

September 2012 Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its September 20, 2012 public meeting. The summaries are produced by FERC's Office of External Affairs and are intended to provide only a general synopsis of the orders. These summaries are not intended as a substitute for the Commission's official orders. To determine the specific actions and the Commission's reasoning, please consult the individual orders when they are posted to FERC's eLibrary found at www.ferc.gov.

E-24, Press Release

FERC conditionally accepts Order No. 755 compliance filing and proposed tariff changes to establish frequency regulation service

E-2, Midwest Independent Transmission System Operator, Inc., Docket No. ER12-1664-000. This order conditionally accepts MISO's filing, submitted in compliance with Order No. 755. The order finds that MISO's proposal generally complies with Order No. 755, subject to a further compliance filing regarding, among other things, revisions to the use of the Regulating Mileage Market Clearing Price to charge resources back for any increment of undeployed regulating reserve mileage and certain proposed definitions. The order also requires MISO to submit an informational report within 14 months of the effective date of the proposed tariff revisions. The compliance filing is to become effective December 17, 2012.

FERC conditionally accepts Order No. 755 compliance filing and proposed tariff changes to establish frequency regulation service

E-3, California Independent System Operator Corporation, Docket No. ER12-1630-000. This order accepts CAISO's compliance filing, subject to conditions, and proposed tariff changes to establish a revised compensation methodology governing the provision of frequency regulation service, as required by Order No. 755. The compliance filing is to become effective January 1, 2013. The order also requires CAISO to make an additional compliance filing within 30 days of the issuance of the order and an informational report within 14 months of the effective date of the proposed tariff revisions.

FERC approves a final rule revising its delegation of authority

E-4, *Delegation of Authority Regarding Electric Reliability Organization's Budget, Delegation Agreement, and Policy and Procedure Filings*, Docket No. RM12-20-000. This final rule delegates to the Director of the Office of Energy Market Regulation (OEMR) the ability to act on certain North American Electric Reliability Corporation (NERC) filings – involving budgets, business plans, delegation agreements, and organization rules. Due to a recent internal reorganization, OEMR (rather than the Office of Electric Reliability) is now responsible for acting on these particular, aforementioned filings. However, OEMR currently does not have delegated authority to act under section 215 of the Federal Power Act, which covers NERC activities and filings. The final rule grants OEMR the necessary delegated authority to act on such filings.

FERC proposes to approve reliability standard

E-5, *Regional Reliability Standard PRC-006-NPCC-1 — Automatic Underfrequency Load Shedding*, Docket No. RM12-12-000. This Notice of Proposed Rulemaking proposes to approve regional Reliability Standard PRC-006-NPCC-1 — Automatic Underfrequency Load Shedding (UFLS). The proposed regional reliability standard applies to generator owners, planning coordinators, distribution providers, and transmission owners in the Northeast Power Coordinating Council Region and is designed to ensure the development of an effective automatic underfrequency load shedding (UFLS) program to preserve the security and integrity of the Bulk-Power System during declining system frequency events, in coordination with the NERC continent-wide UFLS Reliability Standard PRC-006-1.

FERC proposes to approve a reliability standard

E-6, *North American Electric Reliability Corporation*, Docket No. RC11-6-002. This order accepts NERC's compliance filing relating to its "Find, Fix, Track and Report" (FFT) initiative and directs an additional compliance filing. Specifically, the order accepts NERC's compliance filing as it relates to the information requested concerning the principles to be used in evaluating an entity's compliance history when considering a potential violation for FFT treatment, as well as certain questions relating to the ongoing implementation of the FFT initiative. The order also directs NERC to provide certain materials that were requested in the underlying March 15, 2012 order, but not available at the time of NERC's compliance filing.

FERC conditionally accepts and suspends formula rate and protocols

E-7, *Southwest Power Pool, Inc.*, Docket No. ER12-2289-000. This order accepts and suspends SPP's proposed revisions to its Open Access Transmission Tariff to implement a formula rate and protocols for the Empire District Electric Company (Empire), subject to the outcome of a related matter in Docket No. ER12-1813-000, where the Commission accepted and suspended Empire's proposed formula rate and protocols, subject to hearing and settlement procedures.

