145 FERC ¶ 61,242
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 18, 2013

In Reply Refer To:
Midcontinent Independent System
Operator, Inc.
Docket No. ER13-2008-000

Midcontinent Independent System Operator, Inc.
PO Box 4202
Carmel, Indiana 46032-4202

Attention: Gregory A. Troxell

Reference: Network Integration Transmission Service Agreement Filing

Dear Mr. Troxell:

1. On July 23, 2013, Midcontinent Independent System Operator, Inc. (MISO) filed an executed non-conforming Network Integration Transmission Service Agreement (NITSA) with South Mississippi Electric Power Association (SMEPA).[1] As discussed below, we accept the proposed NITSA, to become effective December 19, 2013, as requested.

2. SMEPA's transmission facilities are interconnected with Entergy Mississippi, Inc., one of the Entergy Operating Companies[2] expected to integrate into MISO on December 19, 2013. SMEPA has also decided to integrate into MISO as a transmission-owning member, effective at the same time. Upon SMEPA's integration into MISO, SMEPA will take network transmission service under MISO's Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) to serve its native load.

[1] MISO, FERC Electric Tariff, SA 2525, SMEPA-MISO NITS NOA (0.0.0).

[2] The Entergy Operating Companies include: Entergy Arkansas, Inc.; Entergy Mississippi, Inc.; Entergy Louisiana, LLC; Entergy New Orleans, Inc.; Entergy Texas, Inc.; and Entergy Gulf States Louisiana, L.L.C.

3. SMEPA's loads are located in SMEPA's balancing authority area. However, approximately 150 MW of the SMEPA load that is within SMEPA's balancing authority area is interconnected with the transmission facilities of Mississippi Power Company, a Southern Company subsidiary. This load, which would otherwise be in the balancing authority area of Southern Company, has been pseudo-tied to SMEPA, and SMEPA takes network transmission service pursuant to a NITSA under the Southern Company open access transmission tariff to serve this load.

4. In the current filing, MISO's NITSA with SMEPA designates the 150 MW that is pseudo-tied to SMEPA as Network Load. However, MISO's Tariff section 31.3 provides that "all Network Load must be physically interconnected with a Transmission Owner or ITC within the geographic area in which facilities subject to this Tariff are located."[3] Although the 150 MW served under SMEPA's NITSA with Southern Company is directly interconnected with the transmission facilities owned and operated by Southern Company, MISO states that it believes that in the circumstances presented here, "the purpose of the physical interconnection requirement of Tariff Section 31.3 is satisfied by a combination of factors present in this proposed integration."[4] Thus, MISO asserts that the proposed NITSA is just and reasonable.

5. MISO cites five factors in support of the NITSA. MISO argues that: (1) the pseudo-tie arrangements in this case should be deemed sufficient to satisfy the requirements of Tariff section 31.3; (2) requiring SMEPA to take MISO's drive-out Point-to-Point Transmission Service for the pseudo-tied NITSA load will create operational inefficiencies and deprive SMEPA and its members of certain key benefits of the commercial bargain underpinning the pseudo-tied NITSA arrangements; (3) requiring a subset of SMEPA's native load to take drive-out point-to-point transmission service at the regional through-and-out rate, while the rest of SMEPA's native load can enjoy the benefits of network service, will be unduly discriminatory or may result in cost shifts among its members to equalize transmission rates; (4) the pseudo-tied NITSA load qualifies as Bundled Load under the Tariff and is therefore exempt from paying most transmission service and ancillary services charges; and (5) SMEPA has limited alternatives to MISO membership once Entergy integrates into MISO, and the Commission has recognized that non-jurisdictional utilities such as SMEPA may require limited accommodations to make their Regional Transmission Organization membership financially feasible.

[3] MISO, FERC Electric Tariff, § 31.3 Location of Network Loads (0.0.0).

[4] MISO Filing at 4.

6. The proposed NITSA has a five-year term. MISO requests waiver of the Commission's notice requirements to allow an effective date of December 19, 2013.

