

March 2011 Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its March 17, 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. They 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.

**E-4, E-6, E-7 and E-10, News Release
E-5, News Release**

FERC addresses *Mobile-Sierra* issues on remand from D.C. Circuit

E-1, *Devon Power LLC*, Docket No. ER03-563-066. In response to the opinion of the U.S. Court of Appeals for the District of Columbia Circuit in *Maine Public Utilities Commission v. FERC* remanding certain *Mobile-Sierra* issues to the Commission, the order finds that the ISO New England Forward Capacity Market (FCM) settlement rates at issue in this proceeding are not contract rates subject to the *Mobile-Sierra* "public interest" presumption as defined by the U.S. Supreme Court. The order also finds that the Commission nonetheless has discretion to decide whether future challenges to such rates should be evaluated under a more rigorous application of the statutory "just and reasonable" standard of review. The order finds that, under the circumstances presented by the FCM Settlement, it was appropriate for the Commission to exercise that discretion and to apply a more rigorous application of the "just and reasonable" standard of review.

FERC approves new and revised reliability standards developed by NERC

E-8, *North American Electric Reliability Corporation*, Docket No. RM10-15-000. Under section 215 of the Federal Power Act, the order approves three new Interconnection Reliability Operations and Coordination Reliability Standards and seven revised Reliability Standards related to Emergency Preparedness and Operations, Interconnection Reliability Operations and Coordination, and Transmission Operations developed by the North American Electric Reliability Corporation (NERC). The Reliability Standards were designed to prevent instability, uncontrolled separation, or cascading outages that adversely impact the reliability of the interconnection by ensuring that the reliability coordinator has the data necessary to assess its reliability coordinator area during the operations

horizon and that it takes prompt action to prevent or mitigate instances of exceeding Interconnection Reliability Operating Limits. The order also approves the addition of two new terms to the NERC Glossary of Terms. In addition, the order approves NERC's proposed revisions to Reliability Standards EOP-001-1, IRO-002-2, IRO-004-2, IRO-005-3, TOP-003-1, TOP-005-2, and TOP-006-2, which remove requirements for the reliability coordinator to monitor and analyze system operating limits other than interconnection reliability operating limits.

FERC approves final rule on reliability standards for WECC's territory

E-9, *Western Electric Coordinating Council – Qualified Transfer Path Unscheduled Flow Relief Regional Reliability Standard*, Docket No. RM09-19-000. The Final Rule approves NERC's proposed regional Reliability Standards IRO-006-WECC-1 (Qualified Transfer Path Unscheduled Flow Relief). This regional Reliability Standard will apply within the Western Electricity Coordinating Council's territory and requires reliability coordinators to approve or deny a request for curtailment within five minutes. The Standard also requires balancing authorities to execute the necessary schedule curtailments. Further, the final rule approves six associated new definitions that NERC will incorporate in its Glossary of Terms Used in Reliability Standards.

FERC directs a technical conference for certain elements of CAISO proposal to replace interim capacity procurement mechanism with a permanent one and conditionally accepts other elements

E-12, *California Independent System Operator Corp.*, Docket No. ER11-2256-000. The order addresses a proposal by California Independent System Operator Corp. (CAISO) to implement the Capacity Procurement Mechanism (CPM) as a replacement to the Interim Capacity Procurement Mechanism (ICPM), and to extend indefinitely the tariff provisions that require the mitigation of certain uses of exceptional dispatch.

The order finds that CAISO has not demonstrated that the proposed CPM compensation methodology or the continuation of exceptional dispatch mitigation is just and reasonable and therefore accepts and suspends for a nominal period these provisions, subject to refund, effective April 1, 2011. To facilitate expeditious resolution of the issues, the order directs a technical conference. In addition, the order accepts CAISO's proposal to implement the CPM without a sunset date and also accepts, subject to modification, several other elements of the proposal, including (1) the creation of a new CPM category to designate resources that are at risk of retirement but will be needed for reliability in the following year, and (2) the establishment of two new selection criteria for both the CPM and

exceptional dispatch that will allow CAISO to consider a resource's specific operating characteristics when selecting among available backstop capacity. The order also affirms CAISO's authority to make CPM designations for less than a resource's full balance of available capacity and continues to find just and reasonable a 30-day minimum term for CPM designations.

