

143 FERC ¶ 61,165
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. and the MISO Transmission Owners Docket Nos. ER13-708-000
ER13-708-001

ORDER ACCEPTING REVISIONS TO TRANSMISSION OWNERS AGREEMENT

(Issued May 23, 2013)

1. On January 4, 2013, as amended on February 28, 2013, the Midwest Independent Transmission System Operator, Inc. (MISO) and the MISO Transmission Owners¹ (jointly, Filing Parties) submitted proposed revisions to Appendix K of the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc. (Transmission Owners Agreement),² and also submitted a

¹ For the purposes of the filings addressed in this order, the MISO Transmission Owners are: 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; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Great River Energy; Indianapolis Power & Light Company; International Transmission Company d/b/a ITCTransmission; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; 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.; Otter Tail Power Company; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; and Wolverine Power Supply Cooperative, Inc.

² MISO FERC Electric Tariff, MISO Rate Schedules, MISO Transmission Owner Agreement, [APPENDIX K, FILING RIGHTS PURSUANT TO SECTION 205 OF THE FPA, 1.0.0](#). (Appendix K).

Settlement Agreement Between the Transmission Owners and the Midwest Independent Transmission System Operator, Inc. Regarding Modified Filing Rights (Settlement Agreement). The revisions to Appendix K implement the Settlement Agreement, and as described more fully below, provide the Organization of MISO States, Inc. (OMS)³ with enhanced authority for determining transmission cost allocation methodologies to be filed pursuant to section 205 of the Federal Power Act (FPA).⁴ We accept the proposed revisions, effective upon the integration of Entergy Arkansas, Inc. (Entergy Arkansas) into MISO.

I. Background and Proposed Revisions

2. Section II.E.2 of the current Appendix K of the Transmission Owners Agreement provides both MISO and the MISO Transmission Owners the right to submit filings pursuant to section 205 of the FPA with regard to the allocation of costs associated with transmission upgrades and new transmission facilities affecting multiple tariff zones.

3. In 2011, Entergy Arkansas filed an application with the Arkansas Public Service Commission (Arkansas Commission) to transfer functional control over its electric transmission facilities to MISO.⁵ As a condition of approving Entergy Arkansas' bid to join MISO, the Arkansas Commission required that the OMS be provided full legally-recognized section 205 filing rights with regard to several regulatory activities.⁶ In order to address the Arkansas Commission's concerns, MISO and the MISO Transmission Owners agreed to a "Proposal for Enhanced OMS Authority for Determining Cost Allocation Methodologies to Be Filed Pursuant to Section 205," which ultimately became the Settlement Agreement after further negotiations. The Settlement Agreement requires the filing of the proposed revisions to Appendix K in this proceeding.

³ OMS is a regional state committee whose members are the state, city, and provincial regulatory authorities within the MISO footprint. See <http://misostates.org/>.

⁴ 16 U.S.C. § 824e (2006).

⁵ In addition, on September 24, 2012, Entergy Corporation and other entities made several simultaneous filings with this Commission to, among other things, effectuate the transfer of Entergy Arkansas' jurisdictional transmission assets to subsidiaries of ITC Holdings Corp., as well as the integration of those assets into MISO. See, e.g., Docket No. EC12-145-000. These filings are currently pending.

⁶ *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, Docket No. 10-011-U (Arkansas Public Service Commission, August 3, 2012).

4. Filing Parties state that the proposed revisions to Appendix K allow the OMS Committee⁷ to request MISO to file an amendment to MISO's regional transmission cost allocation methodology for new projects, other than Baseline Reliability Projects,⁸ provided that 66 percent of all of the OMS Committee voting members agree. Specifically, the OMS Committee may request that MISO file with the Commission a separate proposal to amend or establish a regional cost allocation methodology, if MISO undertakes a section 205 filing itself to amend an existing cost allocation methodology. Additionally, the OMS Committee may request that MISO consider a change in methodology or make minor and technical clarifying Tariff changes subject to a stakeholder process. Upon such a request, MISO would commence a stakeholder process to examine the changes to an existing transmission cost allocation methodology requested by the OMS Committee.⁹

5. The proposed revisions to Appendix K also provide that MISO shall support a request by the OMS Committee that one or more state commissioners be selected as stakeholder process co-chairs, provided that the MISO stakeholder community ratifies such selection. The proposed revisions provide that should the stakeholder community fail to support a state commissioner as co-chair, MISO will support a separate OMS Committee process to ensure the OMS Committee's position is appropriately developed and presented in the stakeholder process.¹⁰

6. Filing Parties explain that at the end of the stakeholder process, if MISO decides to make a change or changes to an existing transmission cost allocation methodology for new regional projects, other than Baseline Reliability Projects, and the OMS Committee disagrees with MISO's filing, MISO will work with the OMS Committee to ensure that

⁷ As part of its compliance filing pursuant to *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), MISO included an amendment to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) creating the OMS Committee and codifying the role of the OMS Committee in MISO's transmission planning, resource adequacy, and transmission cost allocation processes under both Attachment FF and the Transmission Owners Agreement. *See Midwest Indep. Transmission Sys. Operator Inc.*, 142 FERC ¶ 61,215, at PP 62-67 (2013).

