

145 FERC ¶ 61,244
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 Nos. ER14-107-000
ER14-107-001

ORDER ACCEPTING TARIFF REVISIONS

(Issued December 18, 2013)

1. On October 16, 2013, pursuant to section 205 of the Federal Power Act (FPA),¹ and Part 35 of the regulations of the Federal Energy Regulatory Commission (FERC or Commission),² the Midcontinent Independent System Operator, Inc. (MISO) submitted for filing proposed revisions to Schedule 7 (Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service); Schedule 8 (Non-Firm Point-to-Point Transmission Service); Schedule 9 (Network Integration Transmission Service); and Schedule 26 (Network Upgrade Charge from Transmission Expansion Plan) of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (MISO Tariff).³ The revisions amend the MISO Tariff to reference the four transmission pricing zones for the Entergy Operating Companies,⁴ transmission pricing zones for the South Mississippi Electric Power Association (South Mississippi Electric) and the Lafayette City-Parish Consolidated Government (Lafayette City-Parish), and the Transmission Owners in those zones. The revisions are submitted in connection with the anticipated integration of these

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. Pt. 35 (2013).

³ Proposed Revisions to Schedules 7, 8, 9, and 26 of the MISO Tariff, Docket No. ER14-107-000 (Oct. 16, 2013) (October 16 Filing).

⁴ The Entergy Operating Companies are Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Gulf States Louisiana, L.L.C. (Entergy Gulf States Louisiana), Entergy Louisiana, LLC (Entergy Louisiana), Entergy Mississippi, Inc. (Entergy Mississippi), Entergy New Orleans, Inc. (Entergy New Orleans), and Entergy Texas, Inc. (Entergy Texas).

entities into MISO, scheduled for December 19, 2013. As discussed in further detail below, we accept the proposed tariff revisions for filing, effective December 19, 2013.

I. The Proposed Tariff Revisions

2. MISO states that in April 2011, the Entergy Operating Companies announced their intention to join MISO and that they are currently in the process of integrating into MISO.⁵ MISO explains that, in an order issued on June 20, 2013, the Commission, among other things, set for hearing and established settlement judge procedures on certain aspects of the Entergy Operating Companies' Attachment O formula rates under the MISO Tariff.⁶ MISO states that once approved by the Commission, the Entergy

⁵ October 16 Filing, Transmittal Letter at 2.

⁶ *ITC Holdings Corp.*, 143 FERC ¶ 61,257 (2013) (Entergy-ITC Rates Order). In the Entergy-ITC Rates Order, the Commission addressed several filings related to the integration of the Entergy Operating Companies into MISO and a proposed transaction pursuant to which the transmission assets of the Entergy Operating Companies would be transferred to certain subsidiaries of ITC Holdings Corp. (ITC) (New ITC Operating Companies) (Entergy-ITC Transaction). Among the issues addressed in the Entergy-ITC Rates Order was a proposal to establish four transmission pricing zones for the Entergy Operating Companies: one for Entergy Arkansas; one for Entergy Texas; one for Entergy Mississippi; and one for the combined footprints of Entergy Gulf States Louisiana, Entergy Louisiana, and Entergy New Orleans (the Entergy Transmission Pricing Zones). The Entergy-ITC Rates Order approved the Entergy Transmission Pricing Zones. The filings addressed in the Entergy-ITC Rates Order were submitted in Docket Nos. ER12-2681-000, ER13-948-000, and ER13-782-000, and that order consolidated those dockets. We refer to the consolidated proceedings as the Entergy-ITC Rates Proceeding. We refer to the proceedings addressing the transaction between Entergy and ITC as the Entergy-ITC Merger Proceeding. In the Entergy-ITC Rates Proceeding, the Commission accepted the proposed Entergy Transmission Pricing Zones and ruled on the rates for both the New ITC Operating Companies, in event of the merger, and the Entergy Operating Companies, upon joining MISO. The Entergy Transmission Pricing Zones and the formula rate templates for the Entergy Operating Companies would have gone into effect on December 19, 2013, and the formula rate templates for the New ITC Operating Companies would have gone into effect upon closing of the transaction. We note that on December 13, 2013, the New ITC Operating Companies filed a motion to withdraw the filings in Docket Nos. ER12-2681-00 and ER13-782-000. Motion to Withdraw Filings of ITC Holdings Corp., ITC Arkansas LLC, ITC Texas LLC, ITC Louisiana LLC and ITC Mississippi, LLC, Docket Nos. ER12-2681-000 and ER13-782-000 (consolidated) (Dec. 13, 2013). Further, Entergy Services and ITC filed a notice of termination of the proposed transaction on the same day. Notice of Termination of Transaction, Docket No. EC12-145-000 (Dec. 13, 2013).

Operating Companies' Attachment O formula rates will be used as the basis for the charges to be collected by the Entergy Operating Companies in their transmission pricing zones pursuant to MISO's proposed revisions to Schedules 7, 8, 9, and 26. In the October 16 Filing, MISO submits revisions to Schedules 7, 8, 9, and 26 of the MISO Tariff to reflect the Entergy Transmission Pricing Zones; the South Mississippi Electric and Lafayette City-Parish transmission pricing zones; and the Transmission Owners in those zones as follows:

Zone 28	Entergy Arkansas, Inc.
Zone 29	Entergy Louisiana, LLC (which includes reference to Entergy New Orleans, Inc., Entergy Gulf States Louisiana, L.L.C, and Cleco Power LLC)
Zone 30	Entergy Mississippi, Inc. (which includes reference to South Mississippi Electric Power Association)
Zone 31	Entergy Texas, Inc. (which includes reference to East Texas Electric Cooperative, Inc.)
Zone 33	South Mississippi Electric Power Association
Zone 34	Lafayette City-Parish Consolidated Government

3. MISO also states that South Mississippi Electric, Lafayette City-Parish, and East Texas Electric Cooperative, Inc. (East Texas Cooperative) have selected which rate templates will apply to their transmission facilities.⁷ In connection with their planned integration into MISO on December 19, 2013:

- South Mississippi Electric has elected to use MISO's current Commission-approved RUS Form 12 Non-Levelized Generic Rate Formula Template contained in Attachment O of the MISO Tariff;
- Lafayette City-Parish has elected to use MISO's current Commission-approved EIA Form 412 Non-Levelized Generic Rate Formula Template contained in Attachment O of the MISO Tariff; and
- East Texas Cooperative has proposed, in Docket No. ER13-1827-000, to adopt MISO's current Commission-approved RUS Form 12 Non-Levelized Generic Rate Formula Template contained in Attachment O of the MISO Tariff, with some company-specific revisions. East Texas Cooperative's filing is pending before the Commission.

