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## REGULATORY UPDATE

Updates on Section 5 Cases at FERC: as a reminder, on January 21, FERC initiated 4 new Section 5 proceedings against the following pipelines: Columbia Gulf Transmission ("CGT"), Iroquois Gas Transmission System ("Iroquois") Empire Pipeline, Inc. ("Empire"), and Tuscarora Gas Transmission Company ("Tuscarora"). PGC intervened in each of these proceedings. FERC ordered each pipeline to file a full cost and revenue study within 75 days of the order, or April 5, 2016. This cost and revenue study will contain "actual data for the latest 12-month period." As required, the pipelines filed their cost and revenue studies on April 5<sup>th</sup>. You can view excerpts from the cost and revenue study [here](#), which show each pipeline's claimed cost of service, return, and asserted under or over-recovery (Columbia and Empire show an under-recovery, while Tuscarora and Iroquois show an over-recovery) – full copies of the cost and revenue studies are hyperlinked below for each individual pipeline.

Since FERC initiated the proceedings, in addition to assigning presiding judges to each case, FERC appointed settlement judges in each of these proceedings in an effort to "facilitate the settlement process" and resolve the contested issues. The settlement judges will convene settlement conferences and report to the presiding judges every 60 days. Meanwhile, the hearing proceedings before the presiding judges will continue as scheduled. Therefore, these cases will continue along a settlement track with the settlement judge, who will be convening settlement conferences with parties, while simultaneously proceeding along a litigation track, with data requests and other procedural events that are outlined in the procedural schedules (hyperlinked below).

A brief description of the current case status, including the current status of each case, is below:

- Columbia Gulf Transmission (Docket No. RP16-302): In FERC's order establishing the Section 5 proceeding, it noted that Commission Staff estimated CGT's return on equity for 2013 was 17.3% and 18.2% in 2014 using Form 2 data CGT filed. You can view the Commission's order establishing the Section 5 proceeding [here](#). The ALJ held a prehearing conference on February 10, 2016 and [established a procedural schedule](#). CGT filed a [request for rehearing](#) on February 19<sup>th</sup>, which the [Commission denied](#) on March 31<sup>st</sup>. CGT filed its [cost and revenue study](#) on April 5
  - o *Case Status*: The first settlement conference was held on May 12. CGT stated that it would provide a "bullet-point" counter-offer to Staff's top sheet position in the next several days. Intervenor and Staff promised to provide a response before the next settlement conference on June 2<sup>nd</sup>. Data requests and responses are ongoing.
- Empire (Docket No. RP16-300): In FERC's order establishing the Section 5 proceeding, it noted that Commission Staff estimated Empire's return on equity in 2013 was 15.8%, and in 2014 was

20.2% using Form 2 data Empire filed. You can view the Commission's order establishing the Section 5 proceeding [here](#). The ALJ held a prehearing conference in this matter on February 10 and [established a procedural schedule](#). Discovery begun April 6. Empire filed a [request for rehearing](#) of the Commission's decision to bring a Section 5 action on February 22<sup>nd</sup> which the [Commission denied](#) on March 31. Iroquois filed its [cost and revenue study](#) on April 5.

- o *Case Status:* Staff circulated its top sheet position in advance of the first settlement conference, held May 12. During the settlement conference, Staff and the intervenors were able to put together a joint settlement offer to propose to the pipeline. The pipeline responded with only minimal movement, and Staff and the intervenors circulated a counter-offer. The next settlement conference is scheduled for May 25. Data requests and responses are ongoing.

· [Iroquois](#) (Docket No. RP16-301): In FERC's order establishing the Section 5 proceeding, it noted that Commission Staff estimated Iroquois's return on equity in 2013 was 16.2%, and in 2014 was 16.3% using Form 2 data Iroquois filed. You can view the Commission's order establishing the Section 5 proceeding [here](#). The ALJ held a prehearing conference in this matter on February 12 and [established a procedural schedule](#). Iroquois filed its [cost and revenue study](#) on April 5.

