

145 FERC ¶ 61,118  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System  
Operator, Inc.

Docket No. ER13-2337-001

ORDER CONDITIONALLY ACCEPTING GENERATOR INTERCONNECTION  
AGREEMENT AND ESTABLISHING HEARING AND SETTLEMENT JUDGE  
PROCEDURES

(Issued November 12, 2013)

1. On September 6, 2013, as amended on September 13, 2013,<sup>1</sup> pursuant to section 205 of the Federal Power Act (FPA),<sup>2</sup> Midcontinent Independent System Operator, Inc. (MISO) filed an unexecuted Amended and Restated Generator Interconnection Agreement (Second Revised GIA) among Barton Windpower LLC (Barton), as Interconnection Customer, ITC Midwest LLC (ITC Midwest), as Transmission Owner, and MISO, as Transmission Provider.<sup>3</sup> MISO requests waiver of the Commission's 60-day prior notice requirement to permit an effective date of September 7, 2013.<sup>4</sup> In this order, we deny waiver of the prior notice requirement, conditionally accept and suspend the Second Revised GIA, to become effective November 6, 2013, subject to refund, and establish hearing and settlement judge procedures, as discussed below.

**I. Background**

2. MISO states that Barton is the owner and operator of a 160 MW wind project located in Worth County, Iowa. The original generator interconnection agreement for

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<sup>1</sup> MISO submitted its filing on September 6, 2013, but due to a technical error with the Extensible Markup Language package, it was unreadable; therefore, MISO resubmitted the filing package on September 13, 2013.

<sup>2</sup> 16 U.S.C. § 824d (2012).

<sup>3</sup> The Appendix hereto lists eTariff sections affected.

<sup>4</sup> 18 C.F.R. § 35.3(a) (2013).

this facility was entered into by Barton, ITC Midwest, and MISO on December 1, 2008 (Original GIA).<sup>5</sup> On July 18, 2012, MISO filed an unexecuted amended generator interconnection agreement in Docket No. ER12-2257-000 (First Revised GIA) in order to, among other things, increase the capacity of the facility, and conform the Original GIA to MISO's then-effective *pro forma* GIA.<sup>6</sup>

3. As relevant here, prior to MISO's submittal of the First Revised GIA, a Group 5 restudy report dated May 19, 2011, identified a necessary upgrade to the existing Adams Transformer (Adams Transformer upgrade) on an affected system, that of Southern Minnesota Municipal Power Agency (SMMPA).<sup>7</sup> The First Revised GIA listed the Adams Transformer upgrade as a sole use network upgrade and provided that Barton must enter into a separate Facilities Construction Agreement with SMMPA to govern the construction of the Adams Transformer upgrade, with Barton being assigned 100 percent cost responsibility.<sup>8</sup>

4. The First Revised GIA was filed unexecuted because Barton disputed quarterly operating limits and asserted that it did not receive comparable treatment with another generating facility. However, Barton did not raise any issues regarding its assigned cost responsibility for the Adams Transformer upgrade. On September 14, 2012, the

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<sup>5</sup> The Original GIA was reported on the Electric Quarterly Report and designated as Original Service Agreement No. 2017 under MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).

<sup>6</sup> September 13, 2013 Transmittal Letter at 2-3. The Barton facility was identified in the July 18, 2012 transmittal letter for the First Revised GIA as "Project G540 expanded by Project G548" in MISO's interconnection queue.

<sup>7</sup> See MISO October 21, 2013 Answer (MISO Answer) at 9-10. The Group 5 projects consist of interconnection requests in southwest Minnesota, northwest Iowa, and eastern South Dakota. MISO's generator interconnection procedures (GIP) provide that generator interconnection projects may be studied as a group for the purpose of conducting interconnection studies. MISO conducted the generator interconnection system impact studies as a group for the Group 5 projects. The initial studies were performed in 2006 and 2007 and the study reports were posted during the summer and fall of 2007. In late 2009, MISO indicated that restudy of the Group 5 projects was necessary due to the withdrawal of higher-queued generators, including some members of Group 5. *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,165, at P 28 (2010).

<sup>8</sup> See MISO Tariff, First Revised Service Agreement No. 2017, Appendix A, as filed and accepted in Docket No. ER12-2257-000.