⁷ October 16 Filing, Transmittal Letter at 2.

4. MISO requests that the Commission accept the proposed revisions to Schedules 7, 8, 9, and 26 effective upon the day of the Entergy Operating Companies' full integration into MISO, which is currently targeted for December 19, 2013.

5. On October 21, 2013, MISO filed corrections to the October 16 Filing.⁸ In the October 21 Filing, MISO explains that paragraph 8 of Schedules 7, 8, and 9 of the MISO Tariff concerns Joint Zone Rate Development. Paragraph 8(a) applies to Transmission Owners that own transmission facilities in only one pricing zone, while paragraph 8(b) applies to Transmission Owners that own transmission facilities in more than one pricing zone. According to MISO, East Texas Cooperative owns transmission facilities in only one pricing zone, and therefore East Texas Cooperative should have been included in subpart 8(a) rather than subpart 8(b).⁹ In the October 21 Filing, MISO provides corrected versions of Schedules 7, 8, and 9 to reflect properly "Zone 31 Entergy Texas, Inc. (including East Texas Electric Cooperative, Inc. (ETEC))" in subpart 8(a). MISO states that all other aspects of the October 16 Filing remain intact.

6. MISO submits that the requirements of section 35.13 of the Commission's regulations¹⁰ that MISO has not addressed in the October 16 Filing, as amended by the October 21 Filing, do not apply to the October 16 and 21 Filings. Nevertheless, to the extent that the Commission determines any of those sections to be applicable to its filings, MISO requests waiver of the requirements of those sections.¹¹ MISO also requests that the Commission grant a waiver of any additional regulations that it may deem applicable.¹²

II. Notice of Filings and Responsive Pleadings

7. Notice of the October 16 Filing was published in the *Federal Register*, 78 Fed. Reg. 64,490 (2013), with interventions and protests due on or before November 6, 2013.

⁸ Correction to MISO Tariff Revisions Filing, Transmittal Letter at 1, Docket No. ER14-107-000 (Oct. 21, 2013) (October 21 Filing).

⁹ In other words, the schedules in the October 16 Filing incorrectly reflected "Zone 31 Entergy Texas, Inc. (including East Texas Electric Cooperative, Inc. (ETEC))" in subpart 8(b) rather than subpart 8(a).

¹⁰ 18 C.F.R. § 35.13 (2013).

¹¹ October 16 Filing, Transmittal Letter at 4.

¹² *Id.* at 5.

8. Notice of the October 21 Filing was published in the *Federal Register*, 78 Fed. Reg. 64,491 (2013), with interventions and protests due on or before November 12, 2013.
9. Motions to intervene were filed by Associated Electric Cooperative, Inc., Missouri Joint Municipal Electric Utility Commission, Arkansas Electric Cooperative Corporation (Arkansas Electric), and the MISO Transmission Owners.¹³
10. Kansas City Power & Light and KCP&L Greater Missouri Operations Company (individually, KCP&L Greater Missouri) (together, Kansas City Power & Light), and The Empire District Electric Company (Empire) filed motions to intervene and protest.¹⁴ Arkansas Electric filed a protest.
11. On November 15, 2013, Entergy Services, Inc. (Entergy Services), on behalf of the Entergy Operating Companies, filed a motion to intervene out of time.¹⁵
12. On November 21, 2013, MISO and Entergy Services filed a joint answer. On December 2 and 3, 2013, respectively, Arkansas Electric and Kansas City Power & Light

¹³ The MISO Transmission Owners for this proceeding 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.

¹⁴ On November 12, 2013, Kansas City Power & Light filed a correction to its motion to intervene and protest.

¹⁵ Entergy Services states that it supports the filings made by MISO. Motion to Intervene Out of Time of Entergy Services, Inc. at 1, Docket Nos. ER14-107-000, ER14-107-001 (Nov. 15, 2013).

each filed answers in response to MISO and Entergy Services' joint answer. On December 5, 2013, Empire and Associated Electric each filed answers to MISO and Entergy Services' joint answer.¹⁶

III. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹⁷ the timely, unopposed motions to intervene serve to make the entities that filed them parties to these proceedings. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure,¹⁸ we will grant Entergy Services' late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure¹⁹ prohibit an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

15. The Commission accepts the proposed revisions to the MISO Tariff for filing, effective December 19, 2013, as requested. We also grant, to the extent necessary, MISO's request for waiver.

16. Generally, the protests filed in this proceeding raise two issues: (1) whether the MISO regional-through-and-out-rate (RTOR) under Schedule 7 of the MISO Tariff is just and reasonable as applied to existing transmission customers of the Entergy Operating Companies that will take service under the MISO Tariff after the integration, and (2) whether the integration of the Entergy Operating Companies into MISO comports with

¹⁶ In addition to this proceeding, Associated Electric filed its answer in Docket Nos. ER14-89-000, ER14-114-000, and ER14-115-000 (regarding filings by Entergy and MISO proposing alternative transmission arrangements for certain transmission facilities owned by Entergy Arkansas located in Missouri); and ER14-148-000 (filing of Notice of Succession by MISO).

¹⁷ 18 C.F.R. § 385.214 (2013).

¹⁸ 18 C.F.R. § 385.214(d) (2013).

¹⁹ 18 C.F.R. § 385.213(a)(2) (2013).

the Commission's scope and configuration requirements for Regional Transmission Organizations (RTOs) under Order No. 2000.²⁰ We address these issues below.