⁸ Any capitalized terms not otherwise defined herein have the same meanings given to them in the Tariff.

⁹ Proposed revision to Appendix K at section II.E.3.a.ii.

¹⁰ *Id.* at Section II.E.3.d.

the OMS Committee's alternative tariff language is filed along with MISO's filing. Additionally, the proposed revisions state that MISO shall provide the technical and financial support it deems necessary and appropriate in order for the OMS Committee to make an appropriate showing in support of the justness and reasonableness of any proposal provided by the OMS Committee.¹¹ The proposed revisions provide that, if at the end of the process MISO decides not to make a filing, it will provide the OMS Committee with a written explanation of its decision not to file changes to the Tariff. If MISO does not file changes to the Tariff, MISO will not file the OMS Committee alternative tariff language with the Commission.¹²

7. Filing Parties also include a provision making these revisions to Appendix K of the Transmission Owners Agreement contingent on the successful integration of Entergy Arkansas' transmission, generation, and load into MISO, including any final authorization of the Commission, which they anticipate will be December 18, 2013. Filing Parties also request that the Settlement Agreement take effect as of the date on which it is accepted by the Commission without condition or modification in a final order. Filing Parties request waiver of the Commission's restriction in 18 C.F.R. § 35.3 (2012) on filings made more than 120 days in advance of the proposed effective date.¹³

8. Filing Parties state that if the Settlement Agreement or related Appendix K revisions are not approved in their entirety without modification or condition they shall be deemed withdrawn and shall be null and void and of no force and effect.¹⁴

9. On February 28, 2013, Filing Parties submitted an amendment to the filing which removes the phrase "it deems necessary and appropriate" from section II.E.3.i of the proposed Appendix K, thus limiting MISO's authority to refuse to give technical and financial support in order for the OMS Committee to make an appropriate showing in

¹¹ The original proposed revision to Appendix K at Section II.E.3.i, which was later amended as discussed below, states:

[MISO] shall provide the technical and financial support it deems necessary and appropriate to fulfill its obligations under Article II, Section E.3 of this Appendix K in order for the OMS Committee to make an appropriate showing in support of the justness and reasonableness of any proposal provided by the OMS Committee pursuant to Article II, Section E.3 of this Appendix K.

¹² Proposed revision to Appendix K at Section II.E.3.e.

¹³ Filing Parties' Transmittal Letter at 4-5.

¹⁴ *Id.* at 4.

support of the justness and reasonableness of any alternative proposal provided by the OMS Committee. Certain of the MISO Transmission Owners included in the original filing abstained from joining the amended filing, stating that they support the original filing because the phrase provides MISO with its independent right to determine what support is necessary and appropriate.¹⁵

II. Notice of Filing and Responsive Pleadings

10. Notice of the filing in Docket No. ER13-708-000 was published in the *Federal Register*, 78 Fed. Reg. 2,380 (2013), with interventions and comments due on or before January 25, 2013. On January 23, 2013, OMS filed a motion for an extension of time and requested an extension of the comment period to February 8, 2013. On January 24, 2013, the Commission granted the motion and extended the initial comment period, as requested, to February 8, 2013.

11. Timely motions to intervene were filed by Coalition of Midwest Transmission Customers; Dairyland Power Cooperative; Duke Energy Corporation; Exelon Corporation; Wisconsin Electric Power Company; E.ON Climate & Renewables North America, LLC; Exelon Corporation; Consumers Energy Company; Entergy Services, Inc.; American Municipal Power, Inc.; Madison Gas & Electric Co. and WPPI Energy; American Electric Power Service Corporation; Wisconsin Public Service Corp. and Upper Peninsula Power Co.; Calpine Corporation; DC Energy, LLC; Duquesne Light Company; PSEG Companies; and Pepco Holdings, Inc., Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company. Notices of intervention were filed by Arkansas Commission and the Illinois Commerce Commission.