Commission issued an order conditionally accepting the First Revised GIA, effective July 19, 2012.<sup>9</sup>

5. Prior to MISO's filing of the First Revised GIA, on April 30, 2012, ITC Midwest filed an application in Docket No. EC12-95-000 seeking authorization under section 203 of the FPA for the acquisition of certain transmission facilities from SMMPA, including the Adams substation. On August 13, 2012, the Commission issued an order authorizing ITC Midwest to acquire these facilities.<sup>10</sup> As reported in Docket No. EC12-95-000, the transfer of the facilities was consummated on March 11, 2013.

## II. Second Revised GIA

6. MISO states that the original purpose of the Second Revised GIA was to remove several upgrades for which Barton no longer had cost responsibility, to reflect construction items that had been completed, and to update the agreement to reflect MISO's recent name change.<sup>11</sup> In addition to those amendments, MISO states that the GIA is being revised to refer to the Adams Transformer upgrade as a "Previously Assigned Network Upgrade," which is to be constructed by ITC Midwest, rather than being built pursuant to a Facilities Construction Agreement by the Adams Transformer's former owner, SMMPA, as stated in the First Revised GIA.<sup>12</sup> Associated revisions are made throughout the GIA, including the deletion of the Adams Transformer upgrade from the Affected System Owner Milestones, and adjustment of the schedule and payments in Appendix B of the GIA. The Second Revised GIA continues to provide that Barton retains 100 percent cost responsibility for the Adams Transformer upgrade, which consists of the replacement of the existing 75 MVA transformer with a 150 MVA 161/69 kV transformer, at an estimated cost of \$3,299,227.<sup>13</sup> At the time of filing, the upgrade had not yet been constructed.

7. MISO states that the Second Revised GIA was filed unexecuted because Barton now disputes the reimbursement methodology that should apply to the Adams Transformer upgrade.<sup>14</sup> MISO explains that, based on the timing of the sale of the

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<sup>9</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,192 (2012).

<sup>10</sup> *ITC Midwest LLC*, 140 FERC ¶ 61,125 (2012).

<sup>11</sup> September 13, 2013 Transmittal Letter at 3.

<sup>12</sup> *Id.* at 3-4, n.7.

<sup>13</sup> *Id.* at 4, Original Sheet No. 81.

<sup>14</sup> *Id.* at 3.

Adams Transformer upgrade by SMMPA to ITC Midwest, Barton requests that the Second Revised GIA be subject to the ITC Midwest funding and reimbursement methodology that was in effect at the time the First Revised GIA became effective, i.e., July 19, 2012.<sup>15</sup> Under the ITC Midwest reimbursement methodology in effect on that date, interconnection customers were eligible for 100 percent reimbursement of the network upgrade costs they funded if the upgrade met the necessary criteria.<sup>16</sup>

8. On September 14, 2012, Interstate Power and Light Company (IPL) filed a complaint, in Docket No. EL12-104-000, against ITC Midwest seeking to discontinue ITC Midwest's 100 percent reimbursement policy for network upgrades. On July 18, 2013, the Commission issued an order granting IPL's complaint and finding ITC Midwest's 100 percent reimbursement policy to be unjust and unreasonable.<sup>17</sup> The order directed that the 100 percent reimbursement policy be removed from Attachment FF of the MISO Tariff, effective July 18, 2013, and Attachment FF be revised to provide that ITC Midwest's interconnection customers may receive up to 10 percent reimbursement if they meet certain criteria, including that the facilities be rated at or above 345 kV.

9. MISO states that neither it nor ITC Midwest objects to listing the Adams Transformer upgrade as part of the Second Revised GIA since that section of the transmission system is now owned by ITC Midwest, but that the reimbursement policy that should apply is the policy in effect when the Second Revised GIA is executed or filed unexecuted.<sup>18</sup> MISO also notes that the Adams Transformer upgrade was on the SMMPA transmission system as of the July 19, 2012 effective date of the First Revised GIA. Thus, the need for the Adams Transformer upgrade was identified when it would

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<sup>15</sup> *Id.* at 4.

<sup>16</sup> MISO Tariff, Attachment FF, Section III.A.2.d.4(b).

<sup>17</sup> *Interstate Power and Light Co. v. ITC Midwest, LLC*, 144 FERC ¶ 61,052 (2013) (IPL Order).

