

March 2013

Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its March 21, 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.

E-1, E-2 & E-3 – Press Release

E-5 – Press Release

FERC grants in part and denies in part requests for rehearing

E-4, *Southwest Power Pool, Inc.*, Docket No. ER12-1179-002. The order grants in part and denies in part requests for clarification and/or rehearing of an October 18, 2012 order that conditionally accepted for filing, subject to further modifications, a proposal by Southwest Power Pool to revise its Open Access Transmission Tariff to implement an Integrated Marketplace.

FERC proposes a rule on reliability standards

E-6, *North American Electric Reliability Corporation*, Docket No. RM12-19-000. This notice of proposed rulemaking proposes to approve Reliability Standard MOD-028-2, submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC). NERC proposes one modification to the currently effective Reliability Standard MOD-028-1, pertaining to the information a transmission service provider must include when calculating Total Transfer Capability using the area interchange methodology for the on-peak and off-peak intra-day and next-day time periods. The proposed rule also proposes to approve NERC's implementation plan and proposed retirement of the currently effective standard.

FERC remands a proposed interpretation of a reliability standard

E-7, *North American Electric Reliability Corp.*, Docket No. RD12-3-000. This order remands NERC's proposed interpretation of Reliability Standard CIP-006-4, Requirement R1.1. Specifically, the order rejects an interpretation that would

remove the wiring aspects of communication networks from coverage by the CIP Reliability Standards.

FERC approves compliance filing, with conditions

E-8, *New York Independent System Operator, Inc.*, Docket No. ER13-780-002. The order addresses a NYISO compliance filing proposing to implement an interface pricing protocol applicable to certain interregional transactions in, and around, the Lake Erie region. The order finds that NYISO's proposed tariff revisions comply with the Commission's directive in an August 22, 2012 order requiring NYISO to implement an interface pricing methodology based on actual energy flows, consistent with the interface pricing approach utilized by PJM Interconnection, L.L.C. The order also requires NYISO to make an additional compliance filing to clarify a commitment made by NYISO in its answer, i.e., that the scope of its pricing policy will be extended to include any paths that may be scheduled in a manner inconsistent with expected actual flows, at such time as those paths may be identified.

FERC denies rehearing

E-9, *PJM Interconnection, L.L.C.*, Docket No. EL05-121-008. This order affirms FERC's March 30, 2012 Order on Remand issued in response to a remand by the United States Court of Appeals for the Seventh Circuit regarding cost allocation for new transmission facilities that operate at or above 500 kilovolts (kV). In response to several petitioners seeking rehearing of the March 2012 ruling, this order affirms the finding of the Order on Remand that, for PJM, using the static distribution factor modeling for PJM transmission facilities operating at 500 kV and above is unjust and unreasonable, and that using a postage stamp allocation of the costs of those facilities is a just and reasonable alternative.

FERC affirms decision, denies rehearing

E-10, *Louisiana Public Service Commission and the Council of the City of New Orleans v. Entergy Corporation; Louisiana Public Service Commission v. Entergy Services, Inc.*, Docket Nos. EL00-66-016, EL00-66-017 & EL95-33-011. The order denies rehearing of the Commission's order issued June 9, 2011, finding that the Commission had authority to order refunds under the circumstances of this case, which involves a complaint by the Louisiana Public Service Commission (LPSC) to exclude interruptible load from cost allocation calculations under Service Schedule MSS-1 of the Entergy System Agreement, but determining that the Commission would exercise its equitable discretion not to order refunds. The LPSC filed a rehearing request contending that the Commission erred by not ordering refunds. Upon consideration of the rehearing request, the Commission

issued an order establishing a paper hearing limited to the Commission's exercise of equitable discretion to deny refunds. After a review of the briefs, the Commission affirms its earlier ruling.

FERC remands a proposed interpretation of a reliability standard

E-11, *North American Electric Reliability Corporation*, Docket No. RD12-05-000. The order remands the North American Electric Reliability Corporation's proposed interpretation of Reliability Standard CIP-002 (Cyber Security – Critical Cyber Asset Identification).