FERC conditionally accepts proposed tariff revisions

E-9, *Southwest Power Pool, Inc.*, Docket No. ER12-2292-000. The order conditionally accepts SPP's proposed tariff revisions to Attachment AE of its Open Access Transmission Tariff which addresses the curtailment of Non-Dispatchable Resources, including qualifying facilities (QFs), in SPP's Energy Imbalance Service market. The order conditionally accepts SPP's proposal to automate curtailment of new Non-Dispatchable Resources, and conditionally accepts the proposed automated curtailment of existing Non-Dispatchable Resources, subject to first holding a stakeholder process. The order also accepts SPP's proposal that QFs selling in accordance with the Public Utility Regulatory Policies Act of 1978 will be curtailed at Transmission Loading Relief Level 5.

FERC grants rehearing in part, directs hearing and appointment of a settlement judge

E-10, *PPL Electric Utilities Corp.*, Docket Nos. ER09-1148-000, -001. This order grants in part the request for rehearing brought by a group of customers (EPPG Boroughs) challenging PPL's 2010 annual update to its formula transmission rate, which FERC accepted in an August 15, 2011 order, and sets customer challenges to that update for hearing. The order also sets for hearing customer challenges to PPL's 2011 annual update to its formula transmission rate. The order holds the hearing in abeyance and directs that a settlement judge be appointed.

FERC dismisses request for rehearing and reconsideration

E-12, *Morgantown Energy Associates*, Docket Nos. EL12-36-001 and QF89-25-009; and *City of New Martinsville, West Virginia*, Docket Nos. EL12-48-001 and QF85-541-003. This order dismisses a request by Monongahela Power Company and Potomac Edison Company for reconsideration of an April 24, 2012 order declining to initiate an enforcement action in accordance with section 210(h) of the Public Utility Regulatory Policies Act of 1978 (PURPA). The April 24 order gave notice that the Commission declined to initiate an enforcement action, but also declared that certain statements contained in a November 22, 2011 decision

issued by the Public Service Commission of West Virginia were inconsistent with the requirements of PURPA and the Commission's regulations implementing PURPA. The Public Service Commission of West Virginia – in determining that the renewable energy credits associated with the electric energy produced by qualifying facilities belonged to the utilities that purchased the electric energy – stated that the avoided-cost rates paid by the utilities also compensated for the renewable energy credits. The order reaffirms that such statements are inconsistent with PURPA and the Commission's regulations implementing PURPA.

FERC denies waiver of certain tariff provisions

E-13, *Public Service Company of New Mexico, Power Network New Mexico LLC, and New Mexico Renewable Energy Transmission Authority*, Docket Nos. ER12-1698-000 and ER12-1699-000. This order denies a request for waiver of certain PNM Open Access Transmission Tariff provisions, which would allow the Central New Mexico Transmission Collector Project to advance to the first position in the PNM transmission queue. The order also dismisses as premature PNM's and RETA's application for authorization to charge negotiated rates for transmission rights on the project.

FERC rejects petitioners' request for waiver of tariff provisions

E-14, *American Transmission Systems, Inc.*, Docket No. ER09-1589-001, *et al.* The order addresses – and rejects – petitioners' assertions, on rehearing, of error regarding the conditions applicable to ATSI's integration into PJM, namely, whether the ATSI zone (the facilities to be integrated) should be responsible for paying an allocated share of transmission expansion project costs for projects planned prior to ATSI's integration into PJM, as held in the Commission's underlying order issued in March 2009 and as PJM's tariff requires. The order reaffirms that ATSI is responsible for such costs.

FERC accepts compliance filing

E-16, *New York Independent System Operator, Inc.*, Docket No. ER12-718-001. The order accepts NYISO's compliance filing, implementing its NYISO/PJM market-to-market interface protocols, made in response to an order in this docket issued March 15, 2012, subject to a single, limited clarification regarding the effect of Ontario/Michigan phase angle regulators (PARs) when they are "in service." Specifically, the order provides guidance regarding the rights and obligations attached to the term "in service," as it relates to the PARs, i.e., that the tariff provisions apply when any of the PARs are in service (rather than when all four PARs paths are in service).

FERC conditionally accepts compliance filings and grants requested clarification

E-18, *PJM Interconnection, L.L.C.*, Docket No. ER11-4628-000, *et al.* The order accepts PJM's compliance filing and grants its requested clarification regarding PJM's Price Responsive Demand (PRD) protocols. In its July 13, 2012 compliance filing, PJM: adds definitions of automation and supervisory control to PJM's tariff; clarifies the description of the transition period; and explains its methodology for assessing capacity charges for Load Serving Entities, including those that commit PRD in connection with either the base residual auction or third incremental auction. Additionally, PJM requests clarification that PJM's compliance obligation concerning charges and credits for PRD required only that PJM work through its stakeholder process to develop a method to allow PRD commitments made from PRD providers that are not load-serving entities to be included in both the day-ahead and real-time markets. The order accepts the compliance filing subject to a further clarifying compliance filing and grants the requested clarification.

