

FERC

Meeting Agenda Summary

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's January 21, 2016 meeting, pursuant to the agenda as issued on January 14, 2016. Agenda items E-9 and C-1 have not been summarized due to omission from the agenda.

Electric

E-1 – Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators (Docket No. RM16-5-000). Agenda item E-1 may initiate a new proceeding for a notice of proposed rulemaking on offer caps in markets operated by Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs).

E-2 – Revised Critical Infrastructure Protection Reliability Standards (Docket No. RM15-14-000). On July 16, 2015, the Commission issued a notice of proposed rulemaking, proposing to approve seven critical infrastructure protection (CIP) Reliability Standards: CIP-003-6 (Security Management Controls), CIP-004-6 (Personnel and Training), CIP-006-6 (Physical Security of BES Cyber Systems), CIP-007-6 (Systems Security Management), CIP-009-6 (Recovery Plans for BES Cyber Systems), CIP-010-2 (Configuration Change Management and Vulnerability Assessments) and CIP-011-2 (Information Protection). The North American Electric Reliability Corporation (NERC) submitted the proposed Reliability Standards in response to the Commission's Order No. 791. The proposed Reliability Standards address the cyber security of the bulk electric system and improve upon the current Commission-approved CIP Reliability Standards. In addition, the Commission proposed to direct NERC to develop certain modifications to Reliability Standard CIP-006-6 and to develop requirements addressing supply chain management. Agenda item E-2 may be an order on the notice of proposed rulemaking.

E-3 – Southwest Power Pool, Inc., Midwest Independent Transmission System Operator, Inc., Southwest Power Pool, Inc. v. Midcontinent Independent System Operator, Inc., Midcontinent Independent System Operator, Inc. v. Southwest Power Pool, Inc. (Docket Nos. ER14-1174-000, EL11-34-002, EL14-21-000, EL14-30-000). On March 28, 2014, the Commission issued an Order on Remand and Complaints, Accepting and Suspending Service Agreement, Consolidating Proceedings and Establishing Hearing and Settlement Judge Procedures in Docket Nos. ER14-1174-000, EL11-34-002, EL14-21-000 and EL14-30-000 (March 28 Order). The March 28 Order addressed four proceedings involving the dispute between Midcontinent Independent System Operator, Inc. (MISO) and Southwest Power Pool, Inc. (SPP) over terms of the Joint Operating Agreement between MISO and SPP (MISO-SPP JOA): (1) a recent opinion of the United States District Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacating and remanding orders of the Commission in Docket Nos. EL11-34-000 and EL11-34-001 that interpreted section 5.2 of the MISO-SPP JOA; (2) a complaint filed by SPP against MISO under sections 206 and 306 of the Federal Power Act (FPA) alleging various violations by MISO of the terms of the MISO-SPP JOA, or in the alternative, that the MISO-SPP JOA is no longer just and reasonable (SPP Complaint); (3) a complaint filed by MISO against SPP under sections 206 and 306 of the FPA alleging SPP's violation of the terms of the MISO-SPP JOA (MISO Complaint); and (4) SPP's filing under section 205 of the FPA of an unexecuted nonconforming Service Agreement for Non-Firm Transmission Service between MISO and SPP (Service Agreement). The March 28 Order accepted for filing the Service Agreement, and suspended it for a nominal period, subject to refund. Also, the Commission consolidated Docket No. ER14-1174-000 with the MISO-SPP JOA Remand proceeding in Docket No. EL11-34-002, the SPP Complaint in Docket No. EL14-21-000 and the MISO Complaint in Docket No. EL14-30-000, and established hearing and settlement judge procedures. On April 4, 2014, Chief Administrative Law Judge Curtis L. Wagner, Jr. issued an Order of Chief Judge Designating Settlement Judge and Scheduling Settlement Conference. The order designated Administrative Judge Carmen A. Cintron the settlement judge for these proceedings. On October 13, 2015, SPP, together with the other parties, filed an Offer of Settlement and supporting documents, including a Settlement Agreement. On January 5, 2016, Judge Cintron certified an uncontested offer of settlement to the Commission, stating the Settlement Agreement fairly and reasonably resolved all issues in the proceedings. On January 8, 2016, Judge Cintron issued an order terminating settlement judge procedures, stating there are no additional matters pending before the Office of Administrative Law Judges and Dispute Resolution, subject to final action by the Commission. Agenda item E-3 may be an order on the uncontested offer of settlement and settlement judge procedures.