FERC denies request for rehearing

E-12, *Gregory R. Swecker and Beverly F. Swecker v. Midland Power Cooperative and State of Iowa*, Docket No. EL11-39-002. This order denies rehearing of the Commission's December 15, 2011 finding that the actions of Midland Power Cooperative (Midland), in disconnecting service to the qualifying facility owned by Gregory R. Swecker and Beverly F. Swecker, were inconsistent with Midland's obligations under the Public Utility Regulatory Policies Act of 1978. The order determines that no new arguments were raised to warrant a change to that finding.

FERC sets hearing and settlement judge procedures

E-13, *Consumers Energy Company*, Docket No. ER10-2156-002, Docket No. ER12-420-001 (not consolidated). The order sets the refund report filed by Consumers Energy for hearing and settlement judge procedures. This order is the latest in a series of orders relating to the late filing of a 1988 agreement (Facilities Agreement) governing interconnection of the Midland cogeneration plant and disputes between the parties to the Facilities Agreement and a related agency agreement.

FERC sets criteria for rate design

G-1, *Portland Natural Gas Transmission*, Docket No. RP10-729-000. The order addresses exceptions to the December 8, 2011 Initial Decision in the referenced proceeding, which relates to the second of two successive Natural Gas Act section 4 rate proceedings filed recently by Portland Natural Gas Transmission (Portland). The order establishes Portland's at-risk condition at 210,840 dekatherms per day, and requires Portland to design its rates based on this at-risk level, and to account for certain bankruptcy proceeds in accordance with Opinion No. 510-A (Agenda Item G-2). The order also sets Portland's return on equity at 11.59 percent, the top of the range of reasonable returns. Additionally, the order affirms the administrative law judge's findings with respect to several cost-of-service items,

Portland's levelized rate structure, depreciation and negative salvage, capital structure, and cost of debt.

FERC denies rehearing

G-2, *Portland Natural Gas Transmission System*, Docket No. RP08-306-002. The order generally denies requests for rehearing and clarification of Opinion No. 510, issued in Portland's Docket No RP08-306-000 rate case. That rate case involves Portland's rates during a locked-in period from September 1, 2008 through November 30, 2010, immediately before the rates addressed in the order in Agenda Item G-1. The Opinion 510-A generally denies rehearing of Opinion No. 510, with one notable exception. Opinion No. 510-A grants rehearing with regard to the appropriate level of Portland's at-risk condition, finding that it should be approximately 217,405 dekatherms (Dth) per day, instead of the 210,840 Dth per day established as Portland's at-risk condition in Opinion No. 510. Opinion No. 510-A also affirms Opinion No. 510's requirement that Portland reduce its rate base by the amount of bankruptcy proceeds it received and partially grants Portland's request for rehearing concerning the level of its pipeline integrity costs. Finally, Opinion No. 510-A denies various requests for rehearing concerning Portland's return on equity.

FERC approves a final rule

G-3, *Annual Charge Filing Procedures for Natural Gas Pipelines*, Docket No. RM12-14-000. This final rule revises the filing requirements for natural gas pipelines that choose to recover Commission-assessed annual charges through an annual charge adjustment (ACA) clause. Currently, natural gas pipelines utilizing an ACA clause must make a tariff filing to reflect a revised ACA unit charge authorized by the Commission for that fiscal year. To reduce the regulatory burden on these pipelines, the Commission will eliminate this annual filing requirement. In its place, the Commission will require natural gas pipelines utilizing an ACA clause to incorporate the Commission-authorized annual charge unit rate by reference to that rate, as published on the Commission's website.

FERC dismisses complaint

G-4, *High Prairie Pipeline, LLC v. Enbridge Energy, Limited Partnership*, Docket No. OR12-17-000. The order dismisses a complaint filed by High Prairie Pipeline against Enbridge Energy alleging violations of multiple sections of the Interstate Commerce Act (ICA) and sections 341.0 and 341.8 of the Commission's regulations. Specifically, High Prairie, an oil pipeline, alleges that Enbridge Energy has unduly discriminated against High Prairie and its shippers by refusing to grant High Prairie an interconnection at the Clearbrook, Minnesota origin point.

The order finds High Prairie's complaint to be premature since negotiations between Enbridge Energy and High Prairie remain ongoing and any terms and conditions that might be agreed upon are undetermined.

