

145 FERC ¶ 61,208
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System Operator, Inc.

Docket No. ER13-1547-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued December 11, 2013)

1. On May 23, 2013, Midcontinent Independent System Operator, Inc. (MISO) and Cleco Power LLC (Cleco) (jointly, Filing Parties), filed a proposed Attachment O template to the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).¹ The proposed Attachment O template will establish formula rates for Cleco's recovery of transmission revenue requirements in the proposed Cleco transmission pricing zone of MISO. Additionally, MISO and Cleco proposed other corresponding revisions to the Tariff to make appropriate references to the Cleco transmission pricing zone and the company-specific Attachment O template for Cleco in connection with its proposed integration with MISO.² In this order, we accept the proposed Attachment O template and corresponding Tariff revisions, effective, as requested, the date of Cleco's full integration into MISO, which is currently scheduled for December 19, 2013, as discussed below.

I. Filing

2. On December 7, 2012, Cleco announced its intent to join MISO by January 2014. According to Filing Parties, Cleco has submitted formal filings to its retail regulator, the Louisiana Public Service Commission (Louisiana Commission), with a target implementation date for joining MISO of December 19, 2013. Filing Parties state that

¹ MISO FERC Electric Tariff, 51 Cleco Rate Formula Tem, 0.0.0.

² MISO FERC Electric Tariff, SCHEDULE 7, Long-Term and Short-Term Firm Point-To-Point Service, 10.0.0; SCHEDULE 8, Non-Firm Point-To-Point Transmission Service, 10.0.0; SCHEDULE 9, Network Integration Transmission Service, 9.0.0; SCHEDULE 26, Network Upgrade Charge From Transmission Expansion Plan, 7.0.0; and 1, Rate Formulae, 8.0.0.

Cleco executed the standard MISO Transmission Owners Agreement in the first quarter of 2013.

3. Filing Parties explain that, upon integration into MISO, Cleco proposes to adopt MISO's current Commission-approved transmission formula rate template contained in Attachment O of the MISO Tariff with some company-specific revisions requested in this filing. According to Filing Parties, the proposed company-specific revisions are designed to continue the historical treatment of certain ratemaking items contained in Cleco's current Open Access Transmission Tariff formula rate. Specifically, Filing Parties propose to change Note A of Cleco's Attachment O template to refer to the correct page number of the FERC Form No. 1 as used by Cleco. Note A of MISO's *pro forma* Attachment O states coincident monthly peaks for a transmission pricing zone are found on Page 401, Column d of FERC Form No. 1. Filing Parties have changed Note A of the proposed Attachment O template for Cleco to state that the information on coincident monthly peaks is reported on Page 400 of Form No. 1.³

4. Filing Parties also state that Cleco proposes to establish one pricing zone covering Cleco's retail service territory within MISO. Filing Parties explain that in order to effectuate the application of the proposed Attachment O template to the new Cleco pricing zone, they propose revisions to Schedules 7, 8, 9, and 26 of the Tariff which add references to the Cleco pricing zone. Filing Parties state that similarly, they propose to list the Cleco Attachment O template on the list of formula rates that is included in the preamble to MISO's *pro forma* Attachment O.⁴

5. Filing Parties request an effective date of the day of Cleco's full integration into MISO, which they state is currently scheduled for December 19, 2013. They also request waiver of the 120-day advance notice requirement contained in 18 C.F.R. § 35.3. Filing Parties explain that good cause exists to grant waiver of the notice requirement, because resolution of this filing will provide the certainty needed in order to make timely, future decisions relating to MISO integration, including the transmission pricing zone to be used by Cleco in MISO.⁵

II. Notice of Filing and Responsive Pleadings

6. Notice of the filing was published in the *Federal Register*, 78 Fed. Reg. 34,362 (2013), with interventions and protests due on or before June 13, 2013. On June 13,

³ MISO Transmittal Letter at 2-3.

⁴ *Id.* at 3.

