

October 2011 Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its October 20, 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.

E-1, Press Release

E-9, Struck

E-11, Press Release

E-23, Struck

E-28, Press Release

FERC proposes rulemaking

E-2, *Transmission Planning Reliability Standards*, Docket No. RM11-18-000. This Notice of Proposed Rulemaking (NOPR) proposes to remand to NERC its proposed modification to Reliability Standard TPL-002, Table 1, footnote 'b' because it does not adequately clarify or define the circumstances in which an entity can plan to shed firm load for a single contingency. The NOPR states that the proposed revision to footnote 'b' does not meet the directives in Order No. 693 to clarify footnote 'b,' nor is the proposal equally effective and efficient. The NOPR also states that the procedural and substantive parameters of NERC's proposal are too undefined to provide assurances that the process will be effective in determining when it is appropriate to plan for interrupting Firm Demand, do not contain NERC-defined criteria on circumstances to determine when an exception for planned interruption of Firm Demand is permissible, and could result in inconsistent results in implementation.

FERC proposes rulemaking

E-3, *North American Electric Reliability Corp.*, Docket No. RM11-20-000. This NOPR proposes to approve Reliability Standards PRC-006-1 (Automatic

Underfrequency Load Shedding) and EOP-003-2 (Load Shedding Plans) submitted by NERC. The NOPR also proposes to approve the Violation Risk Factors, Violation Severity Levels, implementation plan, and effective date proposed by NERC. The NOPR also proposes to retire the Commission-approved Reliability Standards PRC-007-0, PRC-009-0 and EOP-003-1 and the NERC-approved Reliability Standard PRC-006-0. Further, the NOPR seeks comments from NERC and interested persons regarding certain issues.

FERC accepts filing

E-4, *North American Electric Reliability Corp.*, Docket No. RR11-07-000. This order accepts NERC's proposed 2012 Business Plan and Budget and the 2012 Business Plans and Budgets of the Regional Entities.

FERC approves interpretation of certain reliability standards

E-6, *North American Electric Reliability Corporation*, Docket No. RD11-9-000. The order approves an interpretation of Requirement R10 of Transmission Operations (TOP) Reliability Standard TOP-002-2a (Normal Operations Planning). Requirement R10 addresses the planning required to meet all System Operating Limits and Interconnection Reliability Operating Limits. In summary, the interpretation supports the stated purpose of the Reliability Standard, clarifies the responsibilities of balancing authorities with regard to normal operations planning, and determines the language of the interpretation is consistent with the language of the requirement.

FERC approves proposed regional reliability standard and regional definitions

E-7, *Northeast Power Coordinating Council*, Docket No. RD11-8-000. This order approves Northeast Power Coordinating Council's proposed regional Reliability Standard PRC-002-NPPC-01 (Disturbance Monitoring) and two associated new regional definitions. The regional Reliability Standard requires transmission owners and generator owners to provide recording equipment capability necessary to monitor the response of the Bulk-Power System to system disturbances, requires each reliability coordinator to establish requirements for its area's dynamic disturbance recording needs, and establishes disturbance data reporting requirements.

FERC denies request for rehearing

E-8, *North American Electric Reliability Corporation*, Docket No. NP10-160-001. The order denies the U.S. Army Corps of Engineers' request for rehearing of an

underlying order allowing a zero-dollar penalty for violations of a Reliability Standard to go into effect, and reaffirms the Commission's prior orders finding that federal entities that are users, owners, or operators of the Bulk-Power System must comply with mandatory Reliability Standards under section 215 of the Federal Power Act.

FERC denies in part and grants in part certain motions for clarification and rehearing related to CAISO's revised transmission planning process

E-10, *California Independent System Operator Corporation; Green Energy Express LLC and 21st Century Transmission Holdings, LLC*, Docket No. ER10-1401-001, et al. This order denies in part and grants in part certain motions for clarification and denies requests for rehearing of the Commission's December 16, 2010 order on CAISO's revised transmission planning process. The Commission also rejects in part and accepts in part a compliance filing, subject to further modification. Further, the order denies the motion to lodge filed by Critical Path Transmission LLC.