E-4 – Southwest Power Pool, Inc., Midwest Independent Transmission System Operator, Inc., Southwest Power Pool, Inc. v. Midcontinent Independent System Operator, Inc., Midcontinent Independent System Operator, Inc. v. Southwest Power Pool, Inc. (Docket Nos. ER14-1174-001, EL11-34-003, EL14-21-001, EL14-30-001). In April 2014, MISO, Entergy Services, Inc., on behalf of the Entergy Operating Companies (Entergy Services), and MISO Transmission Owners (MISO TOs), requested rehearing of the Commission's March 28 Order in Agenda Item E-3 above. MISO argued in its rehearing request, *inter alia*, that the Commission committed a clear legal error in the March 28 Order by not rejecting outright the unexecuted non-conforming Service Agreement for Non-Firm Transmission Service (Service Agreement) that SPP proposed in prior proceedings and by allowing it to become effective without a meaningful suspension period. The MISO TOs argued, *inter alia*, the March 28 Order arbitrarily suspended the unexecuted Service Agreement for a nominal period of one day without engaging in any analysis of how that decision complies with existing Commission precedent and policy. Entergy Services argued the Commission's acceptance of SPP's Service Agreement in Docket No. ER14-1144-000 would cause harm to MISO consumers that cannot be remedied by refunds. On May 12, 2014, the Commission issued an Order Granting Rehearing for Further Consideration in Docket Nos. ER14-1174-001, EL11-34-003, EL14-21-001 and EL14-30-001. Agenda item E-4 may be an order on the requests for rehearing.

E-5 – Midcontinent Independent System Operator, Inc. (Docket No. ER16-56-000). On October 13, 2015, MISO filed, pursuant to FPA Section 205, proposed revisions to its Tariff to remove the "hurdle rate" mechanism previously accepted by the Commission in Docket No. ER14-2445 to mitigate MISO's exposure to certain charges under the non-conforming, unexecuted Service Agreement between Southwest Power Pool, Inc. (SPP) and MISO, unilaterally filed by SPP in January 2014 in Docket No. ER14-1174. In the October 13

Filing, MISO stated that “following extensive settlement negotiations” MISO, SPP and certain other parties were able to resolve the dispute that led to the filing of the SPP Service Agreement and of certain associated complaints through a comprehensive Offer of Settlement and Settlement Agreement, which was simultaneously submitted on October 13, 2015. The Settlement Agreement requires MISO to make a filing to remove the Hurdle Rate. Agenda item E-5 may be an order on MISO’s proposed Tariff revisions pursuant to the Settlement Agreement.

E-6 – Entergy Services, Inc., Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc. (Docket No. QM14-3-000). On September 29, 2014, Entergy Services, Inc. (Entergy) filed, on behalf of the Entergy Operating Companies, an application pursuant section 210(m) of the Public Utility Regulatory Policies Act of 1978 (PURPA), seeking to terminate, on a service territory-wide basis, Entergy Operating Companies’ obligations under 18 C.F.R. § 292.303(a) to enter into new contracts or obligations to purchase electric energy from qualifying facilities (QF) with net capacities in excess of 20 MW. FERC issued deficiency letters regarding Entergy’s application on November 11, 2014, February 26, 2015 and June 25, 2015. Entergy responded to the June 25, 2015 Deficiency Letter on October 23, 2015. Agenda item E-6 may be an order on Entergy’s request to terminate its mandatory purchase obligations under 18 C.F.R. § 292.303(a).

