

April 2010 Meeting Summaries

These are summaries of orders voted on by the Federal Energy Regulatory Commission at its April 15, 2010, public meeting. They are produced by the FERC Office of External Affairs and are intended to provide only a general synopsis of the orders. They are not intended as a substitute for the Commission's orders. To determine the specific actions and the Commission's reasoning, please consult the individual orders when they are posted to FERC's eLibrary.

Commission sets ROE for SoCal Edison projects

E-2, *Southern Cal. Edison Co.*, Docket Nos. ER08-375-000/-001. This order approves for Southern California Edison a base return on equity (ROE) of 9.54 percent for three transmission projects. When combined with the previous Commission-approved incentive adders of 125 basis points for the Rancho Vista Project and 175 basis points for the Devers-Palo Verde II project and the Tehachapi Transmission Project, the overall ROE for these projects will be 10.79 percent and 11.29 percent, respectively. The order also denies the request for rehearing of the Commission's prior order in this proceeding.

FERC clarifies employee sharing under market-based rate affiliate restrictions

E-3, *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services By Public Utilities*, Docket No. RM04-7-007. The order denies the Compliance Working Group's request that the Commission interpret the market-based rate affiliate restrictions adopted in Order No. 697 to permit sharing of employees who are neither transmission function employees nor marketing function employees under the Standards of Conduct Final Rule (Order No. 717). The order clarifies which employees may not be shared under the Commission's market-based rate affiliate restrictions. (Related order in Commission Meeting Item E-7 proposes revision to the market-based rate affiliate restrictions to reflect the clarification provided in this order.)

FERC amends regulations to incorporate NAESB demand response standards

E-4, *Standards for Business Practices and Communication Protocols for Public Utilities*, Docket No. RM05-5-017. This final rule amends Commission regulations to incorporate by reference business practice standards adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board (NAESB) that categorize various demand response products and services and that support the measurement and verification of these products and services in wholesale electric energy markets.

FERC proposes revisions to market-based rate affiliate restrictions

E-7, *Market-Based Rate Affiliate Restrictions*, Docket No. RM10-20-000. This order proposes to revise section 35.39 of the market-based rate regulations adopted in Order No. 697 to reflect the clarification provided in Commission Meeting Agenda Item E-3. The order proposes to revise the separation of functions and information sharing provisions of the affiliate restrictions to explicitly state that employees who determine the timing of scheduled outages or who engage in economic dispatch, fuel procurement or resource planning may not be shared under the affiliate restrictions.

FERC sets proposed tariff revisions, service agreements for network integration service, and a complaint for hearing

E-8, *E.ON U.S. LLC*, Docket Nos. ER10-295-000, ER10-298-000, ER10-298-001; *Kentucky Municipal Power Agency and Owensboro Municipal Utilities v. E.ON U.S. LLC*, Docket No. EL10-38-000. This order accepts and suspends, subject to refund, and sets for hearing and settlement judge procedures (1) proposed tariff revisions submitted by E.ON clarifying the method used to bill network integration service customers for transmission losses and (2) service agreements for network integration service to Owensboro Municipal Utilities (Owensboro). The order also sets for hearing and settlement judge procedures a complaint filed by Kentucky Municipal Power Agency and Owensboro alleging that Schedule 11 of E.ON's tariff (Loss Compensation Service) is unjust and unreasonable.

FERC denies rehearing in PJM credit over-collection case

E-9, *Black Oak Energy, L.L.C., et al. v. PJM Interconnection, L.L.C.* Docket Nos. EL08-14-003/-004/-005. This order generally denies requests for rehearing of a September 17, 2009 order dealing with PJM's allocation of credits from the overcollection of marginal line losses. The order affirms that such credits should be paid to those customers who pay to support the fixed costs of the transmission system. The order also accepts PJM's filing to comply with that order.

FERC denies rehearing on incentives for portion of PJM MAPP project

E-10, *Public Service Electric & Gas Co.*, Docket No. ER09-249-001. This order denies rehearing of a prior Commission order authorizing, transmission incentives, including a 150 basis-point return on equity adder, to PSE&G for construction of its portion of the Mid-Atlantic Power Pathway Project.

