

141 FERC ¶ 61,011  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Arkansas, Inc.

Docket No. ER12-2390-000

ORDER ACCEPTING AMENDED AGREEMENT AND  
PROPOSED TARIFF REVISIONS

(Issued October 2, 2012)

1. On August 2, 2012, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Entergy Services, Inc., on behalf of the Entergy Operating Companies<sup>2</sup> (collectively Entergy), filed an Amended Independent Coordinator of Transmission (ICT) Agreement (ICT Agreement).<sup>3</sup> Entergy requests that the Commission approve (1) an interim extension of the ICT Agreement until the earlier of December 31, 2014 or the date the proposed transfer of functional control of Entergy's transmission assets to the Midwest Independent Transmission System Operator, Inc. (MISO) is completed; and (2) the transfer of ICT services from Southwest Power Pool, Inc. (SPP) to MISO as the provider of ICT services, effective December 1, 2012. In this order, we accept Entergy's proposal, as discussed further below.

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<sup>1</sup> 16 U.S.C. § 824e (2006).

<sup>2</sup> The Entergy Operating Companies are Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., and Entergy Texas, Inc.

<sup>3</sup> The ICT Agreement is filed as Attachment S to Entergy's Open Access Transmission Tariff (OATT).

## I. Background

2. On April 24, 2006, the Commission issued an order<sup>4</sup> conditionally approving Entergy's proposal for SPP to serve as the ICT for Entergy's transmission system. The Commission accepted the ICT Agreement for an initial term of four years from its commencement on November 17, 2006, unless Entergy requested, and the Commission accepted, a section 205 filing to extend the agreement.<sup>5</sup>

3. On November 16, 2010, the Commission issued an order accepting Entergy's request for an interim extension of the ICT Agreement, through November 17, 2012.<sup>6</sup> The Commission granted the extension to allow for Entergy to analyze and possibly finalize alternative arrangements to the ICT structure including the merits of integration into a regional transmission organization (RTO).

4. Entergy subsequently announced its proposal to transfer functional control of its transmission assets to MISO, with a proposed transfer of control in December 2013. The Entergy Operating Companies have each filed applications for transfer with their respective retail regulators.

## II. Entergy's Filing

5. Entergy seeks to extend the ICT Agreement until the earlier of December 31, 2014 or the transfer of functional control of Entergy's transmission assets to MISO. Entergy explains that under section 1.3 of Attachment S (Independent Coordinator of Transmission) of the OATT, the extension granted on November 16, 2010 is set to expire on November 17, 2012 without another interim extension. Entergy states that its proposed ICT Agreement extension will continue to provide direct and substantial oversight of the Entergy transmission system while Entergy makes arrangements and seeks the approvals necessary to integrate into MISO.

6. Entergy states that the Commission should approve the extension of the ICT Agreement because it is consistent with or superior to the provisions of the *pro forma* OATT. In support of this, Entergy states that the Commission approves departures from

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<sup>4</sup> *Entergy Services Inc.*, 115 FERC ¶ 61,095 (2006) (ICT Order), *order on reh'g* 116 FERC ¶ 61,275 (2006), *order on compliance*, 117 FERC ¶ 61,055 (2006), *order on clarification*, 119 FERC ¶ 61,013 (2007).

<sup>5</sup> ICT Order, 115 FERC ¶ 61,095 at P 96.

<sup>6</sup> *Entergy Services Inc.*, 133 FERC ¶ 61,136 (2010) (Order Extending ICT Agreement).

the *pro forma* OATT when the departure is consistent with or superior to the Order No. 890 *pro forma* OATT.<sup>7</sup> Entergy notes that the Commission previously determined that the ICT Agreement is consistent with or superior to the *pro forma* OATT when it approved the ICT Agreement.<sup>8</sup> Furthermore, Entergy asserts that that determination remains true today as the arrangement has provided benefits during its initial term and its two year extension, such as increased transparency and objective and verifiable assurance that the transmission service is being provided in a non-discriminatory manner.

7. Entergy also states that the costs of MISO providing ICT services will be approximately \$5 million less per year than the costs under the current ICT Agreement.<sup>9</sup> Entergy notes that these cost savings will automatically flow through to OATT customers under Schedule 10 (Recovery of Independent Coordinator of Transmission Operation Costs) of its OATT.

8. Additionally, Entergy proposes to make changes to the ICT Agreement. First, Entergy proposes amending Attachment S to give MISO, as the ICT, explicit authority to recommend that the Entergy Regional State Committee (E-RSC) add specific projects to the Operating Companies' Construction Plan. Second, Entergy proposes to amend the agreement so that that the MISO independent market monitor (Potomac Economics), rather than MISO itself, will oversee the operation of the Weekly Procurement Process.<sup>10</sup> Third, Entergy proposes to include the amended ICT Agreement in Attachment S of its tariff. Entergy is keeping Attachment S as the ICT agreement with MISO, but will use

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<sup>7</sup> Entergy Transmittal Letter at 3 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

<sup>8</sup> *Id.* (citing ICT Order, 115 FERC ¶ 61,095 at P 3).

<sup>9</sup> Entergy Transmittal Letter at 7.

<sup>10</sup> The existing agreement provides that the ICT provides this service itself. Entergy's Weekly Procurement Process, governed by Attachment V to the Entergy OATT, is a weekly bid-based optimization process designed to provide wholesale suppliers a greater opportunity to be integrated into the procurement processes that Entergy and other network customers use to serve their native load customers. *See Entergy Services, Inc.*, 126 FERC ¶ 61,227, at P 2 (2009).

new Attachment W for the November 17 through December 1 timeframe and also the transition services provided by SPP.<sup>11</sup>

9. Entergy proposes to transfer the ICT function to MISO on December 1, 2012 and states that this transfer is not dependent on Entergy's proposal to transfer functional control of its transmission assets to MISO. Nonetheless, Entergy states that since the ICT performs a variety of services under Entergy's OATT<sup>12</sup> that would be performed by MISO if Entergy is able to integrate into MISO, the transfer would give MISO "experience and familiarity" with Entergy's transmission system.

10. Entergy states that in order to complete the transition to MISO as the ICT, SPP will complete the current transmission planning cycle that ends December 1, 2012 and any studies that extend beyond that time as the ICT is transitioned. Entergy states that, once these processes are complete, Entergy plans on integrating into the 2014 MISO Transmission Expansion Planning Process, as a non-MISO member beginning in June 2013, in order to comply with the regional and interregional transmission planning requirements of Order No. 1000.<sup>13</sup>

11. Entergy requests that the Commission act on the filing on or before October 2, 2012 and establish an effective date for the amended Attachment S of December 1, 2012 in order to give MISO certainty in its transition and to allow it to obtain the necessary certificates from the North American Reliability Corporation (NERC) and the SERC Reliability Corporation.

12. Entergy requests that Attachment W (Amended and Restated Agreement)<sup>14</sup> of the OATT be extended from November 17, 2012 to November 30, 2012 in order to facilitate a transition to MISO on December 1, 2012. Entergy asserts that the extension is required so that it may transfer ICT functions to MISO on a schedule that matches MISO's

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<sup>11</sup> Entergy Transmittal Letter at 8.