E-7 – Arkansas Electric Cooperative Corporation (Docket No. QM15-3). On April 15, 2015, Arkansas Electric Cooperative Corporation (AECC) on behalf of itself and its seventeen electric distribution cooperative members, filed an application pursuant to section 210(m) of PURPA to terminate its mandatory purchase obligation under the Commission’s regulations to enter into new contracts or obligations to purchase energy and capacity from qualifying facilities (QFs) with a net capacity greater than 20 MW in its Members’ service territories within MISO or interconnected to AECC’s transmission system. FERC issued a deficiency letter regarding AECC’s application on July 14, 2015, to which AECC responded on September 14, 2015. Agenda item E-7 may be an order on AECC’s request to terminate its mandatory purchase obligations under 18 C.F.R. §292.303(a).

E-8 – Pacific Gas and Electric Company (Docket No. ER15-2418-001); San Francisco Bay Area Rapid Transit District v. Pacific Gas and Electric Company (Docket No. EL15-30-001). On December 12, 2014, San Francisco Bay Area Rapid Transit District (BART) filed a Complaint against PG&E in Docket No. EL15-30-000 requesting that the Commission direct PG&E to continue providing a purchasing-selling entity identification for use by BART or its agents on the e-Tags necessary for the transmission of power from resources outside of the California Independent System Operator Corporation (CAISO) balancing authority area to BART (PSE Service). On April 16, 2015, the Commission set the Complaint for hearing and settlement judgement procedures. On August 12, 2015, PG&E filed, in Docket No. ER15-2418, to add a “new service” to the existing Tariff between PG&E and BART. PG&E stated that its filing was conditioned upon the outcome of the pending Complaint proceeding and its filing in Docket No. ER15-2418 was made only to protect PG&E in the event this Commission orders PG&E to begin providing the PSE Service to BART. On October 9, 2015, the Commission issued an order accepting for filing PG&E’s proposed revisions and suspending them for five months and denying PG&E’s request for a retroactive effective date and request for waiver of the Commission’s 60-day prior notice requirements. On November 9, 2015, PG&E filed a request for rehearing of the October 9 Order, arguing that the order improperly suspended the proposed PSE Service for five months because, according to PG&E, the PSE Service is a new service for which no suspension is appropriate or required. Agenda item E-8 may be an order on rehearing of the October 9 Order.

E-9 – Omitted

E-10 – California Independent System Operator Corporation (Docket No. ER15-1783-001). On May 26, 2015, CAISO filed tariff revisions for Commission approval pursuant to Section 205 of the FPA. Specifically, CAISO sought to revise its tariff to amend its existing capacity procurement mechanism (CPM) to, among other things, implement a competitive solicitation process to procure backstop capacity. On October 1, 2015, the Commission accepted CAISO’s proposed CPM revisions, finding the competitive solicitation process to be a just and reasonable approach to meeting CAISO’s operational needs, and that it will provide appropriate compensation to needed resources, as it will result in compensation driven by competitive factors which will

appropriately reflect changing market conditions and corresponding fluctuations in capacity prices. On October 28, 2015, the Public Utilities Commission of the State of California (CPUC) filed a request for clarification, or, in the alternative, a request for rehearing of the October 1 order, asserting the Commission inadvertently misstated the formula for calculating the Soft Offer Cap in its order. Agenda item E-10 may be an order on the CPUC's request for clarification or rehearing.