FERC denies rehearing requests related to SPP's highway/byway transmission cost allocation proposal

E-12, *Southwest Power Pool, Inc.*, Docket No. ER10-1069-001. This order denies requests for rehearing of a June 17, 2010 order that accepted proposed revisions to SPP's tariff to implement the Highway/Byway Methodology for allocating the costs of certain transmission facilities. Under the Highway/Byway Methodology, costs for new transmission facilities are allocated to SPP member utilities based on the voltage of a transmission facility as follows: (1) the costs of facilities operating at 300 kV and above are allocated 100 percent across the SPP region on a postage stamp basis; (2) the costs of facilities operating above 100 kV and below 300kV are allocated one-third on a regional postage stamp basis and two-thirds to the zone in which the facilities are located; and (3) the costs of facilities operating at or below 100 kV are allocated 100 percent to the zone in which the facilities are located.

FERC conditionally accepts proposed tariff revisions related to out of merit generator dispatch; will require further compliance filings

E-13, *Southwest Power Pool, Inc.*, Docket No. ER11-3627-000. The order conditionally accepts SPP's proposed tariff revision to reflect a new compensation mechanism for out of merit energy dispatch (OOME) during emergencies. These

OOME directives are used to respond to emergency conditions, not economic conditions, and as such they are not reflected in security constrained economic dispatch. The order finds SPP's proposal, as modified, to be a just and reasonable mechanism to fully compensate resources for responding to OOME directives during emergencies. The order also directs SPP to make a compliance filing that provides for a cap on the compensation (at the amount of the under-recovery caused by the OOME directive) to generators for responding to OOME directives.

FERC accepts non-conforming large generator interconnection agreement

E-14, *Southern California Edison Company; California Independent System Operator Corporation*, Docket Nos. ER11-4358-000; ER11-4512-000.

This order accepts the third Large Generator Interconnection Agreement (LGIA) filed by SoCal Ed with a non-conforming partial termination provision, relating to transmission upgrades that will take until 2017 to complete. The LGIA is uncontested.

FERC accepts Pasadena's revised transmission tariff; sets case for hearing

E-15, *City of Pasadena, California*, Docket No. ER11-4375-000. The order accepts and sets for hearing revisions to the City of Pasadena's TO Tariff related to its revised base transmission revenue requirement and high voltage transmission revenue requirement. The order also accepts some ministerial changes to reflect the implementation of the California Independent System Operator Corporation's Market Redesign and Technology Update initiative.

FERC accepts Puget's proposed tariff revisions; sets case for hearing and settlement judge procedures

E-16, *Puget Sound Energy, Inc.*, Docket No. ER11-3735-000. The order accepts Puget's proposed revisions to OATT Schedule 3 (Regulation and Frequency Response Service) and Schedule 13 (Regulation and Frequency Response Service for Generators Selling Outside of Control Area) and suspends them for a five-month period, to become effective January 5, 2012, subject to refund. The order also establishes hearing and settlement judge procedures.

FERC conditionally accepts proposed tariff revisions

E-17, *New York Independent System Operator, Inc.*, Docket Nos. ER11-3881-000 and ER11-3881-001. The order conditionally accepts proposed tariff revisions filed by NYISO that (1) revise the definition of Available Transfer Capability (ATC) in NYISO's Open Access Transmission Tariff (OATT) and (2) update NYISO's OATT to incorporate by reference the North American Energy

Standards Board (NAESB) business practice standards set forth in Order No. 676-E. The Commission conditionally accepts the tariff revisions, subject to NYISO modifying its ATC definition consistent with the ATC definition promulgated by NERC and to NYISO justifying the continuation of certain waivers from the NAESB Wholesale Electric Quadrant standards that were previously granted by the Commission.

FERC accepts and suspends filing and establishes hearing and settlement judge procedures

E-18, *ISO New England Inc.*, Docket No. ER11-3981-000. The order accepts a filing by ISO New England Inc. detailing the results of ISO-NE's fifth Forward Capacity Auction, which procured capacity for the 2014-2015 Capacity Commitment Period, except for the rejected dynamic de-list bid (which was rejected by ISO-NE for reliability reasons) submitted by Entergy Nuclear Nuclear Power Marketing for the Vermont Yankee Power Station, which the order accepts and suspends and makes subject to refund, and sets for hearing and settlement judge procedures.

