

# December Meeting Summaries

E-1, News Release

## **FERC denies rehearing of order eliminating PJM mitigation-exemption provisions**

**E-2, *Maryland Public Service Commission v. PJM Interconnection***, Docket No. EL08-34-000. The Commission denied requests for rehearing of an order that granted a complaint filed by the Maryland Public Service Commission and eliminated the PJM Interconnection (PJM) market rule provisions that exempted certain generation facilities from energy offer mitigation. The Commission affirmed that the elimination of exemptions for newly-constructed generation whose construction began between April 1, 1999 and September 30, 2003 and for generation located in certain geographic areas will help to ensure just and reasonable rates without significantly jeopardizing investors' legitimate expectations and return on investment. Specifically, the Commission affirmed the determination that, given the geographical and membership changes to PJM, and the changes to the PJM market rules since the exemptions were allowed, including the development of a real-time test for determining market power, the institution of scarcity pricing, and the development of the Reliability Pricing Model to compensate generators for reliability, continuation of the blanket exemptions was no longer just and reasonable.

**E-3, E-4, E-14, E-32**, News Release

**E-5**, Media Alert

**E-6 and E-24**, News Release

## **FERC addresses rehearing of market-based rate rehearing order**

**E-7, *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities***, Docket No. RM04-7-005. The Commission affirmed its basic determinations in Order No. 697-A, and granted rehearing and clarification regarding certain revisions to its regulations and to the standards for obtaining and retaining market-based rate authority for sales of energy, capacity and ancillary services. Among other things, the Commission revised the definition of "affiliate" in section 36.36(a)(9) of its regulations to delete the separate definition for exempt wholesale generators (EWGs), finding that use of the same definition for EWGs as for non-EWG utilities is appropriate.

## **FERC affirms NERC registry of Southeastern Power Administration as transmission operator, and also directs registry of U.S. Army Corps of Engineers as**

### **transmission operator**

**E-8**, *Southeastern Power Administration*, Docket No. RC08-1-001. The Commission upheld a compliance registry determination concerning the Southeastern Power Administration (SEPA). The Commission determined that the record supports the North American Electric Reliability Corp.'s (NERC) finding that SEPA should be registered as a transmission operator. The Commission concluded that the record also supports a finding that SEPA shares this responsibility with the U.S. Army Corps of Engineers (Corps), so the Commission directed NERC to co-register the Corps as a transmission operator unless the Corps demonstrates why it should not be co-registered as a transmission operator.

### **FERC directs Northeast Power Coordinating Council to submit a compliance list**

**E-9**, *North American Electric Reliability Corp. and Northeast Power Coordinating Council*, Docket No. RC09-3-000. The Commission directed the North American Electric Reliability Corp. and Northeast Power Coordinating Council (NPCC) to submit to the Commission an NPCC-approved list of bulk electric system facilities located in the NPCC region that are subject to compliance with mandatory Reliability Standards.

### **FERC conditionally accepts NERC's compliance filing on Regional Entity Delegation Agreements**

**E-10**, *North American Electric Reliability Council, North American Electric Reliability Corp., et al.* Docket Nos. RR06-1-016, *et al.* The Commission addressed a compliance filing submitted by the North American Electric Reliability Corp. (NERC), in response to the Commission's orders in the NERC/Regional Entity Delegation Agreements proceeding. The Commission accepted NERC's revisions, subject to the submission of an additional compliance filing addressing NERC's *pro forma* Delegation Agreement, the Uniform Compliance Monitoring and Enforcement Program and related hearing procedures, and each of the eight individual Regional Entity Delegation Agreements.

### **FERC addresses SPP filing to implement changes to its Energy Imbalance Services Market**

**E-11**, *Southwest Power Pool*, Docket No. ER09-149-000. The Commission conditionally accepted the Southwest Power Pool's (SPP) filing to implement various changes to its Energy Imbalance Services Market and required SPP to make a compliance filing with respect to one of those changes. The Commission required SPP to make a compliance filing that removes the obligation of a qualifying facility resource that is entitled to enforce the PURPA purchase obligation and is unilaterally registered by SPP to actively

participate in the Energy Imbalance Services Market or to pay charges that stem from the registration.

### **FERC accepts NSTAR's annual information filings**

**E-12**, *NSTAR Electric Co.*, Docket Nos. ER08-1051-000, ER08-1051-001. The Commission accepted NSTAR Electric Co.'s annual informational filing, and its construction work in progress (CWIP) supplement. The Commission determined that these submissions provide all of the information required by a prior settlement concerning certain transmission projects. The Commission also denied a protest of the Massachusetts Attorney General, which objected to the recovery of CWIP, explaining that the Massachusetts Attorney General had failed to justify its claim that recovery of CWIP should be disallowed.

