

Ranking	Issue/Background	Proceedings	Status
	<b>Jurisdiction Issues</b>		
	<p>Proceeding will determine whether AEP will be obligated to fulfill its voluntary commitment to participate in the PJM RTO.</p> <p>Case involves possible exemptions from the laws, rules, or regulations of Virginia and Kentucky regarding proposed participation in an RTO.</p>	<b>AEP Proceeding</b>	<p>Hearings January 2004; order in Spring 2004.</p> <p>ER03-262-009</p>
	<p>Standardizes generator interconnections across states.</p> <p>Establishes utility obligations for generator interconnection to transmission facilities. Orders compliance with general rule. Small generator rule differs from NARUC model interconnection procedures.</p>	<b>Generator Interconnection Stand's</b>	<p>Final Rule July 2003. Rehearing requests pending.</p> <p>RM02-1 Order No. 2003.</p>
	<b>RTO Participation Issues</b>		
	<p>Market power screen for assessing potential or actual exercise of market power in wholesale markets. Considers native load obligation in market power analysis.</p> <p>Establish conditions for utilities to use market-based pricing. Conditions do not apply if market power is mitigated via utility participation in a FERC-approved RTO.</p>	<b>Supply Margin Assessment Screen</b>	<p>FERC Policy Statement. Workshop Jan 13 and 14.</p> <p>PL02-8</p>
	<p>Establishes standards of conduct for natural gas pipelines and transmitting public utilities.</p> <p>Requires separation of utility sales functions from transmission functions except when part of bundled retail sales.</p>	<b>Standards of Conduct</b>	<p>Final Rule November 2003. NY's and other rehearing requests pending.</p> <p>RM01-10: Order No. 645</p>
	<p>Establishes market behavior rules intended to prevent market abuse.</p> <p>Establishes conditions for utilities to use market-based pricing.</p>	<b>Market-Based Rates</b>	<p>Order Nov. 2003. Rehearing requests pending.</p> <p>EL01-118</p>
	<p>Standardizes market rules across states and regions.</p> <p>If adopted, would establish standards for wholesale market design. Regional differences are to be taken into consideration in the final rule.</p>	<b>Standard Market Design</b>	<p>Proposed rule has not been withdrawn and is still pending in original form.</p> <p>RM01-12</p>
	<p>OGE requests acquisition of generation plant and associated transmission equipment.</p> <p>Considers the relevant standard and geographic scope for evaluating the impact of both vertical and horizontal market power.</p>	<b>Oklahoma Gas and Electric</b>	<p>Set for Hearing EC03-131</p>
	<p>SPP granted RTO status.</p> <p>Approval granted only upon SPP implementation of a number of conditions.</p>	<b>SPP RTO</b>	<p>Ruling on Feb. 10, 2004 RT04-1</p>
	<p>Split of authority between transmission owners and RTO; role of an RSC in RTO</p> <p>PJM RTO and NE RTO have a different split of authority (allocation of Section 205 rights). NE has asked for expanded role for an RSC in cost allocation and rate design.</p>	<p><b>NE RTO</b></p> <p><b>PJM RTO</b></p>	<p>Ruling expected March 2004</p> <p>Settlement approved Nov. 2003</p>

