

# FERC

## Meeting Agenda Summary

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's July 19, 2018 meeting, pursuant to the agenda as issued on July 12, 2018. Item H-1 has not been summarized due to omission from the agenda.

### Electric

**E-1 – Cyber Security Incident Reporting Reliability Standards (Docket No. RM18-2-000).** On December 21, 2017, the Commission issued a notice of proposed rulemaking (NOPR) proposing to direct the North American Electric Reliability Corporation (NERC) to create and provide revisions to the Critical Infrastructure Protection (CIP) Reliability Standards to improve mandatory reporting of Cyber Security Incidents, including incidents that may facilitate subsequent efforts to damage the reliable operation of the bulk electric system. Numerous entities submitted comments on the NOPR. Agenda item E-1 may be an order on the Commission's NOPR.

**E-2 – Revisions to Parts 45 and 46 of the Commission's Regulations (Docket No. RM18-15-000).** Agenda item E-2 may be an order establishing a proposed rulemaking regarding the Commission's regulations for applications for authority to hold interlocking positions and filing requirements for persons holding interlocking positions.

**E-3 – North American Electric Reliability Corporation (Docket No. RR17-6-000).** On June 26, 2017, NERC filed a petition for approval of proposed revisions to Sections 600 and 900 of the NERC Rules of Procedure (ROP). NERC states in its petition that the purpose of the proposed revisions is to (i) clarify the scope of the Personnel Certification Program, the Training and Education Program and the Continuing Education Program; and (ii) streamline and align the language of the ROP with current practices of those programs. Agenda item E-3 may be an order on NERC's petition.

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**E-4 – Linden VFT, LLC v. PJM Interconnection, L.L.C., PJM Interconnection, L.L.C., PJM Interconnection, L.L.C. Linden VFT, LLC v. PJM Interconnection, L.L.C., PJM Interconnection, L.L.C., Linden VFT, LLC v. Public Service Electric and Gas Company and PJM Interconnection, L.L.C., New York Power Authority v. PJM Interconnection, L.L.C. and PJM Transmission Owners in their Collective Capacity, PJM Interconnection, L.L.C. PJM Interconnection, L.L.C. (Docket Nos. EL15-67-003, ER15-2562-002, ER17-950-003, EL17-68-000, EL17-84-001, EL17-90-001, EL17-94-000, ER18-579-002, ER18-680-000 (Not Consolidated)).** The above proceedings concern cost responsibility assignments for transmission projects selected by PJM Interconnection L.L.C., (PJM) for inclusion in its Regional Transmission Expansion Plan (RTEP) in accordance with the PJM Open Access Transmission Tariff (PJM Tariff). Specifically, on July 10, 2015, under Docket No. EL15-67, Linden VFT, LLC (Linden) filed a complaint pursuant to section 206 of the FPA challenging PJM's solution-based distribution factor cost allocation methodology as applied to certain projects included in PJM's 2013 RTEP. In an order dated April 22, 2016, the Commission denied the complaint, finding that Linden failed to satisfy its burden under FPA section 206 to demonstrate that PJM's solution-based distribution factor cost allocation methodology was unjust, unreasonable, or unduly discriminatory or preferential. Numerous parties filed requests for rehearing of the Commission's April 22 order.

On April 28, 2017, under Docket No. EL17-68, Linden filed a complaint pursuant to Section 206 of the FPA with respect to PJM's revised cost allocations for RTEP projects b s b2436 and b2437 resulting from Consolidated Edison Company of New York (Con Edison) terminating 1,000 MW of long-term firm transmission service, effective April 30, 2017. The complaint asserts PJM's cost reallocations are unjust and unreasonable and unduly discriminatory and preferential. Numerous parties filed interventions, comments, and protests with respect to the complaint.

