138 FERC ¶ 61,043
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 Nos. ER12-351-000, ER12-351-001

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued January 20, 2012)

1. On November 3, 2011, as amended on November 21, 2011, Midwest Independent Transmission System Operator, Inc. (MISO)[1] and Missouri River Energy Services (Missouri River) (collectively, Applicants) filed, pursuant to section 205 of the Federal Power Act (FPA),[2] proposed revisions to Attachment O-MRES, Attachment MM-MRES and GG-MRES under MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). In this order, we conditionally accept the Applicants proposed revisions to the Tariff, subject to a compliance filing, to be effective January 1, 2012, as requested.

I. Background

A. Description of Missouri River

2. Missouri River explains that it is a municipal joint action agency formed under Chapter 28E of the Iowa Code and existing under the joint action laws of the states of Iowa, Minnesota, North Dakota, and South Dakota. Missouri River's members consist of 60 member municipalities in those four states. Missouri River states that it provides supplemental wholesale power and transmission services to 59 member municipalities pursuant to power sale agreements and additional contractual arrangements.

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[1] MISO submitted the proposed Tariff changes as the administrator of the Tariff at the request of Missouri River.

[2] 16 U.S.C. § 824d (2006).

3. Missouri River also states that it recently joined MISO as a transmission-owning member.[3] Missouri River adopted, for the recovery of its annual transmission revenue requirement the *pro forma* non-levelized Energy Information Administration (EIA) Form 412 formula rate in Attachment O to the MISO Tariff. Missouri River explains that, pursuant to a declaratory order issued by the Commission in a prior proceeding, it will calculate its annual transmission revenue requirement in Attachment O by combining its financial information with that of the Western Minnesota Municipal Power Agency.[4]

4. Missouri River is participating in a comprehensive regional planning initiative by eleven utilities in the region known as CapX2020. Missouri River states that the CapX2020 projects will provide transmission infrastructure that will increase system reliability in multiple states and will accommodate new renewable energy generation resources that meet state renewable portfolio standards in the region. In particular, Missouri River participates in the Fargo to Monticello Project (Fargo Project)[5] and Twin Cities to Brookings Project (Brookings Project); both are part of CapX2020.[6]

5. On June 15, 2011, in Docket No. EL11-45-000 (Incentive Rate Filing), Missouri River filed a petition for declaratory order requesting three transmission rate incentives for its investment in the Fargo Project and Brookings Project. Specifically, Missouri River requested: (1) 100 percent of prudently-incurred construction work in progress (CWIP) in rate base (100 Percent CWIP Recovery); (2) 100 percent recovery of the prudently incurred costs of transmission facilities that are cancelled or abandoned for reasons beyond the Missouri River's control (Abandoned Plant Recovery); and (3) a

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[3] *Missouri River Energy Services*, 135 FERC ¶ 61,101 (2011).

[4] *Missouri River Energy Services*, 125 FERC ¶ 61,300 (2008).

[5] Missouri River states that it is only seeking incentives for Phases 2 and 3 of the Fargo project, but not for Phase 1. *See* Applicants November 3, 2011 Filing at 6-8.

[6] *See* Applicants November 3, 2011 Filing at 5. The Fargo Project is a proposed 240-mile, 345 kV transmission line between Fargo, North Dakota and Monticello, Minnesota. The project will consist of multiple segments each constructed in a double circuit compatible configuration that will enable the future construction of a second circuit. The project is a Baseline Reliability Project under the 2008 MISO Transmission Expansion Plan (MTEP) process. The Brookings Project is a proposed 250 mile, 345 kV transmission line between Brookings County, South Dakota and the proposed Hampton substation in southeast Minneapolis-St. Paul Minnesota. The project includes intermediate connections to several load centers along the planned route and major upgrades or new substations at eight locations. *See id.* at 5 and 6.

hypothetical capital structure of 45 percent equity and 55 percent debt (Hypothetical Capital Structure).

II. **Filing**

6. On November 3, 2011, Applicants filed proposed Attachments O-MRES, MM-MRES- and GG-MRES, to replace Missouri River's use of the currently effective MISO *pro forma* Attachments O, MM, and GG to (1) implement the transmission rate incentives requested in Incentive Rate Filing, (2) move to forward-looking annual transmission revenue requirement, and (3) correct inconsistencies between the *pro forma* non-levelized EIA Form 412 Attachment O and the *pro forma* FERC Form No. 1 Attachment O.[7] Applicants state that its request to move to a forward-looking test year and true-up mechanism will allow Missouri River to recover its expenses and investments in transmission through a formula rate using projected, rather than historical, data.