### **FERC conditionally accepts Midwest ISO's amended contingency reserve sharing group agreement**

**E-15**, *Midwest Independent Transmission System Operator*, Docket No. ER08-1055-000, *et al.* The Commission conditionally accepted the Midwest Independent Transmission System Operator's (Midwest ISO) Amended and Restated Midwest Contingency Reserve Sharing Group Agreement, subject to compliance filings, in order to replace the existing 2006 Midwest Contingency Reserve Sharing Group Agreement (2006 CRSG Agreement). The Commission also conditionally accepted the Midwest ISO's cancellation of the 2006 CRSG Agreement. The filings are related to the start-up of the Midwest ISO's Ancillary Services Market.

### **FERC accepts CAISO's revisions to provide FPL with Merchant Congestion Revenue Rights**

**E-18**, *California Independent System Operator Corp.*, Docket No. ER09-239-000. The Commission accepted revisions proposed by the California Independent System Operator Corp. (CAISO) to its Market Redesign and Technology Upgrade (MRTU) tariff and its currently effective tariff to provide FPL Energy (FPL) with Merchant Congestion Revenue Rights for its contribution to an existing transmission upgrade to the Path 59 line. The Commission concluded that the tariff revisions provide a just and reasonable mechanism to compensate FPL upon MRTU implementation on the same basis as project sponsors of new merchant transmission facilities.

### **FERC addresses compliance filing concerning AEP's accounting for transmission and distribution plant-in-service**

**E-19**, *American Electric Power Service Corp.*, Docket No. ER09-12-000. The Commission addressed American Electric Power Service Corp.'s (AEP) compliance filing supporting changes in its accounting for transmission and distribution plant-in-service that will be reflected in the revenue requirements for transmission service under the Southwest Power Pool's open access transmission tariff. This Commission accepted and nominally suspended AEP's compliance filing, subject to refund, to become effective January 1, 2009, and established hearing and settlement judge procedures regarding AEP's proposed accounting changes.

**FERC addresses proposed changes to So Cal Edison's transmission revenue requirement**

**E-20**, *Southern California Edison Co.*, Docket No. ER09-187-000. The Commission addressed proposed changes to Southern California Edison Co.'s transmission revenue requirement and transmission rates, pursuant to its construction work in progress ratemaking mechanism. The Commission accepted the proposed tariff revisions, and suspended them for a nominal period, to be effective January 1, 2009, subject to refund and established hearing and settlement judge procedures in consolidation, in part, with related proceedings established in ER08-1343-000 and ER08-1353-000.

**FERC conditionally accepts CAISO's congestion revenue rights compliance filing**

**E-22**, *California Independent System Operator Corp.*, Docket Nos. ER07-869-004, ER07-475-000, and ER06-615-030. The Commission conditionally accepted a compliance filing submitted by the California Independent System Operator Corp. (CAISO) in response to Commission directives regarding Congestion Revenue Rights. The Commission determined that the revisions are in compliance with previous directives, but a portion of the clarifying language was omitted, which will require an additional compliance filing.

**FERC directs So Cal Edison to provide additional information to support its Construction Work In Progress rate base**

**E-23**, *Southern California Edison Co.*, Docket No. ER08-375-002. The Commission directed Southern California Edison Co. to provide additional information, within thirty days of the date of the order, to support its costs for the three projects that it includes in its Construction Work In Progress rate base in a manner that allows for the opportunity to examine the prudence of such costs. The Commission determined that the submission of work papers that provide detailed information about each specific category of costs is necessary to allow the opportunity for such examination.

### **FERC denies complaint regarding the NYC Installed Capacity Demand Curves**

**E-26**, *Independent Power Producers of New York, et al. v. New York Independent System Operator*, Docket No. EL09-4-000. The Commission denied a complaint by suppliers that alleged that the New York Independent System Operator (NYISO) violated its tariff by not adjusting the New York City Installed Capacity Demand Curves following the elimination of a New York City tax exemption for utilities. The Commission determined that the suppliers, in focusing on only a single component that goes into the determination of the rates, failed to demonstrate that the rates are unjust and unreasonable. The Commission also found that NYISO acted reasonably and within its discretion in not seeking to revise its rates outside its normal every-three-year review.

### **FERC addresses requests to be designated as non-public utilities in the California refund proceeding**

**E-27**, *San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange; Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange*, Docket Nos. EL00-95-164 and EL00-98-184. The Commission approved twenty eight companies' requests to be designated "non-public utilities" for purposes of the California refund proceedings. The purpose of these filings is to determine which entities may receive payment of past due amounts they are owed as non-jurisdictional sellers during the refund period.

