-3: Duke Energy Carolinas, LLC (Docket No. P-2692-048)

On March 9, 2012, Duke Energy Carolinas, LLC (Duke) filed for rehearing of a February 28, 2012, FERC order (License Order) granting its request for relicensing of the Nantahala Hydroelectric Project, located on the Nantahala River in Macon and Clay Counties, North Carolina (the Project). Although Duke generally noted appreciation for the opportunity to continue operations, it objected to a provision of the License Order that requires Duke to pass large woody debris downstream at the Project. Duke stated that it has no means for passing such woody debris at the Project other than opening a Tainter gate, which is not part of its ordinary operations. Duke also asked for clarification of certain ancillary provisions. Agenda item H-3 may be an order on rehearing.

Certificate Items

C-1: ANR Pipeline Company (CP11-539-000)

On August 8, 2011, ANR Pipeline Company (ANR) filed an abbreviated application (Application) for a Certificate of Public Convenience and Necessity (CPCN) pursuant to section 7 of the Natural Gas Act authorizing the construction, ownership and operation of a new compressor station consisting of a new approximately 6,300 horsepower compressor unit and appurtenant facilities known as the Marshfield Reduction Project. ANR asked FERC to issue authorization on or before June 1, 2012, so that it can achieve its targeted in-service date of November 1, 2013. On February 17, 2012, the Environmental Assessment for the Marshfield Reduction Project was filed in this proceeding. Agenda item C-1 may be an order pertaining to the Application.

C-2: Sabine Pass Liquefaction, LLC and Sabine Pass LNG, L.P. (Docket No. CP11-72-000)

On January 28, 2011, Sabine Pass Liquefaction, LLC and Sabine Pass LNG, L.P. (collectively, Sabine) filed an application under section 3 of the Natural Gas Act to site, construct and operate liquefaction and export facilities ("LNG Project") at the existing Sabine Pass LNG, L.P. liquefied natural gas (LNG) terminal located in Cameron Parish, Louisiana. The applicants state the facility will be designed to be the first to operate in a bidirectional manner to both liquefy LNG for export, and import LNG to regasify, simultaneously. On April 16, 2012, FERC approved the LNG Project. Agenda item C-2 may be an struck in light of FERC's April 16 order.

C-3: Pacific Connector Gas Pipeline, LP (Docket Nos. CP07-441-001, CP07-442-001, CP07-443-001); Jordan Cove Energy Project, L.P., (Docket No. CP07-444-001)

In early January 2010, several parties filed for rehearing of a December 17, 2009, order authorizing Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, L.P. to site, construct and operate the Jordan Cove LNG facility and associated pipeline facilities (Cove Project). Among the assertions, the State of Oregon claimed that the Cove Project was authorized before the State of Oregon could certify that the project would meet water quality requirements under the Clean Water Act. The National Marine Fisheries Service (NMFS) also claimed that the Cove Project was approved without first fulfilling several statutory prerequisites to final agency action, including the duty to complete consultation with NMFS regarding the Cove Project's effects on threatened or endangered marine species and their critical habitat and on essential fish habitat. On April 16, 2012, FERC issued an order on rehearing and request for stay and vacated the certificate and section 3 authorizations. Agenda item C-3 may be struck in light of FERC's April 16 order.

C-6: National Fuel Gas Supply Corporation (Docket No. CP11-128-001)

This proceeding stems from an application for a CPCN that FERC granted National Fuel Gas Supply Corporation (NFGS) on October 20, 2011. The CPCN authorizes NFGS and Tennessee to construct and operate the Northern Access Project (the NAP), which consists of facilities that would create firm northbound capacity on NFGS's existing Line X and on the Niagara Spur Loop Line. The NAP includes a new compressor station called the East Aurora Meter Station, totaling approximately 4,740 horsepower, the East Aurora Compressor Station, in Erie County, New York, adjacent to the existing East Aurora Meter Station, which NFGS and Tennessee currently operate. Numerous individuals and communities opposed the siting of the East Aurora Compressor Station on safety and environmental grounds, pointing to an available alternative site. On November 18, 2011, the Concerned Neighbors Network (CNN) filed a Motion for Rehearing and Request for Stay of the October order. Two individuals filed subsequent untimely Motions for Rehearing, and numerous individuals filed comments. On April 13, 2012, FERC denied the rehearing and stay of the October order. In the order, FERC reiterated that there were "no significant impacts associated with the East Aurora Compressor Station that would warrant requiring National Fuel to adopt the Concord Compressor Station alternative," and that CNN failed to meet its burden of showing that it would suffer irreparable harm if FERC did not grant the requested stay. Agenda item C-6 may be struck in light of FERC's April 13 order.