

September 2013 Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its September 19, 2013 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.

FERC accepts in part, and rejects in part, certain compliance filings, subject to additional compliance

E-1, *Southwest Power Pool, Inc.*, Docket No. ER12-1179-003, *et al.* The order conditionally accepts in part, and rejects in part, the proposed tariff revisions filed by Southwest Power Pool (SPP) in compliance with the Commission's October 18, 2012 order that conditionally accepted SPP's proposal to implement an Integrated Marketplace. The order also addresses three related filings: a filing setting forth SPP's Readiness and Reversion plans; a filing containing additional Integrated Marketplace tariff revisions; and a filing to comply with the Commission's March 21, 2013 order on rehearing and clarification of the October 18th Order.

FERC approves a final rule

E-4, *Generator Requirements at the Transmission Interface*, Docket No. RM12-16-000. This final rule approves revisions to four Reliability Standards proposed by the North American Electric Reliability Corporation that extend or clarify the applicability of those standards to generator owners and generator operators and/or to their generator interconnection facilities.

FERC approves a proposed rule

E-5, *Generator Verification Reliability Standards*, Docket No. RM13-16-000. In this Notice of Proposed Rulemaking (NOPR), the Commission proposes to approve North American Electric Reliability Corporation's proposed Reliability Standards MOD-025-2, MOD-026-1, MOD-027-1, PRC-019-1, and PRC-024-1. The purpose of the proposed Reliability Standards is to ensure that generators remain in operation during specified voltage and frequency excursions, properly coordinate protective relays and generator voltage controls, and ensure that generator models accurately reflect generator

capabilities and equipment performance. The Commission seeks comment regarding higher applicability thresholds for proposed Reliability Standards MOD-026-1 and MOD-027-1.

FERC grants, in part and denies, in part requests for clarification; denies rehearing

E-6, *Integration of Variable Energy Resources*, Docket No. RM10-11-002. The order grants, in part and denies, in part requests for clarification and denies requests for rehearing of Order No. 764-A, the order on rehearing/clarification of Order No. 764, the Integration of Variable Energy Resources final rule. The order does not modify the Commission's findings in Order Nos. 764 or 764-A.

FERC approves a settlement

E-7, *PJM Interconnection, Inc.*, Docket No. ER11-2814-000, *et al.* This order approves a settlement filed by American Transmission Systems, Inc. (ATSI) that resolves issues set for hearing and settlement judge procedures, by making revisions to ATSI's formula rate protocols.

FERC rejects contested settlement agreements

E-8, *PJM Interconnection, LLC, Midwest Independent Transmission System Operator, Inc.*, Docket No. ER11-2814-000, *et al.* This order rejects contested settlement agreements submitted by American Transmission Systems, Inc. (ATSI) that were intended to resolve pending issues with respect to ATSI's proposed integration into PJM, and its withdrawal from the Midcontinent Independent System Operator, Inc (MISO). The order explains that the settlements, while holding the settling transmission customers harmless from ATSI's transition from MISO to PJM, would impose the costs of ATSI's transition from MISO to PJM on other, non-settling transmission customers, and that ATSI has not shown that this result would be just and reasonable.

FERC rejects a settlement agreement

E-9, *PJM Interconnection, LLC, Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc.*, Docket Nos. ER12-91-000, ER12-91-002, ER12-91-005, ER12-92-000, ER12-92-002, ER12-91-005. This order rejects a settlement between the Duke Companies and American Municipal Power, Inc. (AMP) that would resolve the recovery of certain legacy transmission costs and transition costs of the Midcontinent Independent System Operator, Inc. The order rejects the settlement because it would exempt AMP from the legacy transmission costs, while imposing those costs on the Duke Companies' other, non-settling customers.

FERC conditionally accepts proposed tariff revisions

E-11, *Southwest Power Pool, Inc.*, Docket Nos. ER13-2031-000 and ER13-2033-000. This order conditionally accepts SPP's proposed revisions to its Bylaws and Membership Agreement and to its Open Access Transmission Tariff. The revisions provide that members withdrawing from SPP are obligated for the costs of transmission facilities approved prior to the member's withdrawal, and that the details of the withdrawing member's rights and obligations will be negotiated between the withdrawing member and SPP. SPP's proposal also provides that members withdrawing from SPP could be responsible for their share of certain penalty costs assessed against SPP for conduct or events that occur prior to the member's withdrawal. The order accepts the revisions subject to SPP's submitting further revisions to clarify that the withdrawal obligation for the costs of transmission facilities is limited to transmission-owning members.