12. Timely motions to intervene and protests were filed by Dynegy Power Marketing, LLC (Dynegy); American Wind Energy Association (AWEA); and Electric Power Supply Association (EPSA). OMS filed a timely notice of intervention and comments, which was supported by a timely notice of intervention by the Indiana Utility Regulatory Commission. A motion for leave to submit comments out of time and comments was filed by Arkansas Commission on February 22, 2013.

¹⁵ The abstaining MISO Transmission Owners are Big Rivers Electric Corporation; Dairyland Power Cooperative; Hoosier Energy Rural Electric Cooperative, Inc.; Michigan Public Power Agency; Minnesota Power; Northern States Power Company, a Minnesota corporation and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy, Inc.; Otter Tail Power Company; and Southern Illinois Power Cooperative.

13. Filing Parties filed an answer to comments and protests on February 28, 2013. OMS filed a motion for leave to answer and answer on March 20, 2013. On April 9, 2013, AWEA filed a motion for leave to answer and answer.

14. Notice of Filing Parties' amendment to their filing in Docket No. ER13-708-001 was published in the Federal Register, 78 Fed. Reg. 14,781 (2013) with interventions or protests due on or before March 21, 2013. None were filed.

A. Protests and Comments

15. OMS' comments¹⁶ on the filing explain that, although OMS supports an enhanced role for state commissions and regional state committees, it is concerned with the limited nature of the proposal. OMS states that the OMS Committee's section 205 filing rights should not be contingent on MISO making a filing, stating that it is concerned that this could be used to neutralize any section 205 filing rights otherwise granted to the OMS Committee. OMS also states that it supports a settlement process to further clarify these roles and enhanced authorities. Arkansas Commission agrees with OMS and states that discussion among the parties should continue regarding how best to address section 205 filing rights for the OMS Committee.¹⁷

16. OMS also contends that the OMS Committee's section 205 filing rights should not be contingent on the integration of Entergy Arkansas. According to OMS, including such a contingency does not properly recognize or acknowledge the independent reasons for granting the state regulators enhanced authority.¹⁸

17. OMS argues further that the OMS Committee's section 205 filing rights should not exclude all Baseline Reliability Projects, stating that section 205 filing rights authority should be applicable to projects with broader multi-state cost allocation because a purpose of a regional state committee like OMS is to coordinate among the state commissions within MISO's footprint. Therefore, OMS recommends that its section 205

¹⁶ Five members of OMS abstained from supporting the comments. *See* OMS Comments at 10-11.

¹⁷ Specifically, OMS and Arkansas Commission request removal of proposed section II.E.3.e of Appendix K, which states: "If [MISO] does not file changes to the Tariff, no OMS alternative cost allocation methodology will be filed with FERC by [MISO]." *See* OMS Comments at 5-6; Arkansas Commission Comments at 4-5.

¹⁸ OMS Comments at 7-8.

filing rights apply to any new regional project that would have any portion of costs shared across more than one zone, other than Baseline Reliability Projects below 345 kV.¹⁹

18. OMS and Arkansas Commission oppose the inclusion of the phrase “it deems necessary and appropriate” in Appendix K, section II.E.3.i, which describes the technical and financial support that MISO agrees to provide the OMS Committee. They argue that the inclusion of the phrase weakens MISO’s responsibility to provide support to the OMS Committee, as MISO could potentially decline any support that MISO does not deem necessary and appropriate.²⁰

19. OMS also requests clarification on the standard of review that should be applied to the Settlement Agreement between MISO and the MISO Transmission Owners, stating that the filing is not clear on which standard is intended.²¹

20. AWEA argues that all stakeholder groups within MISO have the ability to make requests of MISO to consider a change to the Tariff, and that it is not necessary to create special rights for OMS in order for it to communicate its interests. AWEA also argues that, like any other stakeholder, OMS has the right to file a protest in response to MISO filing with the Commission any proposed changes to transmission cost allocation.²² AWEA, Dynegy, and EPSA all argue that accepting the proposed revisions will result in an unbalanced stakeholder process by giving one group of stakeholders, i.e. the states, preferential rights beyond the rights of all other stakeholders, contrary to the Commission’s requirements in Order No. 719.²³ Dynegy also argues that granting section 205 filing rights to the OMS Committee would compromise MISO’s independence, because OMS represents the interest of a single class of market participants, end-use retail customers. According to Dynegy, ceding any of MISO’s section 205 filing rights could be a violation of the fundamental requirement expressed in

¹⁹ *Id.* at 8.

²⁰ OMS Comments at 6-7; Arkansas Commission Protest at 3-4. As noted above, the Filing Parties amended their original filing to delete this phrase.