7. Notice of the filing was published in the *Federal Register*, 78 Fed. Reg. 45,920 (2013), with interventions and protests due on or before August 13, 2013. SMEPA filed a timely motion to intervene and support. The MISO Transmission Owners[5] filed a timely motion to intervene and comment, and MISO and SMEPA responded thereto.

8. 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. 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 decisional authority. We will accept both MISO and SMEPA's answers because they have provided information that assisted us in our decision-making process.

In their motion, the MISO Transmission Owners state that while they do not oppose Commission acceptance of the filing as a short-term solution, they are concerned that allowing SMEPA to take network service for its load connected to the Southern Company transmission system, without having to pay for MISO transmission service, will provide SMEPA with treatment that is not comparable to that available to other entities. The MISO Transmission Owners request that the Commission order MISO to work toward a global, long-term solution that could involve making changes to the Tariff

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[5] The MISO Transmission Owners for this filing consist of: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company d/b/a ITC *Transmission*; 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.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

to allow comparable treatment for all similarly situated entities, and to submit such solution in a filing within 90 days of a Commission order issued in response to the filing. The MISO Transmission Owners argue that because they expect MISO to meet the 90-day target to develop a global, long-term solution, the NITSA only needs a one-year term.

9. In its answer to the comments of the MISO Transmission Owners, MISO states that it is supportive of necessary reforms involving Tariff section 31.3, and is willing to work with the Transmission Owners on Tariff changes or other solutions that may be developed. However, MISO believes that the focus of this proceeding should be on the NITSA. MISO states that nothing in this proceeding indicates that Tariff section 31.3 is no longer just and reasonable and thus there is no basis for the Commission to direct MISO to develop revisions to this provision. MISO states that it would be inappropriate to require MISO to develop such a filing without the support of the Transmission Owners, or to unilaterally file new Tariff language to meet a 90-day compliance requirement in the absence of such support. MISO states that the proposed 90-day timeframe would be difficult to achieve, considering that the proposed timeframe coincides with the integration of several large transmission systems, loads and generation into MISO, resulting in a multitude of filings, integration milestones and stakeholder discussions.

10. In its answer to the MISO Transmission Owners' comments, SMEPA states that the Commission should not use the instant docket as a platform to consider a global, long-term solution. SMEPA states that the MISO Transmission Owners' comments provide no evidence that the NITSA does not meet the just and reasonable standard or that it should be modified in any way. SMEPA states that the MISO Transmission Owners' specific suggestion of limiting the NITSA to one year directly conflicts with MISO and SMEPA's negotiated five-year term. SMEPA further states that the MISO Transmission Owners provide no legal or factual basis to support a modification of the NITSA to a one-year term, and that even if the Commission did order MISO to develop a global solution, there is no guarantee that this process would conclude within one year or that the result would suit SMEPA's circumstances.

11. The Commission accepts the proposed NITSA, effective December 19, 2013, as filed. While section 31.3 of MISO's Tariff is an approved deviation from the Commission's *pro forma* open access transmission tariff (OATT), section 31.3 of the *pro forma* OATT provides the option of designating Network Load that is not physically interconnected with the transmission provider's system. Thus, we find that the inclusion of SMEPA's pseudo-tied load in the NITSA is just and reasonable because it is consistent with the flexibility provided under section 31.3 of the *pro forma* OATT. Also, we reject the MISO Transmission Owners' request to order MISO to develop a global solution within 90 days of the issuance of this order, and to reduce the term of the NITSA from

five years to one year. This proceeding is not the proper venue to develop the type of global solution that the MISO Transmission Owners request. However, we nevertheless expect that MISO will offer this non-conforming service (i.e., designation of Network Load that is not physically interconnected with the MISO transmission system) on a non-discriminatory basis to other similarly situated transmission customers who request it. In the event of a dispute, such transmission customers may request MISO to file unexecuted service agreements with the Commission pursuant to the terms of the Tariff, or seek other available relief under the Federal Power Act.

By direction of the Commission.

Kimberly D. Bose,
Secretary.