<sup>12</sup> These services include serving as Reliability Coordinator for Entergy's transmission system, performing tariff administration, granting or denying transmission service requests, and performing long-term transmission planning.

<sup>13</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 Fed. Reg. 49,842 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012).

<sup>14</sup> Attachment W is the amended and restated agreement between Entergy and SPP that covers services necessary to transition ICT providers.

quarterly cycles. Entergy notes that SPP has consented to the extension to December 1, 2012. Additionally, Entergy notes that the ICT Agreement provides for SPP to provide transition assistance for up to six months. Therefore, Entergy requests that Attachment W remain effective until May 31, 2013, or earlier as determined by the parties, in order to allow for SPP to provide the needed transition assistance services as needed.

### **III. Notice of Filings and Responsive Pleadings**

13. Notice of Entergy's filing was published in the *Federal Register*, 77 Fed. Reg. 48,137 (2012), with interventions and protests due on or before August 23, 2012. The Arkansas Public Service Commission (Arkansas Commission) filed a notice of intervention. Motions to intervene were filed by Union Power Partners, L.P.; East Texas Electric Cooperative, Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas; the Louisiana Energy and Power Authority; the Mississippi Delta Energy Agency; the Lafayette Utilities System; the Western Farmers Electric Cooperative; Westar Energy, Inc.; and Occidental Chemical Corporation.

14. The Louisiana Public Service Commission (Louisiana Commission) filed a notice of intervention and comments. Timely motions to intervene and comments were filed by the NRG Companies; SPP; The Council of the City of New Orleans (New Orleans Council); the Arkansas Electric Cooperative Corporation (AECC); and the Conway Corporation, the West Memphis Utilities Commission, the City of Osceola, Arkansas the City of Benton, Arkansas, the Hope Water & Light Commission, and the City of Prescott, Arkansas (collectively Arkansas Cities). Protests were filed by American Electric Power Service Corporation, on behalf of its affiliates, Southwest Electric Power Company and Public Service Company of Oklahoma; Lincoln Electric System, Mid-Kansas Electric Company, LLC, Nebraska Public Power District, Omaha Public Power District, Sunflower Electric Power Corporation, and The Empire District Electric Company (collectively, the SPP Transmission Owners); and the Dow Chemical Company.

15. MISO and Xcel Energy Services filed motions to intervene out-of-time. The Public Utility Commission of Texas (Texas Commission) filed a motion to intervene out-of-time and protest. The Arkansas Commission filed a statement of support of the protest of the Texas Commission.

16. MISO and Entergy filed answers. The New Orleans Council filed a motion to requesting that the Commission deny MISO's and Entergy's answers or otherwise accept its answer to those answers. Texas Commission filed an answer to MISO's and Entergy's answers.

## **Comments and Responsive Pleadings**

### **1. Extension of the ICT**

17. Nearly every party that submitted comments supports the extension of the ICT Agreement.<sup>15</sup> For instance, the Louisiana Commission notes that in its Order No. U-323000, it found the ICT extension to be in the public interest.<sup>16</sup> Dow Chemical states that it supports the extension because of the problems that have subsided due to the ICT arrangement, specifically transmission congestion and frequent transmission constraints.<sup>17</sup> Similarly, SPP states that it supports the extension of the ICT Agreement due to the benefits that have arisen from its implementation, though it notes that it still supports RTO membership for Entergy, preferably as a member of SPP.<sup>18</sup> The New Orleans Council states that extending the ICT Agreement is necessary, as no other alternative exists at this time to ensure independent tariff and transmission service administration.<sup>19</sup>

### **2. Arguments that the Filing is Premature**

18. Several parties argue that it is premature to transfer the ICT function from SPP to MISO.<sup>20</sup> The Texas Commission states that the Entergy Operating Companies' entry into MISO is not a foregone conclusion.<sup>21</sup> Dow Chemical asserts that the transition is to further the plan to join MISO; thus, the transition is premature because Entergy lacks regulatory approval to join MISO and could be either unnecessary or

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<sup>15</sup> See, e.g., Louisiana Commission Comments at 2; NRG Comments at 1; SPP Transmission Owners Protest at 1; SPP Protest at 4; Dow Chemical Protest at 3; New Orleans Council Comments at 1; AECC Comments at 3; Texas Commission Protest at 3.

<sup>16</sup> Louisiana Commission Comments at 2.

<sup>17</sup> Dow Chemical Comments at 3.

<sup>18</sup> SPP Comments at 3-4.

<sup>19</sup> New Orleans Council Comments at 1.

<sup>20</sup> See, e.g., AECC Comments at 3-4; New Orleans Council Comments at 10-11; Dow Chemical Protest at 3-4; Texas Commission Protest at 4; SPP Comments at 6-8; SPP Transmission Owners Protest at 4-6.

<sup>21</sup> Texas Commission Protest at 4.

counterproductive.<sup>22</sup> The New Orleans Council asserts that until it is clear that Entergy's participation in MISO has been approved, and assuming SPP is willing to continue in its role as ICT, the Commission should require Entergy to continue to contract with SPP to perform the ICT and Reliability Coordinator role until Entergy has all authorizations required to join MISO.<sup>23</sup>

19. The New Orleans Council adds that Entergy's proposal appears premature, unjustified, likely to unnecessarily increase costs while reducing ICT performance, and may require yet another transfer of the ICT and Reliability Coordinator roles in two years if MISO is unwilling to continue ICT services past 2014.<sup>24</sup> The New Orleans Council adds that considering the potential for increased risks, costs and inefficiency, and the lack of any justification, other than to give MISO on-the-job-training on Entergy's system, there is no reason to rush this transfer of responsibilities.<sup>25</sup> Furthermore, the New Orleans Council asserts that the transfer of the ICT and Reliability Coordinator roles is clearly dependent on future Entergy membership in MISO.

20. SPP and the SPP Transmission Owners also oppose the transfer of the ICT functions to MISO.<sup>26</sup> SPP asserts that the transfer of the ICT to MISO is premature because the transfer agreement is only a temporary arrangement and only one of Entergy's five retail regulators, the Louisiana Commission, has approved the transfer of functional control of Entergy's transmission facilities to MISO.<sup>27</sup> SPP adds that the Arkansas Commission did not approve the transfer of transmission facilities to MISO and declined to take further action at this time.<sup>28</sup> Additionally, though the Louisiana Commission approved the transaction, it did so with conditions that allow it to reevaluate

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<sup>22</sup> Dow Chemical Protest at 3-4.

<sup>23</sup> New Orleans Comments at 11.

<sup>24</sup> *Id.* at 2.

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

<sup>26</sup> SPP Comments at 4; SPP Transmission Owners Protest at 1.

<sup>27</sup> SPP Comments at 6-7.