²¹ OMS Comments at 9.

²² AWEA Protest at 6-7.

²³ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), *order on reh’g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292, *order on reh’g and clarification*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

Order No. 2000 that a regional transmission organization remain independent.²⁴ EPSA raises similar arguments, stating that the proposed revisions raise serious concerns about the impartiality of the MISO governance structure.²⁵

21. Dynegy contends that the proposed revisions to section II.E.3.d, which require one or more state commissioners to be selected as stakeholder process co-chairs, as well as the process to develop and support the OMS position, should be rejected. Dynegy argues that this aspect of the proposal would grant undue preference to the OMS Committee at the expense of other stakeholders.²⁶

22. AWEA and EPSA state that if the Commission does not reject Filing Parties' proposed revisions to Appendix K, then it should consider requiring the Transmission Owners Agreement to provide similar rights to other stakeholders. They argue that the stakeholder process will be effective at creating the necessary consensus only when all customers enjoy the same authority. AWEA and EPSA also request that the Commission reject the proposed revisions and open an investigation into the justness and reasonableness of the MISO governance structure and the Transmission Owners Agreement to ensure that all stakeholders have similar rights and sufficient input into Tariff rules that ultimately impact them.²⁷

23. AWEA argues that MISO will incur additional costs associated with supporting the OMS Committee in developing an OMS Committee section 205 filing. Those costs, AWEA contends, should be assessed solely to the market participants that represent the OMS constituents. AWEA requests that if the Commission approves the proposed revisions, then the Commission should direct MISO to submit a compliance filing that demonstrates how MISO will track all of these costs, and then direct MISO to recover these costs from those who benefit.²⁸

²⁴ Dynegy Protest at 4 (citing *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089, at P 152 (1999), *order on reh'g*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001)).

²⁵ EPSA Protest at 3-5.

²⁶ Dynegy Protest at 7.

²⁷ AWEA Protest at 12-14; EPSA Protest at 5-6.

²⁸ AWEA Protest at 14-16.

B. Answers

24. In their answer, Filing Parties maintain that the proposed revisions to Appendix K are consistent with Commission and judicial precedent, are not unduly discriminatory, do not threaten MISO's independence, and should be approved as filed. Filing Parties also argue that they cannot be compelled to involuntarily give up their filing rights, and thus, the Commission must reject AWEA and EPSA's request that the Commission grant similar filing rights to all stakeholders. Filing Parties also clarify the standard of review that they intended to apply to the Settlement Agreement.

25. OMS filed an answer responding to the arguments made by AWEA, Dynegy, and EPSA. OMS argues that, as the Commission has recognized, OMS is not merely another stakeholder. According to OMS, state commission responsibilities are inherently interrelated with MISO's transmission planning and cost allocation functions and both MISO and the state commissions have fundamental roles in considering and serving the public interest.

26. In its answer, AWEA claims that nothing in the Filing Parties' answer addresses the concerns raised in AWEA's protest, and argues that the fact that Filing Parties have the right to submit revisions to the filing rights contained in Appendix K does not make any proposed revisions automatically just and reasonable. AWEA further contends that Filing Parties have failed to show that their proposal is necessary, pointing out that the OMS Committee will only be granted filing rights if a specific utility (Entergy Arkansas) joins MISO. AWEA restates its position that the proposal is unjust and unreasonable. AWEA argues that the proposal unbalances the stakeholder process and provides the OMS Committee, as representatives of one stakeholder group, with an unfair advantage compared to all other stakeholder groups.²⁹

27. Finally, AWEA argues that Filing Parties' argument that the Commission cannot force them to give up their filing rights by requiring that they provide similar enhanced filing rights to all stakeholders as those provided to the OMS Committee is misleading. AWEA claims that Filing Parties would not give up any of their filing rights if they were required to provide enhanced filing rights to other stakeholders, because they would continue to retain their own rights to file just as they have under their proposed revisions which provide enhanced filing rights only to the OMS Committee.³⁰

²⁹ AWEA Answer at 3-7; 9.

³⁰ *Id.* at 7-9.

III. Discussion

A. Procedural Matters

28. 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 this proceeding.

