

# May Meeting Summaries

**E-1, E-2, E-3, E-4, E-5, E-6, E-7, E-8 and E-9** – News Release

## **FERC approves Exelon’s acquisition of NRG Energy**

**E-10**, *Exelon Corp.*, Docket No. EC09-32-000. The Commission authorized a transaction, subject to various conditions, that includes: (1) Exelon Corp.’s (Exelon) acquisition of voting securities of NRG Energy through a tender offer, (2) Exelon’s acquisition of control over NRG Energy and its subsidiaries that are public utilities subject to the Commission’s jurisdiction (collectively, NRG), and (3) the subsequent restructuring and consolidation of the generation operations of the two companies to establish a more efficient corporate structure for the combined company. The Commission authorized the transaction under both section 203(a)(1) and 203(a)(2) of the Federal Power Act.

## **FERC proposes to approve the Transmission Relay Loadability Reliability Standard**

**E-13**, *North American Electric Reliability Corp.*, Docket No. RM08-13-000. The Commission proposed to approve the Transmission Relay Loadability Reliability Standard, which requires certain transmission owners, generator owners, and distribution providers to set protective relays according to specific criteria in order to ensure that the relays reliably detect and protect the electric network from all fault conditions, but do not limit transmission loadability or interfere with system operators’ ability to protect system reliability. While all relays detect and protect the electric network from fault conditions, the proposed standard applies only to load-responsive phase protection relays. The Commission also proposed changes, such as directing the Electric Reliability Organization to modify the standard to make it applicable to all facilities operated at or above 100 kV.

## **FERC approves balancing area reliability standard in the WECC region**

**E-14**, *Western Electricity Coordinating Council Regional Reliability Standard Regarding Automatic Time Error Correction*, Docket No. RM08-12-000. The Commission issued a final rule approving a regional reliability standard requiring balancing areas within the Western Electricity Coordinating Council (WECC) to implement an automatic time error correction procedure for the purpose of maintaining Interconnection frequency within a predefined frequency profile and ensuring that time error corrections are effectively conducted in a manner that does not adversely affect reliability. The Commission also

required that three new definitions in this regional reliability standard be designated to apply only to WECC regional reliability standards.

### **FERC adopts requirements applicable to expanded blanket authorization**

**E-16**, *Blanket Authorization Under FPA Section 203*, Docket No. RM07-21-002. The Commission adopted reporting requirements that apply to the expanded blanket authorization under section 33.1(c)(12) of the Commission's regulations. The Commission expanded the blanket authorization under section 33.1(c)(12) to authorize a public utility to transfer its outstanding voting securities to "any person" if, after the transfer, such person and any of its associate or affiliate companies will own less than 10 percent of the outstanding voting interests of such public utility. The Commission required public utilities utilizing the blanket authorization to file a report with the Commission listing certain details of the transaction, as well as a statement on cross-subsidization.

### **FERC issues rule on interpretation of NERC reliability standards**

**E-17**, *Electric Reliability Organization Interpretations of Frequency Response and Bias and Voltage and Reactive Control Reliability Standards*, Docket No. RM08-16-000. The Commission issued a final rule accepting the North American Electric Reliability Corp.'s (NERC) interpretation of its Frequency Response and Bias reliability standard. The Commission remanded NERC's proposed interpretation of the Voltage and Reactive Control standard for additional clarification.

### **FERC requires utilities to notify FERC of material change in facts that may affect waivers**

**E-18**, *Material Changes in Facts Underlying Waiver of Order Nos. 889 and Part 358 of the Commission's Regulations*, Docket No. AD09-7-000. The Commission required any public utility that has already received a waiver of Order No. 889 or the Standards of Conduct to notify the Commission if there has been a material change in facts that may affect the public utility's waiver within 45 days of the date of publication of this order in the Federal Register. Going forward, any utility that has received a waiver and all utilities that will receive waiver will have 30 days from the date of any material change to so notify the Commission.

### **FERC denies Wolverine's request for waiver of the Standards of Conduct**

**E-19**, *Wolverine Power Supply Coop.*, Docket No. OA08-116-000. The Commission

denied Wolverine Power Supply's (Wolverine) request for renewal of its waiver of the Standards of Conduct for Transmission Providers. The Commission found that Wolverine no longer met the requirements for waiver because its sales in 2007 exceeded the threshold requirement for a small public utility.

