



Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's (FERC or the Commission) open meeting to be held on November 16th, at 10:00 a.m. ET.

The summaries below are based on publicly available information in the dockets listed on the FERC agenda at the time of publication. For ease of reference, a link to each lead docket on the meeting agenda has been included. The Commission may decide to remove any items from the meeting agenda at any time.

Item No.	Docket No.	Company
ADMINISTRATIVE		

Item No.	Docket No.	Company
A-1	AD24-1-000	Agency Administrative Matters
A-2	AD24-2-000	Customer Matters, Reliability, Security, and Market Operations
A-3	AD06-3-000	Market Update
A-4	AD07-13-017 AD07-13	FY2023 Report on Enforcement

ELECTRIC

Black Hills Colorado Electric, LLC.

E-1 [ER22-2185-001](#)
[ER22-2185-000](#)

On June 24, 2022, Black Hills Colorado Electric, LLC (Black Hills Colorado) filed a proposed amendment to its Open Access Transmission Tariff (OATT) under Federal Power Act (FPA) section 205 to facilitate its transition from a stated transmission rate to a transmission formula rate. On September 12, 2023, Black Hills Colorado filed an uncontested settlement agreement resolving the proceeding, which was certified to the commission on October 4, 2023. Agenda item E-1 may be an order on the uncontested settlement agreement.

Wabash Valley Power Association, Inc.

E-2 [ER20-1041-003](#)

On February 20, 2020, Wabash Valley Power Association, Inc. (Wabash Valley Power) filed under FPA section 205 an unexecuted agreement for early termination of wholesale power supply contracts between Wabash Valley Power and Tipmont Rural Electric Membership Corporation (Tipmont Rural Electric) as a new Section 3.023.003.001 to its FERC Electric Tariff Volume No. 1. The case was designated for settlement and hearing procedures by the commission on April 20, 2020. A hearing was conducted and on January 28, 2022, the administrative law judge (ALJ) issued an initial decision finding that Wabash demonstrated that a 10-year term buyout is appropriate but failed to establish that its proposed buyout amount is just and reasonable. Instead, the ALJ found that trial staff's proposed rate, based on Wabash's methodology, was just and reasonable. Parties filed briefs on exceptions and opposing exceptions to the initial decision. Agenda item E-2 may be an order on the initial decision.

PJM Interconnection, L.L.C.

E-3 [EL21-78-000](#)

On June 17, 2021, the commission issued an order pursuant to section 206 of the FPA instituting an investigation into whether PJM Interconnection, L.L.C.'s (PJM) OATT and the Amended and Restated Operating Agreement are unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful based on the ability of sellers to avoid being subject to parameter-limited offers when it is appropriate for those sellers to be subject to mitigation. Agenda item E-3 may be an order on this investigation.

Item No.	Docket No.	Company
----------	------------	---------

Louisville Gas and Electric Company and Kentucky Utilities Company.

- [ER21-894-000](#) In 1998, FERC approved the merger of Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) subject, in part, to LG&E/KU's participation in Midcontinent Independent System Operator, Inc. (MISO) as a means of mitigating horizontal market power concerns. In 2006, FERC granted LG&E/KU approval to leave MISO, but required that the utility continue de-pancaking measures to mitigate the previously identified concerns. In 2019, FERC approved removal of the de-pancaking measures, given changes in market competition. Customers appealed the order to the U.S. Court of Appeals for the District of Columbia Circuit, which held that the removal decision was reasonable, but that FERC erred by not evaluating the impact of the removal on rates.
- E-4 [ER21-900-000](#)
- [ER21-904-000](#) In response, FERC issued a remand order in May 2023 reviewing the impact on rates and ultimately reversing its acceptance of the de-pancaking measures. FERC found that removing the measures will increase the cost of wheeling transactions and therefore have an adverse effect on rates and ordered LG&E/KU to make a compliance filing reinstating the de-pancaking measures. LG&E/KU requested rehearing, and subsequently filed a petition for review with the D.C. Circuit. On August 18, 2023, LG&E/KU submitted the required compliance filing under protest. Agenda item E-4 may be an order on the compliance filing and/or protest.
- (Consolidated)
- [ER21-894-002](#)
- [ER21-894-002](#)

Louisville Gas and Electric Company and Kentucky Utilities Company.

