

# July 2011 Meeting Summaries

**These are summaries of orders voted by the Federal Energy Regulatory Commission at its July 21, 2011 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 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).**

## **FERC denies requests for rehearing and grants clarification**

**E-3**, *Southwest Power Pool, Inc.*, Docket No. ER10-1269-001. This order denies requests for rehearing and grants clarification of the Commission's July 15, 2010 ruling on SPP's proposal to revise its tariff to incorporate the Integrated Transmission Plan — a modified transmission planning process under which SPP will determine its near-term and long-term transmission needs to maintain reliability and provide economic benefits in the SPP region.

## **E-6 – Press Release**

## **FERC denies request to transfer compliance registrations**

**E-10**, *Nebraska Public Power District, Southwest Power Pool Regional Entity*, Docket Nos. RR11-1-000 and RR11-1-001. This order denies petitions submitted by Nebraska Public Power District (NPPD) and Southwest Power Pool Regional Entity (SPP RE). The petitioners seek review of the North American Electric Reliability Corporation's (NERC) denial of the request to transfer the compliance registrations of NPPD and several other registered entities located within Nebraska ("Nebraska Entities") from Midwest Reliability Organization to SPP RE. The order denies NPPD's petition and determines that it is appropriate for NPPD to remain in the MRO region.

## **FERC grants rehearing and will not require payment of refunds**

**E-11**, *Black Oak Energy, L.L.C. v. PJM Interconnection, L.L.C.*, Docket Nos. EL08-14-003, EL08-14-004, EL08-14-005, EL08-14-006, and EL08-14-007. This order grants rehearing of an order accepting a compliance filing concerning recovery of transmission line losses, and does not require PJM to pay refunds. In the order, the Commission explains that it has two lines of precedent on refunds, each dealing with a different situation. When a case involves a company over-collecting revenues to which it was not entitled, the Commission generally holds that the excess revenues should be refunded to customers. By contrast, in a case like the current case where the company collected the proper level of revenues, but it is later determined that those revenues should have been allocated differently (as is the situation here), the Commission traditionally has declined (and here declines) to order refunds.

## **FERC rejects request for rehearing**

**E-13**, *EPIC Merchant Energy NJ/PA, L.P., SESCO Enterprises, L.L.C., and Coaltrain Energy L.P. v. PJM Interconnection, L.L.C.*, Docket No. EL10-40-001. The order denies the request from EPIC Merchant Energy NJ/PA, L.P., *et al.* (together, Financial Marketers) for rehearing of the Commission's May 10, 2010 order dismissing their second complaint concerning transmission line losses. This order concludes that their second complaint is a collateral attack on the Commission's order on the first complaint. If Financial Marketers were dissatisfied with the Commission's resolution of the first complaint, the order explains, their recourse was to file for rehearing of the order on the first complaint, not to file a new complaint on the same set of facts. The order also rejects Financial Marketers' contention that they should be permitted to file a second complaint in order merely to establish a new refund effective date.

## **FERC denies requests for rehearing and grants request for clarification**

**G-1**, *Tennessee Gas Pipeline Company*, Docket No. RP11-1484-001. This order addresses requests for rehearing or clarification of the Commission's decision in its December 1, 2010 order to accept a proposal by Tennessee Gas to amend its tariff with respect to routine maintenance. The amended tariff (1) replaced Tennessee Gas' existing prohibition on scheduling of routine, non-emergency maintenance except between May 1 and November 1, with a prohibition on such maintenance during "periods of peak demand," and (2) reduced the maintenance outage notification period from 15 days to "as soon as reasonably practicable, but no later than five days prior to the scheduled activity." The order largely denies

rehearing, affirming its acceptance of the proposed tariff. In addition, the order grants clarification that parties may examine Tennessee Gas' proposed changes to its reservation charge crediting provision in the ongoing Tennessee Gas general rate case proceeding.