- o *Case Status:* The first settlement conference was held on April 28. In the interest of obtaining a "quick settlement," the pipeline circulated an initial settlement offer prior to the conference, which would offer a 5% decrease from existing rates. The pipeline is interested in obtaining carve-out language in any settlement agreement that would allow them to file revised tariff language within the 5-year moratorium on filing a Section 4 case. Staff put together a counteroffer, which we circulated to the group. We represented that PGC did not oppose Staff's counteroffer. At the May 18 settlement conference, Iroquois stated it would provide a response to this counteroffer by May 24, and Staff and Intervenors will respond by June 1. The settlement judge scheduled a third settlement conference for June 16 at 10:00 p.m. ET. Data requests and responses are ongoing.

· [Tuscarora](#) (Docket No. RP16-299): In FERC's order establishing the Section 5 proceeding, it noted that Commission Staff estimated Tuscarora's return on equity as 23.6% for 2013 and 24.9% in 2014 using the Form 2 data Tuscarora filed. You can view the Commission's order establishing the Section 5 proceeding [here](#). The ALJ held a prehearing conference in this matter on February 11 and [established a procedural schedule](#). Tuscarora [filed a request for rehearing](#) of the Commission's decision to bring a Section 5 action on February 22<sup>nd</sup>, which the [Commission denied](#) on March 31. Tuscarora filed its [cost and revenue study](#) on April 5.

- o *Case Status:* Staff issued its initial offer of settlement (*i.e.* top sheets) on May 12 in response to Tuscarora's cost and revenue study. Staff proposed a \$0.10 rate reduction to Tuscarora's current rates. The first settlement conference in this matter was held on May 19. During the settlement conference, the intervenors agreed that Staff's top sheet position was too high (Staff's offer represented a rate decrease of around 10 cents), and Staff and the intervenors worked together to put together a joint proposal which was verbally presented to the pipeline at the conference. The pipeline will respond to this settlement offer next Monday, May 23. Data requests and responses are ongoing.

## ENFORCEMENT UPDATE

FERC Issues Notice to Show Cause and Notice of Proposed Penalty to Total Gas & Power North America ("TGPNA"): on April 28, the Commission directed TGNPA and two of its traders to show cause why they should not be found to have violated section 4A of the NGA in a scheme to manipulate the price of natural gas at 4 locations in the southwestern U.S. between June 2009-June 2012. Specifically, the Commission alleges that TGNPA, through the traders, engaged in uneconomic trades of monthly physical fixed price natural gas during bidweek at 4 different regional trading hubs, and then reported those trades to publications for inclusion in monthly index prices. The Commission proposed a total penalty to TGPNA of \$213M, and its traders an additional \$3M, plus \$9.18M disgorgement of unjust profits. You can read the Commission's order [here](#). TGPNA has until June 13 to respond to the allegations.

## CLEAN POWER PLAN UPDATE

Court Orders En Banc Review of CPP and Delays Oral Arguments: on May 16<sup>th</sup>, the U.S. Court of Appeals for the D.C. Circuit ordered that it would delay oral arguments originally scheduled for June 2<sup>nd</sup> until September 27<sup>th</sup> and ordered a full, en banc review. Attorneys working on the case call this order "extraordinary," as the court has never before decided for itself to set an issue before the entire slate of judges before a 3-member panel has heard the case and no one on either side of the litigation requested it. This delay means that a decision on the merits of the CPP is unlikely until at least the end of 2017, meaning that a Supreme Court decision is unlikely before 2018.

## ON THE HORIZON

- **Given that the newsletter covers all pertinent updates for this month, and that the June PGC meeting will be held a few short weeks from now, the May 20, 2016 membership call is cancelled.**
- Next PGC Meeting: Tuesday, June 7, 2016 at 12:00 p.m. PT, with a reception June 8<sup>th</sup>, ending at 7:00 p.m. ET. Location: Skamania Lodge, Stevenson, WA. If you cannot attend in person, you may dial in at: 888-857-7121; passcode: 202 661 7607. A detailed itinerary with additional information is attached. If you have questions, please call us. We look forward to seeing everyone!
- Next Commission Meeting: May 19, 2016

## CONTACT INFORMATION

If you have any questions, please contact Andrea Chambers at 202-661-7607 or via e-mail [here](#), or Katie Leesman at 202-661-2266 or via e-mail [here](#). If you need access to the PGC member portion of the website, contact Trinna Barner via e-mail [here](#).