- [EC98-2-006](#)
- E-5 [ER18-2162-005](#) Agenda item E-5 may be an order on LG&E/KU's request for rehearing of FERC's May 2023 order requiring the utility to reinstitute the de-pancaking measures (*see* agenda item E-4 above). On July 17, 2023, LG&E/KU's request was deemed denied by operation of law, but FERC indicated that the request may be addressed in a future order.

Horus West Virginia I, LLC.

- [ER23-2893-000](#)
- E-6 [TS23-8-000](#) Horus West Virginia I, LLC (Horus) is developing a solar electric generating facility, as well as related transmission and customer interconnection facilities, in Jefferson County, West Virginia. After construction and energization, Horus will transfer title to the transmission facilities to Potomac Edison but will require a waiver from FERC's Open Access Requirements (which, among other things, requires owners and operators of transmission facilities to file an OATT for this brief period of control. On September 15, 2023, Horus filed its request for temporary waiver of the Open Access Requirements. Agenda item E-6 may be an order on the request for temporary waiver.

**Item
No.** **Docket No.**

Company

EverBright, LLC.

E-7 [EL24-2-000](#)

On October 3, 2023, Everbright (a provider of rooftop solar and indirect and wholly owned subsidiary of NextEra Energy Resources) submitted a petition for declaratory order for a limited waiver from certain requirements for qualifying facility (QF) certification. QF status is available to certain small power production facilities (SPPs) of 80MW or less. Under FERC's regulations, SPPs within one mile of another (with the same energy resource and owner) must file together for the purpose of the 80MW threshold, subject to an exemption for SPPs under 1MW. To date, Everbright has utilized this exemption for its rooftop solar installations but, with a growing portfolio of resources that may be in close proximity, now seeks waiver from QF requirements to allow separately interconnected rooftop solar systems that may aggregate over 1MW in a one-mile radius. Agenda item E-7 may be an order on the petition for declaratory order.

The Carlyle Group Inc. and NineDot Energy, LLC.

E-8 [EL23-86-000](#)

The Carlyle Group Inc. and NineDot Energy, LLC (NineDot), on their behalf and that of their current and future subsidiaries that are "holding companies" or associated "service companies" and upstream owners under the Public Utility Holding Company Act of 2005 (PUHCA), filed a petition for a declaratory order granting (1) an individual exemption from the access to books and records requirements of 18 C.F.R. § 366.2 and the accounting, record retention, and reporting requirements of 18 C.F.R. §§ 388.21, 366.22, and 366.23; (2) blanket authorization from the requirements of Section 203(a)(2) of the FPA to the extent set forth in 18 C.F.R. § 33.1(8); and (3) clarification that the revenues associated with the activities described herein shall not be treated as "public-utility company revenues" under 18 C.F.R. § 366.3(c)(1). This exemption request relates to the commercial operation of grid-charged battery energy storage systems owned by indirect wholly owned subsidiaries of NineDot that intend to participate in New York's Value of Distributed Energy Resources (VDER) program and certain utility load management programs. Agenda item E-8 may be an order on the petition for declaratory order.