7. On November 21, 2011, MISO amended the November 3, 2011 Filing to implement and conform the Attachment O-MRES and Attachment MM-MRES with the comprehensive changes proposed by the MISO Transmission Owners to those attachments in Docket Nos. ER12-297-000 (Attachment O Filing) and ER12-312-000 (Attachment MM Filing) respectively.[8] It also corrects that portion of the calculation of the annual transmission revenue requirement in its Attachment O-MRES that would implement the hypothetical capital structure incentive requested in its Incentive Rate Filing.[9]

8. Applicants state that, because MISO is not expected to make a final decision on whether the Brooking Project is a Multi-Value Project (MVP) until December 2011, Missouri River has provided two versions of the proposed 2012 Missouri River forward-looking Attachment O formula rate. Version A of the 2012 Missouri River annual transmission revenue requirement assumes the Brookings Project receives final approval as an MVP and receives recovery through Attachment MM-MRES. Version B assumes the Brookings Project has not received approval as a MVP, and thus the Brookings Project's annual transmission revenue requirement would be recovered through Attachment O-Missouri River.

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[7] Applicants November 3, 2011 Filing at 1-2.

[8] *See MISO*, Docket No. ER12-297-000 (December 12, 2011) (unpublished letter order); *MISO*, Docket No. ER12-312-000 (December 29, 2011) (unpublished letter order).

[9] Applicants November 21, 2011 Filing at 4-6.

9. Applicants request waiver of the 60-day prior notice requirement for an effective date of January 1, 2012.

III. Notice of Filings and Responsive Pleadings

10. Notices of MISO's November 3, 2011 and November 21, 2011 Filings were published in the *Federal Register*, 76 Fed. Reg. 70,717 and 75,539 (2011), with interventions and protests due on or before November 25, 2011 and December 12, 2011, respectively. Timely motions to intervene were filed by MidAmerican Energy, Basin Electric Power Cooperative, American Municipal Power, Inc., Xcel Energy Services Inc., and Western Area Power Administration. A timely notice of intervention was filed by the Illinois Commerce Commission. The Organization of MISO States (OMS), and the MISO Transmission Owners (MISO Transmission Owners)[10] filed timely motions to intervene with comments. A timely notice of intervention with comments was filed by the Indiana Utility Regulatory Commission (Indiana Commission). On December 6, 2011, the MISO Transmission Owners filed an answer. On December 9, 2011, Missouri River filed an answer. On December 12, 2011, the MISO Transmission Owners filed comments on the amended filing.

[10] The MISO Transmission Owners for this filing consist of: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company d/b/a ITCTransmission; ITC Midwest LLC; Michigan Electric Transmission Company, LLC (Michigan Electric); Michigan Public Power Agency; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

IV. Discussion

A. Procedural Matters

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

12. 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 Transmission Owners' answer and Missouri River's answer because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

13. We will conditionally accept Applicants' filing, as modified as directed below and subject to the outcome of the Incentive Rate Filing. Applicants have also requested waiver of the 60-day prior notice requirement for an effective date of January 1, 2012. We find good cause to grant that request.[11]

1. Applicants' Proposal

14. Missouri River seeks to change its Attachment O, Attachment GG and Attachment MM formula rates to recover its annual transmission revenue requirement on a forward-looking basis, rather than an historical basis. Applicants point out that this requested change is not a rate incentive; rather, it is a variance from the *pro forma* Attachment O, Attachment GG and Attachment MM templates that requires Commission approval.

15. Applicants state that the use of the historical test year in the formula rate contained in the *pro forma* Attachment O would cause a recovery lag of as much as 18 months for Missouri River's investments in the Fargo and Brookings Projects. According to Applicants, Missouri River intends to invest approximately $115 million in these projects and it has $27 million in total net transmission plant and $149 million of total net plant on its balance sheets as of December 31, 2010. Applicants argue that, due to the large size of the investments in the projects relative to Missouri River's balance sheet, the recovery lag resulting from the use of an historical test year would place a significant strain on Missouri River's cash flows. In contrast, Applicants assert that a forward-looking

