

Energy, Infrastructure, Project and Asset Finance

Summary of FERC Meeting Agenda

September 2011

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Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's September 15, 2011 meeting, pursuant to the agenda as issued on September 8, 2011. Agenda items A-3 and E-2 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-4: (Docket No. AD11-9-000)

This administrative item is a Report on Outages and Curtailments During the Southwest Cold Weather Event of February 1 – 5, 2011

Electric Items

E-1: Version 4 Critical Infrastructure Protection Reliability Standards (Docket No. RM11-11-000)

On February 10, 2011, the North American Electric Reliability Corporation (NERC) filed a petition for approval of revised cyber security standards CIP-002 through CIP-009 and the retirement of the prior version of the CIP standards. Agenda item E-1 may be an order on NERC's petition.

E-3: Transmission Relay Loadability Reliability Standard (Docket No. RM08-13-004)

In Order No. 733, FERC approved Reliability Standard PRC-023-1 (Transmission Relay Loadability) as mandatory and enforceable under Section 215 of the Federal Power Act (FPA). On February 17, 2011, FERC issued Order No. 733-A granting, in part, several requests for clarification and rehearing. Several parties sought rehearing or clarification of Order No. 733-A. Agenda item E-3 may be an order on rehearing or clarification of Order No. 733-A.



Each month, White & Case provides brief summaries of the agenda items for the Federal Energy Regulatory Commission's monthly meeting. For questions relating to any of these matters, please do not hesitate to contact any of the lawyers listed below:

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E-4: Interpretation of Transmission Planning Reliability Standard (Docket No. RM10-6-000)

On November 17, 2009, NERC filed a petition for approval of its interpretation of Requirement R1.3.10 of Reliability Standard TPL-002-0 (System Performance Following Loss of a Single Bulk Electric System Element). On March 18, 2010, the Commission issued a notice of proposed rulemaking (NOPR), proposing that it would reject NERC's interpretation and adopt an alternative interpretation consistent with the Commission's understanding that the requirement obligates system planners to study, in their system assessments, the non-operation of primary protection systems in order to ascertain whether and how reliance on the as-designed backup or redundant protection systems affect reliability. Agenda item E-4 may be an order adopting an interpretation of the requirement.

E-5: Electric Reliability Organization Interpretation of Transmission Operations Reliability Standard (Docket No. RM10-29-000)

On July 16, 2010, NERC filed a petition for approval of its interpretation of R8 of Reliability Standard TOP-001-1 (Reliability Responsibilities and Authorities). On April 21, 2011, the Commission issued a NOPR proposing to approve NERC's interpretation of the requirement. Agenda item E-5 may be an order regarding the NOPR.

E-6: Transmission Relay Loadability Reliability Standard (Docket No. RM11-16-000)

On March 18, 2011, NERC filed a petition for approval of revised Reliability Standard PRC-023-2 (Transmission Relay Loadability). In addition, NERC submitted for approval a proposed addition to the NERC Rules of Procedure, Section 1700 (Challenges to Determinations), in response to a directive in Order No. 733 that NERC develop a process by which entities could challenge criticality determinations made by Planning Coordinators under the proposed standard. Agenda item E-6 may be an order on NERC's petition.

E-7: North American Electric Reliability Corporation (Docket No. RD11-7-000)

On April 29, 2011, NERC filed a petition for approval of revised Reliability Standard PER-003-1 (Operating Personnel Credentials). Agenda item E-7 may be an order on NERC's petition.

E-8: Midwest Independent Transmission System Operator, Inc. (Docket No. ER11-3970-000)

On June 30, 2011, the Midwest Independent Transmission System Operator, Inc. (MISO) filed proposed revisions to a number of its credit policies in its Open Access Transmission, Energy and Operating Reserve Markets Tariff to comply with the Commission's Order No. 741 regarding credit reform in organized wholesale electric markets. Agenda item E-8 may be an order regarding MISO's filing.

E-9: Bangor Hydro Electric Company (Docket No. TS11-5-000)

On June 13, 2011, Bangor Hydro Electric Company (Bangor Hydro) submitted a request for a limited waiver of FERC's Standards of Conduct for Transmission Providers in order to allow it to engage in certain ministerial actions for the spot market resale of energy purchased from certain generation facilities as required by Maine law. Bangor Hydro is primarily a transmission and distribution utility and Maine law prohibits Bangor Hydro and its affiliates from engaging in retail sales of energy to customers located in its historic retail service territory. The Maine Public Utilities Commission ordered Bangor Hydro to purchase the output of certain generation facilities, including 20 percent of the output of the 60 MW Rollins Wind Project (which is projected to begin commercial operation soon). Bangor Hydro seeks to sell the power from the Rollins Wind Project in the ISO New England spot market. Agenda item E-9 may be an order on the request for waiver.