### **FERC accepts ISO-NE's Installed Capacity Requirements for 2009/2010**

**E-20**, *ISO New England*, Docket No. ER09-864-000. The Commission accepted ISO New England (ISO-NE) and the New England Power Pool Participants Committee's jointly submitted filing of Installed Capacity Requirements for the 2009/2010 Capability Year pursuant to the settlement agreement establishing the Forward Capacity Market. The Commission dismissed arguments that it was exceeding its jurisdiction because jurisdiction over these rates is a component of jurisdictional wholesale rates.

### **FERC conditionally accepts tariff sheets concerning posting of CAISO settlement prices**

**E-21**, *California Independent System Operator Corp.*, Docket No. ER09-241-001. The Commission conditionally accepted for filing revised tariff sheets submitted by the California Independent System Operator Corp (CAISO). The tariff sheets permit the CAISO to delay posting settlement prices that meet or exceed the price cap and floor for a limited time to allow for CASIO verification and/or correction.

### **FERC accepts an updated market power analysis filed by ALLETE**

**E-22**, *ALLETE*, Docket No. ER01-2636-005. The Commission accepted an updated market power analysis filed by ALLETE. The Commission also determined that the Midwest Independent Transmission System Operator's revised simultaneous transmission import limit (SIL) study meets the Commission's requirements for a SIL study.

### **FERC addresses the need to file transmission agreements**

**E-24**, *PacifiCorp*, Docket No. EL09-21-000. The Commission addressed petition filed by PacifiCorp seeking a Commission disclaimer of jurisdiction over seventeen agreements dealing primarily with the design, construction, and operation and maintenance responsibilities between PacifiCorp and the Bonneville Power Administration with respect to particular transmission facilities. The Commission determined that under its "rule of reason," PacifiCorp need not file ten of seventeen agreements, but that the other seven agreements are required to be on file with the

Commission.

**FERC approves settlement regarding legal fees CalPX incurred**

**E-25**, *San Diego Gas & Elec. Co., v. Sellers of Energy and Ancillary Services, et al.* Docket Nos. EL00-95-000 and EL00-98-000. The Commission approved a settlement that resolved the California Power Exchange's (CalPX) claims against Southern Co./Mirant Corp. for legal fees CalPX incurred to participate in the Mirant Corp. bankruptcy. The Settlement provides that Southern will pay \$300,000 to CalPX in return for CalPX's release of Southern Co.'s guarantees and Mirant Corp.'s \$393,086 in cash collateral.

**FERC approves uncontested settlement relating to reliability services in California**

**E-26**, *NEO California Power*, Docket Nos. EL02-18-002, *et al.* The Commission approved an uncontested settlement between the California Independent System Operator Corp. and certain generators that provided reliability services in 2001, 2002, and 2003 pursuant to existing agreements. The settlement, which was revised by the settling parties to address concerns raised by commenters, provides that the California Power Exchange will release principal payments owed to the generators, with interest payments to follow at a later date.

**FERC denies rehearing of CAISO's large generator interconnection queue reform**

**E-27**, *California Independent System Operator Corp.*, Docket No. ER08-1317-001. The Commission denied requests for rehearing in connection with the California Independent System Operator Corp.'s (CAISO) tariff amendments to reform queue management in its large generator interconnection process. Specifically, the Commission found that the differences between development on private land and public land justified the differing site exclusivity requirements under the tariff revisions. The Commission also denied a rehearing request questioning the establishment of a grandfathered group for interconnection study under the CAISO's previous large generator interconnection process since the issue was already decided in the earlier tariff waiver proceeding.

**FERC denies rehearing of and upholds CAISO's tariff revisions to implement the interconnection of location-constrained resources**

**E-28**, *California System Operator Corp.*, Docket No. ER08-140-001. The Commission denied a request submitted by the Imperial Irrigation District for rehearing of an order that accepted the California Independent System Operator Corp.'s (CAISO's) tariff

revisions to facilitate the interconnection of location-constrained resources. In particular, the tariff revisions established a new mechanism for financing and development of interconnection facilities to allow location-constrained resources to connect to the CAISO grid.

