

Energy, Infrastructure, Project and Asset Finance

# Summary of FERC Meeting Agenda

February 2013

## In This Issue...

- Administrative Items
- Electric Items
- Gas Item
- Hydro Items
- Certificate Items

*Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's February 21, 2013 meeting, pursuant to the agenda as issued on February 14, 2013. Agenda items E-5, E-7 and C-8 have not been summarized as they were omitted from the Commission's 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. RM10-12-000

This administrative item will address electricity market transparency provisions of Section 220 of the Federal Power Act.

## Electric Items

### E-1: Maine Public Service Company (Docket No. ER13-85-000)

On October 11, 2012, the Maine Public Service Company (MPS) submitted its Order No. 1000 compliance filing on regional transmission planning and cost allocation. MPS, which has no direct electric connection with any other US utility, is a member of Northern Maine Independent System Administrator, Inc. (Northern Maine ISA), a FERC-approved Regional Transmission Group. In its compliance filing, MPS requests that FERC find that the Northern Maine ISA Tariff and Market Rules largely comply with the requirements in Order No. 1000 or, in the alternative, grant waiver of the Order No. 1000 regional compliance requirements. Several parties filed protests to MPS's filing. Agenda item E-1 may be an order on MPS's compliance filing.

### E-2: Duke Energy Carolinas, LLC and Carolina Power and Light Company (Docket No. ER13-83-000), Alcoa Power Generating Inc. (Docket No. ER13-88-000)

On October 11, 2012, Alcoa Power Generating, Inc. (APGI) submitted its Order No. 1000 compliance filing for its Yadkin Division. Duke Energy Carolinas, LLC (DEC) and Carolina Power & Light Company, d/b/a Progress Energy Carolinas (PEC) also submitted an Order



Each month, White & Case provides brief summaries of the agenda items for the Federal Energy Regulatory Commission's monthly meeting.

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No. 1000 compliance filing. According to the filings, APGI, DEC and PEC will constitute the initial public utility transmission providers enrolled in the North Carolina Transmission Planning Collaborative transmission planning process. The North Carolina Utilities Commission and the Public Staff of the North Carolina Utilities Commission filed comments in support of the filings and several parties filed protests to the filings. Agenda item E-2 may be an order on the AGPI and DEC/PEC compliance filings.

### **E-3: Standards for Business Practices and Communication Protocols for Public Utilities (Docket No. RM05-5-020)**

On April 19, 2012, FERC issued a Notice of Proposed Rulemaking (NOPR) in which it proposed to incorporate in its regulations by reference the business practice standards adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board (NAESB) for the measurement and verification of demand response and energy efficiency resources participating in the organized wholesale electric markets. Numerous parties filed comments on the NOPR. Agenda item E-3 may be an order on the NOPR.

### **E-4: Regional Reliability Standards PRC-006-NPCC-1— Automatic Underfrequency Load Shedding (Docket No. RM12-12-000)**

On May 4, 2012, the North American Electric Reliability Corporation (NERC) submitted a petition to FERC seeking approval of a proposed Regional Reliability Standard, PRC-006-NPCC-1— Automatic Underfrequency Load Shedding, and its associated Violation Risk Factors and Violation Severity Levels, as well as an implementation plan for the Northeast Power Coordinating Council (NPCC) footprint. The purpose of the proposed Regional Reliability Standard is to develop an effective automatic underfrequency load shedding program to preserve the security and integrity of the bulk power system during declining system frequency events. On September 20, 2012, FERC issued an NOPR in which it proposed to approve the proposed Regional Reliability Standard. Agenda item E-4 may be an order on the NOPR.

### **E-6: J. Wm. Foley, Inc. v. United Illuminating Company (Docket No. EL12-106-000)**

On September 17, 2012, as amended on October 5, 2012 and December 4, 2012, J. Wm. Foley, Inc. (Foley) filed a complaint against The United Illuminating Company (UI), challenging the inclusion into rate base of excess costs incurred by UI in connection with the design and execution of the Middletown-Norwalk 345 kV Transmission Line Project and the related 115 kV interconnects. Foley is a UI customer and argued that these excess costs were incurred contrary to prudent utility practice. UI filed a motion to dismiss or, in the alternative, to hold the proceeding in abeyance, arguing that the issues raised are not within FERC's jurisdiction and are already being litigated in the

Connecticut Superior Court. UI also responded that the complaint is insufficient and lacks any evidentiary basis. Agenda item E-6 may be an order on Foley's complaint.