FERC grants a petition for declaratory order

E-19, *Idaho Wind Partners 1, LLC*, Docket No. EL12-74-000. This order grants a petition for declaratory order filed by Idaho Wind Partners 1, LLC. The petition asks the Commission to find that a proposed state tariff revision (Schedule 74) filed by Idaho Power Company (Idaho Power) concerning Idaho Power's curtailment of purchases of energy and capacity from qualifying facilities (QFs) would violate the Public Utility Regulatory Policies Act of 1978 (PURPA) and the Commission's regulations implementing PURPA. The order finds that, if Idaho Power's proposed Schedule 74 is approved by the Idaho Public Utilities Commission, it would be inconsistent with PURPA and the Commission's regulations implementing PURPA. Specifically, the order finds that a utility that is party to a long-term power purchase agreement with a QF, where the avoided cost rate was determined at the time the obligation was incurred, may not rely on the Commission's regulations allowing curtailment during light loading periods to avoid its contractual obligations and curtail unilaterally.

FERC grants in part, and dismisses in part, formal challenges; grants complaints, establishes hearing and settlement judge procedures

E-21, *Potomac-Appalachian Transmission Highline, LLC*, Docket No. ER09-1256-000, *Alison Haverty v. Potomac-Appalachian Transmission Highline, LLC*, Docket No. EL12-79-000, *Keryn Newman v. Potomac-Appalachian Transmission Highline, LLC*, Docket No. EL12-85-000. The order in Docket No. ER09-1256 sets for hearing challenges to PATH's last two annual informational filings to

update its transmission revenue requirement; the challenges are in accordance with special protocols that the Commission accepted as part of the formula rate in PATH's tariff.

The order in Docket Nos. EL12-79-000 and EL12-85-000 grants the two complaints, each filed by a private citizen who wishes to participate as a party in PATH's annual transmission revenue requirement review, due to their status as ratepayers.

FERC dismisses rehearing

E-22, *TC Ravenswood, LLC*, Docket No. ER10-1359-001. This order dismisses as moot rehearing of the Commission's October 27, 2010 order that rejected Ravenswood's proposed tariff and "Minimum Oil Burn Service Cost of Service Recovery Rate Schedule," which was to apply when Ravenswood is required to burn fuel oil to generate electricity at its electric generation facility instead of natural gas, in accordance with reliability rules. The matters at issue were effectively resolved by settlement in another proceeding (Docket No. EL10-70-000).

FERC approves a final rule

E-23, *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act*. Docket No. RM10-12-000. The final rule extends requirements to file electric quarterly reports (EQR) to non-public utilities with annual wholesale sales of more than 4 million megawatt hours (MWh). The final rule does not require non-public utilities to report the following types of wholesale sales: (1) sales by a non-public utility, such as a cooperative or joint action agency, to its members; and (2) sales by a non-public utility under a long-term, cost-based agreement required to be made to certain customers under a Federal or state statute.

The final rule also revises the existing EQR requirements applicable to market participants in the interstate wholesale electric markets by adding new fields for: (1) reporting the trade data and the type of rate; (2) identifying the exchange used for a sales transaction, if applicable; (3) reporting whether a broker was used to consummate a transaction; (4) reporting electronic tag ID data; and (5) reporting standardized prices and quantities for energy, capacity, and booked out power transactions. In addition, the final rule requires the EQR filers to indicate in the existing ID data section whether they report their sales transactions to an index publisher and, if so, to which index publisher(s). Finally, it eliminates the time zone from the contract section and the Data Universal Numbering System data requirement. The final rule takes effect 60 days after publication in the *Federal Register*.

FERC proposes revisions to *FERC Form No. 6, Annual Report of Oil Pipeline Companies*

G-1, *Revision to Page 700 of FERC Form No. 6*, Docket No. RM12-18-000. This Notice of Proposed Rulemaking (NOPR) proposes to modify Page 700 of FERC Form No. 6 to facilitate the calculation of a pipeline's actual return on equity. The NOPR proposes to expand the information provided regarding rate base (line 5), rate of return (line 6), return on rate base (line 7), and income tax allowance (line 8).