<sup>28</sup> *Id.* at 6 (citing an Arkansas Commission proceeding, *In the Matter of a Show Cause Order Directed to Entergy Arkansas, Inc. Regarding Its Continued Membership in the Current Entergy System Agreement, or Any Successor Agreement Thereto, and Regarding the Future Operation and Control of Its Transmission Assets*, Order No. 68, at 33 (Aug. 3, 2012)).

the transfer if other regulators deny Entergy's request. Therefore, SPP asserts that there is too much uncertainty to allow for a transfer of the ICT Agreement to MISO at this time because MISO has not indicated that it would be willing to serve as the ICT in the event that Entergy is not able to fully join MISO. SPP asserts that this means there is a risk that transfer costs would have to be incurred twice in the event that MISO becomes the ICT for the term of the extended ICT Agreement and then transfers the arrangement to another entity.<sup>29</sup>

21. The SPP Transmission Owners dispute whether MISO has an interest in providing the ICT function if Entergy does not join MISO as a member. They point to the statement of Todd Hillman, MISO's Executive Director, Southern Region, at a stakeholder meeting that MISO would have no long-term interest in an ICT contract if Entergy did not join MISO as a member.<sup>30</sup> The SPP Transmission Owners contend that this scenario would require the ICT function to be transferred again, causing stakeholders to face another transition to a new contract provider along with the associated transitional impacts.<sup>31</sup>

22. In response, Entergy states that arguments that the instant filing is premature should be considered speculative.<sup>32</sup> Entergy further states that such speculation does not provide a basis for finding that the transfer of the ICT function to MISO will result in services that are inconsistent with or not superior to the *pro forma* OATT, or otherwise are unjust and unreasonable.<sup>33</sup>

23. MISO states that arguments challenging the timing of Entergy's proposal to transfer ICT services to MISO should be rejected as they incorrectly suggest that ICT services are in some way dependent upon state regulatory approval of Entergy's request to transfer functional control of its transmission assets to MISO.<sup>34</sup> MISO explains that, as a result of a competitive bidding and proposal process, Entergy determined that MISO, not SPP, was the best option to provide ICT services. Moreover, MISO understands and

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<sup>29</sup> *Id.* at 6-8.

<sup>30</sup> SPP Transmission Owners Protest at 5 (referring to ICT Stakeholders Policy Commission and Open E-RSC Working Group Meeting, April 17, 2012).

<sup>31</sup> *Id.* at 6.

<sup>32</sup> Entergy Answer at 4.

<sup>33</sup> *Id.*

<sup>34</sup> MISO Answer at 5.

believes that Entergy's decision to select MISO to perform ICT services was made irrespective of Entergy's decision to integrate into MISO in December of 2013. It further asserts that having MISO currently perform ICT services will clearly benefit all parties if and when the Entergy Operating Companies ultimately integrate into the MISO markets.<sup>35</sup>

24. In response to Entergy's answer, the New Orleans Council states that there is no speculation that if Entergy does not join MISO, then Entergy will be looking for another ICT in 2014.<sup>36</sup> The New Orleans Council further states that the evidence in this docket demonstrates that MISO has no interest in performing the ICT functions past December 2014.<sup>37</sup> New Orleans Council concludes that assuming these two facts, it is not speculative at all that Entergy's inability to join MISO would lead to yet another ICT transfer in 2014.<sup>38</sup>

### **3. Arguments about whether SPP or MISO is Better Positioned to Provide ICT Services**

25. Dow Chemical, the New Orleans Council, SPP, and the SPP Transmission Owners argue that the ICT Arrangement should not be transitioned to MISO because SPP is in a better position than MISO to provide ICT services.<sup>39</sup> For example, the SPP Transmission Owners state that substituting MISO for SPP at this time introduces implementation risks for customers with no offsetting benefits in terms of new functions or lower cost.<sup>40</sup> The SPP Transmission Owners also state that significant inefficiencies will come with a change in the provider of ICT services. They specifically point to SPP's sophisticated systems, methods, and techniques specifically crafted to function within the Entergy transmission system, and its trained personnel who have gained deep familiarity with Entergy's transmission system.<sup>41</sup> Dow Chemical asserts that the decision to switch ICT

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<sup>35</sup> *Id.* at 6.

<sup>36</sup> New Orleans Council Answer at 3.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 4.

<sup>39</sup> *See, e.g.*, Dow Chemical Protest at 3-4; SPP Protest at 4-5; New Orleans Council Protest at 7; SPP Transmission Owners Protest at 6-7.

<sup>40</sup> SPP Transmission Owners Protest at 4.

<sup>41</sup> *Id.* at 6-7.

functions is not connected to SPP's performance or to MISO's ability to perform the tasks more effectively.<sup>42</sup>

26. SPP states that it opposes the transfer of the ICT Agreement to MISO for several reasons.<sup>43</sup> SPP notes its knowledge of Entergy's system and the interconnectedness of Entergy and SPP's members, some of which are fully embedded in Entergy's system. SPP states that transferring the services to MISO will therefore increase the reliability risk within the Entergy system because MISO lacks the knowledge of the system and will have to coordinate on a larger seam than exists when SPP is the reliability coordinator. Also, SPP states that the transfer to MISO risks losing the benefits of the improvements made to the system since SPP became the ICT.<sup>44</sup>

27. NRG and the Louisiana Commission filed comments in support of the transfer of ICT services to MISO.<sup>45</sup> The Louisiana Commission states that it found that the extension of the ICT Agreement and the transition from SPP to MISO as the ICT service provider were in the public interest.<sup>46</sup> Specifically, the Louisiana Commission states that it found that MISO would gain experience with Entergy's transmission system by acting as Reliability Coordinator under the ICT Agreement, which is a function that MISO would ultimately perform if Entergy joins MISO. The Louisiana Commission adds that it did, however, note that if the Commission or other state regulators failed to approve Entergy's transition to MISO or if MISO otherwise ceased to provide ICT services to Entergy, Entergy would bear the burden of proving that any subsequent costs for transitioning ICT services to another provider were reasonable and prudently incurred and that ratepayers were no worse off than if SPP had remained the ICT service provider.<sup>47</sup> NRG adds that the installation of MISO as ICT is a first-step in the eventual transition of Entergy into MISO.<sup>48</sup> It adds, however, that there is significant regulatory uncertainty and that should the ICT function be extended well beyond December 31,

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<sup>42</sup> Dow Chemical Protest at 3.

<sup>43</sup> SPP Protest at 4.

<sup>44</sup> *Id.*

<sup>45</sup> NRG Comments at 1; Louisiana Commission Comments at 2.

<sup>46</sup> Louisiana Commission Comments at 2 (citing its order *In Re: Application of Entergy Louisiana, LLC*, Docket No. U-32300 (July 10, 2012)).

<sup>47</sup> *Id.* at 17.

<sup>48</sup> NRG Comments at 2.

2014, the ICT Agreement between MISO and Entergy should be comprehensively revised.<sup>49</sup>

28. In response, Entergy states that transferring the ICT function to MISO will provide important additional benefits to those that are provided today under the current ICT Agreement.<sup>50</sup> Entergy contends that MISO's reliability tools, which provide MISO with online, real-time system reliability information to ensure accurate and reliable operations, are more robust than the tools currently available to SPP.<sup>51</sup> It notes that MISO's state estimator model has more than 40,000 network buses included and over 333,000 real-time data points, and its periodicity is approximately one minute.<sup>52</sup>

29. Entergy also argues that MISO has significant experience integrating new transmission owners, including planning and directing the operation of those transmission systems.<sup>53</sup> Entergy states that there is no basis to conclude that the transition to utilizing MISO as the ICT will raise the issues alleged by the parties opposing the transition to MISO.