Item No.	Docket No.	Company
		Duke Energy Progress, LLC.
E-9	<u>ER22-682-000</u>	<p>On December 17, 2021, Duke Energy Progress, LLC (DEP) submitted for filing revisions to Rate Schedule No. 200, the Ninth Amended and Restated Full Requirements Power Purchase Agreement (Amended FRPPA) between DEP and North Carolina Eastern Municipal Power Agency (NCEMPA). DEP filed the Amended FRPPA on an unexecuted basis, and NCEMPA protested the filing. On February 28, 2022, FERC accepted the filing, subject to refund, and established hearing and settlement judge procedures. Subsequently, on July 20, 2022, FERC required DEP to remove certain redundant billing provisions that were erroneously included in the Amended FRPPA. On August 17, 2022, DEP submitted a compliance filing to revise the Amended FRPPA as required by the July 20 order. Finally, on July 7, 2023, DEP filed an offer of settlement to comprehensively resolve all issues set for hearing in this proceeding. Agenda item E-9 may be an order on the proposed settlement.</p>
	<u>ER22-682-003</u>	
		ITC Midwest, LLC.
E-10	<u>ER23-2033-001</u>	<p>On August 8, 2023, FERC accepted an application by ITC Midwest, LLC (ITCM) for authorization to recover 100% of prudently incurred costs associated with the Iowa portion of the Skunk River-Ipava 345 kV project (Project) if the Project is cancelled or abandoned for reasons beyond ITCM's control. On September 7, 2023, the Industrial Energy Consumers of America (IECA), the Coalition of MISO Transmission Customers (CMTC), the Resale Power Group of Iowa (RPGI), and the Wisconsin Industrial Energy Group (WIEG) (collectively, the Consumer Alliance) sought rehearing of the August 8 order. In the alternative, the Consumer Alliance requested certain clarifications of the August 8 order. The request for rehearing was denied by operation of law. Agenda item E-10 may be an order addressing the request for rehearing.</p>
		Ameren Illinois Company.
E-11	<u>ER23-1335-000</u>	<p>On March 14, 2023, Ameren Illinois Company (Ameren) filed its annual informational "Attachment O" filing as required under MISO's tariff. On April 19, 2023, Southwestern Electric Cooperative, Inc., Norris Electric Cooperative, and Rural Electric Convenience Cooperative (collectively, the Cooperatives) filed a formal challenge to Ameren's annual update, arguing that Ameren's annual transmission revenue requirement is unjust and unreasonable. Agenda item E-11 may be an order on the Cooperatives' formal challenge.</p>

GAS

Item No.	Docket No.	Company
		<i>Epsilon Trading, LLC, Chevron Products Company, and Valero Marketing and Supply Company v. Colonial Pipeline Company</i>
		<i>BP Products North America, Inc., Trafigura Trading LLC, and TCPU, Inc. v. Colonial Pipeline Company</i>
		<i>TransMontaigne Product Services LLC v. Colonial Pipeline Company</i>
	OR18-7-002	<i>Southwest Airlines Co. and United Aviation Fuels Corporation v. Colonial Pipeline Company</i>
	OR18-12-002	<i>Phillips 66 Company v. Colonial Pipeline Company</i>
	OR18-17-002	<i>American Airlines, Inc. v. Colonial Pipeline Company</i>
	OR19-1-001	<i>Metroplex Energy, Inc. v. Colonial Pipeline Company</i>
	OR19-4-001	<i>Gunvor USA LLC v. Colonial Pipeline Company</i>
G-1	OR19-16-001	<i>Pilot Travel Centers, LLC v. Colonial Pipeline Company</i>
	OR19-20-000	<i>Sheetz, Inc. v. Colonial Pipeline Company</i>
	OR19-27-000	<i>Apex Oil Company, Inc. and FutureFuel Chemical Company v. Colonial Pipeline Company</i>
	OR19-36-000	
	OR20-7-000	
	OR20-9-000	
(consolidated)		Between November 22, 2017, and March 9, 2020, numerous complaints were filed by shippers against Colonial Pipeline Company (Colonial) challenging Colonial's FERC ICA Oil Pipeline tariff rates for transportation of refined petroleum products, as well as practices and charges related to delivery shortages. The complaints were consolidated and set for hearing. On December 21, 2021, the ALJ issued a partial initial decision addressing the challenges to Colonial's market-based rate authority, as well as Colonial's extra-tariff rates associated with times when oil pipeline deliveries of refined petroleum are short. The initial decision noted that a later decision would assess issues related to Colonial's cost-of-service, indexed rates, and related issues. This agenda item was included on the FERC open meeting agenda for October 2023 but was stricken. Agenda item G-1 may be an order on the 2021 partial initial decision.