On September 18, 2017, under Docket No. EL17-90, Linden filed a complaint pursuant to Section 206 of the FPA. In this complaint, Linden contended that Public Service Electric and Gas Company (PSEG) is unreasonably withholding its consent to an amendment to the existing Linden interconnection service agreement between Linden, PSEG, and PJM to allow Linden to reduce all of its Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights, or, in the alternative, the PJM Tariff is unjust and unreasonable to the extent it does not permit a merchant transmission facility owner to reduce all of its Firm Transmission Withdrawal Rights to Non-Firm Transmission Withdrawal Rights without amending its interconnection service agreement or the consent of transmission owner party to that agreement. On December 15, 2017, the Commission issued an order granting in part Linden's complaint, finding the interconnection service agreement with PSEG to be unjust and unreasonable insofar as it did not permit Linden to convert its transmission rights as discussed above. The Commission rejected arguments that by converting its transmission withdrawal rights Linden was avoiding cost allocation assignment under the PJM RTEP or that the complaint was a collateral attack on the PJM cost allocation method. Numerous parties filed requests for rehearing of the Commission's December 15 order.

Relatedly, on September 8, 2017, under Docket No. EL17-84, the Commission issued an order instituting an proceeding pursuant to Section 206 of the FPA directing PJM and PSEG to show cause (1) why its existing interconnection service agreement between Hudson Transmission Partners, LLC (HTP), PSEG, and PJM was not unjust and unreasonable and unduly discriminatory to the extent it failed to allow HTP to convert its firm transmission withdrawal rights to non-firm transmission withdrawal rights; and (2) why PSEG's failure to consent to an amendment reflecting the same was not unjust, unreasonable, and unduly discriminatory. On September 29, 2017, PJM and PSEG filed responses to the Commission's September 8 show cause order. On December 15, 2017, the Commission issued an order finding the interconnection service agreement with HTP unjust and unreasonable insofar as it does not permit HTP to convert its firm transmission withdrawal rights to non-firm transmission withdrawal rights, and directing PJM to submit a compliance filing amending the agreement accordingly. Numerous parties filed requests for rehearing of the Commission's December 15 order.

On August 25, 2015, under Docket No. ER15-2562, pursuant to section 205 of the FPA, PJM filed amendments to Schedule 12-Appendix A of the PJM Tariff to incorporate cost responsibility assignments for 19 of the 31 transmission projects included in its 2015 update to the RTEP. On April 22, 2016, the Commission issued an order approving PJM's amendments, finding that PJM complied with its Tariff obligations in applying the solution-based distribution factor cost allocation methodology. Numerous parties filed requests for rehearing of the April 22 order.

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On February 8, 2017, under Docket No. ER17-950, PJM filed proposed amendments to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff regarding cost reallocations for certain projects included in the PJM RTEP. On April 25, 2017, the Commission issued a letter order accepting and suspending PJM proposed revisions for a nominal period, subject to refund, stating the proposed changes may be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful. Linden and the New York Power Authority filed requests for rehearing, or, in the alternative, clarification of the Commission's April 25 letter order.

On December 29, 2017, as amended on January 3, 2018, under Docket No. ER18-579, PJM, pursuant to section 205 of the Federal Power Act, filed revisions in Docket ER18-579 to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff to provide updated annual cost responsibility assignments for Regional Facilities and Necessary Lower Voltage Facilities, and Lower Voltage Facilities included in the PJM RTEP. On March 5, 2018, the Commission issued an order accepting PJM's proposed tariff changes, approving PJM's proposal to reduce the load-ratio share cost responsibility assignments and solution-based distribution factor cost allocation methodology for certain merchant transmission facility owners to zero, effective January 1, 2018. Numerous parties have filed requests for rehearing of the Commission's March 5 order.

On January 19, 2018, under Docket No. ER18-680, PJM submitted for filing proposed revisions to Schedule 12-Appendix and Schedule 12-Appendix A of the PJM Tariff to implement the changes directed by the Commission in its two December 15, 2017, orders. Numerous parties filed interventions, comments, and protests with respect to PJM's proposed revisions.

Agenda item E-4 may be an order related to the above proceedings.

