

FERC

Meeting Agenda Summary

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's March 21, 2019 meeting, pursuant to the agenda as issued on March 14, 2019. Agenda items E-3, E-19, and E-20 have not been included due to omission from the agenda.

Electric

E-1 – Inquiry Regarding the Commission's Electric Transmission Incentives Policy (Docket No. PL19-3-000). Agenda item E-1 may be a new inquiry initiated by the Commission relating to potential reforms or new policies for electric transmission incentives.

E-2 – Inquiry Regarding the Commission's Policy for Determining the Return on Equity for Public Utilities (Docket No. PL19-4-000). Agenda item E-2 may be a new inquiry initiated by the Commission relating to potential reforms or new policies for determining the return on equity for public utilities.

E-3 – Omitted

E-4 – Mountain Breeze Wind, LLC (Docket No. TX19-1-000). On December 28, 2018, Mountain Breeze Wind, LLC (Mountain Breeze) filed an Application for Order Requiring Provision of Interconnection and Transmission Services pursuant to sections 210 and 211 of the Federal Power Act (FPA). In its application, Mountain Breeze requests the Commission issue an order requiring Cedar Creek Wind Energy, LLC and Cedar Creek II, LLC (collectively, Cedar Creek) to provide interconnection and transmission services. Mountain Breeze has proposed a 170-megawatt wind-powered generation project located in Colorado, for which an executed power purchase agreement exists, and consequently would require interconnection services from the shared facilities of Cedar Creek. On January 9, 2019, Cedar Creek filed a motion to intervene and comments supporting the application, stating that there is sufficiently capacity available to provide interconnection services to the proposed Mountain Breeze project. Agenda item E-4 may be an order on the application filed by Mountain Breeze.

E-5 – NextEra Energy Transmission, LLC and Trans Bay Cable LLC (Docket No. EC19-36-000). On December 14, 2018, NextEra Energy Transmission, LLC (NextEra) and Trans Bay Cable LLC (Trans Bay) (collectively, the Applicants) filed a Joint Application for Authorization of Disposition of Jurisdictional Transmission

Facilities pursuant to section 203 of the FPA. In the joint application, Applicants request Commission approval of a transaction by which NextEra will own and operate Trans Bay. A number of stakeholders and interested parties filed motions to intervene and comments, generally protesting the potential for increased rates passed on to customers in the California ISO. In particular, comments raised the issue of the disparity between purchase price (\$1 billion) relative to the current valuation of the utility plant owned by Trans Bay (\$500 million), citing a potential need for cost recovery in the future. Agenda item E-5 may be an order on the joint application filed by NextEra and Trans Bay.

E-6 – Louisville Gas and Electric Company; Kentucky Utilities Company (Docket Nos. EC98-2-001; ER18-2162-000). On August 3, 2018, Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU) (collectively, LG&E/KU) filed a request to remove certain merger-related obligations related to the merger of the two companies effectuated in 1998 and subsequent rate schedule modifications. Namely, LG&E/KU request Commission approval to discontinue the horizontal market power mitigation agreement, which depancakes transmission rates for certain customers between LG&E/KU and the Midcontinent Independent System Operator, Inc. (MISO). LG&E/KU assert that, twenty years following the merger, this specific provision is no longer necessary and does not affect existing other forms of mitigation pertaining to horizontal and vertical market power issues. KU states that customers now have an array of first-tier supply options available through competitive processes and continuing this mitigation rate would be unjust and unreasonable. A number of stakeholders and interested parties filed motions to intervene and comments, in addition to protests highlighting that LG&E/KU had the burden to prove that there were no longer horizontal market power concerns stemming from the merger and that their request was in the public interest. On January 30, 2019, the Commission issued an order tolling time for action on the joint application for an additional 180 days pursuant to section 203 of the FPA. Agenda item E-6 may be an order on the joint application filed by LG&E and KU.