<sup>18</sup> September 13, 2013 Transmittal Letter at 4-5 (citing *Midwest Independent Transmission System Operator, Inc. and the Midwest ISO Transmission Owners*, 129 FERC ¶ 61,060, at P 62 (2009); see *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,277, at P 10 (2008) (finding that because two generator interconnection agreements had been executed after the effective date of newly revised interconnection queue rules, the interconnection agreements must be revised to conform with the new rules). See also *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,106, at P 70 (2006) (finding that generator interconnection agreements filed before the effective date of a new cost allocation tariff provisions would be governed under the prior cost allocation rules)).

have been on the SMMPA system and would not have been eligible for reimbursement (in the Original GIA or the First Revised GIA) under the then effective Tariff.<sup>19</sup> MISO states that the Adams Transformer upgrade is now being identified in the Second Revised GIA as being on the ITC Midwest transmission system under the currently effective Tariff, under which it would also not be eligible for reimbursement.<sup>20</sup>

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

10. Notice of the filing was published in the *Federal Register*, 78 Fed. Reg. 58,298 (2013), with answers, interventions, and protests due on or before October 4, 2013. ITC Midwest filed a timely motion to intervene. IPL filed a timely motion to intervene and comments. Barton filed a timely motion to intervene and protest. On October 21, 2013, MISO and ITC Midwest filed answers to Barton's protest. On October 24, 2013, Barton filed an answer to MISO's and ITC Midwest's answers.

#### **A. Protest and Comments**

11. Barton argues in its protest that ITC Midwest's reimbursement policy in existence when the First Revised GIA went into effect is the reimbursement policy that should apply to the Adams Transformer upgrade. Barton explains that SMMPA is not a party to the Second Revised GIA and it is not expected that SMMPA would have any role with respect to the ownership and operation of the Adams Transformer or the construction of the proposed upgrades. Barton asserts that because ITC Midwest intended to acquire the Adams Transformer from SMMPA prior to the effective date of the First Revised GIA, and is now the owner of the Adams Transformer and will construct the upgrade, ITC Midwest's reimbursement policy would logically govern.<sup>21</sup>

12. Barton also states that it is contrary to the letter and intent of the MISO Tariff to apply a different reimbursement policy. Barton points to the language of Attachment FF that was in effect when the First Revised GIA was filed: "[t]he cost of Network Upgrades for Generator Interconnection Projects that are not determined by the Transmission Provider to be Baseline Reliability Projects shall be reimbursed by the Transmission Owner as provided in this Section III.A.2.d.4." Therefore, Barton contends that it would be bad policy to assume that a former owner is a current owner for reimbursement purposes because the reimbursement policies are intended to apply to those transmission owners that construct network upgrades and receive funds from the interconnection customer and otherwise would create perverse incentives for utilities to

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<sup>19</sup> September 13, 2013 Transmittal Letter at 5.

<sup>20</sup> *Id.*

<sup>21</sup> Barton Protest at 4.

time sales of transmission assets and construction of transmission upgrades to maximize payment and minimize reimbursements.<sup>22</sup>

13. Barton maintains that it was unaware of the pending transfer of the Adams Transformer from SMMPA to ITC Midwest at the time MISO filed the First Revised GIA. Barton explains that, while it received a draft Facilities Construction Agreement to be entered into with MISO and SMMPA, the last draft was dated May 3, 2012, and was not substantially complete. Barton states that it never received a final Facilities Construction Agreement from MISO or SMMPA, and no Facilities Construction Agreement with respect to the Adams Transformer upgrade has been executed. Barton asserts that if it had been aware of the impending sale, Barton would have protested the First Revised GIA filing to argue that ITC Midwest's reimbursement policy should apply rather than the policies of an entity that is not constructing facilities or receiving payments from the interconnection customer.<sup>23</sup> Barton also states that it received emails from MISO counsel explaining that the Commission's elimination of the 100 percent reimbursement methodology in the IPL Order would not apply to the Adams Transformer upgrade since that order expressly applies only prospectively and was issued well after the First Revised GIA was filed.<sup>24</sup>