[11] *See Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

formula rate will significantly reduce the recovery lag for the investments in those projects and will greatly improve Missouri River's cash flow. Applicants also argue that the increased cash flow will likely lower the amount of debt to be financed and will be viewed favorably by the investment community and the credit rating agencies.[12]

16. Applicants also propose to implement a true-up mechanism and customer notification and input procedures for Attachment O-MRES. The true-up mechanism will compare the projected financial and load data with the actual financial and load results for the year as recorded in the Missouri River EIA Form 412, audited financial statements and load data.[13]

17. Applicants also propose to amend Attachment O-MRES to allow Missouri River to recover 100 percent of the prudently-incurred costs of the Fargo and Brookings Projects that are cancelled or abandoned due to factors beyond the control of Missouri River. The Attachment O-MRES includes new line items that enable Missouri River to recover both the annual amortization expense and a return on the unamortized balance of abandoned plant accounts associated with the projects.[14] The new line items will be left blank to allow for a future request to the Commission pursuant to section 205 to recover abandoned plant costs associated with the projects.

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[12] Applicants November 3, 2011 Filing at 8-9.

[13] Applicants November 3, 2011 Filing at 9 (citing Exh. MRES-1 at 22-23. According to Applicants, the true-up will compare the actual net annual transmission revenue requirement with the projected net annual transmission revenue requirement in the Attachment O-MRES for that year. For load data, Applicants state that Missouri River will compare the actual loads based on the 12-month coincident peak average to the projected peaks for the year. The difference between actual and projected loads will be multiplied by the zonal rate that was charged that year to MISO customers. Differences between actual and projected financial and load data that result in over- or under-collections for a particular year will be included in subsequent annual transmission revenue requirement calculations. *Id.* at 23). The amount included in the following year's annual transmission revenue requirement will include interest calculated over a two-year period in accordance with 18 C.F.R. § 35.19a. *Id.* at 26. Applicants also propose that Missouri River have the option to accelerate by one year refunds of over-collections to customers to reduce the amount of interest due. *Id.* at 27.

[14] The proposed changes are described in detail in Applicants November 3, 2011 Filing at Exh. MRES-8.

18. In addition, Applicants propose to incorporate 100 percent of the CWIP associated with the Fargo and Brookings Projects in Missouri River's transmission rate.

19. On November 21, 2011, Applicants, among other things, filed revisions to the proposed Attachment O-MRES. Applicants state that the amended Attachment O-MRES is designed to conform the Attachment O-MRES as contained in the Missouri River November 3 Filing to the MISO Transmission Owners' proposed changes to the *pro forma* Attachment O in their Attachment O Filing. The other purpose is to correct the mechanics of the Attachment O calculation related to the computation of return on the Missouri River transmission plant should the Commission grant its request for a hypothetical capital structure investment.

20. Specifically, the revisions to the originally proposed Attachment O-MRES include: (1) the addition of a reference to the appropriate data in EIA Form 412 and clarification of the calculation related to the "General and Intangible Plant" line item in the gross plant in service section; (2) the addition of a reference to clarify that Schedule 37 transmission charges, in addition to the Schedule 26 charges currently identified, must be removed from the Account 456.1 revenue credit; (3) deletion of an erroneous reference to Account 575.7 from the description of accounts included in the "Load Serving Entity Expenses included in Transmission O&M Accounts" that are deduced from Transmission Operation and Maintenance (O&M); (4) the addition of a note to ensure that asset retirement obligations are not included in the revenue requirements absent prior Commission approval; (5) clarification that Schedule 10-FERC charges related to the Commission's annual charges for its electric regulatory program under Part 382 of its regulations are excluded from O&M costs; and (6) a non-substantive, administrative revision to correct an erroneous reference related to the calculation of income taxes.

21. Applicants also state that their November 3 Filing included certain additional non-substantive revisions related to Note U and the reference to intangible plant in Attachment O-MRES that are consistent with changes proposed in the Attachment O Filing. They further state that these changes are carried forward in the proposed amended Exhibits.[15]

22. Lastly, Applicants state that proposed Attachment O-MRES is revised to "correct that portion of the calculation of the [Missouri River] [annual transmission revenue

[15] *Id.* at 4-5.

requirement] . . . that implements the hypothetical capital structure incentive requested by [Missouri River] in Docket No. EL11-45-000."[16]