E-7 – Cube Yadkin Transmission LLC (Docket No. ES19-5-000). On December 12, 2018, Cube Yadkin Transmission LLC (Cube Yadkin) filed an Application for Authorization to Issue Debt Securities pursuant to section 204 of the FPA. Cube Yadkin requests Commission approval to either issue debt or assume the obligations and liabilities as a guarantor of the obligations of its parent company pursuant to the terms of an existing financing agreement with lenders. Cube Yadkin specifically seeks authorization to guarantee up to an aggregate amount of \$170 million in obligations. On January 31, 2019, Cube Yadkin filed an Amended Application furnishing additional information. Agenda item E-7 may be an order on the application filed by Cube Yadkin.

E-8 – Cheyenne Light, Fuel and Power Company (Docket Nos. ER19-654-000; EL18-79-000). On December 21, 2018, Cheyenne Light, Fuel and Power Company (Cheyenne Light) filed revisions to its stated transmission rates under its Open Access Transmission Tariff (OATT) to address the revised corporate income tax rates included in the Tax Cuts and Jobs Act of 2017. Agenda item E-8 may be an order on Cheyenne Light's proposed revisions to its stated transmission rates.

E-9 – New York Independent System Operator, Inc. (Docket No. ER16-120-007). On May 23, 2018, the New York Independent System Operator, Inc. (NYISO) submitted revisions to its OATT and its Market Administration and Control Area Services Tariff (Services Tariff) regarding the generator deactivation process. The NYISO states the revisions address the Commission's directives from an April 23, 2018 order on clarification and rehearing in Docket Nos. ER16-120-004 and EL15-37-003. Agenda item E-9 may be an order on the NYISO's proposed OATT and Services Tariff revisions.

E-10 – Midcontinent Independent System Operator, Inc. (Docket Nos. ER18-2397-000; ER18-2397-001). On September 7, 2018, MISO submitted proposed revisions to its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) to comply with Order No. 844, the Commission's April 2018 Final Rule on uplift cost allocation and transparency in markets operated by Regional Transmission Organizations and Independent System Operators. On November 9, 2018, the Commission issued a deficiency letter seeking more information from MISO to process the proposed Tariff revisions. On December 10, 2018, MISO submitted its response to the Commission's deficiency letter, providing further context around its proposed uplift reporting protocols. Agenda item E-10 may be an order on MISO's proposed Tariff revisions.

E-11 – PJM Interconnection, L.L.C. (Docket Nos. ER18-2401-000; ER18-2401-001). On September 7, 2018, PJM Interconnection, L.L.C. (PJM) submitted proposed revisions to the Amended and Restated Operating Agreement of PJM (Operating Agreement) to comply with Order No. 844, the Commission's April 2018 Final Rule on uplift cost allocation and transparency in markets operated by Regional Transmission Organizations and Independent System Operators. On November 13, 2018, the Commission issued a deficiency letter seeking more information from PJM to process the proposed Operating Agreement revisions. On December 13, 2018, PJM submitted its response to the Commission's deficiency letter, providing further clarification to the proposed revisions to the Operating Agreement. Agenda item E-11 may be an order on PJM's proposed Operating Agreement revisions.

E-12 – Southwest Power Pool, Inc. (Docket Nos. ER18-2318-000; ER18-2318-001). On August 27, 2018, Southwest Power Pool, Inc. (SPP), pursuant to section 206 of the FPA, submitted a compliance filing revising its Open Access Transmission Tariff to incorporate language to comply with Commission Order No. 844. On November 9, 2018, the Commission issued a letter stating that SPP's August 27, 2018 filing was deficient and requested additional information within 30 days. On December 10, 2018, SPP submitted a compliance filing in response to the Commission's November 9 deficiency letter. Agenda item E-12 may be an order on SPP's Order No. 844 compliance filing.

