

December 2012 Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its December 20, 2012 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.

E-5, Press Release

FERC denies rehearing and affirms Order No. 764, clarifies final rule

E-1, *Integration of Variable Energy Resources*, Docket No. RM10-11-001. The order denies requests for rehearing of Order No. 764, including denying rehearing of challenges to: (1) the intra-hour scheduling and forecasting reforms adopted in the final rule; (2) statements addressing a public utility transmission provider's obligation to offer generator regulation service; and (3) the estimated burden on small entities to comply with the final rule. The order affirms the basic determinations in Order No. 764, which includes a requirement to offer intra-hourly transmission scheduling at 15-minute intervals and grants a request to extend the period for compliance filings from September 11, 2013 to November 12, 2013.

FERC denies rehearing

E-2, *Iberdrola Renewables, Inc., et al. v. Bonneville Power Administration*, Docket No. EL11-44-001. This order denies requests for rehearing of an order issued on December 7, 2011, which granted a petition against Bonneville by a group of wind generators alleging that Bonneville's Environmental Redispatch Policy resulted in non-comparable transmission service for certain resources, including wind generators, connected to Bonneville's transmission system.

FERC conditionally accepts a compliance filing

E-3, *Iberdrola Renewables, Inc., et al. v. Bonneville Power Administration*, Docket No. EL11-44-002. This order conditionally accepts Bonneville's compliance filing submitted in response to the Commission's December 7, 2011 order, which directed that Bonneville file tariff revisions that provide for transmission service on terms and conditions that are comparable to those under which Bonneville provides transmission services to itself, and which are not unduly discriminatory or preferential. The order directs Bonneville to file a further compliance filing that includes a cost allocation methodology that allocates displacement costs in a manner that, in conjunction with the non-rate terms and conditions, ensures comparable service.

FERC approves final rule

E-4, *Availability of E-Tag Information to Commission Staff*, Docket No. RM11-12-000. This final rule amends the Commission's regulations to provide the Commission with access, on a non-public and ongoing basis, to the complete electronic tags (e-Tags) used to schedule the transmission of electric power interchange transactions in wholesale markets. This is accomplished by directing e-Tag Authors (through their Agent Service) and Balancing Authorities (through their Authority Service) to provide for Commission access to the e-Tags covered by this final rule by designating the Commission as an addressee on the e-Tags. In addition, the final rule requires that e-Tag information be made available to regional transmission organizations and independent system operators and their Market Monitoring Units, upon request to e-Tag Authors and Authority Services, subject to appropriate confidentiality restrictions.

FERC conditionally approves, with limited exceptions, revisions to NERC's Rules of Procedure

E-7, *North American Electric Reliability Corporation*, Docket No. RR12-8-000. This order conditionally approves, with limited exceptions, numerous revisions to the NERC Rules of Procedure and its appendices, including revisions to Sections 300 (Reliability Standards Development), 400 (Compliance Enforcement), 600 (Personnel Certification), 800 (Reliability Assessment and Performance Analysis), 1000 (Situation Awareness and Infrastructure Security), 1400 (Amendments to the Rules of Procedure), and 1700 (Challenges to Determinations), and Appendices 2 (Definitions), 3C (Procedure for Coordinating Reliability Standards Approvals, Remands, and Directives), 4B (Sanction Guidelines), 4C (Uniform Compliance Monitoring and Enforcement Program), 5B (Statement of Compliance Registry Criteria), and 6 (System Operator Certification Program Manual). The order directs NERC to make compliance and informational filings within 60 days.

FERC denies rehearing

E-8, *North American Electric Reliability Corporation*, Docket No. NP11-238-001. The order denies rehearing of the Commission's July 2012 order, which approved a \$19,500 penalty against the Southwestern Power Administration for violation of certain mandatory Reliability Standards. The order reaffirms the legal finding in the July 2012 order that federal entities that act as users, owners, or operators of the bulk power system are subject to monetary penalties for violation of an approved Reliability Standard, in accordance with the enforcement authorities granted under Federal Power Act section 215.

FERC approves a final rule

E-9, *Regional Reliability Standard PRC-006-SERC-01 —Automatic Underfrequency Load Shedding Requirements*, Docket No. RM12-9-000. This final rule approves regional Reliability Standard PRC-006-SERC-01 (Automatic Underfrequency Load Shedding Requirements), which was submitted for approval by the North American Electric Reliability Corporation (NERC). The final rule finds that PRC-006-SERC-01 is designed to work in conjunction with PRC-006-1 (i.e., the national Underfrequency Load Shedding [UFLS] Reliability Standard) to mitigate effectively the consequences of an underfrequency event while accommodating differences in system transmission and distribution topology among SERC Reliability Corp. (SERC) planning coordinators due to historical design criteria, makeup of load demands, and generation resources. The final rule directs one modification to an associated violation risk factor, which NERC and SERC agreed to make in their comments in response to the Notice of Proposed Rulemaking. The final rule also addresses SERC's commitment to modify the rationale statement for one Requirement to address a possible inconsistency between the regional Reliability Standard and national UFLS Reliability Standard PRC-006-1.