14. Barton also argues that MISO's attempt to require Barton to solely fund the Adams Transformer upgrade, which it claims is unnecessarily large and gold-plated, is unjust, unreasonable and unduly discriminatory and preferential. Barton objects to MISO's proposal to disconnect and remove from service the current 75 MVA transformer and replace it with a new 150 MVA transformer. Barton states that MISO has not demonstrated that Barton should be solely responsible for the upgrade because, while the Barton wind facilities cause the Adams Transformer to overload to approximately 90.7 MVA, MISO's study of the transformer demonstrates that it is already overloaded even without any contribution from the Barton facilities. Specifically, Barton explains that without its facilities in the base case, the Adams Transformer is loaded at approximately 78.6 MVA (beyond its 75 MVA capacity by 5 percent). MISO's study dispatched an existing generator prior to adding any generation from the Barton facilities, causing the Adams Transformer loading to increase to approximately 84.1 MVA, or a 12 percent overload. Next, the MISO study dispatched the Barton facilities resulting in the transformer being loaded at 90.7 MVA, or 21 percent overloaded. Barton states that MISO has provided no explanation why Barton is solely responsible for an upgrade to a facility that is already overloaded and in need of an upgrade. Barton avers that funding

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<sup>22</sup> *Id.* at 5-6.

<sup>23</sup> *Id.* at 6-7.

<sup>24</sup> Testimony of Mr. Thomas R. Shields, II at 4.

the entire upgrade does not satisfy the Commission's "but for" test because other facilities contribute to the overload.<sup>25</sup>

15. Barton also takes issue with ITC Midwest's proposal to upgrade the Adams Transformer to a 150 MVA rating which, according to Barton, provides for nearly 60 MVA of additional capacity that is not needed to accommodate the Barton facilities. Barton asserts that requiring it to fund an upgrade that increases the capacity of the transformer from an ability to handle 75 MVA to 150 MVA, when the Barton facilities cause only a 6.6 MVA increase in loading on the transformer, is unjust and unreasonable. Barton also states that MISO and ITC Midwest have proposed to install the Adams Transformer upgrade at a new breaker position within the Adams Substation rather than simply replace the current transformer. Barton maintains that this relocation of the transformer requires a significant amount of additional construction and equipment to accommodate the new transformer, and that MISO has not provided any explanation or justification for the additional, unnecessary costs.<sup>26</sup>

16. In addition, Barton submits that the salvage value of the current transformer should be deducted from the cost estimate of the Adams Transformer upgrade. If the Commission finds that Barton is solely responsible for the cost of the network upgrade, Barton claims that it is unjust and unreasonable to require Barton to pay for the upgrade without offsetting the cost with the salvage value of the current transformer that ITC Midwest will realize.<sup>27</sup>

17. Finally, Barton asks that the Commission deny MISO's request for waiver of the Commission's 60-day notice requirement. Barton states that MISO has not provided any showing as to why the notice requirement should be waived and argues that the Commission's policy is not to grant a waiver when the filing is contested.<sup>28</sup>

18. In its comments, IPL disputes Barton's claim that it should be provided 100 percent reimbursement for the Adams Transformer upgrade. IPL explains that, when the upgrade was identified, the related portion of the transmission system was owned by SMMPA, not ITC Midwest, and argues that Barton is attempting to benefit from a subsequent change in transmission ownership that is not relevant in determining the reimbursement policy to be used. IPL states that ITC Midwest, which would stand to

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<sup>25</sup> Barton Protest at 8-10.

<sup>26</sup> *Id.* at 10-11.

<sup>27</sup> *Id.* at 11.

<sup>28</sup> *Id.* at 12.

benefit from providing full reimbursement of the costs, also agrees that reimbursement is not appropriate.<sup>29</sup>

**B. Answers to Barton's Protest**

19. In its answer to Barton's Protest, MISO restates its position that the transfer of the Adams substation to ITC Midwest should not change the reimbursement methodology. MISO states that if ITC Midwest applied its reimbursement policy to the September 13, 2013 filing, the upgrade would still not qualify for reimbursement because the reimbursement rules in effect after July 18, 2013, would apply. Regarding the emails that Barton alluded to, in which MISO counsel stated that elimination of 100 percent reimbursement would not apply to the GIA with Barton, MISO states that it clarified its position in a subsequent correspondence.