### **FERC addresses rehearing of order on scheduling of flows in the NYISO**

**E-30**, *New York Independent System Operator*, Docket No. ER08-1281-002. The Commission addressed rehearing of an order, which accepted tariff sheets, which as an interim measure, precluded the scheduling of flows over certain transmission paths to help control market distortions and congestion and uplift costs on the New York Independent System Operator system. The Commission determined that a request to adopt a formal monitoring plan is beyond the scope of this proceeding, which is limited to adopting a temporary solution to a specific problem.

### **FERC notifies two companies that they must file EQR reports or MBR authority will be revoked**

**E-32**, *Electric Quarterly Reports, et al.*, Docket Nos. ER02-2001-011, *et al.* The Commission identified two public utilities with authority to sell power at market-based rates that failed to file their required Electric Quarterly Reports for the first quarter of 2009. The Commission notified Knergy and West Energy Capital that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

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### **FERC addresses Columbia's rate filing related to quantities in storage**

**G-1**, *Columbia Gas Transmission Corp.*, Docket No. RP08-295-001. The Commission addressed a filing by Columbia Gas Transmission Corp. (Columbia Gas) to comply with an order, which conditionally accepted and suspended Columbia Gas's proposed revisions to its SIT Rate Schedule. Rate Schedule SIT service allows shippers to balance differences between actual receipts and actual deliveries under a shipper's transportation service agreements through the injection into and withdrawal out of storage. The Commission directed Columbia Gas to file revised tariff sheets including quantities injected into storage pursuant to section 4(a) of the SIT Rate Schedule in the determination of scheduling penalties.

### **FERC denies rehearing of Tennessee Pipeline's capacity release provisions**

**G-2**, *Tennessee Pipeline Co.*, Docket No. RP09-282-002. The Commission denied request for rehearing of an order, which conditionally approved Tennessee Pipeline Co.'s (Tennessee) filed revised tariff sheets to comply with Order Nos. 712 and 712-A and to clarify its capacity release provisions. The Commission denied the request that Tennessee be required to make refunds to marketers taking short-term releases as part of a state retail access program, rather than to the local distribution company (LDC) making the release, as a collateral attack on Order No.712 which eliminated the price cap on all short-term capacity releases. The Commission held that the issue of the appropriate distribution of any refunds received by the LDC is appropriately left to the state public service commission with jurisdiction over the program.

### **FERC denies rehearing of order on Algonquin gas quality and interchangeability settlement**

**G-3**, *Algonquin Transmission*, Docket Nos. RP07-504-000, RP07-504-001, and RP07-504-002. The Commission denied rehearing of an order that approved a contested settlement regarding gas quality and interchangeability provisions of Algonquin Transmission's tariff. The Commission affirmed the conclusion that there is a substantial record evidence to support the settlement's standards and that the broad policy concerns of the opposing parties regarding potential impediments to LNG supplies are outweighed by historical data and a showing of potential specific injury to local distribution companies' LNG peak shaving facilities.

### **FERC addresses remand concerning headwater benefits**

**H-1**, *Albany Engineering Corp. v. Hudson River-Black River Regulating District Hudson River-Black River Regulating District*, Project No. 12252-029. The Commission determined on remand from the D.C. circuit court of appeals that it cannot order refunds of headwater payments that were collected without authority and denied a motion to establish interim headwater benefits payments. The Commission directed the appointment of a settlement judge to assist in developing a settlement agreement within 180 days, and states that, if no settlement is reached, Commission staff will initiate a headwater benefits investigation.

### **FERC denies rehearing of preliminary permit in Ketchikan Borough, Alaska**

**H-2**, *Renaissance Ketchikan Group*, Project No. 13282-001. The Commission denied the Ketchikan Public Utilities' request for rehearing of an order issuing a preliminary permit to Renaissance Ketchikan Group for a project located on War Cove, Ward Creek, and

Connell Lake in Ketchikan Borough, Alaska. The Commission did not agree that the permit should be modified to reflect the interim strict scrutiny policy of hydrokinetic permits, particularly in light of the fact that there was no competition for the permit site.