FERC accepts SPP's tariff revisions and grants ISO-NE's request for clarification

E-19, *Southwest Power Pool Inc.*, Docket Nos. ER09-1050-006, ER09-1192-005, and ER11-121-000. The order accepts SPP's revisions to Attachment AG in its Tariff, effective February 18, 2010, and grants ISO-NE's clarification request. The order clarifies that the necessity of maintaining referral and investigative information as non-public in no way restricts Market Monitoring Units from collaborating with RTOs or ISOs to determine whether market violations are occurring. Further, Market Monitoring Units may collaborate with RTOs and ISOs to identify and review market operations issues as they arise. The order also clarifies that Market Monitoring Units may share referral information with their own ISO or RTO as well as other Market Monitoring Units, ISOs, and RTOs. In addition, the order clarifies that the Office of Enforcement may share investigative information with Market Monitoring Units, RTOs, and ISOs, including referral information and information obtained from third parties, as long as appropriate measures are taken to ensure that such information is not disclosed and remains non-public.

FERC establishes hearing and settlement judge procedures

E-20, *Buckeye Power, Inc. v. American Transmission Systems, Incorporated*, Docket No. EL11-54-000. This order establishes hearing and settlement judge

procedures regarding a Buckeye Power, Inc. (Buckeye) complaint. Buckeye alleges that the American Transmission Systems, Incorporated's (ATSI) voltage-differentiated rates for transmission service in the ATSI zone of PJM (consisting of separate rates for 69 kV and below facilities, and 138 kV and above facilities) are unjust, unreasonable, unduly discriminatory, and preferential, and should be replaced with a rolled-in rate reflecting the cost of all ATSI transmission facilities, regardless of voltage. The order sets a refund effective date of July 18, 2011, the date the complaint was filed.

FERC conditionally accepts tariff revisions

E-21, *Duke Energy Carolinas, LLC*, Docket Nos. ER11-2895-000, ER11-2895-001, and ER11-3585-000. The order conditionally accepts Duke's revisions to its OATT and to an OATT point-to-point service agreement with Carolina Power and Light Company. These revisions implement a formula rate for point-to-point transmission service, network integration transmission service, and scheduling, system control, and dispatch service. The order finds that Duke has provided adequate support to recover the start-up costs for the failed RTO, GridSouth, through its formula rate. Additionally, the order accepts Duke's tariff and service agreement revisions, subject to the conditions that (1) Duke include in its OATT revisions all the rates, terms, and conditions contained in Article II of an agreement that Duke entered into with its transmission customers, and (2) Duke remove the language from its OATT revisions that imposes the Mobile-Sierra "public interest" standard of review on any "initiating party" that seeks to modify "any provisions of the Formula Rate which reflect any . . . provisions" in Article II of the aforementioned agreement.

FERC rules on a complaint filing

E-22, *E.ON Climate & Renewables North America, LLC v. Midwest Independent Transmission System Operator, Inc.*, Docket No. EL11-30-000. This order finds that a provision of MISO's tariff governing the treatment of costs associated with generator interconnection network upgrades is unjust, unreasonable, and unduly discriminatory and should be removed from the tariff. The order directs MISO to submit a compliance filing removing the provision from its tariff, effective March 22, 2011, within 30 days of the date of the order.

FERC denies rehearing

E-24, *Devon Power LLC*, Docket No. ER03-563-067. This order denies rehearing of an order that responded to a remand from the U. S. Court of Appeals for the District of Columbia Circuit. In the underlying order on remand, the Commission determined that the auction results and transition payments arising from a contested settlement approved by the Commission were tariff rates, not

contract rates. The underlying order also explained that the Commission nevertheless had discretion to approve a settlement provision imposing a more stringent application of the statutory just and reasonable standard of review, commonly known as the Mobile-Sierra “public interest” standard of review, when appropriate. In this order, on rehearing, the Commission affirmed both determinations.

FERC responds to remand from the U.S. Court of Appeals for the District of Columbia Circuit

E-25, *Louisiana Public Service Commission v. Entergy Services, Inc.*, Docket No. EL01-88-007. The order responds to remand from the U. S. Court of Appeals for the District of Columbia Circuit. The order, consistent with an order in another proceeding addressing the same issue, explains that it does have the authority to order refunds but that its policy is not to order refunds in the circumstances present here, but then holds its directive not to make refunds in abeyance pending Commission action on rehearing in that other proceeding. Separately, to implement the court’s decision on the appropriate phase-out of interruptible load, the order directs Entergy Services to file, within 60 days of the date of the order, a compliance filing that calculates the bandwidth payments and receipts for the period June 1, 2005 through December 31, 2005.