20. Both MISO and ITC Midwest respond to Barton's allegations regarding overbuilding and gold-plating. MISO believes that the study process and the resulting cost allocation for the Adams Transformer upgrade are appropriate and do not violate the "but for" test. MISO also states that it followed its study process and uses a 5 percent distribution factor to determine whether a generator is responsible for network upgrades. MISO explains that use of an upgrade that is not a minimum match for the overload is not evidence of overbuilding or gold-plating. MISO also avers that Barton did not raise concerns about the size of the upgrade when the First Revised GIA was filed.<sup>30</sup>

21. ITC Midwest states that merely replacing the 75 MVA unit at the Adams Substation with ITC Midwest's standard 100 MVA unit would be counter to Good Utility Practice because transformer replacements are intended to serve the transmission system across multiple decades. Additionally, ITC Midwest states that Attachment X of the MISO Tariff will allow Barton to be compensated for the Adams Transformer upgrade if later identified interconnection customers are beneficiaries to the upgrade as a common use or shared network upgrade. ITC Midwest also addresses Barton's claim that relocating the transformer is without merit by explaining that installing the equipment at the south 161 kV bus would be less complicated and minimize outages.<sup>31</sup>

22. In its answer to ITC Midwest's and MISO's answers, Barton reiterates points made in its initial protest. It also appends a copy of two emails from MISO's counsel that Barton contends supports Barton's position regarding reimbursement.

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<sup>29</sup> IPL Comments at 4-5.

<sup>30</sup> MISO Answer at 11.

<sup>31</sup> ITC Midwest Comments at 3-4.

#### **IV. Discussion**

##### **A. Procedural Matters**

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

24. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept MISO's, ITC Midwest's, and Barton's answers because those pleadings have provided information that assisted us in our decision-making process.

##### **B. Substantive Matters**

###### **1. Applicable Upgrade Reimbursement Policy**

25. We find that the ITC Midwest reimbursement policy that should apply for the Adams Transformer upgrade is the one that was in effect on September 6, 2013, when the Second Revised GIA was first submitted for filing. Because ITC Midwest is identified in the Second Revised GIA as the owner and constructor of the upgrade, it is ITC Midwest's reimbursement policy that would apply. The IPL Order provides that the reimbursement policy that will apply to generator interconnection customers in the ITC Midwest pricing zone will be the policy in effect on the date that a GIA is executed or filed with the Commission, if unexecuted, and that the new policy would be applied prospectively, effective July 18, 2013.<sup>32</sup> The ITC Midwest reimbursement policy in effect on and after that date provides for up to 10 percent reimbursement if certain criteria are met, including that the facilities must be rated at or above 345 kV.<sup>33</sup>

26. The Second Revised GIA was the first GIA that identified the Adams Transformer upgrade as a facility to be constructed by ITC Midwest. Neither the Original GIA nor the First Revised GIA identified ITC Midwest as the owner of Adams Transformer. The First Revised GIA, which was in effect until it was amended as of the effective date of the Second Revised GIA, identified the upgrade as Barton's sole use facility, and provided for its construction by SMMPA under a separate Facilities Construction Agreement. Barton would have us ignore the written terms of the First Revised GIA and instead assume that ITC Midwest replaced SMMPA as the party responsible for building

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<sup>32</sup> IPL Order, 144 FERC ¶ 61,052 at P 43.

<sup>33</sup> In Barton's case, however, the reimbursement would be zero because the Adams Transformer upgrade does not meet the minimum voltage (345 kV or higher) required for reimbursement.

the upgrade under the First Revised GIA upon the transfer of the Adams Transformer from SMMPA to ITC Midwest. That we cannot do. Given that the GIA on file prior to July 18, 2013 did not identify ITC Midwest as the entity that would construct the upgrade, the upgrade is not governed by ITC Midwest's pre-July 13, 2013 reimbursement policy but by the policy in effect on September 6, 2013.

## **2. Validity and Assignment of Upgrade Costs**

27. As noted above, Barton questions the size of the Adams Transformer upgrade and the decision to move the new transformer to a different location within the substation, and argues that the cost estimate of the Adams Transformer upgrade should reflect the salvage value of the current transformer. Additionally, Barton argues that MISO has not demonstrated that Barton should be solely responsible for the cost of the upgrade since MISO's studies show that the Adams Transformer is already overloaded even without any contribution from the Barton facilities. Barton avers that its funding of the entire upgrade cost does not satisfy the Commission's "but for" test because other interconnecting facilities contribute to the overload.