**E-5 – KCP&L Greater Missouri Operations Company (Docket No. EL18-146-00).** On May 11, 2018, KCP&L Greater Missouri Operations Company (GMO) filed a Petition for Declaratory Order finding that the proposed payment of dividends furnished in the filing is in compliance with section 305(a) of the Federal Power Act (FPA). GMO states that the Tax Cuts and Jobs Act passed into law in December 2017 resulted in a one-time, non-cash charge to income tax expense of \$111.6 million due to the re-evaluation of its non-regulated deferred income tax assets. As such, this one-time charge has constrained the ability of GMO to pay dividends to Great Plains Energy, its parent company and sole shareholder. In the Petition, GMO requests authorization pay current dividends from Account 211 until it has retained sufficient earnings to pay dividends. Agenda item E-5 may be an order on the Petition for Declaratory Order.

**E-6 – Delaware Public Service Commission and Maryland Public Service Commission v. PJM Interconnection, L.L.C. and Certain Transmission Owners Designated under CTOA RS FERC No. 42 (Docket No. EL15-95-003).** On August 28, 2015, PJM Interconnection, L.L.C. (PJM) filed proposed amendments to its Tariff to reflect cost allocations for the Artificial Island Project, pursuant to section 205 of the FPA. Contemporaneously, the Delaware Public Service Commission and the Maryland Public Service Commission (collectively, the Complainants) filed a Complaint alleging that methodology used in determining the proposed cost allocations was unjust and unreasonable. On November 24, 2015, the Commission issued an order suspending the proposed Tariff amendments for a period of five months, while withholding a final determination on the reasonableness of the cost allocations. To evaluate the methodology fully, the Commission held a technical conference on January 12, 2016. Ultimately, on April 22, 2016, the Commission issued an order denying the Complaint and accepting the proposed cost responsibility assignments as set forth in the PJM filing. On May 23, 2016, the Complainants filed a Request for Rehearing of the April 22 order, asserting that the order failed to establish why PJM would be allowed to apply a different cost allocation methodology and that the Commission had acted in an arbitrary and capricious manner. Referencing changed circumstances in the project, the Complainants filed a Motion to Defer Ruling on August 23, 2016. The Complainants stated that PJM had suspended all elements of the Artificial Island Project due to further analysis — scheduled to be complete by February 2017 — contemplating new financial requirements and obligations. Agenda item E-6 may be an order on the Request for Rehearing or the Motion to Defer Ruling.

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## Gas

**G-1 – Guttman Energy, Inc. and PBF Holding Company LLC v. Buckeye Pipe Line Company, L.P. and Laurel Pipe Line Company, L.P. (Docket No. OR14-4-002).** On October 15, 2013, Guttman Energy, Inc. and PBF Holding Company (the Complainants) filed a complaint, pursuant to the Interstate Commerce Act (ICA), alleging that Buckeye Pipeline Company, L.P. and Laurel Pipe Line Company, L.P. (collectively, the Carriers) were: 1) charging Guttman interstate rates for intrastate transportation service, 2) were discriminating by charging higher rates for interstate service than for identical intrastate service, and 3) that Buckeye has significant market power in markets in which it has market-based rate authority. On May 2, 2014, the Commission issued an order dismissing the Complaint against Laurel and the discrimination claims against Buckeye, and establishing a hearing to examine whether Buckeye possesses market power in the Pittsburg and Harrisburg markets. On June 2, 2014, the Complainants filed a request for rehearing and clarification of the May 2 Order requesting rehearing of the Commission's determination that Buckeye properly charged Guttman its interstate rate and clarification that the scope of the hearing included both market power and cost-of-service issues. On November 6, 2014, the Commission issued an Order on Rehearing and Establishing Hearing that established a hearing as to whether the Complainants shipments should be considered interstate or intrastate transportation. The Commission subsequently consolidated the hearing into the ongoing hearing proceeding regarding Buckeye's market-based rate. The hearing was held from September 29, 2015 through October 19, 2015. On November 16, 2017, the Commission issued an Order on Initial Decision that addressed the Initial Decision and Briefs On and Opposing Exceptions. The Order on Initial Decision affirmed the Presiding Judge's that the shipments at issue were interstate in character, reversed the Presiding Judge in finding that Buckeye's market-based rate authority in the Pittsburgh destination should be revoked, and affirmed the Presiding Judge's recommendation that Buckeye's market-based rate authority for the Harrisburg destination market be revoked. On December 18, 2017, Buckeye requested rehearing of the Commission's Order on Initial Decision. Agenda item G-1 may be an order responding to the request for rehearing.