29. 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 the answers that have been filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Commission Determination

30. We accept the proposed revisions to Appendix K of the Transmission Owners Agreement.³¹ We note that the Commission has previously accepted proposals to grant section 205 filing rights to state regulatory committees made by Southwest Power Pool and the Entergy Operating Companies.³² As we explained in the SPP Rehearing Order, such filing rights can facilitate state consensus on certain regional issues, as well as a partnership between this Commission and state commissions.³³

31. In response to the protests, we find that the proposed revisions to Appendix K of the Transmission Owners Agreement do not contradict the Commission's finding in Order No. 719 regarding the need to balance stakeholder interests. The Commission's goal in Order No. 719 was to enhance the "avenue for customers and other stakeholders to present their views on RTO and ISO decision-making, and to have those views considered."³⁴ The proposed revisions allow the states through the OMS Committee, as

³¹ The Filing Parties also request, purportedly pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2012), that the Commission approve the Settlement Agreement. However, Rule 602 only applies to settlement agreements arising from a proceeding pending before the Commission or set for hearing, which is not the case here. *See* 18 C.F.R. § 385.602(a). Accordingly, there is no basis for us to "approve" the Settlement Agreement as such.

³² *See Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 (SPP Order), *order on reh'g*, 109 FERC ¶ 61,010 (2004) (SPP Rehearing Order); *Entergy Arkansas, Inc.*, 133 FERC ¶ 61,211 (2010).

³³ SPP Rehearing Order, 109 FERC ¶ 61,010 at P 90.

³⁴ Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 503.

representatives of the public interest, an additional avenue to present their views and have them considered. Providing such enhanced rights to a state committee does not in any way detract from the ability of customers and other stakeholders to present their own views in MISO's stakeholder process. Likewise, granting the filing rights to the OMS Committee as proposed does not contradict Order No. 2000 by violating MISO's independence, as MISO retains the right to file its own proposals independent of the OMS Committee's direction.³⁵

32. In response to the comments by AWEA and EPSA stating that if the proposal is accepted the Commission should consider requiring the Transmission Owners Agreement to provide similar rights to other stakeholders, we disagree. The Commission has recognized that state commissions and state committees play an important and unique role in transmission planning and transmission cost allocation, and has previously accepted similar proposals to grant section 205 filing rights to such entities.³⁶ Thus, we find the proposal just and reasonable and not unduly discriminatory without AWEA and EPSA's proposed conditions.³⁷ We also reject the protests arguing that the OMS Committee's section 205 filing rights should not be contingent on MISO making a filing or upon the integration of Entergy Arkansas into MISO and that they should not exclude all Baseline Reliability Projects. These requests would grant the OMS Committee section 205 filing rights that go beyond the scope of the Filing Parties' proposal and are thus beyond the scope of this section 205 proceeding.

33. Thus, we find that, contrary to AWEA's claim, Filing Parties have sufficiently shown that the proposed revisions are just and reasonable. Further, we disagree with AWEA's contention that the revisions are unnecessary because they are prompted by only one utility joining MISO.

34. We also reject AWEA's concerns regarding the potential costs incurred by MISO in supporting the OMS Committee. The issue of how costs associated with the OMS

³⁵ See SPP Order, 106 FERC ¶ 61,110 at P 93. For this same reason, we also decline AWEA's and EPSA's requests that the Commission open an investigation into the justness and reasonableness of the MISO governance structure and the Transmission Owners Agreement.

³⁶ See *supra* note 32. See also Order No. 1000-A, 139 FERC ¶ 61,132 at PP 291-293; *Midwest Indep. Transmission Sys. Operator Inc.*, 142 FERC ¶ 61,215 at P 66 (where the Commission addressed similar protests regarding the enhanced role of the OMS Committee).

³⁷ Further, the protestors still have the ability to participate in MISO through representation on the Advisory Committee and various other committees within MISO.

Committee may be recovered will be the subject of a compliance filing ordered by the Commission in Docket No. ER13-187-000, *et al.*³⁸

35. We find good cause to grant Filing Parties' request for waiver of the Commission's 120-day prior notice requirement,³⁹ and make the proposed revisions effective upon the integration of Entergy Arkansas transmission, generation, and load into MISO, as requested by Filing Parties. Filing Parties must make an appropriate filing informing the Commission whether the revisions have become effective, and if so, the date thereof.

36. Finally, the Filing Parties have explained that the proposed revisions to Appendix K of the Transmission Owners Agreement were developed through a negotiated process that resulted in the Settlement Agreement. However, consistent with Commission practice, we are accepting the proposed Tariff revisions, not the Settlement Agreement.⁴⁰ For this reason, OMS's concern regarding the standard of review that applies to the Settlement Agreement is moot.

The Commission orders:

The proposed revisions to Appendix K of the Transmission Owners Agreement, as amended, are hereby accepted, effective upon the integration of Entergy Arkansas into MISO, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

³⁸ *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 at P 67.

³⁹ 18 C.F.R. § 35.3 (2012).

⁴⁰ *See supra* note 31.