### **E-8: Southwest Power Pool, Inc. (Docket No. ER12-959-001)**

On March 30, 2012, FERC issued an order accepting Southwest Power Pool, Inc.'s (SPP) filing, made on behalf of Tri-County Electric Cooperative, Inc. (Tri-County), of revisions to SPP's Open Access Transmission Tariff (OATT) to implement Tri-County's formula rate for transmission service. FERC established hearing and settlement judge procedures, but did not make the rates subject to refund. Xcel Energy Services, Inc. ("XES") and Occidental Permian, Ltd. and Occidental Power Marketing, L.P. (Occidental) and the New Mexico Cooperatives filed requests for clarification and/or rehearing, arguing that Tri-County's rates are unjust and unreasonable as Tri-County's facilities are not Transmission Facilities under the SPP OATT and that FERC's acceptance of the rates without a refund obligation is arbitrary and capricious. Agenda item E-8 may be an order on the requests for clarification and/or rehearing.

### **E-9: Southwestern Public Service Company v. Southwest Power Pool, Inc. (Docket No. EL13-15-000)**

On October 26, 2012, XES, on behalf of the Southwestern Public Service Company (SPS), filed a complaint against SPP, requesting that FERC find that the rates of SPP Zone 11 are unjust and unreasonable as a result of the inclusion of the costs of Tri-County's facilities in the Annual Transmission Revenue Requirement and that SPP violated its OATT by not making a determination that Tri-County's facilities qualify as Transmission Facilities under Attachment A1 of the SPP OATT. SPS sought a refund effective date of April 1, 2012. SPP and Tri-County filed comments opposing the SPS complaint. Agenda item E-9 may be an order on SPS's complaint.

### **E-10: Southwestern Public Service Company v. Southwest Power Pool, Inc. (Docket No. EL13-35-000)**

On December 31, 2012, XES, on behalf of SPS, filed a complaint against SPP requesting that FERC find that SPP violated the Federal Power Act by implementing, through Tri-County's Annual Update, a 40 percent increase in Tri-County's Annual Transmission Revenue Requirement and establish a refund effective January 1, 2013 for the Annual Update. In the complaint, SPS argued that Tri-County's Protocols are not just and reasonable and that, furthermore, SPP has failed to follow the requirement in the Protocols that the transmission formula rate be approved before any Annual Updates are implemented. SPP and Tri-County filed comments in opposition to the SPS complaint. Agenda item E-10 may be an order on SPS's complaint.

## Gas Item

### **G-1: Kern River Gas Transmission Company (Docket Nos. RP04-274-000, RP04-274-023, RP04-274-026, RP04-274-027, RP04-274-029, RP10-1406-002, RP11-2356-001, RP11-2356-002, RP11-1499-001, RP13-199-000)**

On July 21, 2011, FERC issued an order on an Initial Decision (Opinion No. 486-E), finding that Kern River Gas Transmission Company (Kern River) may require Period One shippers to enter into Period Two contracts with terms of 10 years or 15 years and that the remaining balance of Kern River's original capital investments may be levelized during the term of those contracts. Numerous requests for rehearing and/or clarification of Opinion No. 486-E have been filed. Kern River submitted on May 1, 2013 its 10-year and 15-year Period Two rates that would apply to eligible 2003 Expansion Project shippers that have transportation service agreements that expire on April 30, 2012. Kern River has also submitted tariff filings, in compliance with Opinion No. 486-E, for the Period Two rates for the first group of rolled-in rates shippers, to be effective October 1, 2011, and the proposed terms and conditions applicable to contracting for service subject to Period Two rates. Agenda item G-1 may be on order on the requests for rehearing and/or clarification and/or the tariff filings.

## Hydro Items

### **H-1: Crown Hydro (Docket No. P-11175-024)**

On June 14, 2012, FERC issued a notice of initiation of proceedings to terminate a license by implied surrender for Crown Hydro. Crown Hydro was granted a license for a 3.4 MW hydroelectric project on the Upper St. Anthony Falls Dam on the Mississippi River in Minneapolis, Minnesota. According to FERC, in the more than 13 years since the issuance of the license, Crown Hydro has not performed any onsite construction or ground-disturbing activities, and there is no expectation that Crown Hydro will complete construction of the project in the foreseeable future. Agenda item H-1 may be an order on the termination of the license.

### **H-2: River Bounty, Inc. (Docket No. P-5730-018)**

On November 15, 2012, FERC issued a compliance order, finding that River Bounty, Inc. (River Bounty), exemptee for the Oakland Hydroelectric Project located on the Susquehanna River in Pennsylvania, is in violation of Article 1 of its exemption since it allowed the project to fall into disrepair and failed to repair the project as directed by FERC for more than 11 years. FERC found that River Bounty had abandoned good faith operation of the project and ordered River Bounty to file documentation showing that it has complied with FERC staff's January 5, 2011 approved schedule for rehabilitating the project and returning it to operation.