## Hydro

### H-1 – Omitted

**H-2 – Public Utility District No. 2 of Grant County, Washington (Docket No. P-2114-296).** On April 7, 2017, Public Utility District No. 2 of Grant County, Washington (Grant PUD), licensee for the Priest Rapids Hydroelectric Project No. 2114 (Priest Rapids Project), filed an application for non-project use authorization to permit Stockdale, Inc. (Stockdale) to increase the watercraft capacity at the existing Vantage Riverstone Marina (Vantage Marina) on the Columbia River in the Wanapum Dam Reservoir near Vantage, Kittitas County, Washington. On March 15, 2018, the Commission conditionally approved Grant PUD's request. On April 15, 2018, a request for rehearing was submitted by Pat Kelleher. Agenda item H-2 may be an order responding to the request for rehearing.

**H-3 – Verdant Power, LLC (Docket No. P-12611-011).** On December 29, 2017, Verdant Power, LLC (Verdant) submitted a request for a five-year extension of the term of its pilot license for the Roosevelt Island Tidal Energy Project No. 12611, and a Notice of Intent to relicense the project, pursuant to section 5.5(d) of the Commission's regulations. On May 3, 2018, the Commission issued an order rejecting Verdant's request for an extension, and denying Verdant's request of a waiver of the Commission's filing requirements so that it may file a pre-application document and Notice of Intent two years before expiration of the pilot license. On June 1, 2018, Verdant submitted, pursuant to section 313(a) of the FPA, a request for rehearing of the Commission May 3 Order. Agenda item H-3 may be an order responding to the request for rehearing.

## Certificates

**C-1 – Columbia Gas Transmission, LLC (Docket No. CP17-80-000).** On March 15, 2017, Columbia Gas Transmission submitted an application for a certificate of public convenience and necessity for the Eastern Panhandle Expansion Project (Project), which, as proposed, will consist of approximately 3.4 miles of newly constructed pipeline running from Fulton County, Pennsylvania to Morgan County, West Virginia. On January 27, 2018, FERC staff issued the Environmental Assessment for the Project, and comments on the Environmental

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Assessment were due on February 26, 2018. Agenda item C-1 may be an order granting a certificate for the Project.

**C-2 – Texas Eastern Transmission, LP (Docket No. CP18-10-000).** On October 19, 2017, Enbridge – Texas Eastern Transmission LP (Texas Eastern) submitted an application for a certificate of public convenience and necessity for the TX-LA Markets Project (Project), which, as proposed, will modify Texas Eastern’s existing Gillis Compressor Station in Beauregard Parish, Louisiana to provide additional firm capacity. On May 31, 2018, FERC staff issued the Environmental Assessment for the Project. Agenda item C-2 may be an order in the proceeding.

**C-3 – Northwest Pipeline LLC (Docket Nos. CP17-441-000, CP17-441-001).** On May 11, 2017, Northwest Pipeline LLC (Northwest) submitted an application requesting abandonment and certificate approvals necessary for its North Seattle Lateral Upgrade Project (Project), which, as proposed, will replace approximately 5.9 miles of 8-inch diameter pipeline with 20-inch diameter pipeline in Snohomish County, Washington to increase service reliability and provide additional firm capacity. On February 12, 2018, FERC staff issued the Environmental Assessment for the Project, and comments on the Environmental Assessment were due on March 13, 2018. On May 22, 2018, Northwest requested issuance of a certificate order for the Project. Agenda item C-3 may be an order granting a certificate for the Project.

