

# October 2013

## Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its October 17, 2013 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](http://www.ferc.gov).

### E-9 – Press Release

#### **FERC grants, in part, a petition for a declaratory order**

**E-1**, *Council of the City of New Orleans, et al.*, Docket No. EL13-43-000. The order grants, in part, a petition for declaratory order submitted by the Council of the City of New Orleans, the Mississippi Public Service Commission, and the Arkansas Public Service Commission. The order finds that the Commission cannot determine at this time whether the avoided-cost rate for “as available” sales that is based on locational marginal pricing (LMP) in the Midcontinent Independent System Operator market, which Entergy has proposed at the state level, would comply with the Public Utility Regulatory Policies Act of 1978 (PURPA) and the Commission's regulations. The order finds that, because neither the Louisiana Commission, nor any other state regulatory authority, has addressed Entergy's proposed avoided-cost rate filing for “as available” sales, the Commission does not have before it a state regulatory authority decision addressing Entergy's proposed methodology or a corresponding state regulatory authority justification for such methodology in light of the avoided-cost implementation factors set forth in the Commission's regulations. The order also finds that congestion that obstructs access to third-party purchasers of qualifying facility (QF) energy is not a factor that necessarily needs to be considered in determining whether an avoided cost rate may be based on LMPs. The order further notes that QF operational characteristics and whether continuation of existing “as available” sales are new contracts are matters more appropriately addressed in the context of a separate PURPA section 210(m) filing.

#### **FERC approves a final rule**

**E-2**, *Transmission Planning Reliability Standards*, Docket Nos. RM12-1-000 and RM13-9-000. This final rule approves North American Electric Reliability Corporation's proposed Transmission Planning Reliability Standard TPL-001-4, which includes a

provision that would allow a transmission planner to plan for non-consequential load loss, *i.e.*, load-shedding following a single contingency.

#### **FERC denies request for a waiver**

**E-4**, *PPL Electric Utilities Corporation*, Docket Nos. QM13-2-000, -001. This order denies PPL Electric's request to be relieved of the requirement that it enter into a new contract or obligation to purchase electric energy from IPS Power Engineering Inc.'s Souderton LLC cogeneration qualifying facility (Souderton QF) which has a net capacity of 18.1 MW. The order finds that PPL Electric has failed to overcome the Commission's rebuttable presumption that the Souderton QF, as a 20 MW or smaller QF, lacks nondiscriminatory access to the PJM markets.

#### **FERC denies request for a waiver**

**E-5**, *Green Mountain Power Corporation; Central Vermont Public Service Corporation*, Docket Nos. TS04-277-001, TS04-277-002, and TS07-4-000. The order denies a request by Green Mountain Power for a continued waiver from the Commission's Standard of Conduct requirements. The order also dismisses, as moot, a pending waiver request by Central Vermont Public Service.

#### **FERC denies rehearing**

**E-7**, *City of Holland, Michigan Board of Public Works*, Docket No. RC11-5-001. The order denies rehearing of the Commission's April 19, 2012 order upholding the City of Holland, Michigan's registration as a transmission owner and transmission operator in the North American Electric Reliability Corporation's (NERC) Compliance Registry. The denial of rehearing is without prejudice to the City of Holland's ability to seek a new determination that its facilities are not part of the bulk electric system (BES) under NERC's recently approved BES definition and Rules of Procedure exception process, including seeking a subsequent determination from the Commission that its 138 kV facilities are used for local distribution.

#### **FERC grants, in part, and rejects, in part, and otherwise sets for hearing formal challenges to formula rates**

**E-11**, *Delmarva Power & Light Company*, Docket Nos. ER05-515-000 and ER09-1158-000. The order grants, in part, and rejects, in part, and otherwise sets for hearing and settlement judge procedures Formal Challenges filed by the Delaware Municipal Electric Corporation, Inc. (DEMEC) to the computation of certain formula transmission rates filed by Delmarva Power & Light Company (DP&L). The case stems from two informational filings by DP&L detailing the computation of its 2011 and 2012 formula transmission rates (2011 and 2012 Annual Updates), and subsequent Formal

Challenges disputing aspects of DP&L's two informational filings, filed in accordance with the terms of a 2006 settlement and the governing provisions of the PJM Interconnection, L.L.C. Open Access Transmission Tariff.

### **FERC approves pipeline scheduling methodology**

**G-1, *Tennessee Gas Pipeline Company, LLC***, Docket No. RP12-514, *et al.* The order approves Tennessee's proposal to establish a new scheduling methodology for secondary in-path transactions, which provides a higher scheduling priority for secondary in-path transactions to primary delivery points than to secondary in-path transactions from primary receipt points. The order also denies rehearing of the Commission's April 2012 order in Tennessee's most recent general Natural Gas Act section 4 rate case proceeding as it relates to Tennessee's scheduling proposal, and denies rehearing of the Commission's order establishing a technical conference to discuss issues raised with respect to Tennessee's proposal in this proceeding.