⁵ *Id.*

2013, MISO Transmission Owners⁶ filed a motion to intervene; the City of Alexandria, Louisiana (City of Alexandria) filed a motion to intervene and protest; and the Louisiana Energy and Power Authority (LEPA) filed a motion to intervene and comments. On June 27, 2013, Filing Parties filed a motion for leave to answer and answer to City of Alexandria and LEPA.

7. In its protest, City of Alexandria claims that Cleco has removed 457 MW of grandfathered load from the formula rate divisor and has, instead, provided approximately \$8 million of transmission revenue credits identified as “Revenues from Grandfathered.” City of Alexandria argues that, without more information regarding the nature of the grandfathered load removed from the Attachment O divisor, it is not possible to determine whether Cleco’s proposed formula rate treatment is just and reasonable. City of Alexandria also states that the Commission’s policy is to determine whether grandfathered service should be revenue-credited or cost-allocated on a “fact-specific, case-by-case” basis.⁷ Therefore, City of Alexandria requests that the Commission set the reasonableness of Cleco’s Attachment O template for hearing so that City of Alexandria, the Commission, and other interested parties may conduct discovery and determine whether Cleco’s proposed formula rate is just and reasonable.

⁶ For purposes of this filing, MISO Transmission Owners consist of Ameren Services Company, as agent for Union Electric Company, and Ameren Illinois Company; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; 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.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; South Mississippi Electric Power Association; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

⁷ City of Alexandria Protest at 4 (citing *Idaho Power Co.*, 126 FERC ¶ 61,044, at P 34 (2009)).

8. LEPA comments that the filing omits any reference to the Protocols Order,⁸ in which the Commission required MISO and the MISO Transmission Owners to revise the protocols contained in their transmission formula rates. LEPA requests that, if the Commission accepts the proposed Attachment O transmission formula rate, such acceptance be conditioned on MISO and Cleco's submission of protocols consistent with the Protocols Order. LEPA also suggests that Cleco and MISO adopt Cleco's existing transmission formula rate protocols that were recently approved in a settlement, which LEPA believes meet the Commission's guidance set forth in the Protocols Order.⁹

9. In their answer, Filing Parties argue that their treatment of grandfathered load in the proposed Cleco Attachment O template is consistent with the applicable provisions in the Tariff related to rate development. They explain that Attachment O is used to develop costs of serving network load in the MISO footprint, and in order to get an accurate network rate, it is appropriate to remove the costs and load of items whose terms are dictated by Grandfathered Agreements.¹⁰ Further, Filing Parties argue that it is necessary to remove grandfathered load because the Attachment O divisor is used for Schedule 26 rate development, and Grandfathered Agreements are not assessed charges under Schedule 26.

10. In response to LEPA, Filing Parties state that the revised formula rate protocols, once approved by the Commission, will be applicable to all Transmission Owners, including Cleco. Filing Parties state that, accordingly, the filing of revised protocols in compliance with the Protocols Order should not preclude the Commission from issuing an order in the instant proceeding to accept Cleco's proposed Attachment O template.

III. Discussion

A. Procedural Matters

11. 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.

12. 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, unless otherwise ordered by the

⁸ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013) (Protocols Order).

⁹ *Cleco Power LLC*, 142 FERC ¶ 61,094 (2013).

¹⁰ For the purposes of this order, Grandfathered Agreements has the same meaning as set forth in the Tariff.

decisional authority. We will accept Filing Parties' answer because it has provided information that has assisted us in our decision-making process.

B. Substantive Matters

13. We accept Filing Parties' proposed Attachment O template because it is consistent with MISO's *pro forma* Attachment O that has been approved by the Commission. We also accept the other corresponding proposed revisions to the Tariff and grant waiver of our regulations to allow the requested effective date given the necessity of Filing Parties to prepare for integration of Cleco into MISO.