E-11 – Backyard Farms Energy LLC and Devonshire Energy LLC (Docket No. EL15-96-000). On August 27, 2015, Backyard Farms Energy LLC (BYF Energy) and Devonshire Energy LLC (Devonshire) filed a petition for a declaratory order, requesting the Commission issue an order that BYF Energy and Devonshire are not affiliates under “common control” for the purpose of making required filings under 18 C.F.R. § 35.42 with funds and accounts managed by Fidelity Management & Research Company (Fidelity) or its affiliates and subsidiaries or the funds and accounts managed by FIL Limited (FIL) or its affiliates in the subsidiaries. In the alternative, BYF Energy and Devonshire request the Commission waive the requirement to file a change in status pursuant to 18 C.F.R. § 35.42 in connection with any future passive investments made by either Fidelity or FIL in entities that either own or control generation, owns or control inputs to electric power production, owns or operates transmission facilities, or has franchised service territory. Agenda item E-11 may be an order on the petition for a declaratory order.

Miscellaneous

M-1 – Instant Final Rule Transferring Certain Dispute Resolution Service Matters to the Commission’s Landowner Helpline (Docket No. RM15-26-000). This is likely an Instant Final Rule issued by the Commission to transfer certain dispute resolution service matters to the Commission’s Landowner Helpline, to be issued without a Notice of Proposed Rulemaking (NOPR) or period for public comment. Where a rule concerns only matters of agency procedure that will not significantly affect regulated entities or the general public, the Commission may issue this Final Rule without a period for public comment as 5 U.S.C. § 553(b) provides that notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice. Agenda item M-1 may be an order issuing the Instant Final Rule.

Gas

G-1 – Columbia Gulf Transmission, LLC (Docket No. RP16-302-000). Agenda item G-1 may initiate a new proceeding addressing the rates and/or tariff of Columbia Gulf Transmission.

G-2 – Iroquois Gas Transmission System, L.P. (Docket No. RP16-301-000). Agenda item G-2 may initiate a new proceeding addressing the rates and/or tariff of Iroquois Gas Transmission System.

G-3 – Empire Pipeline, Inc. (Docket No. RP16-300-000). Agenda item G-3 may initiate a new proceeding addressing the rates and/or tariff of Empire Pipeline.

G-4 – Tuscarora Gas Transmission Company (Docket No. RP16-299-000). Agenda item G-4 may initiate a new proceeding addressing the rates and/or tariff of Tuscarora Gas Transmission Company.

Hydro

H-1 – Public Utility District No. 2 of Grant County, Washington (Docket No. P-2114-276). On August 12, 2015, the Commission issued an order approving As-Built Site Plan Development and Updating Tables for the Priest Rapids Hydroelectric Project No. 2114. On September 10, 2015, Pat Kelleher filed a motion to intervene and request for rehearing of the August 12 order. On October 9, 2015, the Commission issued a Notice Dismissing Motion to Intervene and Rejecting Request for rehearing, finding none of the required conditions for entertaining post-licensing motions to intervene were met, and dismissing Mr. Kelleher’s motion to intervene. Agenda item H-1 may be an order related to the August 12 order and/or regarding Hydroelectric Project No. 2114.

Certificates

C-1 – Omitted

C-2 – Texas Gas Transmission, Inc. (Docket No. CP15-105-000). On March 4, 2015, Texas Gas Transmission, LLC (Texas Gas) submitted an Application for a Certificate of Public Convenience and Necessity (CPCN) pursuant to Section 7(c) of the Natural Gas Act (NGA) requesting Commission authorization of Texas Gas’s proposal to construct, own and operate and maintain a new natural gas pipeline lateral consisting of approximately 22.5 miles of pipeline, a meter and regulator station, and appurtenant auxiliary facilities. The proposed pipeline will extend from Texas Gas’ Midland 3 Compressor Station to an interconnection with Tennessee Valley Authority’s proposed combined-cycle natural gas-fired power plant located near the town of Paradise, Muhlenberg County, Kentucky. On November 17, 2015, the Commission’s Office of Energy Projects issued the Environmental Assessment for the proposed pipeline project. Agenda item C-2 may be an order regarding Texas Gas’ application for a CPCN.

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