23. Applicants also propose changes to Attachment GG-MRES to implement the three transmission incentive rates to the extent that some of the costs of Fargo Project (or potentially Brookings Project) are allocated across MISO as non-MVP regionally planned facilities.[17] In addition, Applicants amended the proposed Attachment GG-MRES Narrative to add a description related to the Annual Allocation Factor for the Incentive Return .[18]

24. Further, Applicants propose changes to Attachment MM-MRES to implement the three transmission incentive rates to the extent that costs of the Brookings Project are allocated across MISO as a MVP.[19]

25. Applicants also amend the proposed Attachment MM-MRES to, among other things, to conform to the MISO Transmission Owners' changes to the *pro forma* Attachment MM in their Attachment MM Filing accepted in Docket No. ER12-312-000. More specifically, according to Applicants, the proposed revisions to Attachment MM-MRES will allocate Transmission O&M expenses based on transmission accumulated depreciation consistent with the MISO Transmission Owners' proposed changes to the *pro forma* Attachment MM.

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[16] *Id.* at 6. Applicants state that the version of Attachment O-MRES in the November 3 Filing did not appropriately distinguish between the application of the overall rate of return on all Missouri River transmission plant and the incrementally higher overall rate of return resulting from the application of the requested incentive hypothetical capital structure to the rate of return determination with respect to Missouri River investment in the Fargo and Brookings Projects. The change to Attachment O-MRES to correct the calculation is designated on page 3, lines 28 and 28a of amended Exhibits MRES-2 and MRES-3.

[17] Applicants November 3, 2011 Filing at 3.

[18] *Id*. at Amended Exhibits MRES-17 and MRES-18.

[19] Missouri River states that it currently does not have any transmission costs that are recovered in Attachment MM but has included proposed Attachment MM-MRES in anticipation of MISO's final approval of Brookings Project as a MVP. *See* Exhibit MRES-1 at 15.

26. The amended proposed Attachment MM-MRES also introduces and modifies narrative descriptions, formulas, and notes to conform to the MISO Transmission Owners' proposed changes to the *pro forma* Attachment MM in their Attachment MM Filing accepted in Docket No. ER12-312-000 that will have no effect on rates or allocation of costs under Attachment MM.[20]

a. <u>Comments</u>

27. The MISO Transmission Owners comment that they do not oppose the proposed tariff modifications. However they do propose two sets of corrections to Attachment MM-MRES to "ensure conformity with the generally applicable Attachment MM."[21] The MISO Transmission Owners argue that Missouri River erred by multiplying rather than adding the Annual Allocation for Transmission O&M Expenses and Annual Allocation for Other Expenses in Column 9 of page 2 of the proposed Attachment MM-MRES. The MISO Transmission Owners also contend that Missouri River should modify the notes to page 2 of Attachment MM-MRES.[22] They also state that Missouri

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[20] See Applicants November 21, 2011 Filing at 10.

[21] MISO Transmission Owners Comments at 2.

[22] MISO Transmission Owners thus propose the following edits:

> In Attachment MM-MRES, page 2 of template, under col. 9 (Annual Expense Charge), "col 6 * col 8" should be changed to "col 6 + col 8." This line item should be the sum of the Annual Allocation for Transmission O&M Expense and the Annual Allocation for Other Expense, not the product.
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> In addition, Attachment MM-MRES, page 2 of the template, notes A and C, should be modified to state that the referenced items exclude any prefunded amounts for Allowance for Funds Used During Construction ("AFUDC"), if applicable. Specifically, Note A should revised to read:
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>> Gross Transmission Plant is that identified on page 2 line 2 of Attachment O and includes any sub lines 2a or 2b etc. and is inclusive of any CWIP included in rate base when authorized by FERC order <u>less any prefunded AFUDC, if applicable</u>. Transmission Accumulated Depreciation comports with this Note A and Note B below.

(continued…)

River has agreed to make these changes in a compliance filing as directed by the Commission.[23]

b. Commission Determination

28. We will conditionally accept, subject to the outcome of the Incentive Rate Filing, the proposed amended Attachment MRES-O, Attachment GG and Attachment MM that enable use of a forward-looking test year along with the proposed true-up forward-looking formula rates. The Commission has allowed the use of similar Attachment O, Attachment GG and Attachment MM forward-looking formula rates for other MISO Transmission Owners.[24]

29. We note that Missouri River has agreed to modify Attachment MM-MRES consistent with the MISO Transmission Owners' suggested revisions. We order MISO to submit this modification in the compliance filing ordered below.