FERC conditionally accepts compliance filing providing for opportunity costs for mitigated energy bids

E-13, *PJM Interconnection L.L.C.*, Docket No. EL08-47-006. The order conditionally accepts PJM Interconnection L.L.C.'s compliance filing, which contains provisions for establishing for mitigated energy bids opportunity costs based on unit operational limits.

FERC dismisses without prejudice petition for declaratory order

E-14, *Idaho Wind Partners 1, LLC*, EL11-12-000. Idaho Wind Partners 1, LLC seeks a ruling concerning an "inside the fence" transaction which includes a bundled sale of energy and renewable energy credits (RECs) from Idaho Wind-owned qualifying facilities to a third party, with an instantaneous buy-back of only the energy (so that the RECs can then be sold separately in California markets and comply with California regulations concerning the sale of RECs), and a subsequent sale of that energy to the local Idaho utility. Idaho Wind asks that the Commission find that it may engage in the sale/buy-back of the energy and then still be able to subsequently sell the energy to the local Idaho utility at an avoided cost rate. In this order, the Commission dismisses without prejudice the petition for declaratory order because it is unclear whether the third party to the transaction is a QF or a non-QF, and that fact may affect the conclusion.

FERC denies request for rehearing or clarification of rate incentives

E-15, *Southern California Edison Co.*, Docket No. EL10-1-001. This order denies requests for rehearing or clarification of the Commission's December 17, 2009 order (EITP Incentives Order) conditionally granting rate incentives pursuant to section 219 of the FPA (as implemented by Order No. 679) for SoCal Edison's Eldorado-Ivanpah transmission project (EITP).

In an order issued on October 29, 2010, the Commission found that SoCal Edison had not met the condition specified in the EITP Incentives Order for obtaining incentives pursuant to Order No. 679. The October 29, 2010 order granted certain incentives to the EITP pursuant to the Commission's authority under section 205

of the FPA. The October 29, 2010 order also granted the California Public Utilities Commission's request for rehearing of the EITP Incentives Order. This order denies all remaining requests for rehearing or clarification of the EITP Incentives Order.

FERC denies request for rehearing and petition for enforcement action

E-16, *Californians for Renewable Energy, Inc. v. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company and the California Public Utilities Commission*, Docket No. EL10-84-002. The order denies CALifornians for Renewable Energy, Inc.'s (CARE) request for rehearing. In the underlying order, the Commission found that CARE's complaint failed to meet the requirements of Rules 203 and 206 of the Commission's Rules of Practice and Procedure, which describe what should be provided in complaints filed with the Commission. The Commission finds that nothing in the rehearing request warrants changing that finding. Finally, the order denies the petition for enforcement action, finding that a petition for enforcement is not appropriately included in a request for rehearing.

FERC denies in part and grants in part request for rehearing

G-2, *Ozark Gas Transmission, L.L.C.*, Docket No. RP11-1495-002. The order denies in part and grants in part Ozark's request for rehearing of a January 2011 order that granted in part and denied in part Ozark's request for clarification and rehearing of an earlier November 2010 order establishing a Natural Gas Act (NGA) section 5 hearing to investigate its rates.

The order rejects Ozark's contention that the Commission in this NGA section 5 proceeding must consider changes occurring during a full nine-month adjustment period like that used in a NGA section 4 rate proceeding. However, the order also explains that Commission policy permits the use of post-test period data in establishing pipeline rates where the post-test period data show that projections based on test period data will be seriously in error. The order also confirms that the Commission expects the administrative law judge to conduct this proceeding as expeditiously as possible, but indicates that the judge may, as necessary, modify the procedural schedule in this case, including the dates for the hearing and the initial decision.

The order grants rehearing in part to clarify that Ozark may propose adjustments in its answering testimony, and that the rates submitted as part of Ozark's February 1, 2011 cost and revenue study will not serve as evidence of Ozark's preferred rate design.

FERC denies rehearing and rejects tariff proposal

G-3, *Columbia Gulf Transmission Company*, Docket No. RP10-315-002. The order denies rehearing and rejects Columbia Gulf's tariff proposal to waive the gas quality specifications of its tariff. The order finds that Columbia Gulf's waiver proposal, which allows it to waive the gas quality standards so long as doing so does not adversely affect the ability to accept the gas, is not just and reasonable because it provides Columbia Gulf with too much discretion to waive its standards without providing sufficient protection to customers as to the quality of gas they will receive.