### **FERC approves settlement regarding Entergy's variable Energy Ratio**

**E-29**, *Entergy Services*, Docket Nos. ER08-774-000 and ER08-774-001. The Commission approved an uncontested settlement resolving the calculation of each Entergy Operating Company's variable Energy Ratio. The Commission determined that the settlement is fair, reasonable and in the public interest.

### **FERC approves settlement agreement resolving issues from New England Power's filing**

**E-30**, *New England Power Co.*, Docket No. ER07-694-000. The Commission approved the New England Power Co.'s uncontested settlement resolving the issue of the formula rate under which the Narragansett Electric Co. is compensated for its ownership of integrated transmission facilities in Rhode Island. The Commission concluded that the settlement is fair, reasonable and in the public interest.

### **FERC approves settlement agreements resolving SECA charges**

**E-31**, *Midwest Independent Transmission System Operator, et al.*, Docket Nos. ER05-6-093, et al. The Commission approved two separate contested settlement agreements that resolve among the respective parties all issues related to the Seams Elimination Cost/Charge Adjustment/Assignment (SECA) charges that had been set for hearing. The Commission determined that, notwithstanding the protestors' objections, these two settlements are effectively uncontested, and are fair and reasonable and in the public interest.

### **FERC addresses rehearing of order on NYISO's Installed Capacity Demand Curves**

**E-33**, *New York Independent System Operator*, Docket No. ER08-283-002. The Commission denied, in part, and granted, in part, the requests for rehearing of an order accepting the New York Independent System Operator's (NYISO) Installed Capacity Demand Curves for Capability Years 2008/2009, 2009/2010, and 2010/2011. The Commission denied rehearing on the selection of the LMS100 peaking unit as the reference unit used in resetting the Demand Curve for New York City, denied rehearing with respect to NYISO's 7.8 percent escalation factor used to escalate the cost of new entry from year to year, but granted rehearing with regard to NYISO's calculation of certain Demand Curve parameters to prospectively reflect only the levelized portion (rather than the full amount) of revenue deficiencies that would otherwise occur due to expected capacity surpluses.

### **FERC grants petition to combine financial statements for calculating transmission rates**

**E-34**, *Missouri River Energy Services and Midwest Independent Transmission System Operator; Missouri River Energy Services and Western Minnesota Municipal Power Agency*, Docket Nos. ER08-370-004 and EL08-22-002. The Commission granted a request for rehearing of a decision setting for hearing Missouri River Energy Services' (Missouri River) and Western Minnesota Municipal Power Agency's (Western Minnesota) petition for declaratory order. The initial petition requested that these two entities be allowed to combine their financial statements for the purposes of calculating Missouri River's transmission rates under Attachment O of Midwest Independent Transmission System Operator's tariff. The Commission granted the request for rehearing and found that the nature of the business relationship between Missouri River and Western Minnesota justified granting the petition for declaratory relief..

**FERC addresses rehearing requests and compliance filing to an order on CAISO's proposed economic incentives for load serving entities**

**E-35**, *California Independent System Operator Corp.*, Docket Nos. ER06-615-027; ER06-615-028. The Commission addressed rehearing requests and a compliance filing on interim measures proposed by the California Independent System Operator (CAISO) to address the potential economic incentive for load serving entities to under-schedule in the day-ahead market. As proposed, under-scheduling penalty measures are to be effective from the inception of Market Redesign and Technology Upgrade (MRTU) until the implementation of convergence bidding, which the Commission has required 12 months after MRTU implementation. The Commission granted rehearing on the issue of whether scheduling coordinators should be subject to penalty when the CAISO cuts load, through no fault of the load serving entity, which otherwise would have cleared the day-ahead market, and denied rehearing on all other issues. The Commission conditionally accepted the compliance filing, subject to the CAISO's submission of a further compliance filing modifying tariff sheets as proposed by the CAISO in its answer.

**FERC denies AEP's complaint concerning Midwest ISO and PJM rate designs**

**E-36**, *American Electric Power Service Corp.*, Docket No. EL07-101-001. The Commission denied rehearing of the order denying American Electric Power Service Corp.'s complaint alleging that the rate design and cost allocation methodology under the Midwest Independent System Operator (Midwest ISO) and PJM Interconnection (PJM) open access tariffs is unjust and unreasonable. The Commission affirmed its denial of the request to use a postage-stamp design for all new and existing high-voltage facilities across the combined Midwest ISO/PJM region.

**FERC conditionally accepts CAISO's revisions to its Grid Management Charge**

**E-37**, *California Independent System Operator*, Docket No. ER08-585-000. The Commission conditionally accepted the California Independent System Operator's (CAISO) proposed revisions to its current Grid Management Charge to become effective upon the start of the CAISO's Market Redesign and Technology Upgrade (MRTU), subject to a compliance filing. The revisions established a Grid Management Charge rate design to reflect changes in the CAISO's market operations associated with the implementation of MRTU and an updated cost allocation study.