Similarly, Note C should be revised to read:

> Project Gross Plant is the total capital investment for the project calculated in the same method as the gross plant value in line 1 and includes CWIP in rate base when authorized by FERC order <u>less any prefunded AFUDC, if applicable</u>. This value includes subsequent capital investments required to maintain the facilities to their original capabilities.

MISO Transmission Owners Comments at 3, (proposed changes are underlined).

[23] MISO Transmission Owners Comments at 3.

[24] *See, e.g.*, *Xcel Energy Servs, Inc.* 121 FERC ¶ 61,284, at P 53, 69 (2007); *Great River Energy*, 130 FERC ¶ 61001, at P 26-29, 31-32 (2010); *Otter Tail Power Co.*, 129 FERC ¶ 61,287, at P 24-27, 29-30, 37 (2010), *Midwest Independent Transmission System Operator, Inc.*, 133 FERC ¶ 61,270, at P 6 (2010).

2. **Protocols**

a. **Protocols Description**

30. Missouri River commits to make available to customers its net revenue requirement, including work papers, regarding projected costs of plant in forecasted rate base, expected construction schedules, and in-service dates, load and resultant rates incorporating a true-up adjustment. According to Applicants, all inputs will be provided in sufficient detail to identify the components of Missouri River's net revenue requirement. Further, upon request, Applicants state that Missouri River will provide a description of the basis by which projects were planned either by MISO or Missouri River. Additionally, the true-up adjustment and related calculations will be posted to the Missouri River's public page on the MISO Open Access Same-Time Information System (OASIS).[25]

b. **Comments**

31. The Indiana Commission argues that that the protocols submitted by Applicants do not allow for interested parties, such as state utility commissions who are not customers of Applicants, to receive information regarding the status of the projects, the prudence of the costs being incurred, and the resulting annual true-up. The Indiana Commission recommends that Missouri River adopt the protocols used by both the Pioneer and Great Power Express transmission projects.[26]

c. **Missouri River's Answer**

32. Missouri River in its answer challenges the Indiana Commission's contention that its protocols should be modified to mirror those used by the Pioneer and Green Power Express Projects with respect to the project status, prudence of costs incurred, and the resulting annual true-up. Missouri River argues that this requirement is not appropriate because Missouri River has only an 11 percent ownership stake in the Fargo Project and a five percent ownership stake in the Brookings Project. Missouri River also explains that it is not one of the construction managers and thus only has access to such information via other utilities. Missouri River argues that imposing such a requirement on a minority owner would be an onerous burden. Missouri River also argues that these projects are much smaller in costs than the Pioneer and Green Power Express Projects, lessening the need for state commissions to have such information. Missouri River also points out that

[25] Exh. No. MRES-9 at 1-2.

[26] Indiana Commission Notice of Intervention at 2 n.1.

its proposed protocols are comparable to those accepted by the Commission for all other CapX2020 participants. Further, Missouri River argues that its protocols require it to provide information on true-up adjustments and annual revenue requirements on the MISO OASIS website, where interested parties can access it. Alternatively, Missouri River asserts that interested parties can submit questions to Applicants at the annual customer meeting or directly outside of that meeting.[27]

d. Commission Determination

33. We will accept Applicants' proposed protocols. Applicants' proposed protocols are virtually identical to the accepted protocols of other MISO Transmission Owners that use a forward-looking formula rate and also, with respect to the Indiana Commission's concerns, are consistent MISO's *pro forma* Attachment O formula rate protocols. We note that the Indiana Commission's arguments on this issue thus challenge MISO's existing Attachment O formula rate protocols and, therefore, are more appropriately characterized as complaints on that broader issue than as protests on the issue presented by Missouri River in this proceeding. The Commission discourages the combination of complaints with other types of filings, including protests.[28] Accordingly, we will reject the Indiana Commission's protest pertaining to this issue, without prejudice. The Indiana Commission is of course free to file a separate complaint on this issue pursuant to section 206 of the FPA.

3. Notice of Inquiry

a. Comments

34. OMS filed comments recommending the suspension of this filing pending the outcome of Docket No. RM11-26-000.[29] In that docket, the Commission has issued a Notice of Inquiry concerning its transmission incentives regulations. OMS contends that

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[27] Missouri River Answer at 3-6.

