

December 2016

Commission Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its December 15, 2016 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-1 – Press Release

E-2 – Press Release

FERC approves an uncontested settlement

E-3, *Consumers Energy Company*, Docket Nos. ER16-1068-000 and EL16-56-000. This order approves an uncontested settlement submitted by Consumers Energy that resolves a proceeding the Commission set for hearing and settlement procedures in an April 18, 2016 order.

FERC accepts and suspends proposed filings, establishes hearing and settlement judge procedures

E-4, *Entergy Gulf States Louisiana, L.L.C.*, Docket No. ER15-1436-000, *et al.* This order accepts and suspends three filings submitted by Entergy Services, Inc., on behalf of the Entergy Operating Companies, as to their transmission formula rate templates and formula rate update in Attachment O of the Midcontinent Independent System Operator, Inc. tariff. The order also consolidates the cases and establishes hearing and settlement judge procedures.

FERC declines to initiate an enforcement action

E-7, *FLS Energy, Inc.*, Docket No. EL17-5-000, *et al.* This order gives notice that the Commission declines to initiate an enforcement action against the Montana Public Service Commission (Montana Commission) in accordance with section 210(h)(2)(A) of Public Utility Regulatory Policies Act of 1978. The order explains that this decision not to initiate an enforcement action means that FLS Energy may itself bring an enforcement action against the Montana Commission in the appropriate court. The order also finds

that the Montana Commission's legally enforceable obligation standard violates PURPA given the Montana Commission's requirement that a qualifying facility must tender an executed interconnection agreement as a prerequisite to establishing a legally enforceable obligation.

FERC declines to initiate an enforcement action

E-8, *Allco Renewable Energy Limited*, Docket No. EL17-6-000, *et al.* This order gives notice that the Commission declines to initiate an enforcement action against the Massachusetts Department of Public Utilities (Massachusetts Commission) in accordance with section 210(h)(2)(A) of Public Utility Regulatory Policies Act of 1978. The order finds that this decision not to initiate an enforcement action means that Allco may itself bring an enforcement action against the Massachusetts Commission in the appropriate court.

FERC denies request for rehearing

E-9, *Saguaro Power Company, a Limited Partnership*, Docket Nos. EL16-78-001 & QF90-203-008. The order denies Saguaro's request for rehearing of the Commission's September 30, 2016 order. Consistent with recent precedent, the September 30 order denied, in part, Saguaro's requested waiver of the cogeneration qualifying facility (QF) operating and efficiency standards of the Commission's regulations for calendar years 2016 and 2017. The Commission denied the waiver insofar as it would have provided an exemption from rate regulation under sections 205 and 206 of the Federal Power Act. The Commission's denial, in part, of waiver required Saguaro to abide by the reduced rate provision it had agreed to in the power purchase agreement between Saguaro and Nevada Power Company. This order, denying rehearing, also states that the Commission's regulations provide for QF status to be evaluated, in the first instance, on a yearly basis, but that the regulations do not require the imposition of a loss of QF status for the entire year. Therefore, the order states, the effect of the loss of QF status may be determined on a monthly basis.

FERC seeks comments on income tax cost recovery policy

G-1, *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs*, Docket No. PL17-1-000. This Notice of Inquiry (NOI) seeks comments regarding how to address any double recovery of income tax costs resulting from the Commission's current income tax allowance and rate of return policies. The NOI follows the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *United Airlines v. FERC*, 827 F.3d 122 (D.C. Cir. 2016), which held that the Commission failed to demonstrate that there is no double-recovery of taxes for a partnership pipeline as a result of the Commission's income tax allowance policy and discounted cash flow methodology used to determine return on equity. The Court instructed the Commission to consider

mechanisms for which the Commission can demonstrate that there is no double recovery of partnership income tax costs. The NOI seeks comments regarding any proposed methods to adjust the Commission's income tax allowance or rate of return policies to resolve any double recovery of tax costs.

FERC approves in part contested settlement and remands issue for hearing

G-2, *Alliance Pipeline L.P.*, Docket No. RP15-1022-000, *et al.* The order approves in part a contested settlement submitted by Alliance. The settlement is intended to resolve all issues in these proceedings including, among other things, all rate-related issues, issues concerning the provision of Authorized Overrun Service, and issues concerning Alliance's proposed gas processing provisions. In addition, the settlement would allow Alliance to recover certain pipeline safety and greenhouse gas costs through a tracking mechanism that would be established in its tariff in accordance with the terms of the settlement. The settlement was contested with respect to the gas processing issues. The order severs the gas processing issues and remands those issues to a FERC administrative law judge for hearing. The order also directs revisions to the standard of review set forth in the settlement. The order approves the remaining portions of the settlement as fair and reasonable and in the public interest.

FERC approves an uncontested settlement

G-3, *ANR Pipeline Company*, Docket No. RP16-440-000. The order approves an uncontested settlement submitted by ANR that resolves all issues in its Natural Gas Act section 4 rate case filing.

FERC establishes hearing procedures

G-4, *Aircraft Service International Group, Inc., et al. v. Central Florida Pipeline LLC, et al.*, Docket No. OR16-26-000. This order establishes a hearing before a FERC administrative law judge to address the issues raised by the complaint filed by Aircraft Service International Group, Inc., American Airlines, Inc., Delta Air Lines, Inc., Hooker's Point Fuel Facilities LLC, Southwest Airlines Co., United Aviation Fuels Corporation, and United Parcel Service, Inc. (collectively, Joint Complainants) against Central Florida Pipeline LLC and Kinder Morgan Liquid Terminals LLC (Respondents), in which Joint Complainants assert that Respondents are providing interstate oil pipeline transportation service without a Commission tariff.

FERC denies rehearing

H-1, *Rivertec Partners, LLC*, Project No. 14753-001 and *Loxbridge Partners, LLC*, Project No. 14777-001. The order denies rehearing of Commission staff's September 2, 2016 orders dismissing the preliminary permit applications for Rivertec Partners'

proposed Clearwater Hydroelectric Project No. 14753 and Loxbridge Partners' proposed McNary Second Powerhouse Project No. 14777. The projects would be located at U.S. Army Corps of Engineers' dams. The order affirms staff's dismissal of the permit applications and finding that no purpose would be served in issuing the preliminary permits in light of the Corps' statements that the proposals are not feasible and would interfere with the Corps' operation.

FERC authorizes, with conditions, a natural gas pipeline project

C-1, *Tennessee Gas Pipeline Company, LLC*, Docket No. CP16-12-000. The order grants a certificate of public convenience and necessity with conditions for the Southwest Louisiana Supply Project proposed by Tennessee Gas. The company proposes to construct two pipeline laterals (2.4 and 1.4 miles in length), five meter stations connecting the laterals to interstate pipelines, a new compressor station, and a new compressor unit at an existing station. The project would be constructed and operated in Franklin, Madison, Richland and Rapides parishes. The order also addresses comments from the Louisiana Department of Fish and Wildlife pertaining to wetlands, erosion/sediment control measures, vegetation clearing, and the Louisiana black bear.

FERC authorizes modifications to an existing gas facility

C-2, *Total Peaking Services, LLC*, Docket No. CP15-557-000. The order authorizes Total Peaking to modify its existing peak-shaving liquefied natural gas plant located in Milford, Connecticut. The modifications, which include the replacement of three vaporizers, would increase the plant's send-out capacity from 90 MMcf per day to 105 MMcf per day to provide service to Total Peaking's only customer, CNE Peaking, LLC. The order also reaffirms Total Peaking's authorization to charge market-based rates for its storage and storage-related services.