Item No.	Docket No.	Company
		<i>Epsilon Trading, LLC, Chevron Products Company, and Valero Marketing and Supply Company v. Colonial Pipeline Company</i>
	<u>OR18-7-003</u>	<i>BP Products North America, Inc., Trafigura Trading LLC, and TCPU, Inc. v. Colonial Pipeline Company</i>
	<u>OR18-12-003</u>	<i>TransMontaigne Product Services LLC v. Colonial Pipeline Company</i>
	<u>OR18-17-003</u>	<i>Southwest Airlines Co. and United Aviation Fuels Corporation v. Colonial Pipeline Company</i>
	<u>OR19-1-002</u>	<i>Phillips 66 Company v. Colonial Pipeline Company</i>
	<u>OR19-4-002</u>	<i>American Airlines, Inc. v. Colonial Pipeline Company</i>
	<u>OR19-16-002</u>	<i>Metroplex Energy, Inc. v. Colonial Pipeline Company</i>
G-2	<u>OR19-20-001</u>	<i>Gunvor USA LLC v. Colonial Pipeline Company</i>
	<u>OR19-27-001</u>	<i>Pilot Travel Centers, LLC v. Colonial Pipeline Company</i>
	<u>OR19-36-001</u>	<i>Sheetz, Inc. v. Colonial Pipeline Company</i>
	<u>OR20-7-001</u>	<i>Apex Oil Company, Inc. and FutureFuel Chemical Company v. Colonial Pipeline Company</i>
	<u>OR20-9-001</u>	<i>Company</i>

(consolidated) On April 27, 2022, the administrative law judge issued the second partial initial decision regarding Colonial's cost-of-service, indexed rates, and related issues in the complaint cases described in Agenda item G-1. This agenda item was included on the FERC open meeting agenda for October 2023 but was stricken. Agenda item G-2 may be an order on the 2022 partial initial decision.

G-3 OMITTED
HYDRO

Aspinook Hydro, LLC.

H-1 [P-3472-026](#) On August 9, 2023, Aspinook Hydro, LLC filed a Request for Rehearing of the July 11, 2023, Commission Order Issuing New License pertaining to the Wyre Wynd Hydroelectric Project No. 3472-024. On September 11, 2023, the request for rehearing was denied by operation of law. Agenda item H-1 may be an order addressing the request for rehearing.

Item No.	Docket No.	Company
		Saugerties Community Hydro, LLC.
H-2	P-15111-001	On September 20, 2023, Now Energy Systems Corporation (Now Energy) requested that FERC's order canceling its preliminary permit be rescinded. On October 23, 2023, the request for rehearing was denied by operation of law. Agenda item H-2 may be an order addressing the request for rehearing.

New York State Electric & Gas Corporation.

H-3	P-2934-042	On April 12, 2023, New York State Electric & Gas Corporation (NYSEG) filed a request for rehearing of the FERC order from March 13, 2023, which modified NYSEG's Operation Compliance Monitoring Plan. On May 15, 2023, the request for rehearing was denied by operation of law. On September 5, 2023, NYSEG filed a response to Albany Engineering Corporation's June 7, 2023, filing as it relates to NYSEG's rehearing request. Agenda item H-3 may be an order addressing the request for rehearing.
-----	----------------------------	---

CERTIFICATES

Transcontinental Gas Pipe Line Company, LLC

Columbia Gas Transmission, LLC.

C-1	CP22-502-000	On August 24, 2022, Transcontinental Gas Pipe Line Company, LLC (Transco) submitted an application for a Certificate of Public Convenience and Necessity (CPCN) authorizing Transco to construct, operate, and maintain its Commonwealth Energy Connector Project, which will be an incremental expansion of Transco's existing pipeline system that will enable Transco to provide an additional 105,000 dekatherms per day of firm transportation service beginning with the 2025/2026 winter heating season. Also, on August 24, 2022,
	CP22-503-000	Columbia Gas Transmission, LLC (Columbia) filed an application for a CPCN requesting authorization to construct and operate its Virginia Reliability Project, an expansion and reliability project located in Virginia. Upon completion, the proposed expansion portion of the project will create 100,000 dekatherms per day of incremental mainline capacity on Columbia's pipeline system.