FERC generally denies rehearing and directs Texas Eastern to file revised tariff records

G-2, *Texas Eastern Transmission, LP*, Docket Nos. RP 12-318-002 and RP12-318-001. The order generally denies Texas Eastern's request for rehearing of the Commission's February 16, 2012 order that accepted Texas Eastern's proposal to revise its *pro forma* service agreement. In response to a protest, the Commission required that, under section 5 of the Natural Gas Act (NGA), Texas Eastern either revise its reservation charge crediting provisions to conform to current Commission policy or explain why it should not be required to do so. In its request for rehearing, Texas Eastern contends that the Commission violated NGA section 5 by requiring it to explain why its reservation charge crediting provisions should not be modified consistent with Commission policy. Texas Eastern asserts that the Commission took this action based solely on the Commission's reservation charge crediting policy in *Natural Gas Supply Ass'n, et al.*, 135 FERC ¶ 61,055, *order on reh'g*, 137 FERC ¶ 61,051 (2011) (NGSA), and such a comparison does not justify initiation of a section 5 investigation. In denying rehearing, the order explains that the February 2012 order did not rely on the NGSA policy statement to initiate the section 5 proceeding. Rather, the Commission found that Texas Eastern's reservation charge crediting provisions are contrary to binding precedent established in individual adjudications. The order, however, grants rehearing of the February 2012 order's finding that section 17.3 of Texas Eastern's General Terms & Conditions section of its tariff improperly treats routine maintenance as a *force majeure* event. The order on rehearing directs Texas Eastern to file revised tariff records to comply with regulatory requirements.

FERC approves final rule to amend *FERC Form No. 6, Annual Report of Oil Pipeline Companies*

G-3, *Revision to Form No. 6*, Docket No. RM11-21-000. The final rule amends the instructions on page 700 of FERC Form No. 6 to ensure that oil pipelines report interstate-only barrel and barrel-mile data on lines (11) and (12) of page 700

and not a combination of interstate and intrastate throughput. The final rule also directs pipelines to file revised page 700 data containing only interstate data for the years 2009, 2010, and 2011.

FERC affirms an Initial Decision

G-4, SFPP, L.P., Docket No. IS09-437-000 and Docket No. IS10-572-000. This order addresses briefs on and opposing exceptions to an Initial Decision (2011 ID) issued on February 10, 2011, by the Presiding Administrative Law Judge related to SFPP's July 31, 2009, and August 16, 2010, filings to change SFPP's East Line rates. The order generally affirms the 2011 ID's holdings regarding throughput levels and the treatment of short-term debt. Consistent with Order Nos. 511 and 511-A, this order modifies the 2011 ID's conclusions regarding the base and test period, litigation costs, general and administrative cost allocation, purchase accounting adjustments, income tax allowance issues, and some rate base and secondary cost of service issues. SFPP must file revised East Line rates consistent with this order within 45 days after this order issues, including a supporting cost of service, workpapers, explanatory statements and any other necessary documentation.

FERC grants rehearing in part; amends license

H-1, Public Utility District No. 2 of Grant County, Washington, Project No. 2114-248. The order grants in part Grant PUD's request for rehearing of the February 10, 2012 Commission staff order addressing Grant PUD's request to amend its Recreation Resources Management Plan. Specifically, the order authorizes Grant PUD to move the recreation measures identified for the Crab Creek Corridor area to the Burkett Lake area for purposes of protecting cultural resources in the Crab Creek area. The order also grants the licensee's request to extend the deadlines for completing measures at three other recreation sites. Finally, the order denies the requests for rehearing filed by Mr. Pat Kelleher and Ms. M. Coleen Kelleher.

FERC denies rehearing

H-2, Cascade Creek, LLC, Project No. 12495-006. This order denies Cascade Creek's request for rehearing of a delegated order denying Cascade's application for a third preliminary permit for the Cascade Creek Hydroelectric Project No. 12495, an 80-megawatt project proposed to be located in the Tongass National Forest on Swan Lake, in Petersburg, Alaska. This order also denies Cascade's request for rehearing of a staff letter terminating the pre-filing alternative licensing process for the proposed project.