30. Entergy states that, to approve its proposal, the Commission need not find that transferring the ICT function to MISO will provide additional benefits beyond those provided today with SPP as the ICT.<sup>54</sup> Entergy explains that, for example, when a public utility seeks to transfer functional control of its transmission facilities from one RTO to another, the Commission determines whether that public utility satisfies the terms of the current RTO's withdrawal provisions, whether proposed deviations from the *pro forma* OATT are consistent with or superior to that OATT, and whether the replacement arrangements are just and reasonable.<sup>55</sup> Entergy adds that the Commission does not seek to determine whether the RTO to which the public utility is seeking to transfer functional control of transmission assets provides superior services to the prior RTO, and that such a

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<sup>49</sup> *Id.*

<sup>50</sup> Entergy Answer at 4-5.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 7.

<sup>54</sup> *Id.* at 4.

<sup>55</sup> *Id.* (citing *American Transmission Sys., Inc.*, 129 FERC ¶ 61,249, at P 27 (2009)).

standard likely would preclude a utility from ever transferring control of its transmission assets from one RTO to another or transitioning Reliability Coordinator services from one entity to another.<sup>56</sup> Entergy asserts that the same standard should apply here to the transfer of the ICT function from SPP to MISO.

31. Furthermore, Entergy states that the question presented by its request is not whether SPP has performed the ICT function adequately thus far, has the ability to continue to serve as the ICT, or has developed certain efficiencies and synergies.<sup>57</sup> Entergy again argues the Commission does not consider such factors when it considers a request of a public utility to transfer control of its transmission facilities among RTOs, and asserts that there is no basis for applying such a standard to the transfer of ICT services. Instead, Entergy states that the question is whether transferring the ICT function to MISO will continue to provide for services that are consistent with or superior to the *pro forma* OATT and otherwise are just and reasonable.<sup>58</sup> Entergy states that the proposed extension meets that standard.

32. MISO responds that the majority of the opposing comments and protests are based upon company preference and unsupported assertions instead of facts and applicable law.<sup>59</sup> MISO explains that while it appreciates the fact that the Entergy system has unique characteristics, MISO has substantial experience providing the same services it will provide as the ICT, including operating a system with characteristics such as load pockets and unique topology.<sup>60</sup> MISO further notes that it has provided ICT services for various entities since 2002. This experience, it says, includes having served as the independent service provider for Duke Energy Carolinas since 2004, a factor that the Louisiana Commission cited in its order approving the extension of the ICT Agreement and change in ICT services provider.<sup>61</sup>

33. MISO also states that comments that equate the lack of historical opportunity to address issues on Entergy's system with MISO's inability to perform these services, or with increased risk or additional costs, are inconsistent both with MISO's historical

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<sup>56</sup> *Id.* at 8.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> MISO Answer at 3-4.

<sup>60</sup> *Id.* at 8.

<sup>61</sup> *Id.*

performance as an RTO and as a contract service provider for non-member operating entities and should be rejected.<sup>62</sup> MISO states that it is well-qualified to provide ICT services to the Entergy Operating Companies.

34. Furthermore, MISO states that, ultimately, the legal standard of review of the ICT Agreement is whether the services contemplated under the ICT Agreement are consistent with or superior to the Commission's *pro forma* OATT.<sup>63</sup> It argues that given its experience and tools, MISO is able to provide the services contemplated under the ICT Agreement in a manner that is at least consistent with, if not superior to the Commission *pro forma* OATT.

35. In response to arguments about its intention of continuing ICT services past December 2014, MISO states that it has made no decision about its willingness to continue as the ICT service provider.<sup>64</sup> MISO states that it provides similar services to other non-members and that it does not intend to terminate those relationships because of the customers' non-member status. MISO offers that termination clauses serve a commercially valuable purpose because neither Entergy nor MISO can predict the future and intentions to continue a contract can be altered by unforeseen economic circumstances.<sup>65</sup> MISO adds that arguments based on MISO's lack of enthusiasm to indefinitely provide the ICT services are purely speculative and are not relevant to the justness and reasonableness of Entergy's proposal to extend the ICT structure or to MISO's qualifications to render those services.

36. The New Orleans Council responds to Entergy's answer and states that its concern is that MISO's lack of experience with Entergy's system will lead to inferior performance.<sup>66</sup> The New Orleans Council explains that no one questions MISO's ability to administer MISO's tariff and operate MISO's system; rather, as the ICT, MISO would have to administer Entergy's tariff, administer the Weekly Procurement Process, and function as the Reliability Coordinator, areas in which MISO has no experience.<sup>67</sup>

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<sup>62</sup> *Id.* at 9.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at 6.

<sup>65</sup> *Id.* at 7.

<sup>66</sup> New Orleans Council Answer at 4-5.

<sup>67</sup> *Id.* at 5.

#### 4. Reliability Coordinator Concerns

37. Several parties raise concerns regarding Entergy's proposal to use MISO as its Reliability Coordinator and particularly with regard to the scope of MISO's prospective Reliability Coordinator responsibilities.<sup>68</sup> The Arkansas Cities request clarification from MISO and Entergy regarding several changes to the ICT Agreement.<sup>69</sup> Specifically, the Arkansas Cities state that the deletion of section 2.1 of the Reliability Area Definition leads to the conclusion that the embedded Arkansas Cities are responsible for determining if they will need to change Reliability Coordinator function responsibility from SPP to MISO.<sup>70</sup> The Arkansas Cities state that Entergy has not discussed this impact in its filing. They request that Entergy address whether SPP will perform Reliability Coordinator functions in coordination with MISO and if that will result in duplication of charges for reliability coordination.<sup>71</sup> The Arkansas Cities explain that the deletion of section 2.1 means that, for at least six months, the embedded Balancing Authorities' Reliability Coordinator functions will be handled by SPP while Entergy Reliability Coordinator functions will be handled by MISO. Therefore, the Arkansas Cities suggest that a Balancing Authority Communication Protocol be developed between the SPP Reliability Coordinator, the MISO Reliability Coordinator and the non-Entergy Balancing Authority service providers in order to lessen any reliability risk.<sup>72</sup>

38. The New Orleans Council states that the ICT and Reliability Coordinator perform important roles, and that those positions should not be viewed merely as an opportunity for on-the-job training. The New Orleans Council is concerned that the transfer of Reliability Coordinator responsibilities from SPP to MISO has not been thoroughly planned-for and may happen in a rushed, piecemeal fashion.<sup>73</sup> The New Orleans Council states that if MISO assumes Reliability Coordinator responsibility for the Entergy Operating Companies but not for all other entities with Balancing Authority Areas

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<sup>68</sup> SPP Comments at 4-5; New Orleans Council Comments at 7-9; Arkansas Cities Comments at 4-6.

<sup>69</sup> Arkansas Cities Comments at 4-5.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 6.

