

January Meeting Summaries

E-1 and E-21, News Release

FERC grants NERC's request for clarification of the NERC Budget Order

E-5, *North American Electric Reliability Corp.*, Docket Nos. RR08-6-001 & RR07-14-002. The Commission addressed the North American Electric Reliability Corp.'s (NERC) requested clarification of an order on NERC's proposed 2009 business plan and budget. The Commission clarified that the budget order did not intend to modify the existing role of NERC staff or to suggest that NERC staff can substantively modify the text of a Reliability Standard approved through the NERC stakeholder process. Rather, the Commission agreed with NERC that NERC's staff has a key role to play in the development of Reliability Standards, by providing independent, technically informed analysis, advice and recommendations and by presenting to the Commission reasons why proposed Reliability Standards should be approved. The Commission thus reiterated that it is important that NERC has staff sufficient to perform this function.

FERC certifies solar power facility near Bakersfield, CA

E-6, *Ausra CA I, LLC*, Docket No. QF09-37-001. The Commission granted Ausra CA I certification of its solar-powered generating facility located near Bakersfield, California as a qualifying small power production facility. The Commission determined that Ausra CA I's use of the same turbine that a non-affiliated power producer uses to produce electric energy from natural gas to produce electric energy from solar power, but at different times, satisfies the statutory requirement that a qualifying small power production facility produce electric energy solely by the use of a permitted fuel as a primary energy source. In granting qualifying facility status, the Commission noted that the turbine cannot be used to simultaneously generate power from natural gas and solar power; the electric energy that Ausra CA I will produce from solar power will be produced from solar power only.

FERC conditionally accepts NYISO's filing implementing a second level of interconnection service

E-7, *New York Independent System Operator*, Docket Nos. ER04-449-005, *et al.* The Commission conditionally accepted, subject to a further compliance filing providing certain clarifications, revised tariff sheets submitted by the New York Independent System Operator in compliance with an order requiring the implementation of a second

level of interconnection service, Capacity Resource Interconnection Service, that incorporates a deliverability requirement. The Commission concluded that the implementation of this service, while it differs from the Commission's *pro forma* open access transmission tariff's requirements, meets the Commission's "independent entity variation" standard because the service does not provide an unwarranted opportunity for undue discrimination or otherwise produce an interconnection process that is unjust and unreasonable.

FERC accepts NYISO's long-term firm transmission right compliance filing

E-8, *New York Independent System Operator*, Docket No. ER07-521-005. The Commission accepted the New York Independent System Operator's (NYISO) compliance filing providing for awards of so-called "incremental" transmission congestion contracts made feasible by transmission expansions and upgrades that increase transfer capacity. The filing responded to Order No. 681 and to an earlier order in this proceeding which accepted in part the NYISO's long-term firm transmission rights proposal.

FERC denies motion for clarification as to the effective date of the CAISO Station Power Protocol

E-13, *California Independent System Operator Corp.*, Docket No. ER05-849-009. The Commission addressed a motion for clarification of an order in this proceeding, in which the Commission granted Constellation Generation Group and the NRG Companies' joint request that the Commission clarify that its station power orders preclude Southern California Edison Co. from imposing retail and other load-based charges on merchant generators that self-supply their station power requirements over a monthly netting period under the California Independent System Operator Corp. Station Power Protocol. The Commission denied NRG Companies' motion for clarification of the effective date of the Station Power Protocol, and ruled that the NRG Companies were not entitled to refunds because they had not yet qualified to take advantage of the Station Power Protocol, among other reasons.

FERC denies request to consider transmission projects when reviewing new PJM scarcity pricing regions

E-15, *PJM Interconnection*, Docket No. ER08-1170-001. The Commission denied requests for clarification and rehearing of an order which accepted PJM Interconnection's (PJM) tariff filing to establish the APSouth scarcity pricing region. The Commission denied requests that PJM be required to consider transmission projects in its queue and their possible effect on congestion prior to designating a scarcity pricing region under its

tariff. The Commission noted that the consideration of the effect of particular transmission projects on congestion was beyond the scope of the proceeding. The Commission explained that the PJM tariff has well-defined criteria for designating scarcity pricing regions, and a process for regular reevaluation of such determinations, and no party disputed that PJM followed its tariff in this case.