FERC accepts tariff revisions

E-11, *Southwest Power Pool, Inc.*, Docket No. ER13-178-000. This order accepts SPP's revisions to Appendix 1 of Attachment M (Loss Compensation Procedure) of its Open Access Transmission Tariff to incorporate an updated transmission line loss factor for Westar Energy Inc. The order accepts the revisions, to be effective September 1, 2012, subject to refund, and the outcome of the hearing and settlement judge proceedings established in Docket No. ER12-909-000.

FERC orders hearing and settlement judge procedures

E-12, *City of Colton, California*, Docket No. ER-13-207-000. The order finds that the City of Colton, California's (Colton) Transmission Owner Tariff (TO Tariff) and Transmission Revenue Requirement (TRR), which have been filed as part of Colton's

becoming a Participating Transmission Owner within the California Independent System Operator Corporation, raise issues of material fact that cannot be resolved based on the record before the Commission and are more appropriately addressed in hearing and settlement judge procedures. The order therefore accepts Colton's TO Tariff and TRR for filing, effective January 1, 2013, and sets all issues for hearing and settlement judge procedures.

FERC conditionally accepts CAISO filing

E-13, *California Independent System Operator Corporation*, Docket No. ER13-168-000. The order conditionally accepts an amended Interconnected Balancing Authority Area Operating Agreement between CAISO and the Western Area Power Administration – Desert Southwest Region, subject to a compliance filing to reflect the transition of Valley Electric Association, Inc. from the Nevada Power balancing authority area to CAISO's balancing authority area.

FERC conditionally accepts CAISO's proposed tariff amendment

E-14, *California Independent System Operator Corporation*, Docket No. ER13-218-000. This order conditionally accepts CAISO's proposed tariff amendment, effective January 1, 2013, to provide a one-time opportunity for certain generators in CAISO's interconnection queue to downsize their projects, in order to facilitate completion and achieve commercial operation of projects that would be viable but for an inability to construct the full megawatt generating capacity originally requested. CAISO is also directed to submit a compliance filing to clarify that the amendments will not affect non-downsizing generators' "hold harmless" protections.

FERC conditionally accepts, in part, and rejects, in part, CAISO tariff revisions

E-15, *California Independent System Operator Corporation*, Docket No. ER13-219-000. The order conditionally accepts, in part, and rejects, in part, tariff revisions submitted by the CAISO which are designed to include greenhouse gas compliance costs in the calculations set forth in the CAISO tariff. The order finds that, in general, CAISO's proposal to incorporate the costs of the greenhouse gas allowances into the calculation of generating units' variable costs is just and reasonable. However, the order finds that CAISO has not demonstrated that its alternative methodology for calculating the greenhouse gas allowance price is just and reasonable. Finally, the Commission finds to be unacceptable CAISO's proposal to list the price indices it will use to calculate the greenhouse allowance price in the Business Practice Manual, rather than in the tariff, and CAISO's proposal to remove from its tariff the natural gas price indices it uses for the default energy bid and state the indices in the Business Practice Manual; the order directs a compliance filing to include such indices in its tariff.

FERC accepts filing, sets issues for hearing and settlement judge procedures

E-16, *Valley Electric Association, Inc.*, Docket No. ER13-49-000. The order accepts a Transmission Owner Tariff and initial Transmission Revenue Requirement filed by Valley Electric, effective January 3, 2013, the date of Valley Electric's planned transition to the CAISO balancing authority. The order sets all issues for hearing and settlement judge procedures.

FERC accepts joint application to transfer certain facilities

E-17, *FirstEnergy Generation Corp.*, Docket No. EC12-119-000. The order accepts the joint application from FirstEnergy Generation Corp. and its affiliate American Transmission System, Inc. under section 203(a)(1) of the Federal Power Act to transfer certain generation facilities for the purpose of converting them into synchronous condensers to provide reactive power to the transmission system.

FERC grants petition for declaratory order

E-22, *Catalina Solar LLC, et al.*, Docket No. EL12-109-000. The order grants a petition for declaratory order filed by a group of affiliated renewable power generation developers, confirming petitioners' priority firm transmission rights to the full capacity of the Antelope Valley Line to be constructed by, and jointly owned by, petitioners. Such rights are subject to petitioners offering service to others to the extent petitioners are not using such capacity, however, and also to an obligation to expand the line if a third-party requests capacity and there is no capacity available.

