

155 FERC ¶ 61,302  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

Transource Wisconsin, LLC

Docket Nos. ER15-13-002  
ER15-13-005  
EL16-76-000

ORDER ON COMPLIANCE FILINGS AND INSTITUTING SECTION 206  
PROCEEDING, COMMENCING PAPER HEARING PROCEDURES, AND  
ESTABLISHING REFUND EFFECTIVE DATE

(Issued June 23, 2016)

1. In this order, we accept, subject to condition, Transource Wisconsin, LLC's (Transource Wisconsin) February 15, 2016 compliance filing containing revisions to its formula rate template. In addition, we accept, for informational purposes, Transource Wisconsin's January 28, 2015 compliance filing, as supplemented through its October 23, 2015 response to a deficiency letter, containing information on cost allocation to Transource Wisconsin from its parent companies or affiliates. In addition, we find that Transource Wisconsin's formula rate protocols may be unjust, unreasonable, unduly discriminatory or preferential because they do not provide for Transource Wisconsin to include in the annual formula rate update and annual informational filings descriptions and justifications for the allocators used to allocate costs between Transource Wisconsin and its affiliates, and information indicating the magnitude of such cost allocations by service category or function. Accordingly, we institute a proceeding in Docket No. EL16-76-000 pursuant to section 206 of the Federal Power Act (FPA),<sup>1</sup> as discussed more fully below.

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<sup>1</sup> 16 U.S.C. § 824e (2012).

## I. Background

2. On October 1, 2014, Transource Wisconsin, a wholly owned subsidiary of Transource Energy, which is a joint venture between American Electric Power Company (AEP) and Great Plains Energy, filed its transmission formula rate template and protocols (collectively, Formula Rate) to recover costs associated with transmission projects that it intends to own and develop as part of Midcontinent Independent System Operator, Inc.'s (MISO) Order No. 1000<sup>2</sup> competitive solicitation process. Transource Wisconsin also requested, pursuant to section 205 of the FPA,<sup>3</sup> certain transmission rate incentives.

3. On November 26, 2014, the Commission accepted the Formula Rate to be effective once filed with the Commission to become part of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), consistent with the effective date established in that future proceeding, subject to a further compliance filing.<sup>4</sup> On January 28, 2015, Transource Wisconsin submitted revised tariff sheets in response to the Commission's directives relating to the Formula Rate. Transource Wisconsin's compliance filing also included additional supporting documents explaining the cost allocation to Transource Wisconsin from its parent companies or affiliates in Docket No. ER15-13-003. On September 22, 2015, Commission staff issued a deficiency letter requesting additional information relating to such cost allocation. Transource Wisconsin submitted a response on October 23, 2015.

4. On January 8, 2016, the Commission accepted the compliance filing concerning revisions to the Formula Rate, subject to further compliance.<sup>5</sup> However, the Commission reserved for a future order a determination regarding cost allocation information and direct assignment. On February 11, 2016, Transource Wisconsin submitted a compliance filing in response to the January 2016 Order.

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<sup>2</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012), *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, No. 762 F.3d 41 (D.C. Cir. 2014).

<sup>3</sup> 16 U.S.C. § 824d (2012).

<sup>4</sup> *Transource Wisconsin, LLC*, 149 FERC ¶ 61,180 (2014) (November 2014 Order).

<sup>5</sup> *Transource Wisconsin, LLC*, 154 FERC ¶ 61,010 (2016) (January 2016 Order).

## II. Notice of Filings

5. Notice of Transource Wisconsin's January 28, 2015 compliance filing was published in the *Federal Register*, 80 Fed. Reg. 7444 (2015), with interventions and protests due on or before February 18, 2015. No protests were filed with respect to Transource Wisconsin's cost allocation information.<sup>6</sup> Notice of Transource Wisconsin's October 23, 2015 response to the deficiency letter was published in the *Federal Register*, 80 Fed. Reg. 66,897 (2015), with interventions and protests due on or before November 13, 2015. None was filed.

6. Notice of Transource Wisconsin's February 11, 2016 compliance filing was published in the *Federal Register*, 81 Fed. Reg. 8195 (2016), with interventions and protests due on or before March 3, 2016. None was filed.