On December 19, 2012, River Bounty filed notice of a preliminary development agreement regarding the project and requested additional time to comply with the rehabilitation schedule. Agenda item H-2 may be an order related to the FERC compliance order and/or River Bounty's filing.

### **H-3: Placer County Water Agency (Docket No. P-2079-072)**

On July 17, 2012, Placer County Water Agency (PCWA) filed a request for approval of two Power Purchase Agreements (PPA) with Pacific Gas and Electric Company (PG&E) pursuant to Section 22 of the Federal Power Act. The first request is to continue an existing PPA with PG&E for two months beyond the current license term of the Middle Fork American River Project, FERC No. 2079 (Middle Fork Project). The second request is for approval of a new PPA with PG&E pursuant to which PCWA will sell the output of the Middle Fork Project to PG&E commencing May 1, 2013, beyond the current license term. FERC noticed the filing on October 25, 2012. No parties intervened. Agenda item H-3 may be an order on the PPAs.

### **H-4: City of Broken Bow, Oklahoma (Docket No. P-12646-013)**

On August 20, 2012, the City of Broken Bow, Oklahoma (Broken Bow) filed a request for an extension to a Stay of License, which was originally granted in this proceeding on September 10, 2010 for the Pine Creek Project. Broken Bow requested an extension for at least three years in order to allow time for remediation of certain stability issues concerning the Pine Creek Dam identified by the US Army Corps of Engineers. Agenda item H-4 may be an order on Broken Bow's extension request.

## Certificate Items

### **C-1: Petal Gas Storage, L.L.C.; Hattiesburg Industrial Gas Sales, L.L.C. (Docket No. CP12-464-000)**

On May 21, 2012, Petal Gas Storage, L.L.C. (Petal) and Hattiesburg Industrial Gas Sales, L.L.C. (Hattiesburg) filed an Abbreviated Application for a Certificate of Public Convenience and Necessity (CCN), Abandonment Authorization and Related Authorizations necessary to integrate their respective facilities. Specifically, Petal filed for a CCN to acquire and operate in interstate commerce the natural gas storage and related pipeline facilities owned by Hattiesburg in Forrest County, Mississippi as well as for authority to charge market-based rates for storage services from the integrated Petal and Hattiesburg facilities. Hattiesburg sought abandonment authority for the CCN covering the relevant facilities. Several parties intervened and filed protests. Petal and Hattiesburg filed a Settlement Agreement on November 19, 2012 that purports to resolve all issues raised by one such protester, Consolidated Edison of New York, Inc. Agenda item C-1 may be an order on the application.

**C-2: Questar Pipeline Company (Docket No. CP12-40-001)**

On August 17, 2012, QEP Field Services Company (QEP) and EOG Resources, Inc. (EOG) filed a request for clarification and rehearing of FERC's order issuing Questar Pipeline Company (Questar) a CCN authorizing Questar to construct new, and to modify existing, natural gas pipeline facilities (the Liquids Project). The Liquids Project includes the reconfiguration of operations at Questar's Fidler Compressor Station, which QEP and EOG contend may result in increased costs to Questar's firm customers, including QEP and EOG. Petitioners allege that the order "is inconsistent with reasoned decision-making, is arbitrary and capricious, not based upon substantial evidence and constitutes legal error," in part because it fails to consider whether Questar pursued any mitigating measures for its firm customers. FERC granted the request for rehearing for further consideration on September 17, 2012. Agenda item C-2 may be an order on the Request for Clarification and Rehearing.

**C-3: Trunkline Gas Company, LLC; Sea Robin Pipeline Company, LLC (Docket No. CP12-5-001)**

Several parties filed Requests for Rehearing of a June 21, 2012 order in which FERC authorized the transfer from Trunkline Gas Company, LLC to Sea Robin Pipeline Company, LLC (Sea Robin) certain offshore and onshore facilities known as the "Vermilion System," the "Terrebonne System," and "Brazos A-47" and the issuance of a CCN to Sea Robin to operate the facilities. Among other allegations, the parties argued that they will be significantly harmed by increased rates following the transfer, that FERC did not adequately address economic impacts on producers, and that FERC's sua sponte finding that certain of the facilities at issue function primarily as non-jurisdictional gathering facilities deprived interested parties of notice and the opportunity to address the primary function of the facilities in contravention of such parties' rights to procedural and substantive due process. On August 20, 2012, FERC issued an order granting the request for rehearing for further consideration. Agenda item C-4 may be an order on the Requests for Rehearing.