FERC dismisses rehearing requests

E-26, *Louisiana Public Service Commission v. Entergy Services, Inc.*, Docket No. EL01-88-008. The order dismisses requests for rehearing of its underlying order deferring action as having been mooted by the contemporaneous issuance of the order on remand (E-25), which addressed the issue of the date when the remedy should be implemented (i.e., June 1, 2005).

FERC affirms findings of an Initial Decision regarding the bandwidth formula

E-27- *Louisiana Public Service Commission v. Entergy Corporation, Entergy Services, Inc., Entergy Louisiana, L.L.C., Entergy Arkansas, Inc., Entergy Mississippi, Inc., Entergy New Orleans*, Docket No. EL09-50-000. This order affirms an Administrative Law Judge’s (ALJ) determination involving the Louisiana Commission’s complaint against Entergy regarding the bandwidth formula. The Louisiana Commission argued the bandwidth formula should be modified so that it no longer would functionalize Accumulated Deferred Income Tax (ADIT) in Account 190 associated with a partial sale-leaseback of Entergy’s Waterford 3 nuclear power plant to production using a plant allocator. Instead, the

Louisiana Commission argued that the ADIT should be directly assigned to production.

The Commission's order affirms the ALJ's determination that the Louisiana Commission did not meet its burden to demonstrate that the functionalization methodology for Waterford 3 Sale-Leaseback Account 190 ADIT is unjust, unreasonable, unduly discriminatory or preferential. In addition, the Commission affirms the ALJ's determination that it would be unjust, unreasonable, unduly discriminatory or preferential to directly assign Waterford 3 Sale Leaseback Account 190 ADIT.

FERC denies rehearing

G-1, *Colorado Interstate Gas Company*, Docket No. AC10-22-004. The order denies CIG's request for rehearing challenging the determination by the Chief Accountant in a delegated letter order that CIG had not properly accounted for the retirement of its Natural Buttes Facilities, a gas processing plant in that it abandoned by selling it to Chipeta Processing L.L.C..

The order denies rehearing because CIG's proposed methodology does not comply with the Commission's Uniform System of Accounts and misstates the proper amount of accumulated depreciation applicable to the Natural Buttes Facilities.

FERC denies rehearing on reservation charge credit issues, and largely accepts compliance filing

G-2, *Southern Natural Gas Company*, Docket Nos. RP11-60-002 and RP11-60-003. The order denies Southern's request for rehearing of an April 21, 2011 order that required Southern, under section 5 of the Natural Gas Act, to revise its existing tariff provisions addressing reservation charge credits. And accepts Southern's compliance filing.

The order denies rehearing requests which contended that the Commission require full reservation charge credits be provided for the pipeline's failure to provide nominated firm service at secondary points as well as primary points, but clarified both that the amount of reservation charge credits the pipeline must give should be based on the amount of nominated service which the pipeline was unable to deliver and that a seven-day historical average (used as a substitute for actual nominated amounts in calculating the reservation charge credits in certain circumstances) not include days when firm service as unavailable or curtailed.

The order also largely accepts Southern's compliance filing as in compliance with the Commission's directives, but does direct Southern to remove a 98 percent delivery threshold for imposition of reservation charge credits and instead provide such credits whenever it does not deliver 100 percent of scheduled service.

FERC denies rehearing on reservation charge credit issues

G-3, *Natural Gas Supply Association*, Docket No., RP11-1538-001. The order denies requests for rehearing of the Commission's April 21, 2011 order concerning reservation charge credits, because that order was in the nature of a policy statement, and rehearing does not lie since a policy statement is not a final order requiring action by a party. Rather, the April 21 order denied the request that "the Commission exercise its NGA section 5 authority to enforce its policy regarding pipeline crediting during outages and order pipelines to amend their tariffs in accordance with Commission policy," and stated instead that voluntary action by pipelines to bring their tariffs into compliance was a more efficient method of obtaining compliance.