<sup>73</sup> New Orleans Council Comments at 8.

embedded in the Entergy Operating Companies' transmission system, there will be a risk of diminished reliability.<sup>74</sup>

39. The New Orleans Council explains that it is concerned that transferring the Reliability Coordinator responsibility for Entergy Operating Companies to MISO and leaving the Reliability Coordinator roles with SPP for other entities with balancing areas embedded within Entergy's service territory will create a Swiss cheese-like reliability region replete with intra- and inter-state seams and diminished reliability without offering any clear advantage other than providing continuing momentum to Entergy's push to join MISO.<sup>75</sup> The New Orleans Council adds that the most apparent effect on reliability is the increased communications that will be required between SPP and MISO to respond to emergencies on electric systems that cross Reliability Coordinator responsibilities, coordination of NERC transmission-line loading relief events, and other events that were previously addressed by a single ICT/Reliability Coordinator but will now require coordination between two or more Reliability Coordinators. The New Orleans Council states that it cannot predict all the potential challenges to system reliability caused by this hodgepodge of mixed Reliability Coordinator responsibilities and "questions why, with everything else that is going on, Entergy and MISO need to propose now any additional changes that could undermine reliability."<sup>76</sup>

40. In a similar vein, NRG asserts that it would be unjust and unreasonable to have to pay for Reliability Coordinator services because NRG separately contracts and pays for such services for its own Balancing Authority Area.<sup>77</sup> NRG also asserts that it should not be responsible for the costs of the ICT or the Weekly Procurement Process.

41. In response, Entergy asserts that the transition of ICT functions to MISO will not diminish reliability because MISO will be able to use its own tools to manage reliability in the interim period. Entergy adds that MISO's experience with Available Flowgate Capacity functions, including the software used by Entergy, will also keep the transition from diminishing reliability.

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 8-9.

<sup>76</sup> *Id.* at 9.

<sup>77</sup> NRG Comments at 5.

42. Also, Entergy states that there will be no duplication of services or charges.<sup>78</sup> Today, each Balancing Authority is responsible for obtaining and paying for Reliability Coordinator services for its area. Entergy explains that the Entergy Operating Companies and embedded Balancing Authorities currently receive those services from SPP, but they pay SPP separately for those services. Entergy further explains that following transfer of the ICT function to MISO, each Balancing Authority will continue to pay for the Reliability Coordinator services for its Balancing Authority Area. Entergy states that it is possible that different parties will provide, and be paid for, those services, but that does not mean there is a duplication of costs or services.

43. Entergy explains that it is not seeking to recover any costs in this proceeding, and that issues associated with cost recovery are thus outside the scope of this proceeding.<sup>79</sup> Rather, this proceeding is limited to determining whether the term of the ICT will be extended, whether the ICT function will be transferred to MISO, and the terms that will apply to the extension of the ICT function. Entergy notes that NRG pays a portion of the Entergy Operating Companies' Reliability Coordinator costs under the Entergy OATT because it takes transmission service under that OATT. As a customer under the OATT, NRG receives the benefits of the Reliability Coordinator services that are provided for the Entergy Operating Companies' transmission system. Entergy states that these benefits and costs are separate and distinct from those associated with the Reliability Coordinator services NRG procures for its own Balancing Authority. Entergy states that if NRG were to provide transmission services to third parties, it, too, would be able to recover a portion of the costs of Reliability Coordinator Services from those third parties.

44. With respect to the need for coordination among seams and Reliability Coordinators, Entergy states that MISO already coordinates activities along its seam with other areas (including SPP) and coordinates activities among Reliability Coordinators.<sup>80</sup> Entergy states that MISO has substantial experience managing seams both under market-to-market protocols (as it does today between MISO and PJM Interconnection, L.L.C.) and under market-to-non-market protocols (as it does today between MISO and SPP). Entergy states that there is no basis to conclude that any operational or reliability issues will arise.<sup>81</sup>

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<sup>78</sup> Entergy Answer at 10-11.

<sup>79</sup> *Id.* at 12.

<sup>80</sup> *Id.* at 8.

<sup>81</sup> *Id.*

## 5. Cost Implications of the Transfer

45. SPP, the SPP Transmission Owners, and the New Orleans Council argue that costs will be increased due to transferring ICT functions to MISO.<sup>82</sup> For example, SPP states that though Entergy claims that the agreement lowers costs because MISO's bid for ICT services was lower, SPP has offered to match MISO's lower bid.<sup>83</sup> SPP also asserts that costs could be increased due to ongoing negotiations between Entergy and MISO's independent market monitor, Potomac Economics, to provide services beyond the oversight of the Weekly Procurement Process. SPP asserts that these services are expected to cost \$500,000 -600,000 a year, plus set-up costs of \$120,000. SPP states that it is willing to provide this additional oversight role itself, at no additional charge, as part of its offer to match MISO's lower bid.

46. The Texas Commission states that the Entergy Operating Companies entry into MISO is not a foregone conclusion.<sup>84</sup> Therefore, in order to determine whether transitioning from SPP to MISO as the ICT is cost effective, the Commission needs to consider the likelihood of future ICT extensions in addition to the costs of the various scenarios. The Texas Commission adds that it is likely not cost-effective to switch the ICT from SPP to MISO and then, perhaps, back to SPP and that Entergy did not submit sufficient evidence to demonstrate that such a transfer would be cost effective. The Texas Commission states that rather than risk the outcome of unspecified transitioning expenses twice within two years, the Commission should approve Entergy's request to transition the ICT function to MISO only after it becomes clear that the Entergy Operating Companies will join MISO, unless Entergy demonstrates that its proposal to transfer the ICT function to MISO makes sense notwithstanding the current uncertainties regarding integration into MISO.

47. The New Orleans Council states that transferring the ICT role to MISO may actually increase customer costs in two ways.<sup>85</sup> First, the New Orleans Council notes that SPP will continue to provide certain transition services for up to six months, including completing transmission and generator interconnection studies, even after the ICT role is transferred to MISO. The New Orleans Council contends that, since SPP is likely to charge Entergy for these transition services -- services that SPP would have

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<sup>82</sup> SPP Comments at 8-9; SPP Transmission Owners Protest at 8; New Orleans Council Protest at 11.

<sup>83</sup> SPP Comments at 8.

<sup>84</sup> Texas Commission Protest at 4.

<sup>85</sup> New Orleans Council Protest at 11.

provided at no additional cost as the ICT -- transferring the ICT to MISO may actually increase costs because Entergy will be paying both MISO and SPP. Likewise, the New Orleans Council asserts that SPP committed to enhance the independent market monitor's role for no additional cost, whereas MISO's independent market monitor is likely to charge an additional cost for this service. In other words, the transfer of ICT and Reliability Coordinator roles from SPP to MISO will likely increase customer costs with no identified corresponding benefits.

48. In response, Entergy states that it is true that SPP may provide transition assistance services, and if it does there will be a cost for those services.<sup>86</sup> Entergy further states, however, that SPP stated at the August 23, 2012 meeting of the E-RSC that SPP expects to complete all transmission planning studies by December of 2012. Entergy maintains that, in light of that fact, any transition assistance service costs will be more than offset by the additional benefits of transitioning the ICT function to MISO. Entergy further states that any changes in the role of the independent market monitor will be subject to a separate filing with the Commission. Entergy notes that benefits will be provided by contracting with an outside market monitor to oversee the Entergy Operating Companies' region and the ICT's operations.