FERC establishes framework for analyzing 'changed circumstances' for oil pipeline rate cases

G-4, *Tesoro Refining and Marketing Co. v. Calneve Pipe Line LLC*, Docket Nos. OR07-7-000, *et al.* This order addresses and consolidates four 2007 complaints and two 2009 complaints pending against Calneve Pipe Line LLC (Calneve). The order consolidates the 2007 and 2009 complaints and sets them for hearing.

The order focuses on establishing a framework to be followed when analyzing whether there are substantially changed circumstances to an oil pipeline rate that is grandfathered under the provisions of the Energy Policy Act of 1992 (EPAct of 1992). The order concludes that the basic test for determining whether there are substantially changed circumstances is to measure the change in the return in equity as compared to that embedded in the grandfathered rate at the time it was established. The order further sets out the framework to be followed in determining whether there have been substantially changed circumstances including concluding that any change in embedded rate return on equity must occur after the enactment of the statute in 1992 and must be at least 25 percent as of the date of the complaint.

FERC denies rehearing

H-1, *Erie Boulevard Hydropower, L.P.*, Project No. 2539-061. The Commission denies the request for rehearing filed by Green Island Power Authority of the Commission's April 15, 2010 order on remand reinstating the new license for the School Street Project No. 2539, located on the Mohawk River in Albany and Saratoga Counties, New York.

The Commission affirms its prior findings that an offer of settlement filed in 2005 by Erie and other parties was not a material amendment of the relicense application and, that, therefore, the Commission was not required to consider Green Island's motion to intervene as timely filed. The Commission also affirms

that Green Island's proposal for the Cohoes Falls Project was not a feasible alternative to the School Street Project, and that the Commission therefore appropriately reinstated the new license for the School Street Project.

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

H-2, *Portland General Electric Company*, Project No. 2195-025. The order grants in part and denies in part requests for rehearing and clarification of a December 21, 2010 staff order granting a new license for Portland General Electric Company's Clackamas River Project No. 2195 in Oregon.

FERC grants application and rules water pipeline will not interfere with project's purposes

H-3, *Southern California Edison Company*, Project No. 1390-063. The Commission grants an application filed by Southern California Edison Company to amend its license to allow it to install a pipeline within an earthen ditch, which is an existing licensed project work. The purpose of the proposed pipeline installation is to permit a greater diversion of water from the powerhouse through the improved facility to satisfy certain water rights. The order finds that the proposed modification, which would be undertaken for a non-project purpose, will not interfere with project purposes.

FERC grants request to replace deteriorated natural gas pipeline facilities in Pennsylvania and New York

C-2, *Columbia Gas Transmission, LLC*, Docket No. CP10-492-000. The order grants Columbia's request for a certificate of public convenience and necessity authorizing it to construct and operate replacement natural gas pipeline facilities and for approval to abandon the deteriorated facilities being replaced in Pennsylvania and New York. The order also allows Columbia to seek to roll its project facility costs into existing rates in its next general rate proceeding.

FERC approves, with conditions, proposal for new natural gas facilities in Utah

C-4, *Magnum Gas Storage, LLC and Magnum Solutions, LLC.*, Docket No. CP11-22-000. The order authorizes Magnum Gas Storage, LLC to construct and operate a natural gas storage facility and connecting header pipeline, known as the Magnum Gas Storage Project, to be located in Millard, Juab, and Utah Counties, Utah. The order denies Magnum Solutions, LLC's separate request for a limited-

jurisdiction certificate authorizing Magnum Solutions to construct, own, and operate cavern leaching facilities to support cavern creation and maintenance. However, the order conditions the issuance of a certificate to Magnum in this proceeding to include authorization to construct and operate the entire proposed storage project including the cavern leaching and brine management facilities.

FERC approves, with conditions, proposal for new an air blending station near existing Spruce Hill Meter Station in Colorado

C-5, *Colorado Interstate Gas Company*, Docket No. CP10-486-000. The order authorizes CIG to construct an air blending station consisting of compression and appurtenant facilities in Douglas County, Colorado next to its existing Spruce Hill Meter Station. The order also permits CIG to charge a new gas quality control surcharge for services provided through the new facility, accepts certain non-conforming contract provisions in the firm transportation agreements supporting the project, and finds that one of the service agreements is exempt from the collection of fuel gas.