FERC denies rehearing

G-1, *Northern Natural Gas Company*, Docket Nos. RP11-2061-002 and RP11-2061-003. The order denies rehearing of an order issued December 11, 2011 in which the Commission required Northern to revise its tariff to grant partial reservation charge credits for *force majeure* events. The order reaffirms the Commission's prior holdings that Northern's inclusion of three percent of its fixed costs in its usage charge did not justify exempting it from providing any reservation charge credits during *force majeure* outages and that Northern must file revised reservation charge crediting provisions consistent with the Commission policy concerning the credits to be given during non-*force majeure* outages as well.

In its filing to comply with the December 11 order, Northern proposes to use a hybrid of the Safe Harbor and No Profit method to provide credits during a *force majeure* period with a 15 day safe harbor period, and after full credit for 15 days, use of the No Profit method on all subsequent days. The order rejects that proposal. However, the order permits Northern to add one day to the Safe Harbor 10-day period or choose the No Profit method. The order also requires certain other changes in the revised tariff provisions.

FERC accepts, subject to conditions, revisions to tariff provisions in separate cases

G-2, *Gulf Crossing Pipeline Company LLC*, Docket No. RP12-814-000, and **G-4**, *Gulf South Pipeline, LP*, Docket No. RP12-813-000. The separate orders accept, subject to conditions, Gulf Crossing's and Gulf South's proposals to modify their reservation charge crediting tariff provisions to comply with Commission policy for their respective pipelines. In both dockets, the companies propose to provide partial reservation charge credits to customers during *force majeure* events, through the approved Safe Harbor Method of equitable sharing, and full reservation charge credits during non-*force majeure* events, including maintenance events not included in its revised definition of *force majeure*. The companies also propose to revise their definition of *force majeure* to include outages resulting from the pipelines' compliance with the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 (2011 Act) and requirements issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to the 2011 Act and other ongoing gas pipeline rulemaking proceedings.

Both orders find that, with one exception, the nature and timing of any new safety requirements PHMSA may adopt in accordance with the 2011 Act or ongoing PHMSA rulemakings is too speculative at this time to justify modifying Commission policy to treat any outages resulting from such new requirements as *force majeure* events. However, both orders do allow partial reservation charge crediting for a transitional two-year period for outages due to orders PHMSA may issue pursuant to the 2011 Act, requiring specific pipelines to (1) reconfirm their Maximum Allowable Operating Pressure (MAOP) and/or (2) take interim measures to ensure safety until MAOP is reconfirmed. Unlike the other provisions of the 2011 Act, the Act authorizes PHMSA to take these actions without conducting any rulemaking proceeding, and those actions go beyond the routine, periodic maintenance regulatory requirements which the Commission has historically required to be treated as non-*force majeure* events. This determination is without prejudice to the companies' filing a proposal to allow equitable sharing of credits resulting from other new safety requirements PHMSA may adopt, after the nature and timing of such new requirements becomes sufficiently clear to allow consideration of whether such a proposal is just and reasonable. Both orders note that the Commission is aware of and closely monitoring the possible impact of the 2011 Act and PHMSA rulemakings and will consider the need for further action as the impact of PHMSA's implementation process moves forward. Finally, the orders require other revisions of the companies' reservation charge crediting proposals to be consistent with current Commission policy.

FERC accepts, subject to conditions, tariff provisions

G-3, *Texas Gas Transmission, LLC*, Docket No. RP12-820-000. The order accepts, subject to conditions, Texas Gas' proposal to modify its reservation charge crediting tariff provisions to comply with Commission policy. Texas Gas proposes the same

revision to its definition of *force majeure* as proposed by the pipelines in Agenda Items G-2 and G-4.

The order makes identical rulings and requirements as those rendered in Agenda Items G-2 and G-4, finding that, with one exception, the nature and timing of any new safety requirements PHMSA may adopt in accordance with the 2011 Act or ongoing PHMSA rulemakings is too speculative at this time to justify modifying Commission policy to treat any outages resulting from such new requirements as *force majeure* events.

Unlike the Gulf Crossing and Gulf Crossing proposals in Agenda Items G-2 and G-4, Texas Gas' proposal requests that *force majeure* events have a safe harbor period of 20 days, rather than the customary 10-day period. Texas Gas asserts that the fact it includes some fixed costs in its usage charge justifies its use of a longer safe harbor period. The order, using an analysis similar to that used in Agenda Item G-1, *Northern Natural Gas Co.*, rejects Texas Gas' proposal for a 20-day safe harbor, but permits Texas Gas to add one day to the 10-day safe harbor period, or choose the No Profit method. Finally, the order requires other revisions to Texas Gas' reservation charge crediting proposal consistent with current Commission policy.