28. We generally afford some discretion to the transmission owner and provider as to the type of facility to be built to accommodate interconnection requests.<sup>34</sup> Therefore, we will not set for hearing issues concerning the size or location of the Adams Transformer upgrade that MISO identified as necessary through its study process.<sup>35</sup> However, we find that Barton has raised issues of material fact as to the proper allocation of the costs of the Adams Transformer upgrade under the MISO Tariff, and the extent to which any credits arising from the salvage value of the current transformer may or may not be applicable. These issues cannot be resolved based upon the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.<sup>36</sup>

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<sup>34</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,165, at P 21 (2010) ("We clarify that this [Tariff] language does not limit [MISO] or its transmission owners to the least-cost option available to interconnect a generator or group of generators. The Tariff affords [MISO] some discretion when determining what facilities should be built in order to accommodate the interconnection of a project or group of projects.").

<sup>35</sup> *See id.* P 22 ("[MISO] may determine through its study process that a large upgrade. . . should be built because it will both accommodate the interconnection of a group of projects and address other system-wide needs. However, the cost responsibility of a group of interconnection customers remains limited to the cost of the facilities that would not be needed but for the interconnection of the group.").

<sup>36</sup> *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,113 (2008) (establishing hearing procedures to address an interconnection customer's cost responsibility for a network upgrade under a GIA and construction agreement).

### **C. Hearing and Settlement Judge Procedures**

29. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>37</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.<sup>38</sup> The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

### **D. Effective Date and Compliance Filing**

30. We will accept the Second Revised GIA effective November 6, 2013.<sup>39</sup> As to MISO's request for waiver of the Commission's 60-day advance notice requirements, which Barton opposes, we find that MISO has not stated a reason for the requested waiver, and we accordingly deny it.<sup>40</sup>

31. In addition, we will require MISO to file a revised GIA within 30 days of the issue date of this order. MISO's September 13, 2013 submittal in the eTariff system failed to include sections containing all of the Appendices to the GIA as well as some of the exhibits. MISO should re-file the GIA to include all of the missing files.

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<sup>37</sup> 18 C.F.R. § 385.603 (2013).

<sup>38</sup> If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

<sup>39</sup> We will count the 60 days from the September 6, 2013 attempted filing, which failed for technical reasons.

<sup>40</sup> See, e.g., *Public Service Company of Colorado*, 140 FERC ¶ 61,196, at P 33 (2012).

The Commission orders:

(A) The Second Revised GIA is hereby conditionally accepted for filing and suspended for a nominal period, to become effective November 6, 2013, subject to refund and the further procedures ordered herein, as discussed in the body of this order.

(B) MISO is hereby directed to submit a compliance filing to re-file the GIA to include the eTariff sections that were missing from the September 13, 2013 filing, within thirty (30) days of the date of this order, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning the proper allocation of the costs of the Adams Transformer upgrade to Barton, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2013), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, N.E., Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish

procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## **Appendix**

Midcontinent Independent System Operator, Inc.  
FERC FPA Electric Tariff  
Midwest ISO Agreements

*Tariff records conditionally accepted effective November 6, 2013*

[SA 2017, Barton Windpower-ITC Midwest GIA, 1.0.0](#)

[SA 2017, Exhibits A1-1 and A1-2, 0.0.0](#)

[SA 2017, Exhibits A2-5 page 1, 0.0.0](#)

[SA 2017, Exhibit A2-5 page 2, 0.0.0](#)

[SA 2017, Exhibit A3-2, 0.0.0](#)

[SA 2017, Exhibit A6-1a, A6-1b and A6-2a, 0.0.0](#)

[SA 2017, Exhibit A6-2b, A6-3a, and A6-3b, 0.0.0](#)

[SA 2017, Exhibit A6-5a, A6-5b, A6-5c and A6-5d, 0.0.0](#)

[SA 2017, Exhibits A6-6a, A6-6b, A6-6c, and A6-6d, 0.0.0](#)

[SA 2017, Exhibit A6-7, 0.0.0](#)