### **FERC affirms Initial Decision on rates issues**

**G-2**, *Kern River Gas Transmission Company*, Docket No. RP04-274-023. The order generally affirms an Initial Decision issued April 14, 2011, following hearings on Opinion No. 486-C under section 5 of the Natural Gas Act (NGA). The purpose of the hearing was to determine the reduced Period Two rates that Kern River's firm shippers are entitled to at the expiration of their current Period One contracts and certain of the terms for the related contracts between Kern River and its shippers that might elect to use the reduced Period Two rates. The order clarifies the Commission's burden of proof in this NGA section 5 proceeding. The order finds that Kern River may require Period One shippers to enter into Period Two contracts with terms of either 10 or 15 years at the shipper's election and that the entire remaining balance of Kern River's original capital investments may be levelized during the term of those contracts. The order clarifies that, when those Period Two contracts expire, the shippers will be eligible for reduced Period Three rates. The order affirms the administrative law judge's (ALJ) approval of Kern River's other proposed eligibility requirements, with the exception of the holding that Kern River may require shippers to take service under Rate Schedule KRF-1, instead of the other open access firm transportation rate schedules under which they are currently taking service. The order makes clear that this finding is without prejudice to Kern River filing under NGA section 4 to propose elimination of its other firm service rate schedules in a not unduly discriminatory manner. Lastly, the order affirms the ALJ's findings concerning the cost of service and billing determinants to be used in calculating Kern River's Period Two rates. The order directs Kern River to file revised tariff records including both the Period Two rates and the eligibility requirements for those rates on or before August 5, 2011 to be effective September 1, 2011.

### **FERC dismisses hydro license filing as deficient**

**H-1**, *City of Spearfish, South Dakota*, Project No. 12775-002. The order dismisses the rehearing request filed by ACTion for the Environment (ACTion) as deficient because it fails to include a statement of issues, and finds that, in any event, the arguments raised by ACTion are unpersuasive. ACTion had filed a timely rehearing request of the Commission's order issuing an original license to the City of Spearfish, South Dakota, for the existing 4.0 megawatt Spearfish Project.

## **FERC addresses licensee's request for authority to allow the construction of marina facilities in Alabama**

**H-2**, *Alabama Power Company*, Project No. 2165-029. The order modifies and approves Alabama Power's request for authorization to permit Mr. Lynn Layton to construct marina facilities at Smith Lake, one of the reservoirs for the Warrior River Hydroelectric Project No. 2165, located on the Black Warrior River on the Sipsey Fork in Cullman, Walker, and Winston Counties, Alabama. The order authorizes two ten-slip boat docks rather than the requested three ten-slip boat docks; the removal of a patio, driveway, and concrete building from the proposal; and re-vegetating the shoreline within the project boundary. The order finds that, as authorized, the marina would be consistent with project purposes and is approved.

## **FERC denies rehearing**

**H-3**, *Erie Boulevard Hydropower, L.P.*, Project No. 2539-064. The order denies a request for rehearing, filed by Green Island Power Authority (Green Island), of the Commission's March 17, 2011 order that denied rehearing of its April 15, 2010 order on remand reinstating the new license for the School Street Project that is located on the Mohawk River in Albany and Saratoga Counties, New York. The Commission issued the April 15, 2010 order in response to a decision of the U.S. Court of Appeals for the Second Circuit, which vacated the Commission's earlier order issuing a new license to Erie Boulevard Hydropower, L.P. for the project and remanded the case for further proceedings.

Green Island filed a limited request for rehearing of the Commission's denial of several motions to reopen the record in this proceeding, as well as the Commission's consideration of a flow analysis prepared in response to Green Island's rehearing request. The order reaffirms the Commission's denial of these motions and finds that its use of the flow analysis was appropriate in this case.

## **FERC grants authority to construct and operate the proposed Sunrise Project to transport Marcellus Shale gas to eastern US markets**

**C-2** *Equitrans, L.P.*, Docket No. CP11-68-000. This order grants a certificate of public convenience and necessity, with appropriate conditions, to Equitrans, L.P. for its Sunrise Project. The project, which includes the construction and operation of pipeline and compression facilities in West Virginia and Pennsylvania, will provide up to 313,560 dekatherms per day of additional firm system transportation service to enable producers in the Marcellus Shale formation to move new gas volumes to consuming markets in the northeastern and mid-Atlantic United States.