FERC issued its Final Environmental Impact Statement for each of the proposed projects on September 15, 2023. Agenda item C-1 may be an order on Transco's and Columbia's applications.

C-2 OMITTED

**Item
No.** **Docket No.**

Company

Virginia Electric and Power Company.

C-3 [CP23-468-000](#) On May 2, 2023, Virginia Electric and Power Company d/b/a Dominion Energy Virginia (DEV) submitted a petition for a declaratory order that a planned liquefied natural gas production, storage, and regasification facility (Project) will not be subject to the commission's jurisdiction under the Natural Gas Act (NGA). DEV contends that the Project is subject to the longstanding so-called "plant line exception" to the commission's jurisdiction under NGA Section 1(b) because it is being built in a single state (i.e., Virginia) by a plant owner solely for the purpose of moving natural gas for use in its own plant. DEV also contends that the Project is non jurisdictional under the "Hinshaw Amendment" in NGA Section 1(c) because all of the gas used on the Project will be received and consumed in Virginia, and the Project will be subject to the regulation of the Virginia State Corporation Commission. Agenda item C-2 may be an order on DEV's petition for a declaratory order.

Tennessee Gas Pipeline Company, L.L.C.

C-4 [CP20-50-002](#) On September 20, 2023, Healthy Gulf and Sierra Club submitted a request for rehearing, vacatur, and a stay of FERC's September 8, 2023, authorization for Tennessee Gas Pipeline Company L.L.C. to initiate construction for the Evangeline Pass Project in St. Bernard and Plaquemines parishes, Louisiana. On October 23, 2023, the request for rehearing was denied by operation of law. Agenda item C-4 may be an order on Healthy Gulf and Sierra Club's request for rehearing.

Transcontinental Gas Pipe Line Company, LLC.

C-5 [CP22-501-000](#) On August 24, 2022, Transco submitted an application for a CPCN authorizing Transco to construct, install, modify, operate, and maintain its Southeast Energy Connector Project, an incremental expansion of Transco's existing pipeline system that will enable Transco to provide an additional 150,000 dekatherms per day of firm transportation service to serve Southern Company Services, Inc. from supply points in Mississippi and Alabama. On March 24, 2023, FERC issued a draft Final Environmental Impact Statement for the proposed project. On October 6, 2023, Transco submitted a letter to the commission requesting action on its application. Agenda item C-5 may be an order on Transco's application.

**Item
No.** **Docket No.**

Company

Stingray Pipeline Company, L.L.C.

C-6

[CP20-528-002](#)

[CP20-529-001](#)

On September 25, 2020, in Docket No. CP20-528-000, Stingray Pipeline Company, L.L.C. (Stingray Pipeline) filed an abbreviated application requesting authorization to abandon by sale certain facilities located in federal waters offshore Louisiana in the Gulf of Mexico (West Cameron 509 System), which includes the West Lateral that consists of a 25.36 mile 30-inch segment (Segment 3394), to Triton. Stingray also requested that the commission determine that the West Cameron 509 System to be acquired by Triton will constitute nonjurisdictional gathering facilities exempt from the commission's jurisdiction pursuant to Section 1(b) of the NGA. On June 15, 2023, the commission issued an order authorizing abandonments and determining jurisdictional status of facilities. On July 17, 2023, Stingray Pipeline filed a request for rehearing of the June 15 order, requesting rehearing of the condition in Ordering Paragraph (H) that required Stingray to either place Segment 3394 into service or obtain shipper agreement that it remain out of service. On August 17, 2023, the request for rehearing was denied by operation of law. Agenda item C-6 may be an order on Stingray Pipeline's request for rehearing.

© 2023 Perkins Coie LLP

Authors



Jane Rueger

Partner

JRueger@perkinscoie.com [202.661.5834](tel:202.661.5834)

Explore more in

[Environment, Energy & Resources](#) [Energy Infrastructure & Clean Technology](#)

Related insights

Update

'Tis the Season... for Cybercriminals: A Holiday Reminder for Retailers

Update

Employers and Immigration Under Trump: What You Need To Know