E-13 – Wisconsin Electric Power Company (Docket No. ER18-829-001). On February 8, 2018, Wisconsin Electric Power Company (Wisconsin Electric) filed proposed revisions to Service Schedule A under its Tariff for Sales of Ancillary Services, to set forth its fleet-wide revenue requirements for the provision of Reactive Service. On April 30, 2018, the Commission issued an order accepting the proposed revisions for filing, suspending them for a nominal period, subject to refund, and setting them for hearing and settlement judge procedures. On December 20, 2018, Wisconsin Electric filed an offer of settlement. On January 23, 2019, the presiding administrative law judge certified the settlement as uncontested. Agenda item E-13 may be an order relating to the Wisconsin Electric offer of settlement.

E-14 – ITC Great Plains, LLC (Docket No. ER09-548-000). On December 19, 2018, the Kansas Corporation Commission (KCC) submitted a Motion for Order to Show Cause requesting the Commission issue an order that requires ITC Great Plains, LLC (ITC Great Plains) to show cause why the independence adder that is included in the return on equity that ITC Great Plains uses to calculate its annual transmission revenue requirement should not be reduced in light of the Commission's finding regarding its affiliates in another Commission proceeding. On January 16, 2019, ITC Great Plains submitted an answer to KCC's motion. Agenda item E-14 may be an order regarding KCC's motion.

E-15 – Duke Energy Progress, LLC (Docket No. ER17-1553-002). On October 18, 2017, Fayetteville Public Works Commission (Fayetteville) filed a Formal Challenge to Duke Energy Progress, LLC's (DEP) 2015 Annual Formula Rate True-up regarding the 2015 calendar year annual production-related revenue requirements and rates. On April 23, 2018, the Commission issued an order granting the Formal Challenge and directed DEP to re-file its 2014, 2015, and 2016 FERC Form No. 1, make refunds, and file a refund report. On May 23, 2018, DEP filed a request for rehearing of the Commission's April 23 order. Agenda item E-15 may be an order on DEP's request for rehearing.

E-16 – Public Service Company of Colorado (Docket No. ER18-2428-001). On September 14, 2018, Public Service Company of Colorado (PSCo) submitted, pursuant to section 205 of the FPA, proposed revisions to the Xcel Energy Operating Companies Joint Open Access Transmission Tariff. The proposed revisions to Schedule 16 (Flex Reserve Service) and to Table 35 of Attachment O (Formula Rate Tables) are purportedly intended to correct discrepancies in the tariff and ensure the language in both Schedule 16 and Attachment O are consistent with the settlement in Docket No. ER14-1969. PSCo's filing included a request for waiver of the Commission's prior notice requirements and an effective date of April 16, 2016, the earliest date the Commission's eTariff system will accept. On November 9, 2018, Commission Staff in the Office of Energy Market Regulation – Division of Electric Power Regulation issued a letter order accepting the proposed revisions to be effective November 14, 2018, a full 60 days from the date of filing. On December 10, 2018, PSCo filed, pursuant to Rule 713 of the Commission's Rules of Practice and Procedure, a request for clarification or, in the alternative, request for rehearing of Commission Staff's letter order. Specifically, the filing questions the orders finding that PSCo had not

made a sufficient showing to grant a waiver of the 60-day prior notice requirement. Agenda item E-16 may be an order addressing the rehearing request submitted by PSCo.

E-17 – NorthWestern Corporation (Docket No. EL18-104-000). On March 15, 2018, the Commission issued the Stated Rate Order to Show Cause, pursuant to section 206 of the FPA, to prompt public utilities that use stated transmission rates, including Northwestern Corporation (Northwestern), to either reduce their tax allowance or show cause why they should be able to maintain their current tax allowance after the reduction in the federal corporate income tax rate from 35 percent to 21 percent. On May 14, 2018, Northwestern filed its response arguing that its costs of providing transmission service have increased significantly since the Commission approved the black box settlement that established its current rates and that the increase in costs offset any savings from the reduction in the corporate income tax rate. Further, NorthWestern stated that because of its increased costs it planned to file rate cases, in phases, at both the Montana Public Service Commission (Montana PSC) and the Federal Energy Regulatory Commission seeking approval to recover its increased costs. Northwestern committed to file its transmission rate case, including the revised federal corporate income tax rate, March 31, 2019. On November 15, 2018, the Commission issued an Order on Section 206 Proceeding holding the proceeding in abeyance pending the final outcome of the rate case Northwestern committed to file with the Commission. On December 11, 2018, Northwestern submitted, pursuant to Rule 713 of the Commission's Rules of Practice and Procedure, a request for rehearing asserting that the Commission erred in holding the proceeding in abeyance instead of terminating it. Agenda item E-17 may be an order addressing the rehearing request submitted by Northwestern.