FERC grants certificate for projects that will supply domestic demand and will enable export of Marcellus Shale production to Canada

C-1, *National Fuel Gas Supply Corporation and Tennessee Gas Pipeline Company*, Docket Nos. CP11-128-000 and CP11-133-000. The order grants National Fuel Gas Supply Corporation, in Docket No. CP11-128-000, authorization to construct and operate its proposed Northern Access Project, consisting of a new compressor station and other compression and facility upgrades in Pennsylvania and New York. Additionally, the order grants Tennessee Gas Pipeline Corporation, in Docket No. CP11-133-000, authorization to abandon certain facilities and authorization to upgrade and modify jointly-owned compression on the Niagara Spur Loop Line (Station 230C Project). Currently, the facilities involved in these related proceedings operate to transport natural gas in a north-to-south direction. Together, the proposed Northern Access Project and Station 230C Project will permit bi-directional flows, thereby allowing Marcellus Shale production to be transported south-to-north into Canada.

FERC denies rehearing; requires Pine Prairie to file further tariff revisions

C-2, *Pine Prairie Energy Center, LLC*, Docket Nos. CP11-1-001 and RP11-2201-000. The order denies rehearing of a May 19, 2011 Commission order that authorized Pine Prairie to construct and operate its proposed Phase III Expansion Project subject to the condition that Pine Prairie conduct a new open season and solicit capacity turn-back offers from existing shippers. The project involves an expansion of an existing natural gas storage facility in Evangeline Parish, LA.

The order also requires Pine Prairie to file further revisions to its tariff in order to comply with the finding in the May 19 order that certain tariff language that provides Pine Prairie with the discretion to hold an open season for expansion capacity is unjust and unreasonable.

FERC grants rehearing

H-1, *Northern Illinois Hydropower, LLC*, Project Nos. 12626-002 and 12717-003. This order grants the request for rehearing filed by Exelon Corporation of the Commission's notices denying Exelon's motions to intervene in the licensing proceedings of Northern Illinois Hydropower, LLC's (Northern) for its proposed Dresden Island Hydroelectric Project No. 12626 and its proposed Brandon Road Hydroelectric Project No. 12717.

The order grants rehearing because Exelon did not receive certified mail notice of Northern's license applications, and because the public interest is best served by Exelon's participation in the license proceedings.

FERC denies rehearing

H-2, *City of Kaukauna, Wisconsin*, Project No. 2677-020. The order denies the City of Kaukauna's request for rehearing of provisions in its new license that require it to provide whitewater boating opportunities in the area downstream of the U.S. Army Corps of Engineers' Kaukauna dam, located on the Fox River in Outagamie County, Wisconsin. The order relies on evidence from staff's Environmental Assessment to counter the City's argument that whitewater boating in the area would be unsafe and would adversely affect the Corps' operations at the dam.

FERC dismisses preliminary permit applications

H-3, *Kahawai Power 4, LLC and Kekaha Ditch Hydro, LLC*, Project Nos. 14105-000 and 14203-000. The order dismisses applications by Kehawai Power 4, LLC and Kekaha Ditch Hydro, LLC for preliminary permits to study the feasibility of a hydropower project on the Kekaha Ditch Irrigation System near the town of Waimea, Kauai County, Hawaii. In this order, the Commission establishes a general policy of not issuing permits for projects in Hawaii where the project is subject to permissive FPA section 4(e) licensing rather than required FPA section 23(b) licensing to avoid the potential to interfere with Hawaii's state hydropower authorization process.

FERC denies rehearing

H-4, *Upper Yampa Water Conservancy District*, Project No. 9202-177. The order denies a request for rehearing of a Commission staff order denying an application of the Upper Yampa Water Conservancy District to variously remove from the project boundary, sell, lease, and grant easements regarding, lands of the Stagecoach Project No. 9202, located on the Yampa River, in Routt County, Colorado. The order concludes that the licensee has not shown that the lands are no longer needed for project purposes, including recreation and flowage, so that they may not be removed from the project boundary or sold, but explains that the

licensee may be able to lease or grant easements regarding the lands, if these actions are consistent with project purposes.

FERC grants in part a request for rehearing

H-5, *Appalachian Power Company*, Project No. 2210-212. The order grants in part a request for rehearing of an unpublished Commission staff order that responded to a homeowner complaint by requiring Appalachian Power Company, licensee for the Smith Mountain Lake Pumped Storage Project, located on the Roanoke River in Virginia, to take compliance action under the project's shoreline management plan (SMP) to bring three boat docks into compliance with the SMP. The order finds that staff did not err in concluding that the complained-of actions were not consistent with the SMP, but, because this is a case of first impression, there may have been confusion among some of the entities involved. Further, the dock repairs that led to the complaint improved safety and did not enlarge the dock, therefore, no required compliance action is needed in this instance.