1. Whether the Revisions to Schedules 7, 8, 9, and 26 of the MISO Tariff are Just and Reasonable

a. Comments and Protests

i. Identifying the Proper Proceeding in which to Address RTOR Issues

17. Kansas City Power & Light, Arkansas Electric, and Empire argue that this proceeding is the proper proceeding in which to challenge and address the RTOR issues discussed below. According to Kansas City Power & Light, when it has previously raised issues related to the integration of the Entergy Operating Companies into MISO, the Entergy Operating Companies have asserted that those issues would be addressed in the future filing to establish the Entergy Transmission Pricing Zones in MISO.²¹ Kansas City Power & Light concludes that because the prior proceedings were not the correct proceedings in which to raise their protests, and since this is the proceeding in which the Entergy Operating Companies will “actually place [their] facilities” under the MISO Tariff and MISO will begin charging customers under the MISO Tariff, the increase in transmission costs due to changing from service under the Entergy Open Access Transmission Tariff (Entergy OATT) to the MISO Tariff should be addressed in this proceeding.²² Kansas City Power & Light claims that the Entergy Operating Companies have never sought permission to increase the rates under the existing transmission service agreements.²³ Arkansas Electric agrees.²⁴ Empire states that it supports the Kansas City

²⁰ *Regional Transmission Organizations*, Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (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) (Order No. 2000).

²¹ Motion to Intervene and Protest of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company at 1-2, 4-5, Docket No. ER14-107-000 (Nov. 6, 2013) (Kansas City Power & Light Protest).

²² *Id.* at 5.

²³ *Id.* at 7.

²⁴ Protest of Arkansas Electric Cooperative Corporation at 2, 9, Docket Nos. ER14-107-000, ER14-107-001 (Nov. 12, 2013) (Arkansas Electric Protest).

Power & Light protest and that the filing in this proceeding is a crucial piece of the Entergy integration puzzle, which has not been shown to be just and reasonable.²⁵

ii. **Rate Increases Due to Applying the RTOR or Entergy Arkansas Transmission Pricing Zone Rate to Existing Transmission Service under the Entergy OATT**

18. Kansas City Power & Light explains that KCP&L Greater Missouri is a party to an existing agreement for transmission service under the Entergy OATT, the Crossroads TSA.²⁶ According to Kansas City Power & Light, the transmission contract path under the Crossroads TSA sources in Entergy's footprint and ultimately sinks at KCP&L Greater Missouri, which is located in the Southwest Power Pool, Inc. (SPP).²⁷ Kansas City Power & Light explains that, based on preliminary calculations, the costs for the Crossroads TSA for the same service will "more than double" when the Crossroads TSA is placed under the MISO Tariff.²⁸ Kansas City Power & Light states the rate increase is due to application of the RTOR under Schedule 7 of the MISO Tariff to the Crossroads TSA: transmission service sinking outside of MISO, like the service under the Crossroads TSA, will be charged the RTOR, and the RTOR is nearly double the rate Kansas City Power & Light currently pays for Schedule 7 service under the Entergy OATT.²⁹ Kansas City Power & Light also notes that under the MISO Tariff, service pursuant to the Crossroads TSA will be subject to charges that have no analog to any service provided by Entergy, such as, for example, charges under MISO Schedule 26.³⁰

²⁵ Motion to Intervene and Protest of Empire District Electric Company at 5, Docket Nos. ER14-107-000, ER14-107-001 (Nov. 12, 2013) (Empire Protest).

²⁶ Kansas City Power & Light Protest at 6-7.

²⁷ *Id.* at 7. Kansas City Power & Light notes that KCP&L Greater Missouri executed the Crossroads TSA with Entergy in 2009, well before Entergy's decision to join an RTO, and that KCP&L Greater Missouri could not have reasonably foreseen an increase in transmission rates. *Id.* at 8.

²⁸ *Id.* at 10. Kansas City Power & Light calculates that, based on rates in effect as of June 2013, the total rate under the Entergy OATT is an effective \$2.27/MWh, and that rate will increase to an effective \$4.61/MWh. *Id.* at 8. Kansas City Power & Light claims that, in total, the total additional costs per year under the Crossroads TSA will be \$6 million. *Id.* at 12.

²⁹ *Id.* at 10.

³⁰ Schedule 26 charges cover Baseline Reliability, Generation Interconnection, and Market Efficiency Transmission Projects.

Kansas City Power & Light objects to MISO assessing Schedule 26 charges to service under the Crossroads TSA since the Schedule 26 charge is based on a MISO-wide average of all zonal rates under Schedule 26, but service under the Crossroads TSA does not depend on transmission facilities in any MISO zone other than zones in the area now served by the Entergy Operating Companies.³¹ Kansas City Power & Light observes that Schedule 26 charges will not even be phased-in as charges under Schedule 26-A will be phased-in pursuant to the Entergy-MISO Cost Allocation Mechanism.³²

19. Arkansas Electric raises the same issues as Kansas City Power & Light, asserting that transferring service under the Entergy OATT to service under the MISO Tariff will result in costs increases due to rate increases and additional charges under the MISO Tariff.³³ Arkansas Electric explains that it and Entergy Arkansas are currently parties to a Power Coordination, Interchange and Transmission Service Agreement (PCITSA) whereby Arkansas Electric pays Entergy Arkansas for transmission service to serve Arkansas Electric load in SPP pursuant to a cost-based formula. Specifically, Arkansas Electric states that it utilizes the Entergy Arkansas transmission system to integrate its loads and resources within Entergy Arkansas and to serve Arkansas Electric member load located outside Entergy Arkansas in SPP.³⁴ Arkansas Electric states that, currently, Entergy Arkansas charges Arkansas Electric the same rate for delivery to Arkansas Electric's member loads within the Entergy Arkansas footprint and to serve Arkansas Electric's member loads in SPP. Following the integration, Arkansas Electric's rates will increase. First, Arkansas Electric states that it will pay MISO for network transmission service to serve Arkansas Electric's load within Entergy Arkansas pursuant to Schedule 9.³⁵ Second, Arkansas Electric explains that it will also pay MISO for point-to-point transmission service under Schedule 7 to deliver power from Arkansas Electric's resources in the Entergy Arkansas territory to member loads in SPP. Since the load is located outside of MISO, in SPP, Arkansas Electric states that it will pay the RTOR. Arkansas Electric states that transferring service under the PCITSA to service under the

³¹ Kansas City Power & Light Protest at 11-12.

