137 FERC ¶ 61,239
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Midwest Independent Transmission System Operator, Inc. | Docket No. ER12-290-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued December 28, 2011)

1. On October 31, 2011, Midwest Independent Transmission System Operator, Inc (MISO) filed revisions to Attachment L (Credit Policy) and section 7 (Billing and Payments; Defaults and Remedies) of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to accommodate billing and to calculate the initial and ongoing credit requirements for Schedule 26-A (Multi-Value Project Usage Rate) charges. In this order, we conditionally accept the tariff revisions, to become effective January 1, 2012, and direct MISO to submit a compliance filing within 15 days of the issuance of this order, as discussed below.

Background

2. On July 15, 2010, MISO filed revisions to the Tariff providing for Multi-Value Projects (MVP), which provides for Schedule 26-A charges to be assessed to market participants based on the formulas in Attachment MM (Multi-Value Project Charge). On December 16, 2010, the Commission conditionally accepted the proposed revisions to the Tariff, effective July 16, 2010, including MISO's proposal to exclude grandfathered agreements from regional allocation of MVP costs under Schedule 26-A.[1]

[1] *Midwest Indep. Trans. Sys. Operator, Inc.*, 133 FERC ¶ 61,221, at P 450-452 (2010), *order on reh'g*, 137 FERC ¶ 61,074, at P 293-294 (2011) (MVP Orders).

MISO's Filing

3. MISO states that Schedule 26-A charges will become effective January 1, 2012, and will be billed for the first time in the February 2012 monthly invoice for transmission service.[2]

4. Specifically, MISO updates section 7 to include Schedule 26-A charges in the billing procedures applicable to transmission customers. In addition, section I.A.7 of Attachment L has been revised to establish an initial credit requirement related to Schedule 26-A for new market participants in advance of incurring any Schedule 26-A charges.[3] Section V.A.5 of Attachment L has also been revised to capture the credit exposure associated with Schedule 26-A charges by updating the transmission service potential exposure formula to include invoiced and measured components for Schedule 26-A charges.[4]

Notice of Filing and Responsive Pleadings

5. Notice of the filing was published in the *Federal Register*, 76 Fed. Reg. 69,255 (2011), with interventions and protests due on or before November 21, 2011. Timely motions to intervene were filed by American Municipal Power, Inc; Consumers Energy Company; Duke Energy Corporation; The Detroit Edison Company; and Wisconsin Electric Power Company. In addition, Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier) and Southern Illinois Power Cooperative (SIPC) (jointly, Hoosier-SIPC) filed a

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[2] MISO Transmittal Letter at 1.

[3] Revised section I.A.7(b) provides:

> For the initial value of Total Potential Exposure associated with Schedule 26-A charges the Applicant's estimated peak Monthly Net Actual Energy Withdrawal, Export Schedules and Through Schedules not sinking in the PJM Interconnection, LLC consistent with Section Four of Attachment MM will be applied to the current year's indicative MVP Usage Rate ($/MWh) found in Appendix A of the most recent MTEP.

[4] The invoiced exposure will represent the actual MVP charges when there is an invoice issued for the previous month but that has not yet been paid by the market participant. The measured exposure is based on actual historical monthly net actual energy withdrawals, and applicable through schedules and export schedules. Each market participant's historical *pro rata* share of such energy withdrawals will be multiplied by the monthly revenue requirement for each applicable MVP project to determine monthly potential exposure.

timely motion to intervene and limited protest. On December 6, 2011, MISO filed an answer to the limited protest.

6. Hoosier-SIPC submit that they do not generally object to the tariff revisions; however, they state that they are concerned that MISO's proposed change to section I.A.7(b) of Attachment L does not make clear that the calculation of the initial value of Total Potential Exposure associated with Schedule 26-A charges should exclude energy withdrawals associated with grandfathered agreements. Hoosier-SIPC concede that Schedule 26-A explicitly provides that "Grandfathered Agreements and Export Schedules and Through Schedules for deliveries that sink in the transmission system operated by PJM Interconnection, LLC shall not be charged this Schedule 26-A." However, Hoosier-SIPC argue that, while the language proposed in Attachment L of MISO's Tariff specifies that deliveries to PJM Interconnection, L.L.C. are excluded, it makes no reference to grandfathered agreements. Hoosier-SIPC are concerned that this language, which differs slightly from that in Schedule 26-A, could result in parties to grandfathered agreements, including Hoosier and SIPC, having their Total Potential Exposure associated with Schedule 26-A charges calculated in a manner that includes grandfathered agreement withdrawals.[5]

7. Hoosier-SIPC further argue that while the proposed Attachment L language does contain a reference to section 4 of Attachment MM (which states that the MVP usage rate is calculated "excluding those Monthly Net Actual Energy Withdrawals provided under GFAs"), the exact application of that reference in Attachment L is ambiguous.[6] To resolve any ambiguity, Hoosier-SIPC request that the Commission direct MISO to revise the proposed tariff language to specifically provide that energy withdrawals pursuant to grandfathered agreements are not included in the calculation of Total Potential Exposure associated with Schedule 26-A charges.

8. In its answer, MISO confirms its intent to exclude energy withdrawals associated with grandfathered agreements from calculations of the initial value of Total Potential Exposure associated with Schedule 26-A charges. Furthermore, MISO explains that, while section I.A.7(b) of Attachment L does not explicitly mention this exclusion, section I.A.7(b) does state that the initial value of Total Potential Exposure associated with Schedule 26-A charges for credit monitoring purposes will be consistent with section 4 of Attachment MM. Thus, MISO maintains that no further clarification to the proposed language is necessary.[7]

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[5] Hoosier-SIPC Protest at 3-4.

[6] *Id*. at 4.

[7] MISO Answer at 3.

Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the parties that filed them parties to this proceeding.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO's answer because it has provided information that assisted us in our decision-making process.

B. Discussion

11. We find that MISO's proposed revisions are consistent with the MVP Orders and properly incorporate Schedule 26-A charges into the calculation of both non-FTR potential exposure and the monthly invoice for transmission service, except as noted below. Regarding the concern raised by Hoosier-SIPC, we agree that the proposed tariff revisions could be read to exclude only those "Export Schedules and Through Schedules not sinking in the PJM Interconnection, LLC," and thus be read to not properly exclude energy withdrawals associated with grandfathered transactions. Therefore, to ensure that the Tariff is clear, MISO is directed to file revised language to Attachment L, within 15 days of the issuance of this order, to state that the calculation of the initial value of Total Potential Exposure associated with Schedule 26-A charges exclude energy withdrawals associated with grandfathered agreements.

The Commission orders:

(A) The tariff revisions are conditionally accepted, effective January 1, 2012, as requested.

(B) MISO is directed to file, within 15 days of the issuance of this order, revised language to Attachment L, as discussed in the body of this order.

By the Commission.

Kimberly D. Bose,
Secretary.