FERC denies rehearing, and acts on compliance filing, on PJM generator payments

E-11, *PJM Interconnection, L.L.C.*, Docket Nos. ER09-650-001/-002. Hess Corporation filed a request for rehearing of a Commission order issued in this proceeding on April 3, 2009, regarding weekly billing and payment requirements related to payments PJM will be required to make to generators. The order denies rehearing with respect to tariff revisions accelerating the timing of payments to generators, accepts PJM's revisions amending PJM's Net Seller Credit Allowance provision and rejects as unsupported PJM's proposed reductions to counterflow FTR credit requirements for load serving entities.

FERC allows Detroit Edison to terminate QF mandatory purchase obligation for above-20 MW QFs

E-12, *Detroit Edison Company*, Docket Nos. QM10-2-000, -001, -002. This order grants the application of Detroit Edison Company to terminate the obligation to enter into new contracts or obligations to purchase electric energy from QFs larger than 20 MW. Detroit Edison relied on the rebuttable presumption that QFs larger than 20 MW have nondiscriminatory access to the Midwest ISO markets.

FERC allows PSNH to terminate QF mandatory purchase obligation for above-20 MW QFs, but denies termination for below-20 QFs

E-13, *Public Service Company of New Hampshire*, Docket Nos. QM10-4-000, -001, -002, -003. This order grants the application of Public Service Company of New Hampshire (PSNH) to terminate the obligation to enter into new contracts or obligations to purchase electric energy from QFs larger than 20 MW, but denies the request to terminate the obligation to enter into new contracts or obligations to purchase electric energy from QFs between 5 MW and 20 MW. PSNH relied on the rebuttable presumption that QFs larger than 20 MW have nondiscriminatory access to the ISO-NE markets. FERC regulations also give utilities the opportunity to rebut the presumption that QFs 20 MW and smaller (small QFs) do not have access to markets by showing on an individual small QF-by-small QF basis that each QF does have such access. The order finds that PSNH's arguments, as presented, do not make the necessary QF-by-QF showing.

FERC authorizes disposition of jurisdictional facilities to Great Point

E-14, *Denver City Energy Associates, L.P.*, Docket No. EC10-31-000. This order authorizes the disposition of jurisdictional facilities as a result of the transfer of upstream equity interests in Denver City Energy held by funds managed and controlled by EIF Management, LLC to Great Point Power, LLC.

FERC grants NYISO petition for declaratory order regarding grandfathered transmission congestion contracts

E-18, *New York Independent System Operator, Inc.*, Docket No. EL10-33-000. The New York Independent System Operator, Inc. (NYISO) submitted a petition for a declaratory order seeking a ruling from the Commission that the New York Power Authority's (NYPA) ownership of certain Grandfathered Transmission Congestion Contracts did not terminate when the original generating unit at the Charles Poletti Power Plant in Astoria, Queens, ceased to operate on January 31, 2010. This draft order grants NYISO's petition for a declaratory order and finds that NYPA's ownership of the Grandfathered TCCs did not terminate when the original generating unit ceased to operate.

FERC transfers certain hotline matters to DRS

M-1, *Instant Final Rule Transferring Certain Enforcement Hotline Matters to the Dispute Resolution Service Advisory Work Item*, Docket No. RM10-21-000. This

instant final rule substitutes the Commission's Dispute Resolution Service for the Commission's Enforcement Hotline as the contact for handling dispute-related calls pertaining to the construction and operation of jurisdictional infrastructure projects effective May 1, 2010. Transferring the responsibility of these calls to DRS, with its expertise in conflict resolution, and allowing the Office of Enforcement to focus on its other priorities, the Commission will ensure an efficient allocation of its resources that will better serve the public interest. The Enforcement Hotline will continue to be the contact for handling all other dispute-related jurisdictional matters that are not pending before the Commission.

FERC waives capacity release regulations

G-1, *Total Gas & Power North America, Inc. and Chesapeake Energy Marketing, Inc.* Docket No. RP10-496-000. This order grants a request for waivers of the Commission's capacity release regulations and policies and affected pipelines' capacity release tariff provisions, to allow the permanent release of a portion of Chesapeake Energy Marketing's (Chesapeake) firm transportation capacity on four interstate pipelines, in order to accommodate a transaction in which a Chesapeake affiliate will sell Total an interest in its Barnett Shale production assets. The tariff waivers are limited to those necessary to carry out the specific transaction presented by the Petitioners.