FERC denies rehearing of transmission rate incentives for a transmission project in Connecticut

E-16, *United Illuminating Co.*, Docket No. ER07-653-001. The Commission denied rehearing of an order that incorporated into United Illuminating Co.'s approved formula rate the costs associated with two transmission rate incentives. The project at issue is a new 345-kV transmission line from Middletown to Norwalk, Connecticut and the rebuilding and modifying of portions of the existing 115-kV transmission system. The Commission rejected arguments that the Commission should not have approved recovery of 100 percent construction work in progress in the rate base and a 50 basis point advanced transmission technology adder to the return on equity. The Commission found both of the incentives justified, whether considered individually or together.

FERC approves uncontested settlement agreement resolving issues relating to service and operating agreements

E-18, *E.ON U.S.*, Docket Nos. ER06-1458-000, *et al.* The Commission approved an uncontested settlement agreement that resolves all issues arising from a Network Integration Transmission Service Agreement and a Network Operating Agreement between E.ON U.S.'s public utility subsidiaries and East Kentucky Power Cooperative. The Commission determined that the proposed settlement is fair, reasonable, and in the public interest.

FERC addresses on remand the interest rate the Town of Norwood must pay on late contract termination charge payments

E-19, *New England Power Co.*, Docket No. EL03-37-009. The Commission addressed a court decision remanding the issue of the interest paid on late contract termination charge payments to be paid by the Town of Norwood to the New England Power Company. The Commission concluded on remand that section 206 of the Federal Power Act allows the Commission to make the Revised Interest Rate (i.e., an interest rate tied to the prime interest rate, and lower than the 18 percent interest rate supported by New England Power Company) effective only prospectively from the date of its earlier order found by the court to be in error (i.e., prospectively from June 30, 2006), and during the fifteen-month period following the refund effective date established earlier in this proceeding (i.e., from

February 21, 2003 to May 21, 2004). The Commission also concluded that because the Town of Norwood did not make any late payments at the higher 18 percent interest rate during the fifteen month period following the refund effective date, no refunds were due.

FERC denies rehearing of order on Northeast Utilities transmission rate incentives

E-20, *Northeast Utilities. Serv. Co.*, Docket No. ER08-966-001. The Commission denied rehearing of an order which granted Northeast Utilities Service Co.'s request for a waiver of the December 31, 2008 deadline for receiving a 100 basis point transmission incentive under Opinion No. 489 for Regional Transmission Expansion Plan-approved transmission projects, and its request for an additional 50 basis point incentive for using advanced transmission technologies. The Commission affirmed its prior conclusion that good cause existed to waive the deadline so that Northeast Utilities Service Co. could complete testing on the Middletown-to-Norwalk Project and continue to qualify for a 100 basis point incentive. The Commission also affirmed its conclusion to allow an additional 50 basis point incentive for using advanced transmission technologies.

E-22, Press Release

FERC accepts Exelon's updated market power analysis

E-23, *Exelon Generation Co., et al.*, Docket Nos. ER00-3251-015, *et al.* The Commission accepted an updated market power analysis filed by Exelon Generation Co., AmerGen Energy Co., Commonwealth Edison Co., Exelon Energy Co., PECO Energy Co., Exelon West Medway, Exelon Wyman, Exelon New Boston, Exelon Framingham, and Exelon New England Power Marketing (collectively, Exelon). The Commission concluded that Exelon satisfied the Commission's standards for market-based rate authority.

FERC denies request for rehearing of order dismissing application seeking authorization for Exelon to make sales to its affiliate based on previous waiver of affiliate power sales restriction

E-24, *Commonwealth Edison Co., et al.*, Docket No. ER08-412-002. The Commission denied a request for rehearing of an order in which the Commission dismissed an application under section 205 of the Federal Power Act by Exelon Generation Co. (Exelon) and Commonwealth Edison (ComEd) seeking authorization for Exelon to make sales to its affiliate ComEd. The initial order denied the application on the grounds that the Commission had previously granted Applicants waiver of the affiliate power sales restriction; therefore, Applicants did not need any additional authorization for the sale at

issue. In denying rehearing, the Commission found that the initial order properly followed and implemented the Commission's policy and regulations regarding requests for authorization to make affiliate sales by market-based rate sellers that have received a waiver of the affiliate restrictions.