FERC denies rehearing, conditionally accepts proposed tariff revisions, grants waivers

E-12, *Southwest Power Pool, Inc.*, Docket Nos. ER12-2292-001, -002, -003, and ER13-1123-000. This order on rehearing, compliance filing and waivers addresses four separate, but related filings. The order denies Acciona Wind Energy USA LLC's request for rehearing of the Commission's September 20, 2012 order in Docket No. ER12-2292-001. The order conditionally accepts SPP's proposed tariff revisions in its Docket No. ER12-2292-003 compliance filing to the September 20 order. The order directs SPP, however, to make a further compliance filing to correct the effective date for implementing systematic and automated curtailment for existing Non-Dispatchable Resources, and to exempt from systematic and automated curtailment certain wind-powered Non-Dispatchable Resources. The order also grants two temporary, limited waivers requested by SPP. The waiver granted in Docket No. ER12-2292-002 allows SPP to delay until March 19, 2013 implementation of systematic and automated curtailment rules for certain Non-Dispatchable Resources. The waiver granted in Docket No. ER13-1123-000 allows SPP to further delay implementing these curtailment rules until June 1, 2013, but only as they pertain to essentially just one unit.

FERC accepts, subject to conditions, a compliance filing; denies rehearing

G-1, *Gulf South Pipeline Co., LP*, Docket Nos. RP12-813-002 and -001. The order accepts, subject to conditions, a compliance filing submitted by Gulf South in response to the Commission's December 2012 order following a Natural Gas Act section 5 review of Gulf South's proposal to modify its reservation charge crediting tariff provisions to comply with Commission policy.

Gulf South originally proposed 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*. Gulf South also proposed to include in its definition of *force majeure* “any testing, repair, replacement, refurbishment, or maintenance activity, including scheduled maintenance, to comply with the [Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 (2011 Act)] requirements issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to the 2011 Act, [and] requirements resulting from PHMSA’s ongoing gas pipeline rulemaking proceedings.” The December 2012 order generally found that 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, the December 2012 order did allow Gulf South to file a separate tariff provision providing partial reservation charge credits for a transitional two-year period for outages due to orders PHMSA may issue in accordance with section 60139(c) of Chapter 601 of Title 49, as added by section 23 of the 2011 Act. Unlike the other provisions of the 2011 Act, section 60139(c) authorizes PHMSA to take interim actions with respect to specific pipelines without conducting any rulemaking proceeding, and those interim actions go beyond the routine, periodic maintenance regulatory requirements which the Commission has historically required to be treated as non-*force majeure* events.

The order also denies Indicated Shippers’ request for rehearing, and reaffirms authorization of partial crediting pursuant to the Safe Harbor method for all outages to comply with the section 60139(c) PHMSA orders. The order reaffirms that use of the approved Safe Harbor method to calculate the reservation charge credits is appropriate in these circumstances. The order conditionally accepts Gulf South’s compliance filing, but requires Gulf South to remove the partial crediting and outage notice requirements from its *force majeure* provisions and place them in separate tariff provisions. The order also clarifies that the two year transitional period includes outages to comply with PHMSA orders that begin within that transitional period. Finally, the order requires Gulf South to clarify that only outages caused by a third party which are both outside Gulf South’s control and also due solely to the actions of the third party are exempt from the crediting requirement.

FERC denies rehearing

G-2, Rockies Express Pipeline LLC, Docket Nos. RP13-423-002 and RP12-765-002. The order denies Indicated Shippers’ request for rehearing of a January 2013 order that declined to require Rockies Express to revise its tariff to adopt the No-Profit Method in calculating reservation charge credits for *force majeure* events, instead of the Safe Harbor Method currently in its tariff. The order states that the Commission generally allows pipelines to choose which method to use for calculating reservation charge credits for

force majeure outages, and points out that applying the Safe Harbor Method during recent *force majeure* outages actually benefitted Rockies Express' shippers more than the No-Profit Method would have.

FERC denies reconsideration

H-1, *Public Utility District No. 1 of Douglas County, Washington*, Project No. 2149-160. The order denies reconsideration of a May 16, 2013 order on rehearing and clarification of a November 2012 relicense order for the Wells Project No. 2149, located on the mid-Columbia River in Washington. The order upholds the prior conclusion that a 40-year license term is appropriate in that it reflects the Commission's policy in favor of coordinating license term expirations for projects in the same river basin.

FERC denies rehearing

H-2, *Public Utility District No. 2 of Grant County, Washington*, Project No. 2114-261. The order denies requests for rehearing filed by the Crescent Bar Condominium Master Association, Crescent Bar Recreational Vehicle Homeowners Association, and Pat Kelleher of the Commission's April 18, 2013 order approving the shoreline management plan (SMP) filed by the Public Utility District No. 2 of Grant County, Washington (Grant PUD) for the Priest Rapids Project No. 2114, located on the mid-Columbia River in Washington. The order finds the proposed SMP provides a reasonable method for Grant PUD to manage the project shoreline in a manner consistent with project purposes and the public interest.