## III. Discussion

### A. Formula Rate Revisions

7. In the January 2016 Order, the Commission accepted, subject to condition, Transource Wisconsin's January 28, 2015 compliance filing, which contained revisions to the Formula Rate. However, the Commission directed certain revisions to Attachment 4 of the Formula Rate, as well as further explanation. It found, among other things, that the heading of Attachment 4, Page 2, Column F, as well as the purpose of that column, is unclear, as is the phrase "exclude the portion of any balance offset by a balance sheet account" in Attachment 4, Note G.<sup>7</sup> The Commission also required certain clarification and support regarding Attachment 7, Post-Retirement Benefits Other than Pensions.

8. In response to the Commission's directives related to Attachment 4, Transource Wisconsin states that the Formula Rate is designed to provide a credit to rate base for certain unfunded reserves that (1) have not been set aside in a trust, escrow or restricted account; (2) whose balance are [sic] collected from customers

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<sup>6</sup> On February 18, 2015, WPPI Energy and Madison Gas and Electric Company jointly filed a limited protest with respect to the depreciation rates, and Transource Wisconsin filed a response. These issues have already been addressed in the Commission's January 2016 Order. *See* January 2016 Order, 154 FERC ¶ 61,010 at PP 18-20.

<sup>7</sup> *Id.* P 25.

through cost accruals to accounts that are recovered under the Formula Rate.<sup>8</sup> Transource Wisconsin states that it utilizes normal Generally Accepted Accounting Principles accounting procedures and its own annual update process to identify such unfunded reserves and provide this credit. Transource Wisconsin further explains that Column (f) states the portion of the account that was created by customer contributions. Transource states that reserves can be paid for by debiting one balance sheet account and crediting another balance sheet account. Transource Wisconsin explains that, in this situation, the reserve is not paid for using customer contributed capital and should not be a rate base deduction. When the reserve is not paid for through customer contributed capital, but rather created fully through an off-setting liability, it is not an unfunded reserve and the input to column (f) would be “0,” and if the reserve is partially funded through customer contributed capital, then the portion relating to customer contributed capital is entered as an input in column (f).

9. In response to the Commission’s directives regarding Attachment 7, Transource Wisconsin proposed a clarification and revisions to Note B of Attachment 7.

10. We accept Transource Wisconsin’s proposed formula rate template revisions, subject to condition and further compliance.<sup>9</sup> With respect to Attachment 4, we find that Transource Wisconsin has sufficiently explained the purpose of Column F and the quoted phrase in Note G, and how it ensures that capital contributions from customers are appropriately deducted from rate base before they are used to fund liabilities. However, Note G does not accurately reflect this explanation and we direct Transource Wisconsin to revise Note G in a compliance filing, due within 30 days of the date of this order, to better reflect the explanation provided in the February 11, 2016 compliance filing.

11. We find that Transource Wisconsin’s clarification and proposed revisions to Attachment 7 comply with the Commission’s directives.

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<sup>8</sup> Transource Wisconsin February 11 Compliance Filing at 2.

<sup>9</sup> The Commission can revise a proposal filed under section 205 of the Federal Power Act as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission’s conditions by withdrawing its filing.

**B. Cost Allocation**

12. In the November 2014 Order, the Commission stated, “To the extent that costs are allocated or directly-billed from Transource Wisconsin’s parent company or any of its affiliates, we direct Transource Wisconsin to explain and provide the methodology for the allocation of those costs in a compliance filing.” We find that Transource Wisconsin’s cost allocation compliance filing, as supplemented through its response to the deficiency letter, provides sufficient explanation of such inter-affiliate cost allocations for us to accept those compliance filings.

13. However, the Commission recently held that utilities should include in their formula rate protocols requirements to provide, in their annual Formula Rate updates and informational filings, certain information about the methodologies for the allocation of costs between affiliates that affect the cost inputs to their formula rates in order to allow interested parties and the Commission to understand the reasonableness of such allocation methodologies and the resulting costs that are recovered through the formula rates.<sup>10</sup> In *PJM*, the Commission made acceptance of the formula rate protocols subject to the condition that the transmission entity there, Northeast Transmission Development, LLC (NTD), amend its protocols, to provide for it

to include in its annual Formula Rate updates and annual informational filings the following: (1) a detailed description of the methodologies used to allocate and directly assign costs between NTD and its affiliates by service category or function for the applicable rate year, including any changes to such cost allocation methodologies from the prior year, and the reasons and justification for those changes; and (2) the magnitude of such costs that have been allocated or directly assigned between NTD and each affiliate by service category or function for the applicable period.<sup>11</sup>

14. In the present case, in the November 2014 Order, the Commission accepted Transource Wisconsin’s formula rate protocols without conditioning our acceptance on revising them to include the terms we required in *PJM*. Therefore, it appears that the absence of such requirements in Transource Wisconsin’s formula rate protocols may be unjust, unreasonable, or unduly discriminatory or preferential because the protocols do

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<sup>10</sup> *PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,097, at P 127 (2016) (*PJM*).