³² In Docket No. ER12-480-000, the Commission approved a five-year transitional cost allocation mechanism for network upgrade costs and transmission planning to facilitate the integration of the Entergy Operating Companies into MISO and to address any potential for cross-subsidization of transmission costs. *See generally Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,056 (2012), *order on reh'g*, 141 FERC ¶ 61,128 (2012). Schedule 26-A charges cover Multi-Value Projects.

³³ Arkansas Electric Protest at 3-8.

³⁴ *Id.* at 3.

³⁵ *Id.* at 4.

MISO Tariff will increase rates by twenty-four percent. Like Kansas City Power & Light, Arkansas Electric also notes that it will be subject to the charge under Schedule 26 for the service it takes under both Schedules 7 (the through-and-out service to member loads in SPP) and 9 (network service within the Entergy Arkansas footprint).³⁶

20. Arkansas Electric states that the level of the RTOR is almost completely unrelated to the service that will be provided to Arkansas Electric in order to serve its member load in SPP, and that it is unjust and unreasonable to charge it a rate based on the costs of transmission owners from whose facilities Arkansas Electric will derive no benefit.³⁷ Kansas City Power & Light agrees, noting that the original purpose of the RTOR was not in any way related to the service that will be provided under the Crossroads TSA. Kansas City Power & Light asserts that the RTOR was initially developed in response to the elimination of internal rate pancakes in MISO North, to make up for lost revenues resulting from the lowered price of internal transactions. Kansas City Power & Light argues that the contract path under the Crossroads TSA does not include MISO North, so there is no reason why an agreement like the Crossroads TSA should bear responsibility for MISO North costs that are unrelated to service in MISO South.³⁸ Arkansas Electric states that because there have been few, if any, historical transactions between MISO North and the transmission systems comprising MISO South, applying the RTOR to MISO South transactions does not achieve the purpose for which the RTOR was originally designed.³⁹

21. Protestors also claim that other negative effects will result from transferring service under the Entergy OATT to service under the MISO Tariff. First, Arkansas Electric alleges that so long as Entergy owns the Entergy Operating Company transmission systems, the combination of increased transmission revenues and the availability of MISO's bundled load exemption to the Entergy Operating Companies will lead to stable or reduced Entergy power rates while raising costs for competitive rivals in both wholesale and retail markets, thereby leading to a price squeeze.⁴⁰ Second, both Kansas City Power & Light and Arkansas Electric argue that the increased transmission service revenues under the MISO Tariff will inure to the benefit of Entergy, creating an

³⁶ *Id.* at 5.

³⁷ *Id.* at 6-7.

³⁸ Kansas City Power & Light Protest at 15.

³⁹ Arkansas Electric Protest at 6.

⁴⁰ *Id.* at 9.

“unjust windfall.”⁴¹ Kansas City Power & Light argues that the windfall is “particularly unwarranted” because it fails to treat similarly situated entities in the same manner, and is therefore unduly discriminatory. Kansas City Power & Light asserts that due to how MISO and Entergy propose to configure their dispatch, flows at two to four times above the capability of the physical tie between MISO North and MISO South will result. Kansas City Power & Light states that these intentional excess flows will exit MISO, cross another system, and reenter MISO, and that Entergy and MISO have both argued that these intentional transmission uses do not warrant compensation. Kansas City Power & Light contrasts this arrangement to what is being proposed for entities like Kansas City Power & Light, who will pay a new, higher fee for exiting MISO, whereas Entergy power will exit the MISO system and only pay the license plate rate for the sink zone in MISO.⁴²

iii. Date of Cancellation of the Entergy OATT

22. Kansas City Power & Light notes that that the Entergy OATT has not been cancelled, and that transmission customers are still taking transmission service under that tariff. Kansas City Power & Light states that although Entergy previously filed a notice of cancellation of the Entergy OATT, the requested effective date for the cancellation, which was accepted by the Commission, was “the date of closing of the transfer of the Entergy Operating Companies’ transmission assets to ITC Midsouth LLC.”⁴³ Kansas City Power & Light claims that as long as the Entergy OATT remains effective, creating MISO zones for the same service territory is premature, to the extent that it would result

⁴¹ Kansas City Power & Light at 15; Arkansas Electric Protest at 8. Kansas City Power & Light and Arkansas Electric both cite to the Notice of Succession filed by MISO in Docket No. ER14-114-000. In that filing, MISO requests authorization from the Commission to take assignment of certain Entergy Transmission Service Agreements and assume the obligation to provide transmission service pursuant to those agreements under the MISO Tariff. Midcontinent Independent System Operator, Inc. Notice of Succession of Certain Transmission Service Agreements, Transmittal Letter at 2, Docket No. ER14-148-000 (Oct. 21, 2013) (Notice of Succession Filing). Both Kansas City Power & Light and Arkansas Electric base their windfall argument on language in the Notice of Succession, which is included in Tab A of the Notice of Succession Filing, that states that any revenues received by MISO for transmission service under the transferred transmission service agreements will be owned by the Entergy Operating Companies. *Id.*, Tab A.

⁴² Kansas City Power & Light Protest at 16.