E-10: Southwest Power Pool, Inc. (Docket No. ER11-3967-000)

On June 30, 2011, Southwest Power Pool, Inc. (SPP) submitted a compliance filing to satisfy the requirements of Order Nos. 741 and 741-A regarding reforms to the credit policies used in organized wholesale electric power markets. Agenda item E-10 may be an order on SPP's compliance filing.

E-11: PJM Interconnection, L.L.C. and Trans-Allegheny Interstate Line Company (Docket No. ER11-3064-001)

On May 13, 2011, FERC issued an order rejecting Trans-Allegheny Interstate Line Company's (TrAILCo) proposed revisions to TrAILCo's existing transmission cost of service formula rate to recover costs associated with the abandonment of the proposed Prexy Facilities, as such revisions had been submitted by PJM Interconnection, L.L.C. (PJM) for inclusion in its Open Access Transmission Tariff. The Prexy Facilities, which were to be part of the TrAIL Project (a 500 kV transmission line from Pennsylvania to Virginia) were to consist of a 500/138 kV substation in Washington County, Pennsylvania, three 138 kV transmission lines and a 500 kV

transmission line segment. TrAILCo filed a request for clarification, or in the alternative rehearing, arguing that FERC should consider separate cost allocations for the costs of the Prexy Facilities rated at less than 500 kV and for the costs of the Prexy Facilities rated at 500 kV. Agenda item E-11 may be an order on clarification or rehearing.

E-12: PJM Interconnection, L.L.C. (Docket No. ER11-3972-000)

On June 30, 2011, PJM submitted a compliance filing to satisfy the requirements of Order Nos. 741 and 741-A regarding reforms to the credit policies used in organized wholesale electric power markets. PJM stated that its credit rules already address most of the requirements FERC imposed in Order No. 741 and that the principal change to its credit policy was to include minimum participation criteria for market participants in PJM. Agenda item E-12 may be an order on PJM's compliance filing.

E-13: ISO New England Inc. and New England Power Pool (Docket No. ER11-3953-000)

On June 30, 2011, ISO New England (ISO-NE) and the New England Power Pool Participants Committee submitted a compliance filing to satisfy the requirements of Order Nos. 741 and 741-A regarding reforms to the credit policies used in organized wholesale electric power markets. The proposed revisions include changes to the ISO-NE Financial Assurance Policy, the ISO-NE Information Policy and Section I.2.2 of ISO-NE's Tariff. Agenda item E-13 may be an order on ISO-NE's compliance filing.

E-14: New York Independent System Operator, Inc (Docket Nos. ER11-2224-004, ER11-2224-005, ER11-2224-009)

On June 20, 2011, the New York Independent System Operator, Inc. (NYISO) submitted a compliance filing containing revisions to its Installed Capacity (ICAP) Demand Curves for New York City as mandated by FERC in a May 19, 2011 Order. The compliance filing also addresses FERC's requirements concerning the winter-to-summer ratios to be used for NYISO's Demand Curves and proposes revised ICAP Demand Curves, which were first introduced in a March 29, 2011 compliance filing and have been subsequently modified during the 2011 Summer Capability Period. NYISO seeks to have the revised ICAP Demand Curves to be effective through Capability Years 2011/2012, 2012/2013 and 2013/2014. Agenda item E-14 may be an order on NYISO's compliance filing.

E-15: New York Independent System Operator, Inc. (Docket Nos. ER11-3949-001, ER11-3951-000)

On June 30, 2011, as supplemented on July 5, 2011, NYISO submitted compliance filings to satisfy the requirements of Order Nos. 741 and 741-A regarding reforms to the credit policies used in organized wholesale electric power markets. NYISO proposed revisions to its Market Administration and Control Area Services Tariff and its Open Access Transmission Tariff, and also requested a delayed effective date for certain of its proposed tariff provisions. Agenda item E-15 may be an order on NYISO's compliance filings.

E-16: California Independent System Operator Corporation (Docket No. ER11-3973-000)

On June 30, 2011, the California Independent System Operator Corporation (CAISO) filed tariff revisions to comply with FERC Order Nos. 741, *et al.*, regarding credit reform in organized wholesale electric power markets to ensure clear and consistent credit practices. Specifically, CAISO proposed to revise its settlements cycle and credit policy. Agenda item E-16 may be an order on CAISO's proposed tariff revisions.