49. The New Orleans Council, in response to Entergy, argues that Entergy completely side-steps the fact that any additional independent market monitoring role enhancement will come at an increased cost through Entergy's arguments that any enhanced monitoring services, and associated costs, should not be considered here but rather considered as the subject of a future filing.<sup>87</sup> The New Orleans Council also disputes MISO's claim that there will be \$4 million in savings as a result of the transfer, arguing that SPP has proposed to provide the existing ICT services, and the enhanced market monitoring services, at the same price that MISO has proposed for just the existing ICT role.<sup>88</sup> If SPP is willing to provide the current ICT and enhanced market monitoring services at the same price that MISO proposed for just ICT services, the New Orleans Council questions where the savings are if this role is transferred to MISO.

## **6. Stakeholders Support Retaining SPP as the ICT**

50. SPP argues that it should be retained as the ICT because of stakeholder preferences. In that regard, SPP states that the results of an E-RSC Working Group stakeholder survey demonstrate that all but two respondents "either firmly support SPP as

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<sup>86</sup> Entergy Answer at 10.

<sup>87</sup> New Orleans Council Answer at 6.

<sup>88</sup> *Id.*

their preference, or acknowledged that SPP makes more sense.”<sup>89</sup> SPP states that the results of the stakeholder survey should be taken into account by the Commission as evidence of the issues and uncertainty surrounding the proposed transfer of the ICT Agreement to MISO. SPP states that the survey demonstrates stakeholders’ concerns about the lack of certainty related to the RTO that Entergy will join, MISO’s lack of familiarity with Entergy’s system, and that MISO will not be able to make further improvements to the ICT function because of the temporary nature of the agreement.

51. In response, Entergy notes that the survey to which SPP refers is a March 2012 survey of all stakeholders conducted by ESPY Energy Solutions, LLC (ESPY) on behalf of the E-RSC.<sup>90</sup> Entergy explains that, on March 28, 2012, ESPY sent seven survey questions to all of Entergy’s stakeholders, numbering over 100, including various electric cooperatives, municipal utilities, independent power producers, wholesale electric service providers, and neighboring investor owned utilities. Entergy notes that ESPY received only eight responses. Of the eight responses, four stated a firm preference that SPP serve as the ICT; three of those four respondents are current members of SPP.<sup>91</sup> Entergy argues that “SPP’s assertion that four stakeholders’ preferences, in response to a survey sent to over 100 stakeholders, shows that [Entergy’s] stakeholders oppose transferring the ICT function to MISO is without merit on its face.”<sup>92</sup>

## 7. Independent Market Monitor Issues

52. The New Orleans Council states that it does not agree that an independent market monitor should replace the ICT in overseeing the Weekly Procurement Process.<sup>93</sup> The New Orleans Council asserts that SPP in its role as ICT, with its knowledge of the design and dispatch of Entergy’s transmission system and by virtue of having participated in the development of the Weekly Procurement Process, is in the best position to evaluate whether the Weekly Procurement Process is operated efficiently and supply offers are processed in a nondiscriminatory manner. The New Orleans Council notes that SPP has monitored the Weekly Procurement Process since operations first began and it is not clear how long it would take for a new entity like an independent market monitor (whether a consultant to MISO or SPP) to develop adequate knowledge of the Weekly Procurement

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<sup>89</sup> SPP Comments at 10.

<sup>90</sup> Entergy Answer at 12.

<sup>91</sup> *Id.* at 12.

<sup>92</sup> *Id.*

<sup>93</sup> New Orleans Council Comments at 4-5.

Process software, systems, and algorithms to effectively and efficiently monitor Weekly Procurement Process operations, especially considering that Weekly Procurement Process operations since inception have proven challenging.

53. The New Orleans Council disagrees with Entergy's suggestion that the MISO independent market monitor's monitoring of market participant bidding behavior in RTO markets is a sufficient qualification. The New Orleans Council adds that SPP, with dedicated staff, spent significant time and resources developing an expertise in the Weekly Procurement Process software and process. The New Orleans Commission further explains that this process would have to be repeated if the Weekly Procurement Process monitoring responsibility were turned over to another entity.<sup>94</sup>

54. The New Orleans Council believes that the continued efficient operation of the Weekly Procurement Process, even for the limited remaining period, is an important function because it benefits ratepayers by dispatching resources with costs lower than some of Entergy's generation resources, thereby reducing customer costs.<sup>95</sup> According to the New Orleans Council, having the independent market monitor involved in monitoring bidding behavior may be beneficial, but it should not replace the role of the ICT in ensuring that the Weekly Procurement Process is operated properly and efficiently. The New Orleans Council also argues for an increased independent market monitor role.<sup>96</sup>

55. Entergy states that, with regard to additional monitoring services, if and when it finalizes an agreement with Potomac Economics on the monitoring services, Entergy will make an additional filing with the Commission to implement those changes.<sup>97</sup> Further, Entergy states that it and MISO will share the proposed agreement for the provision of the additional monitoring services with the E-RSC Working Group prior to filing it with the Commission. Entergy states that to the extent the New Orleans Council believes that the independent market monitor's role proposed at that time is insufficient, the Council or any other interested party will be given ample opportunity to raise that concern at that time, including before the Commission.

56. Entergy asserts that the New Orleans Council fails to support its assertions that Potomac Economics is not qualified to oversee the Weekly Procurement Process or lacks

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<sup>94</sup> *Id.* at 4-6.

<sup>95</sup> *Id.* at 5.

<sup>96</sup> *Id.*

<sup>97</sup> Entergy Answer at 13-14.

incentive to understand the Weekly Procurement Process.<sup>98</sup> Rather, Entergy states that Potomac Economics has extensive experience monitoring the bidding behavior of participants in Day 2 markets and the operation of those markets, including MISO's markets and that Potomac Economics also acts as a monitor for bilateral procurement processes in a number of regions. Entergy asserts that this experience paired with Potomac Economics' experience with the Entergy Operating Companies provide strong evidence that it can effectively and efficiently oversee the Weekly Procurement Process.

## 8. Requests to Enhance the ICT

57. NRG makes several recommendations to the Commission to relieve problems that have been experienced on the Entergy system while SPP has been the ICT.<sup>99</sup> First NRG suggests that MISO be granted independent authority to audit and recommend changes to the transmission system in order to make improvements to alleviate problems in the Entergy System, which have not improved at the rate that was hoped for at the inception of the ICT Agreement. NRG suggests the Commission require that: (1) MISO be charged with fixing mishandling of data and preemptively detecting errors in Entergy's transmission evaluation process; (2) MISO coordinate between its ICT and Reliability Coordinator functions, and MISO is granted the authority to suspend new sales of short term transmission in order to prevent overselling when the system is overloaded; and (3) MISO independently evaluate transmission services requests and studies instead of relying on Entergy's analysis.

58. Also, NRG asks the Commission to direct MISO to employ an ICT stakeholder process that provides greater stakeholder transparency, comparable to the level provided by MISO.<sup>100</sup> In particular, NRG requests greater transparency in error reporting and evaluation.

59. Entergy responds that these suggestions and the facts they are based on are without merit or basis and are irrelevant to the proceeding at hand.<sup>101</sup>

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<sup>98</sup> *Id.* at 9.

<sup>99</sup> NRG Comments at 2.

<sup>100</sup> *Id.* at 4-5.

<sup>101</sup> Entergy Answer at 15.