⁴³ *Id.* at 9 (citing *Entergy Services, Inc.*, Docket No. ER12-2683-000, Unpublished Delegated Letter Order issued June 20, 2013).

in charging twice for the same service. Kansas City Power & Light states that having the Entergy OATT and the MISO Tariff exist in parallel for the same transmission system is “bound to create confusion.”⁴⁴ In light of these concerns, Kansas City Power & Light suggests that the Entergy OATT should remain effective for purposes of service to the KCP&L Greater Missouri, and that its transmission service should, in effect, be grandfathered because MISO’s replacement arrangements have not been shown to be just and reasonable.

b. Answers

23. In their joint answer, Entergy Services and MISO argue that the protests of the RTOR in this proceeding constitute a collateral attack on the Entergy-ITC Rates Order and are, in any case, without merit. As an initial matter, Entergy Services and MISO dispute protestors’ claims that it has been difficult to identify the proper proceeding in which to raise issues related to the RTOR. Citing various pleadings filed in the Entergy-ITC Rates and Entergy-ITC Merger Proceedings, Entergy Services and MISO assert that it was clear from the substance of the filing in Docket No. ER13-948-000 that the proceeding addressing that filing was the “MISO integration rate proceeding” and the correct venue in which to raise any claims related to the RTOR.⁴⁵ Entergy Services and MISO argue that protestors cannot be excused for not raising their issues with application of the RTOR in that proceeding. Entergy Services and MISO also argue that protestors are incorrect in alleging that the Commission has not addressed the RTOR issue. According to Entergy Services and MISO, the Commission addressed challenges to the RTOR in the Entergy-ITC Rates Order, and that decision cannot be collaterally attacked in this proceeding.⁴⁶

24. Entergy Services and MISO argue that even if the Commission considers a challenge to the RTOR, the Commission should reject the protests in this proceeding as they call for a discriminatory discount. Entergy Services and MISO state that the need to avoid preferential treatment in through-and-out rates is particularly acute in light of the purpose of the RTOR. Entergy Services and MISO assert that the purpose of the RTOR

⁴⁴ *Id.* at 9.

⁴⁵ Motion for Leave to Answer and Answer of Midcontinent Independent System Operator, Inc. and Entergy Services, Inc. at 4-5, Docket No. ER14-107-000 (Nov. 21, 2013) (Joint Answer). Entergy Services and MISO refer to the filing made by MISO and the Entergy Operating Companies that proposed: (1) the Attachment O formula rates under the MISO Tariff for each of the Entergy Operating Companies; and (2) the proposal to establish the Entergy Transmission Pricing Zones. *See* Entergy Services, Inc., Docket No. ER13-948-000 (TPZ Filing).

⁴⁶ *Id.* at 7-8.

is to ““treat all competitors for a specific load the same.””⁴⁷ Entergy Services and MISO argue that the Commission should reject the challenges to the RTOR in this proceeding for the same reasons that the Commission has rejected similar challenges to RTO through-and-out rates in the past.⁴⁸ Among other things, Entergy Services and MISO argue that protestors have failed to provide sufficient justification to support a challenge to the RTOR, and that they will not receive the “same” service as before since after the integration they will have the right to redirect points of receipt or delivery over a larger region and receive services under a Day 2 financial rights model. Entergy Services and MISO also dispute protestors’ windfall argument as it ignores the fact that revenues from the RTOR will be split among the MISO transmission zones.⁴⁹

25. Kansas City Power & Light and Arkansas Electric both filed answers to the Joint Answer.

26. In response to the Joint Answer, Kansas City Power & Light reiterates many of the arguments it has made previously and asserts that MISO and Entergy’s arguments miscast the facts and the law.⁵⁰ Specifically, Kansas City Power & Light again argues that this proceeding is the proper proceeding within which to address its concerns regarding the Crossroads TSA since the October 16 Filing, as amended by the October 21 Filing, is the filing in which the Entergy Transmission Pricing Zones will be added to the MISO Tariff;⁵¹ that, but for the October 16 Filing, as amended by the October 21 Filing, KCP&L Greater Missouri could not be charged the RTOR;⁵² and that Kansas City Power & Light did raise its issues with the RTOR in the Entergy-ITC Rates Proceeding, but the

⁴⁷ *Id.* at 9 (quoting Midwest ISO Filing, Attachment C – Pricing and Revenue Distribution at 4-5, Docket No. ER98-1438-000 (Jan. 15, 1998)).

⁴⁸ *Id.* at 10 (citing *PJM Interconnection, L.L.C.*, 106 FERC ¶ 61,252 (2004) (rejecting challenge to application of through-and-out rate because challenger provided no justification for granting an exception); *PJM Interconnection, L.L.C.*, 109 FERC ¶ 61,012 (2004) (rejecting challenge to through-and-out rate since challenger would obtain use of entire PJM region and had not demonstrated that rate at issue was discriminatory or unjust)).

⁴⁹ *Id.* at 13-14.

⁵⁰ Motion for Leave to Answer and Answer of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company at 1, Docket No. ER14-107-000 (Dec. 3, 2013) (Kansas City Power & Light Answer).

⁵¹ *Id.* at 2-3.

⁵² *Id.* at 4.

Commission did not decide those issue on the merits in the Entergy-ITC Rates Order.⁵³ Kansas City Power & Light asserts that since the application of the RTOR was not among the issues summarily resolved by the Commission in the Entergy-ITC Rates Proceeding, it should be addressed alongside the other the issues set for hearing and settlement judge procedures in that proceeding.⁵⁴

27. Kansas City Power & Light also disputes Entergy and MISO's claim that doubling the rate for KCP&L Greater Missouri by applying the RTOR is necessary to "treat all competitors for load outside the ISO the same."⁵⁵ Kansas City Power & Light states that KCP&L Greater Missouri is the load and its contract with the third party owner of the Crossroads generating facility that the Crossroads TSA supports was based on a competitive process that took into account the prevailing transmission rates at the time. Kansas City Power & Light notes that the contract runs through 2031 and was entered into well before Entergy stated any intent to join MISO. Kansas City Power & Light argues that the proposed doubling of the transmission rate frustrates the results of a competition that has already been fairly held and concluded.⁵⁶

28. Kansas City Power & Light also argues that it is an oversimplification to argue that the RTOR is the filed rate when the rate under the Crossroads TSA is KCP&L Greater Missouri's filed rate.⁵⁷ Kansas City Power & Light asserts that neither MISO nor Entergy have made an effort, in this or any other docket, to show that the RTOR, as applied to KCP&L Greater Missouri, is just and reasonable. Kansas City Power & Light states that labeling the RTOR the filed rate does not remove the statutory burden to justify a substantial increase in KCP&L Greater Missouri's rate. Finally, Kansas City Power & Light claims that the alleged benefit of being able to redirect transmission service to MISO North does not justify doubling KCP&L Greater Missouri's rate.⁵⁸ Kansas City Power & Light explains that MISO South and MISO North share only a single 1,000 MW tie and that MISO has not shown that any of that tie capacity is available for redirects.⁵⁹

⁵³ *Id.* at 5-6.