**C-4: Northern Natural Gas Company (Docket No. CP12-469-000)**

On May 30, 2012, Northern Natural Gas Company (Northern) filed an application for authority to abandon certain facilities by sale to DKM Enterprises, LLC. The facilities comprise 126 miles of Northern's A-line processed natural gas transportation facilities located in Ochiltree, Hansford, Hutchinson and Carson counties in Texas; Beaver County in Oklahoma; and Kiowa and Clark counties in Kansas. Several parties intervened and submitted comments in this proceeding. Agenda item C-4 may be an order on the application.

**C-5: Calhoun LNG, L.P.; Point Comfort Pipeline Company, LLC (Docket Nos. CP05-91-000, CP05-380-000, CP05-381-000, CP05-382-000)**

On December 12, 2012, Calhoun LNG, L.P. (Calhoun) and Point Comfort Pipeline Company, LLC (PCPC) filed to vacate certain authorizations and certificates FERC granted in each of these dockets on September 20, 2007. Specifically, FERC had authorized Calhoun to site, construct and operate a liquefied natural gas import terminal and associated facilities at The Port of Port Lavaca-Point Comfort in Calhoun County, Texas and also granted Point PCPC authorization to construct and operate a natural gas pipeline from the tailgate of Calhoun's proposed LNG terminal to interconnections with various interstate and intrastate pipelines, as well as blanket certificates authorizing certain construction and the provision of open-access firm and interruptible transportation service on the pipeline. FERC held that construction of the proposed facilities was to be complete and service made available on the facilities by September 20, 2012. Calhoun and PCPC stated that they have abandoned their plans to construct the facilities authorized in the September 12, 2007 order due to "changes in US natural gas markets that have dramatically limited the prospects for substantial LNG imports into the US" and asked FERC to vacate their respective authorizations without prejudice to any future applications Calhoun and PCPC may file. Agenda item C-5 may be an order on the request to vacate.

**C-6: CenterPoint Energy Gas Transmission Company, LLC; CenterPoint Energy-Mississippi River Transmission, LLC (Docket No. CP12-503-000)**

On August 22, 2012, CenterPoint Energy-Mississippi River Transmission, LLC (MRT) and CenterPoint Energy Gas Transmission Company, LLC (CEGT) filed a joint application in which CEGT requested a CCN to acquire, by operating lease, 330,000 Dth/day of firm capacity from MRT located on MRT's main lines in the "Field Zone," and the corresponding request of MRT to abandon such capacity by operating lease. On September 12, 2012, United States Steel Corporation (US Steel), Laclede Gas Company (Laclede Gas) and Ameren Services Company (Ameren) submitted protests, arguing, among other things, that the application should be rejected because MRT's proposed abandonment is designed to benefit its affiliate, CEGT. MRT and CEGT responded to the protests by stating that the application benefits CEGT's shippers by ensuring that they are paying the same amount for the use of MRT's southbound capacity as are MRT's other shippers. Agenda item C-6 may be an order on the application.

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### **C-7: Cheniere Creole Trail Pipelines, L.P. (Docket No. CP12-351-000)**

On April 30, 2012, Cheniere Creole Trail Pipeline, L.P. (Creole Trail) filed an abbreviated application requesting a CCN authorizing it to construct, own and operate certain new interstate natural gas pipelines, compression and related facilities (the Creole Trail Expansion Project). Creole Trail states that the Creole Trail Expansion Project will enable bi-directional gas flow on its existing pipeline system to allow for the delivery of feed gas to the Sabine Pass Liquefaction Project, which is currently under development by Creole Trail's affiliate pursuant to FERC's authorizations granted in separate proceedings. Creole Trail also asked FERC to make a predetermination in favor of rolled-in rate treatment for the costs of the Creole Trail Expansion Project. Creole Trail requested an order on the application no later than February 2013. Several parties intervened and filed comments in this proceeding. Agenda item C-7 may be an order on the application.

### **C-9: ConocoPhillips Company v. Texas Eastern Transmission, LP (Docket No. RP13-128-001)**

On November 26, 2012, ConocoPhillips Company (ConocoPhillips) filed a request for rehearing of the Order Dismissing ConocoPhillips' Complaint, which FERC issued on October 26, 2012 (the October 26 Order) in this proceeding. ConocoPhillips filed the Complaint against Texas Eastern Transmission, LP's (TX Eastern) for failing to consider viable alternatives in the proposed construction and operation of TX Eastern's proposed Texas Eastern and Appalachian Market Expansion Project (TEAM 2014 Project). FERC found that the Complaint was premature because TX Eastern had not completed the pre-filing process. In its request for rehearing, ConocoPhillips counters that it is not premature to address the issues raised in its Complaint because to do so would promote administrative efficiency and avoid prejudice. On December 26, 2012, FERC granted the request for rehearing for further consideration. Agenda item C-9 may be an order on the request for rehearing.