## 9. Stakeholder Outreach

60. Dow Chemical states that there was very little outreach or communication regarding the change of the ICT function to MISO.<sup>102</sup> Dow Chemical also raises concerns that it was not adequately consulted by Entergy or MISO about the proposed change. Dow Chemical asserts that it was not contacted until after the proceeding began and that when contacted it was only for information related to its cogeneration facilities, not to advise it on the effects of the transaction. Dow Chemical asks the Commission to reject the request or to suspend the proceedings and institute a technical conference to address: (1) the reasons for replacing SPP with MISO; (2) the process for transitioning from SPP to MISO; and (3) how generators and other entities would be affected by the transfer.<sup>103</sup>

61. Related to its concerns, Dow Chemical states that neither Entergy nor MISO has explained how the generation data requested from Dow Chemical will be used or how the confidentiality of such data will be protected. This is a particularly significant concern insofar as Entergy is a direct competitor of Dow Chemical in wholesale power markets. As such, any power generation data required by the ICT should be requested by, and supplied by Dow Chemical, to the ICT directly and protected from disclosure to Entergy and other market participants.<sup>104</sup>

62. Entergy states that to the contrary, the proposal to transfer the ICT function to MISO was discussed at a number of stakeholder meetings over a period of months, including at meetings of the E-RSC.<sup>105</sup> Entergy notes that notice of those meetings was provided to stakeholders, with agendas showing that the transfer of the ICT function would be discussed. Entergy also notes that a draft of the proposed ICT contract with MISO was shared with stakeholders and the E-RSC Working Group hosted a conference call at which stakeholder feedback on the proposed contract was received. Entergy asserts that certain changes to the draft ICT contract were made as a result of stakeholder feedback. Entergy maintains that there is no reasonable basis to claim that stakeholders were not made fully aware of the proposed transfer to MISO.

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<sup>102</sup> Dow Chemical Protest at 4.

<sup>103</sup> *Id.* at 5.

<sup>104</sup> *Id.* at 5.

<sup>105</sup> Entergy Answer at 12-13.

## 10. Standard of Review

63. Entergy states that the Commission approves deviations from the Order No. 890 *pro forma* OATT when such deviations are consistent with or superior to the *pro forma* tariff and otherwise just and reasonable.<sup>106</sup> It states that the Commission has already stated that the ICT Agreement meets that standard and the standard will continue to be satisfied by the extension.

64. MISO similarly asserts that the correct standard of review is whether the services contemplated under the ICT Agreement are consistent or superior to the Commission's *pro forma* OATT.<sup>107</sup> Furthermore, MISO states that given its experience providing ICT services and its advanced tools, the ICT Agreement meets this standard.

65. The New Orleans Council disputes Entergy's and MISO's characterization of the proper standard of review being whether the proposed change is consistent with or superior to the *pro forma* tariff.<sup>108</sup> Rather, the New Orleans Council states that the standard Entergy cited in its filing was only applicable to the concept of an ICT as an acceptable alternative to the *pro forma* tariff and not the standard for approval of the specific agreement. Instead, the New Orleans Council states that the Commission has evaluated Entergy's ICT Agreement under a just and reasonable standard in the past. Moreover, the New Orleans Council states that the Commission had to determine that the agreement was just and reasonable and nondiscriminatory and had non-preferential results. The New Orleans Council asserts that Entergy has failed to meet its burden of showing that the transfer of the ICT and Reliability Coordinator roles from SPP to MISO is just and reasonable.

## IV. Discussion

### A. Procedural Matters

66. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding.

67. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure 18 C.F.R. § 385.214(d) (2012), the Commission will grant MISO's, Xcel Energy Services',

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<sup>106</sup> Entergy Answer at 2.

<sup>107</sup> MISO Answer at 9.

<sup>108</sup> New Orleans Council Answer at 9.

and the Texas Commission's late-filed motions to intervene given the entities' interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

68. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept Entergy's and MISO's answers to protests and the New Orleans Council's and Texas Commission's answers to the answers because they have provided information that has assisted us in our decision-making process.

### **B. Substantive Matters**

69. We find that the existing ICT Agreement has had a positive effect on operations and planning in the Entergy region, due in large part to the ICT's direct and substantial involvement and oversight.<sup>109</sup> We also find, as explained in further detail below, that the proposed ICT Agreement is consistent with or superior to the *pro forma* OATT and is otherwise just and reasonable. Accordingly, we accept: (1) Entergy's proposed extension of Attachment W from November 17, 2012 to November 30, 2012; (2) Entergy's proposed transfer of ICT functions from SPP to MISO effective December 1, 2012; and (3) Entergy's proposal to allow Attachment W remain effective until May 31, 2013, or earlier as determined by the parties, in order to allow for SPP to provide the needed transition assistance services. We also accept Entergy's proposal to extend the ICT Agreement until the earlier of December 31, 2014 or the proposed date of transfer of Entergy's transmission assets to MISO.

70. As an initial matter, we find that this filing is timely because without it, the ICT Agreement will expire on November 17, 2012 by its own terms. The filing of the ICT Agreement is voluntary, as the existing agreement could expire upon its own terms. In the ICT Order, the Commission explained that Entergy must make a section 205 filing if it intends to continue the ICT arrangement, within 60 days prior to the date of termination.<sup>110</sup> The Commission further explained that if Entergy does not wish to continue the ICT, Entergy must also terminate its use of participant funding for transmission upgrades.<sup>111</sup> In this instance, much like it did two years ago, Entergy is proposing to continue and extend the ICT Agreement.

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<sup>109</sup> See Order Extending ICT Agreement, 133 FERC ¶ 61,136 at P 20.

<sup>110</sup> ICT Order, 115 FERC ¶ 61,095 at P 102.

<sup>111</sup> *Id.*

71. The Commission approves deviations to the Order No. 890 *pro forma* OATT when such deviations are consistent with or superior to the *pro forma* OATT and those deviations are otherwise just and reasonable.<sup>112</sup> The Commission has previously determined that the ICT Agreement is consistent with or superior to the *pro forma* tariff<sup>113</sup> and has also determined that the ICT Agreement is otherwise just and reasonable.<sup>114</sup> We find, as explained in further detail below, that the proposed ICT Agreement is consistent with or superior to the *pro forma* OATT and otherwise just and reasonable.

72. A number of parties oppose the transfer of the ICT functions from SPP to MISO. Arguments against the transfer fall into four general categories: (1) transitioning the ICT function to MISO is not timely; (2) SPP is better positioned to provide the ICT services and transferring the ICT function to MISO will result in operational issues; (3) costs will increase as a result of transferring the ICT function to MISO; and (4) stakeholders have expressed a preference that SPP continue to provide the ICT services. We respond to these arguments below.

73. First, we reject parties' contention that the transition of ICT function from SPP to MISO is premature because of regulatory uncertainty. As noted above, the instant filing is timely as it addresses an expiring agreement, and speculative concerns regarding other potential transactions are beyond the scope of this proceeding. The regulatory uncertainty is not created by the instant proposal before the Commission. Rather, the regulatory uncertainty relates to Entergy's proposal to transfer functional control of its facilities to MISO. The transaction to transfer the functional control of assets is not before the Commission at this time.