E-18 – Gregory and Beverly Swecker v. Midland Power Cooperative; Gregory and Beverly Swecker v. Midland Power Cooperative and Central Iowa Power Cooperative; Gregory and Beverly Swecker (Docket Nos. EL14-9-002; EL14-18-002; QF11-424-006). On November 4, 2013, as amended on December 4, 2013, Gregory and Beverly Swecker (Sweckers) filed, pursuant to section 210(h)(2)(A), a petition for enforcement alleging, amongst other things, that Midland Power Cooperative (Midland) was calculating its avoided costs in a manner inconsistent with PURPA. On January 10, 2014, the Sweckers filed a second petition enforcement making the same claims against Midland and Central Iowa Power Cooperative (CIPCO). In their petitions the Sweckers claim that Midland's avoided costs should be the rate at which Midland purchases power from CIPCO. On May 15, 2014, the Commission issued a Notice of Intent Not to Act informing the Sweckers that it would not take action, but that the Sweckers may bring an enforcement action against Midland and CIPCO in the appropriate court. On March 24, 2016 and April 5, 2016, the Sweckers filed subsequent petitions for enforcement of PURPA against Midland and CIPCO. On June 3, 2016, the Commission again issued a Notice of Intent Not to Act. On July 17, 2017, the Sweckers submitted a Notice of Additional Authorities requesting an order from the Commission requiring Midland and CIPCO to provide their avoided costs stated in cents per kWh and to provide justification of the data provided. On February 20, 2018 the Commission issued an Order Denying Request for Cost Data finding that the Sweckers had not shown that the avoided cost information provided was at odds with Commission regulations or PURPA. On February 23, 2018, the Sweckers submitted a request to "clarify the record," effectively requesting rehearing, in response to the Commission's Order Denying Request for Cost Data. Agenda item E-18 may be an order addressing the request to clarify the record submitted by the Sweckers.

E-19 – Omitted

E-20 – Omitted

E-21 – City of Alexandria, Louisiana v. Cleco Power LLC (Docket No. EL19-6-000). On October 12, 2018, the City of Alexandria, Louisiana (Alexandria) filed, pursuant to Section 206 of the FPA and the formula rate protocols of Cleco Power LLC (Cleco), a Formal Challenge and Complaint alleging that Cleco has violated, and continues to violate, its formula rate by failing to reflect the reduction in the federal corporate income tax rate in its formula rate. In its filing, Alexandria requests that the Commission direct Cleco to revise its 2017 annual transmission revenue requirements to reflect the change in 2018 federal corporate income tax rates, revise its 2018 Annual Update to account for excess Accumulated Deferred Income Taxes (ADIT) amounts, and to begin refunding the excessive ADIT amounts to wholesale transmission customers. Agenda item E-21 may be an order addressing Alexandria's Formal Challenge and Complaint.

E-22 – Kansas Electric Power Cooperative, Inc. v. Westar Energy, Inc. (Docket No. EL19-17-000). On November 16, 2018, the Kansas Electric Power Cooperative, Inc. (KEPCo) filed a complaint against Westar Energy, Inc. (Westar) alleging that Westar has violated its generation formula rate and orders and regulations of the Federal Energy Regulatory Commission by failing to reflect a reduction in the federal corporate income tax rate in Westar’s 2018 calculation of its wholesale formula rate. On December 20, 2018, Westar submitted an answer, arguing that KEPCo’s complaint is a collateral attack on a 2008 Settlement agreement and that pursuant to its formula rate, the appropriate tax rate is the one that was in effect at the end of the prior calendar year. KEPCo submitted a reply to Westar on January 4, 2019, and Westar submitted a response on January 22, 2019. Electric cooperatives have intervened and submitted comments in support of KEPCo’s complaint. Agenda item E-22 may be an order addressing KEPCo’s complaint.