[28] *See MidAmerica*, 137 FERC ¶ 61,250 (2011); *Ottertail Power Co.*, 137 FERC ¶ 61,255 (2011); *Entergy Servs., Inc.*, 104 FERC ¶ 61,084, at P 13 (2003), *reh'g denied*, 111 FERC ¶ 61,181 (2005), *aff'd Entergy Servs., Inc. v. FERC,* 224 Fed. Appx. 2, 2007 (D.C. Cir. 2007); *Yankee Atomic Elect. Co.*, 60 FERC ¶ 61,316, at 62,096 n.19 (1992); *Missouri Basin Municipal Power Agency v. Midwest Energy Co.*, 55 FERC ¶ 61,464, at 62,533 (1991).

[29] *Promoting Transmission Investment Through Pricing Reform*, Notice of Inquiry, 135 FERC ¶ 61,146 (2011).

the Transmission Incentives Notice of Inquiry could lead to revisions to the Commission's transmission incentives policy, and therefore the Commission should defer ruling in this docket in order to avoid approving incentives that reflect older policies that may no longer be consistent with current conditions in the electric industry and financial markets, and that would consequently not encourage cost-effective transmission development.[30] OMS later filed a letter clarifying that it took no position on Applicants' request for a forward-looking test year, and that its comments were focused on the related transmission incentives requested in the Incentive Rate Filing.[31]

35. The Indiana Commission similarly argues that the Commission should stay this proceeding until the Commission has fully reconsidered its transmission incentives policy in Docket No. RM11-26-000.

b. <u>Answers</u>

36. The MISO Transmission Owners urge the Commission to deny OMS' and the Indiana Commission's request that the Commission reject or defer a ruling in this docket until resolution of the Transmission Incentives Notice of Inquiry. The MISO Transmission Owners assert that such a deferral would cause regulatory uncertainty. They also argue that such a deferral would contradict language in the Transmission Incentives Notice of Inquiry that states that, during that proceeding, the Commission would continue evaluating requests for incentives under Order No. 679 on a case-by-case basis.[32] Further, according to the MISO Transmission Owners, in Docket No. ER10-1791-000, the Commission rejected a similar request to defer a ruling on tariff modifications until after the resolution of the Order No. 1000 rulemaking.[33]

37. Missouri River contends that this docket addresses the forward-looking test year and therefore the Indiana Commission's request to stay consideration should be addressed in Docket No. EL11-45-000, where Missouri River requests transmission incentives. Missouri River also argues that the Commission has clearly stated in the

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[30] OMS November 21, 2011 Intervention at 1-2.

[31] OMS November 23, 2011 Intervention at 1.

[32] MISO Transmission Owners Answer at 3-4 (citing Notice of Inquiry).

[33] MISO Transmission Owners Answer at 5 (citing ER10-1791-000).

Transmission Incentives Notice of Inquiry that it would not defer action on requests for transmission incentives.[34]

c. Commission Determination

38. We deny the requests to reject the instant filing without prejudice or to stay this proceeding pending the outcome of the Transmission Incentives Notice of Inquiry. The Commission expressly stated in the Transmission Incentives Notice of Inquiry that "[d]uring the pendency of this proceeding, the Commission will continue to evaluate incentive requests under Order No. 679 on a case-by-case basis."[35] Therefore, we reject OMS' and the Indiana Commission's request to reject the instant filing or defer a substantive ruling in this proceeding on the basis of the Commission's issuance of the Transmission Incentives Notice of Inquiry.

The Commission orders:

(A) Attachment O-MRES, MM-MRES, and GG-MRES are hereby conditionally accepted, subject to the outcome of Docket EL11-45-000 and the compliance filing ordered below, to be effective January 1, 2012, as requested.

(B) Applicants are hereby directed to file revisions to Attachment MM-MRES, as discussed in the body of this order, within 30 days of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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[34] Missouri River Answer at 3-6 (citing to Notice of Inquiry at P 13, n.18).

[35] *Promoting Transmission Investment Through Pricing Reform*, Notice of Inquiry, FERC Stats. & Regs. ¶ 35,572, at P 13, n.18 (2011); *see also, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,074, at P 187 (2011) ("If the Commission refrained from acting on proposals merely to avoid potential conflicts with potential future rulemakings, it would be hampered in its ability to complete its work that is required by the FPA."); *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,207, at P 49 (2010) (declining to grant a request to defer action on a section 205 filing until issuance of a final rule because the Commission does not have the authority under section 205 to defer action on a filing beyond the statutory deadline).