FERC denies rehearing

H-3, *Alcoa Power Generating, Inc.*, Project No. 2197-103. The order denies New Energy Capital Partners' request for rehearing of the Commission's May 30, 2013 notice denying its motion to intervene almost six years late in the relicense proceeding for the Yadkin Hydroelectric Project No. 2197, located on Yadkin River in Davidson, Davie, Montgomery, Rowan and Stanly counties, North Carolina. The order affirms the Commission Secretary's finding that New Energy failed to demonstrate good cause for its late intervention.

FERC denies rehearing and stay pending judicial review

H-4, *Boott Hydropower, Inc., and Eldred L. Field Hydroelectric Facility Trust*, Project No. 2790-059. The order denies requests for rehearing filed by the U.S. Department of the Interior, City of Lowell, and Lowell Flood Owners Group, of the Commission's April 18, 2013 order amending the license for the 24.8 megawatt Lowell Hydroelectric Project No. 2790, located on the Merrimack River in the City of Lowell in Middlesex County, Massachusetts. The order also denies a stay pending judicial review.

The order upholds the Commission's April 18 order that approved the licensee's request to replace the existing Pawtucket Dam's wooden flashboards with an inflatable crest gate system, reaffirming that the crest gate system: can be installed without unacceptably altering the dam or adversely affecting the park and historic districts; will help alleviate upstream backwater and flooding effects to the maximum extent possible; and will provide important benefits to recreation, fish passage, dam and worker safety, and project generation.

FERC denies rehearing

H-5, *New York Power Authority*, Project No. 2216-081. The order denies the request for rehearing filed by the Niagara Preservation Coalition (Coalition) of the March 8, 2013 letter issued by FERC's Director of the Office of Energy Projects stating that New York Power Authority (NYPA) may convey an interest in project lands to the Maid of the Mist Corporation (MaidCo) for development of a mooring and winter storage facility under standard land use article 411(d) without prior Commission approval. The order affirms that the proposed use is consistent with the project's recreation plan under article 411(d)(6) and will cause minimal impacts to the resources in the area. The order further finds that the proposed use qualifies as an "other use," as defined in article 411(d)(7) (i.e., the amount of land is five acres or less and is located at least 75 feet from project waters). The order rejects the Coalition's argument that the proposed use is outside the scope of article 411(d) and that the Commission was required to conduct an environmental analysis, including impacts to an historic power plant site. In addition, the order denies the Coalition's requests for an immediate decision on its rehearing request as moot and further denies the Coalition's request that all construction activity be suspended until an archaeological study of the site is conducted. The order finds that it does not appear that NYPA violated the Unanticipated Discoveries Plan, which is part of its approved Historic Properties Management Plan. The Coalition is simultaneously challenging the March 8 letter in federal district court (*Niagara Preservation Coalition, Inc. v. FERC, et al.*, No. 13-cv-00817-RJA (W.D.N.Y.)).

FERC grants rehearing, in part

H-6, *Duke Energy Carolinas, LLC*, Project No. 2232-598. The order grants, in part, Duke Energy's request for rehearing of Commission staff's February 9 order modifying and approving its after-the-fact application to amend the layout of Stutts Marina, located on Lake Norman, one of the reservoirs of the Catawba-Wateree Project No. 2232. The order finds that the modifications to Stutts Marina do not meet the requirements of Duke Energy's Shoreline Management Plan, but, in this instance, waives the plan's relevant requirements and allows the structures to remain.

FERC denies rehearing

C-1, *Missouri Interstate Gas, LLC, Missouri Gas Company, LLC and Missouri Pipeline Company, LLC*, Docket No. CP06-407-008. The order denies rehearing of Opinion No. 525 and affirms the Commission's finding that MoGas Pipeline LLC can continue to include the full purchase price of certain pipeline assets in rate base because the record demonstrates that the acquisition of these facilities at more than their net book value results in substantial benefits to ratepayers.

FERC authorizes new and replacement natural gas infrastructure

C-2, *Tennessee Gas Pipeline Company, LLC*, Docket No. CP13-3-000. The order authorizes Tennessee Gas Pipeline Company to construct and operate certain compression facilities along its 300 Line System in northeastern Pennsylvania to (1) increase firm pipeline capacity on the Tennessee system by 230,000 dekatherms per day; and (2) replace older, less efficient compression facilities with a new compressor unit. Tennessee is also authorized to abandon the compression facilities that will be retired or replaced as part of the project in accordance with section 7(b) of the Natural Gas Act.