Gas

G-1 – BP Energy Company, Equinor Natural Gas LLC (FKA Statoil Natural Gas LLC), and Shell NA LNG LLC v. Dominion Energy Cove Point LNG, LP (Docket No. RP19-389-000). On December 4, 2018, BP Energy Company, Equinor Natural Gas LLC, and Shell NA LNG LCC (Complainants) submitted a complaint pursuant to Section 5 of the Natural Gas Act (NGA) against Dominion Energy Cove Point LNG, LP (Cove Point) alleging that Cove Point has shifted fuel costs associated with Cove Point’s LNG import terminal facilities that are attributable to a 2004 terminal expansion to the Complainants in violation of Sections 3 and 4 of the NGA and orders and regulations of the Commission. On December 21, 2018, Cove Point submitted an answer in response to the complaint, stating that it has allocated fuel costs in compliance with its approved tariff, that any apparent cost shift is due to the proper functioning of a cost tracker, and that Complainants may only request prospective relief pursuant to Section 5 of the NGA. On January 7, 2019, Complainants submitted a reply, and on February 1, 2019, Cove Point submitted an answer to Complainant’s reply. Agenda item G-1 may be an order addressing Complainants’ action.

G-2 – Arena Energy, LP, Castex Offshore, Inc., EnVen Energy Ventures, LLC, Fieldwood Energy LLC, Walter Oil & Gas Corporation, and W&T Offshore, Inc. v. High Point Gas Transmission, LLC (Docket No. RP19-310-000). On November 21, 2018, Arena Energy LP, Castex Offshore, Inc., Enven Energy Ventures, LLC, Fieldwood Energy LLC, Walter Oil & Gas Corporation, and W&T Offshore, Inc. (Producer Coalition) filed a complaint against High Point Gas Transmission, LLC (HPGT) alleging that HPGT failed to adequately respond to a request for transportation service to a particular delivery point. On December 11, 2018, HPGT filed an answer arguing that the complaint should be dismissed because the issue was previously addressed in dockets concerning the planned shutdown of the Toca Processing Plant and efforts to make alternative arrangements, and because the Federal Energy Regulatory Commission lacks authority to grant the requested relief. On December 21, 2018, the Producer Coalition filed a reply, and on January 3, 2019, HPGT filed a response. Agenda item G-2 may be an order addressing the Producer Coalition’s complaint.

G-3 – BP Products North America Inc. v. Sunoco Pipeline L.P. (Docket No. OR15-25-002). On April 30, 2015, in Docket No. OR15-25-000, BP Products North America Inc. (BP) filed a complaint against Sunoco Pipeline L.P. (Sunoco) seeking remedies for Sunoco’s execution of Throughput and Deficiency Agreements with particular shippers and the revision of its prorationing policy on Sunoco’s Marysville Pipeline. The complaint was set for hearing on July 31, 2015, and a hearing was held beginning on November 17, 2016. On May 26, 2017, the presiding judge issued an initial decision that voided the agreements at issue, adjusted shippers’ history on the pipeline, awarded BP damages, and recommended that Sunoco’s proration policy be investigated. Following the initial decision, the parties filed briefs on and opposing exceptions and engaged in settlement discussions. On December 11, 2018, in Docket No. OR15-25-002, the parties jointly submitted an offer of settlement to resolve BP’s April 30, 2015 complaint against Sunoco. Commission Trial Staff submitted its initial comments in support of the settlement agreement on December 20, 2018. Agenda item G-3 may be an order accepting the offer of settlement.

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