FERC denies rehearing

H-3, *Turlock Irrigation District and Modesto Irrigation District*, Project No. 2299-077. The order denies a request for rehearing filed by the National Marine Fisheries Service of the Commission's April 19, 2012 order clarifying a proceeding on interim conditions for the Don Pedro Hydroelectric Project No. 2299. The project is located on the main stem of the Tuolumne River in Tuolumne County in the Central Valley of California, about 115 miles east of San Francisco. The current license expires in 2016, and the relicensing process is underway. The order denies rehearing and affirms the findings of the April 19, 2012 order. It affirms that, because the Commission previously found that interim conditions are not warranted, and the proceeding on interim conditions ended without either an agreement among the parties or a recommendation for Commission action, no further action is required with respect to that proceeding. It also affirms that, because some required studies are not yet complete and relicensing is now underway, it is not feasible to begin a new proceeding to reopen the license and determine whether to impose interim measures pending relicensing.

FERC denies motion to intervene and rejects request for rehearing

H-4, *California Department of Water Resources and the City of Los Angeles*, Project No. 2426-217. The order denies three post-licensing motions to intervene filed by California Trout and Friends of the River (Cal Trout) and rejects Cal Trout's request for rehearing of Commission staff's February 10, 2012 order, which defers the licensee's obligation to provide a plan for providing catchable trout in middle Piru Creek until after state and federal resource agencies authorize fish stocking. The order finds that the first two motions to intervene have been rendered moot by subsequent events; the most recent motion is denied because none of the conditions justifying the need for post-license intervention applies. The order rejects Cal Trout's rehearing request, since Cal Trout is not a party to the proceeding, as required by section 313(a) of the Federal Power Act. The order further finds that the rehearing request is substantively without merit.

FERC denies rehearing

H-5, *Exelon Generation Company, LLC*, Project No. 405-104. The order denies the request for rehearing filed August 3, 2012 by the Maryland Department of Natural Resources, Power Plant Research Program, and Maryland Department of the Environment. The agencies had sought rehearing of the Secretary's notice rejecting their request for rehearing of a letter from the Director of the Office of Energy Projects regarding proposed changes to Exelon's study plan for the

relicensing of its 573-megawatt Conowingo Hydroelectric Project No. 405, located on the Susquehanna River.

FERC denies rehearing

H-6, *Union Electric Company*, Project No. 459-317. The order denies a request for rehearing by Mr. Pat Kelleher of the June 5, 2012 Commission staff order approving a change in the project boundary for the Osage Project No. 459 in Missouri. The order finds that Mr. Kelleher lacks standing to seek rehearing and, in addition, that his claims lack merit.

FERC grants a stay

H-7, *Borough of Lehigh, Pennsylvania*, Project No. 12455-010. The order grants the Borough of Lehigh, Pennsylvania's request for stay of the start-of-construction deadline for its Beltzville Hydroelectric Project No. 12455, to be located on the U.S. Army Corps of Engineers' (Corps) Beltzville dam on Pohopoco Creek about five miles upstream of its confluence with the Lehigh River, near the Borough of Lehigh in Carbon County, Pennsylvania. After identifying several potential safety issues with the dam, the Corps reclassified it as a Dam Safety Action Class III dam, requiring the Corps to develop a Risk Reduction Plan and conduct studies that could take several years to complete. Until the safety issues are resolved, the Corps will not approve the Borough's project plans.

FERC grants request for rehearing and clarification

H-8, *East Texas Electric Cooperative, Inc.*, Project No. 12632-004. The order generally grants rehearing and provides clarification of an August 26, 2011 order from the Director, Office of Energy Projects that issued an original license to the Cooperative to construct, operate, and maintain the proposed 24-megawatt Lake Livingston Hydroelectric Project No. 12632, to be located on the Trinity River Authority of Texas's existing Lake Livingston dam on the Trinity River, in San Jacinto, Polk, Trinity, and Walker Counties, Texas. The Cooperative, individually, and the City of Houston, Texas, and TRA, jointly, filed the requests.

FERC grants certificate of public convenience and necessity

C-1, *Alliance Pipeline, L.P.*, Docket No. CP12-50-000. The order grants authorization to Alliance to construct and operate pipeline and appurtenant facilities in North Dakota. The proposed Tioga Lateral Project would connect natural gas production from the Bakken shale formation in eastern Montana and

western North Dakota to Alliance's mainline near Sherwood, ND. Alliance proposes to construct and operate an estimated 79.3 miles of 12-inch diameter pipeline and related facilities extending from a gas processing facility near Tioga, ND, east through Williams, Montrail, Burke and Renville counties to Alliance's mainline. The order also grants, subject to conditions, a waiver of the hydrocarbon dewpoint specifications in its tariff and approves a non-conforming firm transportation agreement to provide transportation service through the proposed facilities.