### **FERC denies rehearing of hydro license in Chelan County, Washington**

**H-3**, *Public Utility District No. 1 of Chelan County, Washington*, Project No. 2145-092. The Commission denied Public Utility District No. 1 of Chelan County's request for rehearing and clarification of an order issuing a license for the project located in Chelan County, Washington. In order to keep the license term coordinated, to the extent possible, with other licenses in the river basin, the Commission denied the request to extend the license term from 43 to 50 years.

### **FERC authorizes transfer of ownership of pipeline in Harris County, Texas**

**C-2**, *CenterPoint Energy Gas Transmission Co.*, Docket No. CP08-463-000. The Commission authorized CenterPoint Energy Gas Transmission Co. (CenterPoint) to transfer ownership of its Line CP-3, an approximately 11-mile long, 16-inch diameter pipeline located in Harrison County, Texas, to a non-jurisdictional passive owner, CrossPoint Pipeline (CrossPoint) and to leaseback Line CP-3 from CrossPoint in order to connect PVR East Texas Gas Processing's new gas processing plant to CenterPoint's Line CP. The Commission concluded that the proposal will not have adverse impacts on existing pipelines or their customers.

### **FERC approves natural gas import/export facility near Santa Teresa, New Mexico**

**C-5**, *New Mexico Gas Co. and Public Service Co. of New Mexico*, Docket No. CP09-25-000. The Commission granted New Mexico Gas Co. and Public Service Co. of New Mexico authorization under section 3 of the Natural Gas Act and a Presidential Permit for New Mexico Gas Co. to construct, operate, and maintain natural gas import/export facilities. The natural gas import/export facilities would be located at the United States/Mexico border near Santa Teresa, New Mexico. The Commission concluded that the proposal will promote national economic policy by reducing barriers to foreign trade and stimulating the flow of goods and services between the United States and Mexico.

### **FERC addresses rehearing of order on Kenai LNG facility**

**C-6**, *ConocoPhillips Alaska Natural Gas Corp. and Marathon Oil Co.*, Docket No. CP09-34-001. The Commission addressed rehearing of an order, which concluded that the public interest requires that the Kenai facility be subject to the same reporting and

inspection requirements under section 3 of the Natural Gas Act that are routinely applied to every other operational LNG terminal. The Commission stressed that the previous order does not indicate that Kenai is not in compliance with all applicable federal safety standards, but the decision to bring Kenai under this regulatory regime was motivated by a review of regulations as they relate to safety and security issues.

**FERC denies rehearing of order issuing a certificate for the Midcontinent Express pipeline**

**C-7, *Midcontinent Express Pipeline***, Docket No. CP08-6-001 and Enogex Inc. Docket No. CP08-9-001. The Commission denied rehearing of an order authorizing Midcontinent Express Pipeline (Midcontinent) to construct and operate a 506-mile pipeline extending from Oklahoma to Alabama. Specifically, the Commission denied Apache Corp.'s request for rehearing in which they claimed that the Commission's approval of Midcontinent's lease of firm capacity on Enogex's intrastate pipeline without imposing a condition that Enogex offer firm transportation service on comparable terms to its section 311 of the Natural Gas Policy Act of 1978 shippers renders the lease unduly discriminatory and in violation of the Commission's open-access regulations.

**FERC grants clarification as to CenterPoint's lease of capacity**

**C-8, *CenterPoint Energy Gas Transmission Co. and Texas Eastern Transmission***, Docket Nos. CP08-441-001 and CP08-444-001. The Commission granted clarification of an order granting CenterPoint Energy Gas Transmission's (CenterPoint) request to lease firm capacity on Texas Eastern Transmission's Sligo Lateral. The Commission clarified that CenterPoint has the right to demonstrate in the future that future charges will not result in subsidization of existing customers.

**FERC denies rehearing of order authorizing the Northern Bridge Project in Pennsylvania**

**C-9, *Texas Eastern Transmission***, Docket No. CP08-100-001. The Commission denied rehearing of an order authorizing Texas Eastern Transmission's Northern Bridge Project, which would add compression at two existing compressor stations in Pennsylvania. The Commission rejected the rehearing request because Texas Eastern Transmission's proposed construction activities will have no physical effect on any existing Texas Eastern pipeline.