74. Some parties also raise concerns regarding whether Entergy will need to transition ICT services again in two years. This possibility exists regardless of which entity performs ICT services; there is no requirement for a particular provider to continue to provide ICT services for any specific period of time, and thus, that provider will determine if it chooses to continue for an additional term. Moreover, we note the possibility that Entergy may not propose to extend the ICT arrangement in the future. Accordingly, we find this argument unpersuasive.

75. Second, we reject the contentions that the Commission should deny the transition of ICT functions to MISO because SPP is better positioned to provide the ICT services.

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<sup>112</sup> See, e.g., *Entergy Services, Inc.* 116 FERC ¶ 61,275 at P 16.

<sup>113</sup> Order Extending ICT Agreement, 133 FERC ¶ 61,136 at P 20.

<sup>114</sup> ICT Order, 115 FERC ¶ 61,095 at P 41.

These arguments misstate the Commission's scope of review of the proposed transaction. The Commission need not compare the proposal before us with other potential arrangements, as commenters seem to suggest, and reject the filing because alternative arrangements may be superior in some way to what is proposed. Rather, the Commission must determine whether the ICT Agreement is consistent with or superior to the *pro forma* OATT and just and reasonable as proposed. Therefore, considering if SPP is better positioned than MISO to provide ICT services is not a basis for determining whether Entergy's filing is just and reasonable.

76. We find that MISO is a qualified entity to provide ICT services for Entergy. As explained in Entergy's answer, MISO's experience providing independent tariff administration services includes calculating Available Flowgate Capability for 1,000 flowgates (2,500 paths), conducting 30-40 long-term studies annually, processing over 60,000 transmission service requests per year, and processing over 1,000 generator interconnection requests per year (totaling over 14,000 MW per year). In addition, MISO provides Reliability Coordinator services for over 49,000 miles of transmission with a peak load exceeding 110,000 MW. While the New Orleans Council disputes MISO's level of familiarity with the Entergy system, we again note that our standard of review here is not based on which entity has more expertise, but rather, whether MISO is a capable provider of those services. We agree with commenters' arguments that if the level of familiarity with a particular system was a necessary factor to our decision, ICT changes would never be possible. We find, similar to our finding that SPP was capable six years ago, that MISO is a capable provider of these services.

77. Regarding MISO's capabilities, the New Orleans Council questions whether MISO's independent market monitor, Potomac Economics, is capable of providing the services and whether there are any efficiencies to be gained by having Potomac Economics oversee the Weekly Procurement Process for, potentially, a short period of time. While it has been debated whether the Weekly Procurement Process is an energy market, it is a mechanism for buying and selling energy. The record demonstrates that Potomac Economics is experienced in studying bidding behavior of market participants and may offer another layer of expertise that could enhance Weekly Procurement Process operations.<sup>115</sup>

78. Third, several parties question the cost savings involved with this arrangement in three ways: (1) that no cost savings actually exist; (2) if Entergy is unable to join MISO as a transmission owning member, and MISO does not provide ICT services past 2014, additional costs will be incurred to switch ICT providers; and (3) there will be duplication of Reliability Coordinator charges. As an initial matter, we note that despite SPP's

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<sup>115</sup> Entergy Answer at 9.

willingness to match MISO's offer, Entergy's proposal presents a cost savings compared to the existing arrangement. In other words, while SPP maintains that it will match MISO's offer, what is before us is Entergy's proposal to transfer ICT functions from SPP to MISO, not an extension of the current agreement with SPP. Once again, the Commission is not required to consider other potential just and reasonable arrangements before it accepts a just and reasonable filing.

79. Parties also question the transition services, which will come at an additional cost, that SPP will need to perform to fully transition ICT functions from SPP to MISO. As Entergy outlines in its answer, SPP has stated that it will complete these services by December; thus, we do not expect these costs to be significant. Parties also raise the potential costs required to implement an independent market monitor. While this will increase the costs of the ICT arrangement as a whole, we note that these services are a service above and beyond what SPP currently provides.

80. NRG asserts that the transfer of the Reliability Coordinator function to MISO would increase costs because it will result in duplicative charges for Reliability Coordinator services. We do not find this to be the case as each party contracts for Reliability Coordinator services for its own Balancing Authority, resulting in no duplication of charges.

81. Fourth, with regard to the Reliability Coordinator issues raised by Arkansas Cities, Arkansas Cities requests that the Commission require SPP and MISO to develop a communications protocol to coordinate their Reliability Coordinator duties. As we understand it, most, if not all, of the Entergy Operating Companies and their embedded balancing authorities currently have SPP serve as their Reliability Coordinator. As part of the proposal before us, Entergy will transfer Reliability Coordinator functions from SPP to MISO. This means that there will be, for some period of time, two Reliability Coordinators for the Entergy region. While we are aware that MISO and SPP have protocols in place for coordinating Reliability Coordinator functions along the MISO and SPP seams, we remind the parties of their existing obligations and requirements to comply with NERC standards particularly as it relates to coordinating the Reliability Coordinator function in the Entergy region.

82. Regarding the remaining issues, SPP, the SPP Transmission Owners, Dow Chemical, NRG and the New Orleans Council raise a number of issues that are beyond the scope of this proceeding. For example, SPP and the SPP Transmission Owners assert that SPP should continue to be the ICT because of stakeholders' preferences. However, what is before the Commission is a section 205 filing and the basis of our ruling to accept the filing is whether Entergy's filing is consistent with or superior to the *pro forma* OATT and is otherwise just and reasonable. We see no need to interpret the results of a stakeholder survey as it does not impact our ruling of whether the filing is just and reasonable.

83. While no stakeholder process was required prior to making this filing, we note that Entergy did engage the stakeholders in a discussion about the ICT and potential changes to the ICT structure, and thus, they were aware of this transaction prior to it being filed at the Commission. Also, we reject Dow Chemical's request for a technical conference to address the issues it raised regarding a lack of stakeholder input. We find that the record before us contains sufficient information that the issues raised have been discussed through stakeholder meetings and meetings of the E-RSC. We decline to use our discretion to convene a technical conference at this time.

84. NRG asks the Commission to impose additional requirements on MISO as the ICT, particularly as it relates to independence. We find that under the amended ICT Agreement, similar to under the existing ICT Agreement for SPP, MISO's role as the ICT would include operating independently and using the full extent of its authority to serve as the ICT beginning on December 1, 2012. That structure does not change by virtue of this proceeding and has been in place since the beginning of the ICT. We note that no parties raise a concern regarding MISO's independence in its role as the ICT. NRG also asks for the entire ICT Agreement to be revisited should the ICT be considered for another extension past 2014. Similarly, the New Orleans Council proposed that the Commission expand the ICT or the independent market monitor role in order to alleviate persistent problems in the Entergy system. We note, first, that the ICT structure continues to evolve as part of the effort to better address the issues confronting the Entergy transmission system. Entergy's commitment to expand the scope of the independent market monitoring services is another example of a step in the evolutionary process to address issues on Entergy's system. Second, we encourage stakeholders to raise these issues with Entergy and MISO, after MISO has some operational experience as the ICT, to begin vetting whether further changes to the ICT structure are appropriate. As we have found above, Entergy's proposal is just and reasonable.

The Commission orders:

The Commission hereby accepts for filing Entergy's proposed ICT Agreement, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.