FERC addresses complaint against Entergy regarding bonus compensation

E-25, *NRG Energy v. Entergy Services.*, Docket No. EL08-72-000. The Commission denied a complaint by NRG Energy (NRG) and its affiliated companies challenging the inclusion of bonus compensation in Entergy Services' (Entergy) formula rate for transmission service under its open access transmission tariff. The Commission concluded that based on the information provided, and without prejudice to NRG submitting a new complaint on these issues, NRG had not met its burden of demonstrating that Entergy's existing rate formula is no longer just and reasonable.

FERC denies Arkansas Consumers' complaint concerning the Entergy System Agreement

E-26, *Arkansas Electric Energy Consumers, v. Entergy Corp., et al.*, Docket No. EL08-84-000. The Commission denied the complaint filed by Arkansas Electric Energy Consumers, against Entergy Corp. and its subsidiaries, Entergy Services, and six operating utilities (Operating Companies): Entergy Arkansas, Entergy Gulf States, Louisiana, Entergy Louisiana, Entergy Mississippi, Entergy New Orleans, and Entergy, Texas. The complaint alleged that the Entergy Operating Committee violated the Entergy System Agreement and section 206 of the Federal Power Act by its decision to meet the needs of Entergy Arkansas and Entergy Gulf States for more generation by having the output of a newly acquired plant assigned two-thirds to Entergy Arkansas and one-third to Entergy Gulf States. The Commission determined that the Entergy Operating Committee correctly fulfilled its responsibilities under the System Agreement, and that Arkansas ratepayers are not subsidizing the other Entergy Operating Companies as a result of the transaction.

FERC addresses accounting of transmission agreement in Idaho Power's formula rates

E-27, *Idaho Power Co.*, Docket Nos. ER06-787-002 and ER06-787-003. The Commission addressed exceptions to an Initial Decision addressing how certain transmission agreements should be accounted for in Idaho Power Co.'s formula rates for point-to-point transmission service and network integration transmission service. The Commission affirmed the Presiding Judge's determination that the load generated by the agreements should be included as part of the total firm load rather than crediting the revenue that Idaho Power Co. receives under the agreements against Idaho Power's total

transmission revenue. The Commission reversed the Presiding Judge's determination that the 12 coincident peak demand, rather than the contract demand under the agreements should be used as the appropriate measure of the load generated by the agreements.

FERC accepts settlement of complaint by MMC Energy against the CAISO

E-28, *MMC Energy v. California Independent System Operator Corp.*, Docket No. EL08-46-000 and EL08-46-001. The Commission accepted an uncontested settlement resolving the remaining issues related to the MMC Energy complaint against the California Independent System Operator Corp. The Commission concluded that the settlement is fair and reasonable, and in the public interest, and therefore approved it.

G-1, News Release

G-2, G-3 and G-4, News Release

FERC denies rehearing of order transferring license for a project in Snohomish County, WA

H-1, *Snoqualmie River Hydro, et al.*, Project No. 10359-039. The Commission denied rehearing of an order approving the transfer of license for the 8.3-megawatt Youngs Creek Project from Snoqualmie River Hydro to Public Utility District No. 1 of Snohomish County, Washington. The project would be located on Youngs Creek in Snohomish County, Washington. The Commission also clarified the relationship between the staff transfer order and staff's earlier order applying the implied-surrender doctrine.

FERC on rehearing clarified a requirement to file a plan regarding two projects in MA

H-2, *FirstLight Hydro Generating Co.*, Project Nos. 2485-051 and 1889-070. The Commission clarified, on rehearing, the requirement that the licensee file a plan of action showing a reduction in the shoreline rate of erosion. The 1,080-megawatt (MW) Northfield Mountain Pumped Storage Project and the 62.016-MW Turners Falls Project are located on the Connecticut River in the towns of Northfield and Irving, in Franklin County, Massachusetts.

C-1, News Release

C-2, Media Alert

C-3, Media Alert

FERC requires Kenai facility to comply with LNG reporting requirements

C-5, *ConocoPhillips Alaska Natural Gas Corp. and Marathon Oil Co.*, Docket No. CP09-34-000. On April 19, 1967, the Commission authorized Phillips and Marathon to export LNG from a proposed terminal in Kenai, Alaska. In this order, the Commission concluded that the public interest requires that the Kenai facility be subject to the same reporting and inspection requirements under section 3 of the Natural Gas Act that are routinely applied to every other operational LNG terminal. The Commission directed ConocoPhillips Alaska Natural Gas Corp. and Marathon Oil Co., Kenai's joint owners, to comply with these requirements