⁵⁴ *Id.* at 7.

⁵⁵ *Id.* (quoting Joint Answer at 10).

⁵⁶ *Id.* at 7.

⁵⁷ *Id.* at 9.

⁵⁸ *Id.*

⁵⁹ *Id.* at 10.

29. In its answer to the Joint Answer, Arkansas Electric traces the history of the Entergy-ITC Rates proceeding and concludes that the Commission had no occasion to rule on the RTOR or RTO scope and configuration issues.⁶⁰ Arkansas Electric asserts that the Entergy-ITC Rates Order did not treat the TPZ Filing as an application to join or integrate with MISO,⁶¹ and that the tariff revisions submitted in the TPZ Filing were for illustrative purposes.⁶² Arkansas Electric further argues that the October 16 Filing, as amended by the October 21 Filing, is an integral part of the labyrinth of integration-related filings and is necessary to complete one of the steps toward integration left undone in the TPZ Filing.

30. Arkansas Electric also argues that MISO's characterization of the RTOR, that its purpose is to treat all competitors for a specific load the same, has no bearing on Arkansas Electric's service because its members are contractually bound to purchase their full requirements from Arkansas Electric and thus, there is no competition to serve its loads.⁶³ Arkansas Electric also disputes Entergy and MISO's claim that the rate increase is justified because Arkansas Electric will not be receiving the "same service" but will have a right to redirect points of receipt or delivery outside Entergy.⁶⁴ Arkansas Electric counters that its long-term, firm wheeling-out service from its generating resources in the Entergy Arkansas territory to its loads in SPP will change in name only because Arkansas Electric's status as a transmission-dependent utility status and its need to serve its members will not change.⁶⁵

31. In its answer, Empire asserts that its protest does not represent a collateral attack on the Entergy-ITC Rates Order because that order is not a final order on the merits of the arguments presented in the Entergy-ITC Rates Proceeding regarding the RTOR.⁶⁶ Empire also argues that by consolidating the dockets in the Entergy-ITC Rates

⁶⁰ Answer to Motion for Leave to Answer, Motion for Leave to Answer and Answer of Arkansas Electric Cooperative Corporation at 1-7, Docket No. ER14-107-000 (Dec. 2, 2013) (Arkansas Electric Answer).

⁶¹ *Id.* at 6.

⁶² *Id.* at 9.

⁶³ *Id.* at 11.

⁶⁴ *Id.* at 13-14.

⁶⁵ *Id.* at 14.

⁶⁶ Motion for Leave to Answer and Answer of the Empire District Electric Company at 1-2, Docket Nos. ER14-107-000, ER14-107-001 (Dec. 5, 2013).

Proceeding, the Commission recognized that the arguments and issues raised by parties in any of the dockets are pertinent to the Commission's consideration of all of the dockets. As a result, Empire concludes that the Joint Answer's focus on whether Empire had the opportunity to challenge the RTOR issues in Docket No. ER13-948-000 is irrelevant. Finally, Empire reiterates that it is not seeking a preferential or discounted rate, but only that the Commission consider the unique circumstances presented by Entergy integration into MISO and the fact that many current Entergy OATT customers will not use the MISO North transmission facilities.⁶⁷

32. In its answer, Associated Electric reiterates several arguments that it has raised in other related dockets.⁶⁸ First, Associated Electric argues that it did not waive its legal right to challenge the rate increase due to the RTOR by failing to raise the issue in Docket No. ER13-948-000. Associated Electric states that it raised the issue in the Entergy-ITC Rates Proceeding and that it remains pending there. Second, Associated Electric disputes MISO and Entergy Services' claim that providing relief from rate increase due to the RTOR would be unduly preferential. According to Associated Electric, it is not similarly situated to existing MISO customers taking service pursuant to the RTOR, and it is unfair that the only legacy Entergy customers that will be forced to pay rates based on both the MISO and Entergy footprints will be customers that are forced to pay the RTOR.⁶⁹ Finally, Associated Electric rejects MISO and Entergy Services' claim that the rate increase is just and reasonable because of the benefits of taking service under the MISO Tariff. Associated Electric states that it did not seek out the alleged benefits for its existing service, and that since its transmission service agreements with Entergy were used on an ad hoc basis, it will not seek to use any additional MISO facilities, receipt points, or delivery points beyond those it currently uses. Associated Electric again requests that the Commission suspend any rate increase, subject the rate to refund, and set the RTOR for hearing and settlement judge procedures.⁷⁰

⁶⁷ *Id.* at 2-3.

⁶⁸ *See, e.g.*, Answer of Associated Electric Cooperative, Inc. to Answers of Midcontinent Independent System Operator, Inc., Entergy Services, Inc., and Entergy Arkansas, Inc. at 2-3, 7-9, 13-14, Docket Nos. ER14-89-000, ER14-107-000, ER14-114-000, ER14-115-000, and ER14-148-000 (not consolidated) (Dec. 5, 2013) (Associated Electric Answer).

⁶⁹ *Id.* at 9-10.

⁷⁰ *Id.* at 16.

c. Commission Determination

33. In the Entergy-ITC Rates Proceeding, several parties, including Empire and Kansas City Power & Light, challenged the application of the RTOR to customers in MISO South.⁷¹ These parties, with the addition of Arkansas Electric, also requested rehearing of the Entergy-ITC Rates Order with respect to the RTOR issues.⁷² In fact, Kansas City Power & Light and Empire have both recently asserted that the Commission did not address all of the issues related to the application of the RTOR to MISO South customers in the Entergy-ITC Rates Order and that those issues are currently pending on rehearing.⁷³ The Commission will address the arguments on those issues in the Entergy-ITC Rates Proceeding, rather than in this proceeding.