### **FERC rules on range of rate issues**

**G-2, *El Paso Natural Gas Company***, Docket No. RP10-1398-000. This opinion and order on initial decision addresses the findings in the June 18, 2012 Initial Decision on El Paso's general rate case, which was filed October 28, 2010 under section 4 of the Natural Gas Act. The proceeding is El Paso's first fully litigated rate case since 1959 and consequently addresses a range of rate issues, including cost of service, depreciation, rate design, billing determinants, discount adjustments, and risk sharing. In doing so, the opinion and order finds that the rate of return on equity should be at the median (10.55 percent) because El Paso's risk does not reflect highly unusual circumstances and upholds the rate caps established in the 1996 Settlement. The order also finds, however, that El Paso failed to meet the 1996 Settlement threshold requirements to avoid having to reduce certain rates. The order remands the matter to address limited issues relating to the additional rate protections under the 1996 Settlement, and requires a compliance filing in 60 days to provide revised rates and workpapers consistent with the Commission's determination.

### **FERC grants relief requested in a tariff dispute**

**G-3, *Chesapeake Energy Marketing, Inc. v. Midcontinent Express Pipeline, LLC***, Docket No. RP13-1080-000. The order grants Chesapeake the relief it seeks in a July 17, 2013 complaint filed against Midcontinent. Chesapeake requests that the Commission find it is improper for Midcontinent to deny Chesapeake the reservation charge credits allegedly due it under the provisions of Midcontinent's tariff for a period of time during which Midcontinent was unable to provide service to Chesapeake.

The order grants relief and finds that Midcontinent's existing tariff requires it to provide the requested reservation charge credits. In addition, the order finds that, in accordance

with section 5 of the Natural Gas Act, Midcontinent must modify certain provisions of its tariff related to reservation charge crediting, or must explain why it should not be required to do so.

### **FERC dismisses complaint**

**G-4**, *St. Paul Park Refining Co. LLC v. Enbridge Pipelines (North Dakota) LLC*, Docket No. OR13-28-000. The order dismisses St. Paul Park's complaint against Enbridge North Dakota. St. Paul Park alleges a 2008 uncontested settlement agreement instituting a surcharge for an expansion project is no longer fair and reasonable and the surcharge no longer has any regulatory basis. St. Paul Park requests that the Commission find the surcharge unjust and unreasonable, establish a new just and reasonable rate, and award reparations for all amounts in excess of the just and reasonable rate. The order finds there is no evidence that Enbridge North Dakota is engaging in discriminatory practices that would prompt the Commission to reconsider the validity of the settlement.

### **FERC grants, in part, and denies, in part, rehearing**

**G-5**, *Kern River Gas Transmission Company*, Docket No. RP04-274-030. The order grants, in part, and denies, in part, Kern River's March 25, 2013 request for clarification or, in the alternative, rehearing of Opinion No. 486-F. The order states that the Commission leaves to the next rate case the issue of whether Kern River's levelized rate methodology permits it to treat depreciation expenses that accumulate on plant investments made between rate cases as a regulatory asset that may be included in rate base in subsequent rate cases.

### **FERC grants in part, complaints; establishes limited hearing**

**G-6**, *CHS Inc., Federal Express Corporation, GROWMARK, Inc., HWRT Oil Company LLC, MFA Oil Company, Southwest Airline Co., United Airlines, Inc., UPS Fuel Services, Inc. v. Enterprise TE Products Pipeline Company, LLC*, Docket No OR13-25-000; and *Chevron Products Company v. Enterprise TE Products Pipeline Company, LLC* Docket Nos. OR13-26-000. (consolidated) The order grants, in part complaints lodged by CHS, Federal Express, GROWMARK, HWRT Oil, MFA Oil, Southwest Airline, United Airlines, UPS Fuel Services, and Chevron (Complainants) against Enterprise TE. The Complainants challenge the lawfulness of Enterprise TE's FERC Tariff No. 55.28.0. They allege that, by no longer accepting nominations for the transportation of jet fuel or distillates, Enterprise TE violated a settlement agreement signed by the company and approved by the Commission via letter order issued May 31, 2013 in Docket No. IS12-203-000. The order finds that Enterprise TE breached the settlement agreement by filing a cancellation tariff to abandon transportation service for jet fuels and distillates during the Settlement Period. Further, the order consolidates the cases for purposes of a limited

hearing to determine if Complainants have incurred any damages, and, if so, to calculate the damages resulting from Enterprise TE's breach of the settlement agreement.