FERC grants a petition for declaratory order

G-5, *Enbridge Pipelines (Southern Lights) LLC*, Docket No. OR12-27-000. The order grants Enbridge's petition requesting the Commission issue a declaratory order confirming the validity of the contractual right of first offer (ROFO) for committed capacity on Enbridge's Southern Lights oil pipeline as set forth in section 6.06 of the Southern Lights Transportation Service Agreement. Enbridge plans to hold an open season in December 2012 offering additional committed capacity on the existing Southern Lights facilities in accordance with section 6.06. Enbridge needs assurance that it can proceed with the open season because certain potential shippers have questioned the validity of the section 6.06 ROFO in the past.

FERC grants rehearing and reinstates license applications

H-1, *Lock 14 Hydro Partners, LLC, Project No. 13213-004 and Lock 12 Hydro Partners, Project No. 13214-004*. The order grants rehearing of letter orders from the Acting Director, Office of Energy Projects, rejecting as patently deficient the license applications filed by Lock 14 Hydro Partners, LLC for the Heidelberg Project No. 13213 and Lock 12 Hydro Partners, LLC for the Ravenna Project No. 13214, and gives the applicants 90 days to correct omissions in the applications. The Heidelberg Project is located on the Kentucky River in Lee County, Kentucky. The Ravenna Project is located on the Kentucky River in Estill County, Kentucky.

FERC denies rehearing

H-2, *Utah Independent Power, Inc.* Project No. P-14354-001. The order denies a joint request for rehearing filed by Canyonlands Watershed Council, Grand Canyon Trust, and Living Rivers-Colorado Riverkeeper of Commission staff's September 24, 2012 order issuing a preliminary permit to Utah Independent Power, Inc. (Independent Power) to study the feasibility of the Long Canyon Pumped Storage Project No. 14354. The order concludes that the preliminary permit is not precluded by law and that any eventual license application submitted by Independent Power may differ in important aspects from the proposal included in its permit application.

FERC denies rehearing

H-3, *Hudson River-Black River Regulating District et al.*, Docket No. HB81-09-2-001. The order denies Erie Boulevard Hydropower L.P.'s request for rehearing of the Commission staff's July 31, 2012 order determining headwater benefits in the Hudson River Basin. The order notes that Erie Boulevard does not dispute the final charges determined in the July 31 order for the period 2002 to 2008. As for the July 31 order's determination of interim charges for the period 2009 onwards, the order observes that these interim charges were set consistent with Commission precedent and that piecemeal revisions would be inefficient. Moreover, the order notes that the interim charges will be trued up when the next headwater benefits study is conducted.

FERC seeks comments on a Notice of Proposed Rulemaking

C-1, *Revisions to the Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations*, Docket No. RM12-11-000. In response to a request by the Interstate Natural Gas Association of America that the Commission clarify its section 2.55(a) regulations covering the installation of auxiliary facilities, the Commission is proposing to revise its regulations to clarify and specify that all auxiliary facilities must be located within an existing right-of-way and use the same work spaces used for the construction of the existing facilities.

In addition, the Commission notes that property owners with existing gas facilities on their land have contacted Commission staff to complain about companies coming onto their property without any advance notification. In response, the Commission is proposing to impose a landowner notification requirement on companies that install or replace facilities under section 2.55 or undertake any siting or maintenance activities under section 380.15.

FERC grants in part and dismisses in part a complaint

C-2, *Brian Hamilton v. El Paso Natural Gas Company*, Docket No. CP12-25-000. The order grants, in part, and dismisses, in part, a complaint filed by Mr. Brian Hamilton

against El Paso Natural Gas Company. The order finds El Paso performed a line-lowering operation under the authority of its original certificate (rather than under its blanket construction certificate or section 2.55(b) as asserted by Mr. Hamilton) and, as such, had the responsibility under the Commission's regulations to return the property to pre-operation conditions. The order rejects El Paso's procedural arguments based on a previous arbitration proceeding between El Paso and Mr. Hamilton such as res judicata, collateral estoppel, and laches, and other procedural arguments such as the federal statute of limitations at 28 U.S.C. § 2462.

FERC approves, with conditions, new interstate natural gas pipeline and storage facilities

C-3, *Dominion Transmission, Inc.*, Docket No. CP12-72-000. The order authorizes, with conditions, Dominion's proposal to construct and operate compression, pipeline, and storage facilities located in Frederick County, Maryland; Monroe County, Ohio; Lewis County, West Virginia; and Tioga County, Pennsylvania (Allegheny Storage Project). The proposed Allegheny Storage Project will provide an additional 115,000 dekatherms (Dth) per day of firm transportation services, an additional 7.5 billion cubic feet of firm storage capacity and 125,000 Dth per day of additional storage withdrawal service to interstate customers.