34. We also note that although protestors make much of the fact that the proposed revisions to the MISO Tariff in this proceeding will set out the Entergy Transmission Pricing Zones in the MISO Tariff, the Commission already accepted the Entergy Transmission Pricing Zones over the objections of several parties in the Entergy-ITC Rates Order.⁷⁴ As noted above, in that order the Commission addressed several filings related to the integration of the Entergy Operating Companies into MISO and the Entergy-ITC Transaction. Among the tariff revisions the Commission considered in the Entergy-ITC Rates Order were (1) the proposal to establish the Entergy Transmission Pricing Zones and (2) revisions to Schedules 7, 8, 9 and 26 of the MISO Tariff to “make

⁷¹ See, e.g., SPP Transmission Owners Protest, Motion for Consolidation and Request for Evidentiary Hearing at 34-35, Docket Nos. EC12-145-000, ER12-2681-000, EL12-107-000, ER12-2682-000, ER12-2683-000, and ER12-2693-000 (Empire and Kansas City Power & Light were signatories); Comments of KCP&L Greater Missouri Operations Company, Docket Nos. EC12-145-000, ER12-2681-000, EL12-107-000, ER12-2682-000, ER12-2683-000, and ER12-2693-000 (Jan. 22, 2013).

⁷² See Request for Rehearing and Clarification of Arkansas Electric Cooperative Corporation, Docket Nos. EC12-145-000, ER12-2681-000, and ER13-948-000 (July 22, 2013); Request for Rehearing and Clarification of Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company, and The Empire District Electric Company, Docket Nos. EC12-145-000, EL12-107-000, ER12-2681-000, ER13-948-000, ER13-782-000, ER-12-2682-000, and ER12-2693-000 (July 22, 2013).

⁷³ See Motion to Intervene and Comments of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company at 5-6, Docket No. ER14-89-000 (Nov. 5, 2013); The Empire District Electric Company’s Protest, Motion for Consolidation, Request for Rate Suspension and Request for Evidentiary Hearing at 8-9, Docket Nos. ER14-89-000, ER14-114-000, and ER14-115-000 (Nov. 5, 2013).

⁷⁴ Entergy-ITC Rates Order, 143 FERC ¶ 61,257 at P 122.

appropriate references to [the Entergy Transmission Pricing Zones] and the company-specific Attachment O templates for the Entergy Operating Companies in connection with their proposed integration into MISO.”⁷⁵ The Commission approved the Entergy Transmission Pricing Zones in the Entergy-ITC Rates Order and issues related to the zones, like the RTOR issues, are currently pending on rehearing in the Entergy-ITC Rates Proceeding.

35. Finally, the Commission notes that the revisions to the MISO Tariff submitted in this proceeding are essentially the same revisions to the MISO Tariff that were submitted in the TPZ Filing and approved in the Entergy-ITC Rates Order.⁷⁶ As noted above, in addition to proposing the Entergy Transmission Pricing Zones, in the TPZ Filing MISO and the Entergy Operating Companies proposed revisions to the MISO Tariff to set out the Entergy Transmission Pricing Zones and requested waiver from the Commission to defer filing the formula rates, rate schedules and jurisdictional agreements addressed in that order in eTariff form until the necessary regulatory approvals were obtained for the Entergy Operating Companies’ integration into MISO or the Entergy-ITC Transaction.⁷⁷ The Commission granted the requested waiver and accepted MISO and the Entergy Operating Companies’ commitments that they would file timely clean tariff sheets with the Commission in accordance with eTariff prior to closing of the Entergy-ITC Transaction, or prior to the integration of the Entergy Operating Companies into MISO if the Entergy-ITC Transaction was delayed. The tariff revisions in this proceeding appear to fulfill MISO and the Entergy Operating Companies’ commitments. Accordingly, we accept the revisions to Schedules 7, 8, 9 and 26, to be effective December 19, 2013, as requested.

36. The Commission dismisses Kansas City Power & Light’s concerns regarding cancellation of the Entergy OATT. Creating transmission pricing zones for the same service territories under the Entergy OATT and the MISO Tariff will not, as Kansas City Power & Light suggests, lead to charging twice for the same service. Further, whether or not the Entergy OATT is canceled prior to or after the integration is immaterial. Upon the integration of the Entergy Operating Companies into MISO on December 19, 2013, customers will not take service under both tariffs. Rather, on that date, service under the Entergy OATT will transfer to service under the MISO Tariff, and customers taking

⁷⁵ TPZ Filing, Transmittal Letter at 1, Docket No. ER13-948-000 (Feb. 15, 2013).

⁷⁶ We note that in addition to the Entergy Transmission Pricing Zones, the revisions to the MISO Tariff in this proceeding also include the South Mississippi Electric and Lafayette City-Parish transmission pricing zones identify the Transmission Owners in each zone.

⁷⁷ Entergy-ITC Rates Order, 143 FERC ¶ 61,257 at P 188.

service over the Entergy Operating Companies' transmission system will no longer take service under the Entergy OATT. We also decline Kansas City Power & Light's request that the Entergy OATT remain effective for purposes of grandfathering KCP&L Greater Missouri's service. Kansas City Power & Light's request rests on its challenge to the replacement arrangements under the MISO Tariff, which the Commission addresses above.

2. RTO Scope and Configuration Issues

a. Comments and Protests

37. Arkansas Electric claims that in this proceeding the Commission must consider not only whether the RTOR is just and reasonable as applied to customers with resources in the Entergy Arkansas Transmission Pricing Zones serving load in SPP, but also whether MISO, with the integration of the Entergy Operating Companies and the existing RTOR rate design in place, will meet the ““minimum characteristics, including proper scope and configuration”” required of all RTOs and will ““eliminate rate pancaking within a region of appropriate scope and configuration”” as required by Order No. 2000.⁷⁸ Arkansas Electric asserts that the general requirements of Order No. 2000, including the scope and configuration requirements, must be analyzed on an ongoing basis, not only as part of an RTO's initial formation.⁷⁹ Kansas City Power & Light agrees, arguing that the Commission has been consistent on this point⁸⁰ and previously stated that it would analyze scope and configuration issues when an FPA section 205 filing was made to integrate Entergy into MISO.⁸¹ Kansas City Power & Light asserts that since MISO seeks to add the Entergy Transmission Pricing Zones to MISO in the October 16 Filing, as amended by the October 21 Filing, this proceeding is the correct proceeding in which to analyze whether MISO's substantially altered configuration meets Order No. 2000's scope and configuration requirements such that MISO can continue to meet the necessary functions and requirements of an RTO, such as internalizing parallel flows.