**FERC addresses Westar's compliance filing concerning a revised standard of review**

**E-38**, *WestarEnergy*, Docket No. ER08-808-001, et al. The Commission addressed WestarEnergy's (Westar) various compliance filings to orders that directed Westar to file

a revised standard of review provision for each of its rate agreements with various cities and electric cooperatives in Kansas and Missouri. The Commission accepted the compliance filings containing an updated standard of review provision for each of the cost-based formula rate agreements.

**E-39**, News Release

**FERC sets interconnection complaint in North Dakota for hearing**

**E-40**, *Renewable Energy Systems Americas and PEAK Wind Development v. Otter Tail Power Co. and Minnkota Power Coop.*, Docket No. EL08-86-000. The Commission addressed a complaint from the Renewable Energy Systems Americas and PEAK Wind Development, developers of the proposed Glacier Ridge wind project in North Dakota, that Otter Tail Power Co. and Minnkota Power Coop secretly contrived to build a transmission line (the Pillsbury Line) and unduly discriminated against them in favor of other projects with regard to interconnection to that line. The Commission set the complaint for hearing, established settlement judge procedures, and established a refund effective date of August 29, 2008.

**G-1**, Media Alert

**FERC terminates proceeding involving oil pipeline reporting forms**

**G-2**, *Review of FERC Form Nos. 6 and 6-Q*, Docket No. RM07-9-000. The Commission terminated a proceeding seeking comments on FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6-Q (Quarterly Report of Oil Pipeline Companies). The Commission determined that there was insufficient justification for the Commission to modify the forms at this time.

**FERC requests additional information to respond to Williston Basin remand order**

**G-3**, *Williston Basin Interstate Pipeline Co.*, Docket No. RP00-107-011. The Commission addressed a U.S. Court of Appeals for the District of Columbia Circuit remand of a Commission order requiring conversion of a Part 157 service agreement to an open-access Part 284 agreement over the objection of the pipeline. The remand ordered the Commission to explain its decision to require the conversion. Because three and a half years have elapsed since the Initial Decision on this matter, the Commission determined that additional data is necessary to comment on the current state of Williston Basin Interstate Pipeline Co.'s capacity release and interruptible capacity markets in

order to appropriately respond to the court's remand order.

### **FERC addresses El Paso's rate case filing**

**G-4**, *El Paso Natural Gas Co.*, Docket No. RP08-426-000 and RP08-426-001. The Commission partially accepted and partially rejected the new services, terms of service, and penalties proposed by El Paso Natural Gas Co. (El Paso) in its rate case filing. The Commission determined that most of the proposed modifications to El Paso's services and penalties are just and reasonable, but rejected its proposals regarding reservation charge credits, the inclusion of Hourly Entitlement Enhancement Nominations in overrun quantities, and the non-critical penalty rates.

### **FERC denies rehearing of license term for the Dorena Lake Project in Oregon**

**H-1**, *Symbiotics*, Project No. 11945-002. The Commission denied a request for rehearing regarding the license term for the recently-licensed Dorena Lake Project, located on the Row River in Lane County, Oregon. The Commission affirmed its decision to establish a 50-year license term.

### **FERC issues preliminary permit for hydroelectric project in Washington**

**H-2**, *Public Utility District No. 1 of Okanogan County, Washington*, Project No. 12804-000. The Commission issued a preliminary permit to study the feasibility of a project proposed to be located on the Similkameen River in Okanogan County, Washington. A portion of the reservoir would be located in British Columbia, Canada. The Commission rejected arguments that it either lacked jurisdiction to grant the permit or should as a matter of policy deny the application because the proposed project conflicts with Canadian law and the International Joint Commission has not agreed to construction of the project.

### **FERC issues certificate for storage facility in Steuben County, NY**

**C-1**, *Arlington Storage Co.*, Docket No. CP08-96-000. The Commission issued a certificate authorizing Arlington Storage Co. to construct and operate the Thomas Corners Project, a 10 Bcf depleted reservoir natural gas storage facility in Steuben County, New York. The Commission issued the certificate because the project will provide needed incremental storage capacity, help assure gas reliability and enhance market efficiency with minimal adverse effects. The Commission also granted market-based rate authority for the proposed storage and hub services.

**FERC issues certificate for Black Warrior Storage Project in Mississippi**

**C-2, *Southeast Gas Storage***, Docket No. CP08-418-000. The Commission granted Southeast Gas Storage authority to construct and operate a natural gas storage facility and associated facilities (Black Warrior Storage Project) in Monroe and Lowndes Counties, Mississippi. The Commission issued the certificate because the project will be located in a competitive market and will serve demand in a region that is experiencing rapid growth in natural gas usage with minimal adverse effects. The Commission also granted market-based rate authority for the proposed storage and hub services.