14. As to the City of Alexandria's protest about the treatment of costs related to Grandfathered Agreements, the treatment of Grandfathered Agreements in Filing Parties' proposed Attachment O template is identical to the treatment of Grandfathered Agreements in MISO's *pro forma* Attachment O template. Specifically, MISO's *pro forma* Attachment O template provides that load associated with Grandfathered Agreements whose rates have been changed to eliminate or mitigate rate pancaking for inter-zonal transmission service is to be removed from the divisor, and that the revenue associated with such Grandfathered Agreements is to instead be credited in the derivation of the net revenue requirement.¹¹ For Grandfathered Agreements whose rates have not been changed to eliminate or mitigate rate pancaking for inter-zonal transmission service, the associated load is not removed from the divisor, and the revenue is not credited in the derivation of the net revenue requirement.¹²

15. We note that the Filing Parties' answer does not seem to acknowledge this required distinction. It asserts that it is appropriate to remove the costs and load associated with Grandfathered Agreements without acknowledging that only Grandfathered Agreements whose rates have been changed to eliminate or mitigate rate

¹¹ See Attachment O, Non-Levelized – Rate Formula Template Utilizing FERC Form 1 Data, Page 1 of 5, Lines 4 and 13, and Page 5 of 5, Note S (MISO FERC Electric Tariff, 3, FERC Form 1 Generic Rate Formula Template, 5.0.0).

¹² *Id.* This provision stems from the Commission's requirement, in its order initially approving the formation of MISO as a regional transmission organization, that Grandfathered Agreements must be amended to ensure that no customer pays pancaked rates that would exceed the rate charged under the Tariff. On rehearing of that order, the Commission modified this requirement, and instead stated that Grandfathered Agreements should be subject to an existing MISO negotiation process to amend or terminate the contracts. It also allowed Transmission Owners to file revised transmission rates to the extent necessary to reflect the cost impacts of any revised bilateral agreements. See *Midwest Indep. Transmission Sys. Operator, Inc., et al.*, 84 FERC ¶ 61,231, at 62,170, *order on reh'g*, 85 FERC ¶ 61,372, at 62,420 (1998).

pancaking for inter-zonal transmission service are to be removed from the divisor in the formula. Further, Filing Parties' statement that Schedule 26 requires the removal of load associated with Grandfathered Agreements from the Attachment O divisor is incorrect. Schedule 26 provides that Grandfathered Agreements are exempt from the network upgrade charge included in Schedule 26, which does not alter the requirements for calculation of a Transmission Owner's Attachment O formula rate or the requirements for calculating the Schedule 26 network upgrade charge.

16. With regard to City of Alexandria's concern about the validity of the specific 457 MW input that is shown as grandfathered load in Tab C to Filing Parties' filing, that populated formula is merely illustrative and is not part of the proposed filed Tariff sheets. Our acceptance of Cleco's Attachment O template does not approve of any specific number shown on the populated formula in Tab C.

17. As to LEPA's request that the Commission condition acceptance of Cleco's proposed Attachment O template on MISO and Cleco's submission of protocols consistent with the Protocols Order, we note that the revised formula rate protocols required to be placed in the Tariff by the Protocols Order will be applicable to all Transmission Owners, including Cleco. We also note that the Protocols Order requires MISO and MISO Transmission Owners to provide greater transparency with respect to formula inputs and opportunities to challenge those inputs when they are adjusted annually. We expect that these new protocols, which are currently pending before the Commission,¹³ will be in place by the time of the June 2014 adjustment. Thus, we do not find it necessary to condition our acceptance of the filing on Cleco's submission of separate formula rate protocols here. Further, we decline LEPA's request to require Filing Parties to adopt the protocols used by Cleco in its current transmission formula rate, and which LEPA believes meet the Commission's guidance set forth in the Protocols Order. To do so would prejudge our response to MISO's and MISO Transmission Owners' compliance with the Protocols Order, which the Commission has not yet ruled on.

¹³ We note that MISO and the MISO Transmission Owners have filed revised protocols in compliance with the Protocols Order, which are pending Commission review.

The Commission orders:

Filing Parties' filing is hereby accepted, effective, as requested, on the date of Cleco's full integration into MISO, which is currently scheduled for December 19, 2013,¹⁴ as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁴ If the date of full integration is not December 19, 2013, MISO must notify the Commission of the actual effective date.