E-17: Idaho Wind Partners 1, LLC (Docket No. EL11-12-002)

On June 20, 2011, Avista Corporation (Avista) filed a Request for Rehearing and Clarification or, in the Alternative, Rehearing related to an order on Idaho Wind Partners 1, LLC's (Idaho Wind) Petition for Declaratory Order on a proposed transaction involving an instantaneous sale of energy and renewable energy credits with an instantaneous buy-back of the energy only. Avista requested clarification of FERC's determination that energy that Idaho Wind sells to a qualifying facility and then buys back may subsequently be sold at avoided cost rates pursuant to mandatory purchase obligations under the Public Utility Regulatory Policies Act (PURPA). Avista contends that such energy has been purchased from a third party and is not eligible for PURPA sales. Agenda item E-17 may be an order on rehearing or clarification.

Gas Items

G-1: Storage Reporting Requirements of Interstate and Intrastate Natural Gas Companies (Docket No. RM11-4-000)

On December 16, 2010, FERC issued a Notice of Inquiry (NOI) regarding the semi-annual storage reports required of interstate and intrastate natural gas companies. In the NOI, FERC asked for comment on whether it should modify the information it collects in the semi-annual storage reports, whether there should be a standardized electronic format for the reports, and whether the storage reports must be public. Agenda item G-1 may be a further rulemaking with respect to the reporting.

Hydro Items

H-1: Duke Energy Carolinas, LLC (Docket Nos. P-2698-050 and P-2698-062)

On June 3, 2011, Duke Energy Carolinas, LLC (Duke) filed a Request for Rehearing of FERC's May 4, 2011 order issuing a new license (License Order) for Duke's East Fork Hydroelectric Project. Duke requested rehearing of certain requirements imposed by the License Order, including trash removal, public use, and monitoring requirements. Agenda item H-1 may be an order on rehearing.

H-2: Grand Coulee Project Hydroelectric Authority (Docket No. P-13681-002)

On July 1, 2011, Grand Coulee Project Hydroelectric Authority (GCPHA) filed a Motion to Stay of FERC's order dismissing its preliminary permit application for the North Dam Pumped Storage Project. FERC dismissed the application because it found the proposed project would use the same water resource as another hydroelectric project already possessing a preliminary permit. GCPHA argued a stay was necessary to prevent it from suffering irreparable harm. Specifically, it stated that if the order is not stayed, then several other entities will have the opportunity to file preliminary permit applications for the same water resource. The outstanding preliminary permit on the water resource expires in February 2012, and GCPHA wants to preserve its place as the first municipality to file an application at the permit site should the water resource become available. Agenda item H-2 may be an order on the Motion to Stay.

H-3: Woodland Pulp LLC (Docket No. D110-9-001)

On August 18, 2011, Woodland Pulp LLC filed a Request for Rehearing of an earlier FERC Order finding that four storage dams on the St. Croix River that do not produce power nonetheless require FERC licenses because they are "necessary and appropriate in the maintenance of a complete unit of hydropower improvement or development." Woodland Pulp LLC contends that the FPA does not require FERC to license the storage dams and, further, that the cost of FERC licensing is not justified. Agenda item H-3 may be an order on rehearing.

Certificate Items

C-1: Tennessee Gas Pipeline Company (Docket No. CP11-30-000) and Dominion Transmission, Inc. (Docket No. CP11-41-000)

Tennessee Gas Pipeline Company (TGP) and Dominion Transmission, Inc. (DT) filed Applications for a Certificate of Public Convenience and Necessity on November 12 and 19, 2010, respectively, seeking authorization under the Natural Gas Act to construct and operate proposed natural gas facilities (Project). The Project would consist of about 37 miles of 30-inch diameter natural gas pipeline in five loop segments, as well as certain corresponding construction and modifications to associated facilities, which DT would own and lease the capacity to TGP. Agenda item C-1 may be an order on the applications.

C-2: El Paso Natural Gas Company (CP10-510-000)

On September 28, 2010, El Paso Natural Gas Company (EPNG) filed an application for authorization to abandon, in place, its Deming and Tucson Compressor Stations, located in Luna County, New Mexico and Pima County, Arizona, respectively. EPNG stated that the Stations, which were constructed in the 1940s, are functionally obsolete and are no longer required to provide natural gas transportation service. Agenda item C-2 may be an order on the application.