**C-4 – Gulf South Pipeline Company, LP (Docket No. CP18-66-000), Tristate NLA, LLC (Docket No. CP18-69-000).** On January 26, 2018, Gulf South Pipeline Company, LP (Gulf South) filed an Abbreviated Application for Authorization to Abandon Certain Pipeline Facilities pursuant to section 7(b) of the Natural Gas Act (NGA). Gulf South intends to abandon by sale gathering and transmission pipelines located in Texas and Louisiana to Tristate NLA, LLC (Tristate), which filed a contemporaneous Petition for Declaratory Order pertaining to the jurisdictional status of the aforementioned facilities. Tristate asserts that the facilities would operate as a combination of intrastate pipelines and gathering facilities outside of Commission jurisdiction, and the only existing ‘no-notice’ firm customer would not be affected. CenterPoint Energy Resources Corporation, the lone customer, filed comments on February 28, 2018, expressing concerns that certain prerequisites and procedural steps may not be finished by the proposed date for authorization. On March 7, 2018, the Commission issued the Environmental Assessment, finding the application is designated as a categorical exclusion, as no facilities are proposed to be constructed or physically abandoned. Agenda item C-4 may be an order on the contemporaneous Abbreviated Application and Petition submitted by Gulf South and Tristate, respectively.

**C-5 – Constitution Pipeline Company, LLC (Docket No. CP18-5-001).** On June 13, 2013, Constitution Pipeline Company (Constitution) filed an Application for Certificate of Public Convenience and Necessity (CPCN) pursuant to section 7 of the NGA to construct and operate its proposed Constitution Pipeline Project. Located in Pennsylvania and New York, the proposed pipeline would comprise 124 miles. On April 22, 2016, the New York Department of Environmental Conservation (NY DEC) denied the application for water quality certification, citing insufficient information to evaluate compliance with New York water quality standards. Subsequently, Constitution sought relief before the US Court of Appeals for the Second Circuit, arguing that NY DEC had acted to delay the review process and that it had furnished sufficient information. On August 18, 2017, the court issued an opinion upholding the denial by NY DEC. Constitution filed a Petition for Declaratory Order on October 11, 2017, asserting that NY DEC had waived its authority under the Clean Water Act by failing to act within a reasonable time period. On January 11, 2018, the Commission issued an order denying the Petition for Declaratory Order. Following the denial, Constitution filed a Request for Rehearing on February 12, 2018. Agenda item C-5 may be an order on the request for rehearing.

**C-6 – NEXUS Gas Transmission, LLC (Docket No. CP16-22-001), Texas Eastern Transmission, LP (Docket No. CP23-001), DTE Gas Company (Docket No. CP16-24-001), Vector Pipeline L.P. (Docket No. CP16-102-001).** On August 25, 2017, the Commission issued an order granting authorization pursuant to section 7(c) of the NGA to NEXUS Gas Transmission, LLC (NEXUS) to construct and operate a new pipeline system located in Ohio, Michigan, and Canada. In addition, the Commission authorized Texas Eastern Transmission, LP (Texas Eastern) to construct and operate natural gas pipeline facilities to a proposed interconnection with the NEXUS project in Ohio. The order issued on August 25, 2017 also granted authorization to DTE Gas Company (DTE) and Vector Pipeline, L.P. (Vector) to lease certain capacity to NEXUS in connection with the project. On September 22, 2017, the Sierra Club filed a Request for Rehearing and a Stay, joined in the following days by a number of other parties. The Commission issued an order denying the stay on January 10, 2018, finding that the parties did

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not demonstrate irreparable harm (as supported by the Environmental Impact Statement issued in the original docket). Agenda item C-6 may be an order on the requests for rehearing relating to the NEXUS, Texas Eastern, DTE, and Vector authorizations.

**C-7 – Millennium Pipeline Company, L.L.C. (Docket No. CP16-486-001).** On July 29, 2016, Millennium Pipeline Company, L.L.C. (Millennium) filed an Application for Certificate of Public Convenience and Necessity pursuant to section 7(c) of the NGA for authorization to construct and operate the Easter System Upgrade Project located in New York. The Commission granted the CPCN to Millennium on November 28, 2017. On December 1, 2017, Delaware Riverkeeper Network (DRN) filed a Request for Rehearing, stating that the Commission had performed the environmental review without meeting the requirements set forth by the National Environmental Policy Act. The Commission issued an Environmental Assessment (EA) finding the project would not pose a significant risk to the human environment; DRN alleges that an Environmental Impact Statement would be necessary rather than the EA. DRN contemporaneously submitted a Motion for Stay pending the rehearing decision. On December 19, 2017, Protect Orange County filed a Request for Rehearing. Agenda item C-7 may be an order on the requests for rehearing and the motion for stay.

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