FERC directs Bay Gas to Credit LAUF payments

G-2, *Bay Gas Storage Company, Ltd.*, Docket No. PR08-17-000. This order addresses a contractual dispute between Bay Gas and Florida Gas, concerning Bay Gas's implementation of a tracking mechanism to recover, in kind, its lost-and-unaccounted-for (LAUF) gas from Florida Gas. The order finds that the agreement's *Memphis* clause is insufficient to effect, via the LAUF tracker mechanism, an increase in the fixed rate in the firm transportation service agreement between Bay Gas and Florida Gas. Accordingly, the order finds that Bay Gas must credit the value of its in-kind LAUF recovery from Florida Gas toward payment of the fixed discounted rate in their service agreement, so as to maintain the economic value of their bargain.

FERC grants in part and denies in part Duke Energy Guadalupe's request for rehearing and sets ROE

G-3, *Duke Energy Guadalupe Pipeline, Inc. (Guadalupe)*, Docket Nos. PR05-17-000, -005. This order addresses a request for rehearing of a Commission order

that established the rates charged by Guadalupe for transportation service under section 311 of the Natural Gas Policy Act of 1978. . In the order, the Commission grants rehearing in part on its prior disallowance of Guadalupe's discount adjustment to its rate design volumes for discounts given to an affiliate and denies rehearing in all other respects. The order also establishes Guadalupe's return on equity at 11.26 percent in accordance with *Kern River* and consistent with the *Proxy Group Policy Statement*.

FERC denies rehearing in Coastal Hydropower case

H-1, *Lock + TM Hydro Friends Fund XXVII, LLC*, Project Nos. 13533-001 and 13613-001. The order denies Coastal Hydropower LLC's request for rehearing of a Commission staff order issuing a preliminary permit to Lock + TM Hydro Friends Fund XXVII, LLC and denies Coastal Hydropower's competing application. The order finds that there is no evidence that either proposal is better adapted and, therefore, Commission staff correctly issued the permit to Lock + TM Hydro Friends Fund XXVII, LLC, which filed its preliminary permit application first.

FERC denies rehearing of order denying late intervention in Great Works Project

H-2, *PPL Great Works, LLC and Penobscot River Restoration Trust*, Project No. 2312-023. The order denies Red Shield Acquisition LLC's request for rehearing of the Secretary's notice denying Red Shield's late motion to intervene in the license surrender proceeding for the Great Works Project.

FERC reinstates new School Street Project license

H-3, *Erie Boulevard Hydropower, L.P.*, Project No. 2539-003. This order responds to the court's August 10, 2009, decision in *Green Island Power Authority v. FERC*, which vacated the new license issued to Erie Boulevard Hydropower, L.P. for the 38.8-megawatt (MW) School Street Project No. 2539, on the Mohawk River in Albany and Saratoga Counties, New York, and remanded the case for further proceedings. This order finds that the offer of settlement was not a material amendment and, therefore, the Commission need not consider as timely a motion to intervene filed by Green Island. This order nevertheless considers Green Island's proposal, and further finds that the proposed Cohoes Falls Project does not present a feasible alternative to the School Street Project. The order therefore reinstates the license for the School Street Project as issued.

FERC denies rehearing

H-4, *Lock+ Hydro Friends Fund IV, LLC*, Project No. 13624-001. This order denies Lock+ Hydro Friends' request for rehearing of Commission staff's rejection of Lock+ Hydro Friends license application for the Predator Project, proposed to be located at the U.S. Army Corps of Engineers' Lock and Dam No. 7 on the Mississippi River in Minnesota.

FERC clarifies natural gas transaction status request

C-1, *Emergency Natural Gas Sale, Transportation, and Exchange Transactions*, Docket No. RM10-3-000. This order grants the request of the Natural Gas Supply Association and clarifies that first sellers of natural gas and marketers making sales of natural gas that are not first sales are not required to file with the Commission the emergency natural gas transactional reports.