FERC denies petition for declaratory order

G-5, *Enbridge Pipelines (North Dakota) LLC*, Docket No. OR13-6-000. The order denies a petition for declaratory order filed by Enbridge Pipeline (North Dakota) LLC (Enbridge North Dakota). Enbridge North Dakota is seeking Commission approval of its plan to recover the costs, through a surcharge and new cost-of-service tariff, of its Sandpiper Project, an extension and expansion of its oil pipeline system that will originate in Beaver Lodge, North Dakota to Superior, Wisconsin to transport oil from the Bakken formation. Enbridge North Dakota also seeks approval of specific cost elements of the proposed surcharge and tariff, such as rate of return, capital structure and depreciation, as reflected in letters of support from shippers, which Enbridge North Dakota characterizes as an offer of settlement.

The order concludes the proposed rates would not qualify for acceptance under the Commission's regulations for establishing initial rates. First, Enbridge North Dakota has not provided the data necessary in accordance with Part 346 of the Commission's regulations to support the proposed rates on a cost-of-service basis. Second, even if letters of support can be construed as agreements of a non-affiliated person in accordance with section 342.2(b) of the Commission's regulations, the proposed rates are protested and thus require Enbridge North Dakota to support the proposed rates on a cost-of-service basis, which Enbridge North Dakota has not done. Nor does the company qualify for market-based rates because the pipeline has not submitted an application to show that it lacks market power in the subject markets. The order concludes that Enbridge North Dakota has not filed a proposal seeking approval of the lawfulness of rate structures or terms of service that is appropriate for consideration in a petition for declaratory order and denies the request without prejudice.

FERC denies request for a declaratory order

G-6, *Seaway Crude Pipeline Company, LLC*. Docket No. OR13-10-000. The order denies a request filed December 12, 2012 by Seaway Crude Pipeline Company LLC for a declaratory order requesting the Commission affirm its policy of honoring the tariff rates agreed to by shippers who sign contracts in a valid open season. The order reaffirms FERC policy with regard to committed and uncommitted rates for crude oil pipeline shippers but denies the declaratory order on procedural grounds.

FERC dismisses complaint

G-7, *Essar Steel Minnesota, LLC v. Great Lakes Gas Transmission Limited Partnership*, Docket No. RP13-313-000. The order declines to exercise jurisdiction and dismisses a complaint filed November 27, 2012 by Essar Steel Minnesota, LLC (ESML) against Great Lakes Gas Transmission Limited Partnership (Great Lakes) under Rule 206 of the Commission's Rules of Practice and Procedure and section 5 of the Natural Gas Act. ESML asks the Commission to find that Great Lakes failed to act in good faith in response to ESML's request to modify the terms of its transportation service agreement. ESML also asks that the Commission find that Great Lakes has not effectively suspended or terminated service to ESML. Finally, ESML asks the Commission to find that if Great Lakes wants to terminate or suspend service to ESML, it must first provide notice to ESML as required under the tariff, and attempt to remarket the capacity in accordance with Commission precedent.

The order dismisses the complaint, concluding that ESML's complaint is essentially duplicative of a contractual dispute already before a federal district court in Minnesota.

FERC amends licenses, modifies and approves Snail Protection Plan

H-1, *Idaho Power Company*, Project No. 1975-101, *et al.* The order grants the licensee's proposed amendments to its licenses for the Bliss Project No. 1975 and Lower Salmon Falls Project No. 2061 on the Snake River in Idaho and approves the licensee's plan for the protection of a federally listed threatened snail species affected by the proposed amendments.

FERC grants a declaratory order

H-2, *Power Site Reservation Fees Group*, Docket No. EL13-24-000, *et al.* The order grants a petition for declaratory order by several licensees, asking that the Commission end its practice of charging annual land use fees for project lands that were formerly held by the government but have been transferred to the licensees.

FERC affirms in part and reverses in part an Initial Decision on rate issue

C-3, *Missouri Interstate Gas, LLC; Missouri Gas Company, LLC; and Missouri Pipeline Company, LLC*, Docket No. CP06-407-007. The order affirms in part and reverses in part the Presiding Administrative Law Judge's (ALJ) Initial Decision in a case determining whether MoGas Pipeline LLC (MoGas) can continue to include the full purchase price of certain pipeline facilities in its rate base because that price allegedly includes an acquisition adjustment or premium, an amount above the depreciated value of the underlying

assets, included on the books of a previous owner. The hearing before the ALJ resulted from the remand of this issue by the United States Court of Appeals for the District of Columbia Circuit in *Missouri Public Service Commission v. FERC*. The order finds that MoGas 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.