<sup>11</sup> *Id.*

not provide for Transource Wisconsin to include in its annual Formula Rate Update and annual informational filings descriptions and justifications for the allocators used to allocate costs between Transource Wisconsin and its affiliates, and information indicating the magnitude of such cost allocations by service category or function. Accordingly, we institute a proceeding in Docket No. EL16-76-000 pursuant to section 206 of the FPA, to examine Transource Wisconsin's formula rate protocols with respect to this issue. Upon initial review, the concerns identified by the Commission might be addressed by revising Transource Wisconsin's formula rate protocols to provide for Transource Wisconsin to include in its annual Formula Rate updates and annual informational filings the following: (1) a detailed description of the methodologies used to allocate and directly assign costs between Transource Wisconsin and its affiliates by service category or function for the applicable rate year, including any changes to such cost allocation methodologies from the prior year, and the reasons and justification for those changes; and (2) the magnitude of such costs that have been allocated or directly assigned between Transource Wisconsin and each affiliate by service category or function for the applicable period. We also find that a paper hearing, as ordered below, is the appropriate procedure to resolve this matter.

15. As ordered below, any person desiring to participate in the paper hearing must file a notice of intervention or timely motion to intervene in Docket No. EL16-76-000, as appropriate, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015).

16. We will require Transource Wisconsin and other interested parties to file initial briefs no later than 30 days after the publication of notice in the Federal Register of the Commission's initiation of this section 206 proceeding in Docket No. EL16-76-000. Parties also may file reply briefs in response to parties' initial briefs due within 21 days after the due date of initial briefs.

17. In cases where, as here, the Commission institutes a proceeding under section 206 of the FPA, the Commission must establish a refund effective date that is no earlier than publication of notice of the Commission's initiation of the proceeding in the Federal Register, and no later than five months subsequent to that date.<sup>12</sup> Consistent with

Commission precedent,<sup>13</sup> we will establish a refund effective date at the earliest date allowed, i.e., the date the notice of the initiation of the proceeding in Docket

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<sup>12</sup> 16 U.S.C. § 824e(b) (2012).

<sup>13</sup> *See, e.g., PJM Interconnection, L.L.C.*, 90 FERC ¶ 61,137 (2000); *Cambridge Elec. Light Co.*, 75 FERC ¶ 61,177, *clarified*, 76 FERC ¶ 61,020 (1996);

(continued...)

No. EL16-76-000 is published in the Federal Register. The Commission is also required by section 206 to indicate when it expects to issue a final order. We expect to issue a final order in this proceeding within six months of receiving reply briefs, or assuming Transource Wisconsin files revisions to its formula rate protocols within three months of receiving the revisions.

The Commission orders:

(A) Transource Wisconsin's February 15, 2016 compliance filing is accepted subject to condition, as discussed in the body of this order.

(B) Transource Wisconsin is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

(C) Transource Wisconsin's January 28, 2015 compliance filing concerning cost allocation is accepted for informational purposes, as discussed in the body of this order.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R., Chapter I), the Commission hereby institutes a proceeding in Docket No. EL16-76-000, concerning Transource Wisconsin's formula rate protocols, as discussed in the body of this order.

(E) Transource Wisconsin and other interested parties may file initial briefs no later than 30 days after the publication of notice in the *Federal Register* of the Commission's initiation of the section 206 proceeding in Docket No. EL16-76-000. Reply briefs may be filed no later than 21 days thereafter.

(F) Any interested person desiring to be heard in Docket No. EL16-76-000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2015)) within 21 days of the date of issuance of this order.

(G) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding under section 206 of the FPA of the

proceeding in Docket No. EL16-76-000.

(H) The refund effective date in Docket No. EL16-76-000 established pursuant to section 206(b) of the FPA will be the date of publication in the *Federal Register* of the notice discussed in Ordering Paragraph (G) above.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.