	RTO/ISO cost responsibility.  FERC rejected argument that the CAISO grid management charge (GMC) was inconsistent with the treatment of MISO's pass-through of administrative costs to entities with grandfathered transmission contracts.	<b>CAISO</b>	Docket No. ER01-313, Opinion 463-A
	Proceeding to determine the treatment of transmission congestion in constrained area.  ALJ report on appropriate treatment of congestion on the Delmarva peninsula.	<b>PJM RTO</b>	Docket No. PA03-12
	Treatment of ISO administrative costs.  FERC ruled that allocating ISO administrative costs to bundled retail load was reasonable notwithstanding claims that existing state rate caps could result in "trapped costs."	<b>MISO</b>	Midwest ISO Transmission Owners v. FERC, NO. 02-1121, et al (voluntary remand)
	<b>ROE Issues</b>		
	Standard for an Increase in the rate-of-return for transmission utilities.  Establishes a bonus on the rate-of-return for transmission utility for (1) joining an RTO and (2) building new transmission facilities.	<b>Incentive Rates Policy</b>	FERC Policy Statement.  PL03-1
	Incentive adders for RTO participation and for transmission utilities that have made past decisions to turn control of transmission assets to an independent system operator.  FERC has approved an adder for transmission utilities that already are participating in RTOs. Whether utilities that participate in an ISO and have given control of their assets to the ISO should receive an adder is under consideration in New England.	<b>PJM</b>  <b>NEISO</b>	Kentucky Public Service Commission v. FERC, NO. 03-1092 (voluntary remand)  NEPOOL, Docket No. ER04-157
	Incentive adders for all transmission upgrades	<b>PJM</b>	Kentucky Public Service Commission v. FERC, NO. 03-1092 (voluntary remand)
	Use of midpoint rather than median in setting rate of return allowances for transmission rates.	<b>Kentucky PSC</b>	Kentucky PSC v. FERC Docket No. 03-1092
	<b>Other Issues</b>		
	Cost allocation associated with transmission upgrades, for reliability upgrades and economic upgrades.  FERC has approved a cost allocation methodology in NE that regionalizes upgrades offering both regional reliability and regional economic benefits. PJM has a different methodology in place.	<b>PJM</b>  <b>NE</b>	Docket No. RTO4-2  ISO-NE, ER03-1141
	State Access to Market Information  This issue is before FERC in both PJM (PJM status report) and NE (NECPUC filing).	<b>PJM</b>  <b>NE</b>	Docket No. RM01-12-000 Docket Nos. RTO04-2-000 and ER04-116-000
To be discussed Monday	Possible FERC rulemaking to require compliance with reliability standards.  FERC-required reporting of violations of NERC standards. FERC is exploring its authority under existing law to assure reliability.	<b>Reliability</b>	Pre NOPR  RM04-2
	Financial transparency  FERC cash management Rule	<b>Rulemaking</b>	RM02-14-000 and 001; Order No. 634 A
	Monitoring of relationship between utility and non-utility investments.  Rescinds Westar's authorization to issue long-term debt.	<b>Tariff</b>	ES02-51-001

## RECENT COURT DECISIONS

	<b>ISSUE</b>	<b>CITE</b>
	Does FERC have authority to prohibit PJM-member utilities from filing their own tariff changes, and further to require FERC approval before those utilities can leave PJM?	<b>Atlantic City Elec. Co. v. FERC</b> , 295 F.3d 1, 15 (D.C. Cir. 2002); <i>Id.</i> at 11.
	Does FERC have jurisdiction to approve inclusion of distribution service in the MISO Open Access Transmission Tariff (OATT)?	<b>Detroit Edison Co. v. FERC</b> , 334 F.3d 48, (D.C. Cir. 2003) at 54.
	Does FERC have authority to require a utility to curtail service to both its wheeling and its native-load customers on a <i>pro rata</i> basis with no preference given to the native load service?	<b>Northern States Power Co. v. Federal Energy Regulatory Comm'n</b> , 176 F. 3d 1090, 1096 (8 <sup>th</sup> Cir. 1999).
	Can FERC use its transmission authority to preempt a Kentucky statute that gives priority to retail customers in the event of necessary service curtailment?	<b>Kentucky Power Co. v. Huelsman</b> , No. 03-47-JMH, slip op. at 6 (E. D. KY., Dec. 18, 2003).
	Is FERC's Order 2000 a voluntary or mandatory RTO policy?	<b>Pub. Util. Dist. No. 1 of Snohomish county v. FERC</b> , 272 F.3d 607 (DC Cir. 2001) at 616.
	Does FERC have jurisdiction over all transmission, including transmission in fully bundled retail service?  [Court said "yes" for unbundled transmission; expressly did not decide question for bundled service.]	<b>New York v. FERC</b> , 535 U.S. at 28, 1, 122 S. Ct. 1012 and 1028(2002) at 26.