38. Arkansas Electric and Kansas City Power & Light claim that MISO has offered no evidence on these issues, even though it bears the burden of proof. According to Arkansas Electric, the evidence indicates that unless the Commission imposes

⁷⁸ Arkansas Electric Protest at 11 (quoting *Midwest Indep. Transmission Sys. Operator, Inc.*, 104 FERC ¶ 61,105, at P 28 (2003)).

⁷⁹ *Id.* at 12.

⁸⁰ Kansas City Power & Light Protest at 21.

⁸¹ *Id.* at 22 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,128, at P 32 (2012)).

appropriate conditions, the addition of the Entergy Operating Companies will leave MISO with a scope and configuration that fails to internalize loop flows and eliminate pancaked transmission rates within the broadest possible trading area.⁸²

39. With regard to loop flows, Arkansas Electric points out that despite a 1,000 MW interconnection with MISO, Entergy has indicated its intent to use at least 4,000 MW of capacity between Entergy and MISO.⁸³ Kansas City Power & Light argues that evidence established in other proceedings before the Commission demonstrates that MISO will not be able to internalize parallel flows resulting from the new configuration of MISO after integrating the Entergy Operating Companies, and that the evidence indicates that the parallel flows on the SPP transmission system will not be unintended loop flows. Rather, the flows will result from MISO's decision to configure dispatch between MISO South and MISO North so as to rely on a disputed contract path sharing provision in the Joint Operating Agreement between MISO and SPP (MISO-SPP Joint Operating Agreement). Kansas City Power & Light asserts that use of the path will potentially displace some users willing to pay for use of the SPP transmission system, shift costs, and harm the SPP Transmission Owners and SPP customers.⁸⁴ Kansas City Power & Light states that rather than appropriately addressing and internalizing parallel flows, as Order No. 2000 requires in the context of a filing such as the October 16 Filing, as amended by the October 21 Filing, to add a new transmission system to an RTO, the integration of Entergy into MISO will create parallel flow issues by implementing a new dispatch paradigm that will substantially increase parallel flows outside of the new RTO boundaries.⁸⁵

40. Arkansas Electric also asserts that the integration of the Entergy Operating Companies into MISO promises to significantly exacerbate the effects of rate pancaking. Arkansas Electric argues that Entergy's choice to join MISO, rather than SPP, produces the same rate pancaking and barrier-to-trade concerns that ultimately led the Commission to eliminate the RTOR for transactions sinking in PJM.⁸⁶ Arkansas Electric notes that the Commission has observed that "'decisions as to which RTO to join may be affected by inter-RTO rate pancaking' in that 'transmission owners may be driven by the interests of

⁸² Arkansas Electric Protest at 12.

⁸³ *Id.* (citing Motion to Intervene and Protest of Southwest Power Pool, Inc., at 2-4, n.3, Docket No. EL11-34-000 (May 9, 2011)).

⁸⁴ Kansas City Power & Light Protest at 22.

⁸⁵ *Id.* at 25.

⁸⁶ Arkansas Electric Protest at 13 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 104 FERC ¶ 61,105, at P 32 (2003)).

their merchant function, rather than motivated by a desire to achieve the most rational and efficient RTO configuration, resulting in inappropriate RTO configuration that places the transmission owner's merchant function at a competitive advantage relative to other similarly situated market participants.”⁸⁷ Arkansas Electric states that this logic applies to Entergy's choice of MISO over SPP, suggesting that Entergy believes that it can sell its excess generation output for a higher price in MISO than in SPP, and reap substantially greater transmission revenue from other transmission system users, by charging users needing access to SPP the RTOR, thereby offsetting the transmission costs its merchant function will bear in MISO.⁸⁸

41. Kansas City Power & Light states that, while the Commission prefers optimally configured RTOs, i.e., RTOs that will internalize and manage parallel flows, not exacerbate interregional flow issues, the Commission has allowed configuration issues such as those described to be mitigated through rate solutions.⁸⁹ Kansas City Power & Light recognizes that none of the prior integrations, such as Commonwealth Edison's integration into PJM, raised the issues of intentional, unscheduled flows as Entergy's integration into MISO does, but, Kansas City Power & Light notes that the Commission has addressed scope and configuration issues as needed based on unique facts, and in each situation the Commission has established or endorsed a rate solution that mitigated scope and configuration issues. Kansas City Power & Light concludes that the Commission should follow the same approach with respect to Entergy's integration into MISO.⁹⁰

42. Kansas City Power & Light respectfully requests that the Commission accept the October 16 Filing, as amended by the October 21 Filing, suspend it for five months, subject to refund, and establish settlement judge procedures. In the alternative, Kansas City Power & Light states that MISO should be required to file, within 60 days of a Commission order in this proceeding, its proposal for resolving configuration issues by compensating the SPP Transmission Owners for use of their system. Kansas City Power

⁸⁷ *Id.* at 14 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 104 FERC ¶ 61,105 at P 34).

⁸⁸ *Id.*

⁸⁹ Kansas City Power & Light Protest at 26 (citing *PJM Interconnection, LLC*, 106 FERC ¶ 61,253 (2004), *PJM Interconnection, LLC*, 107 FERC ¶ 61,087 (2004), and *Commonwealth Edison Co.*, 106 FERC ¶ 61,250 (2004)). The cases cited by Kansas City Power & Light address Commonwealth Edison Company and American Electric Power Service Corporation's proposal to join PJM, including implementation of a rate mechanism to address certain scope and configuration issues.

⁹⁰ *Id.* at 28-29.

& Light asserts that such a filing should be a condition of accepting the tariff revisions in this proceeding, and that the compensation mechanism ultimately adopted should be retroactive to December 19, 2013, the effective date of those revisions.⁹¹

b. Answers

43. Entergy Services and MISO argue that there is no basis for broadening the scope of this proceeding to include loop flow and RTO configuration issues. According to Entergy Services and MISO, protestors reargue the same loop flow issues that they have raised in other proceedings, with the only apparent difference that they argue that the loops flows “undermine MISO’s status as an RTO as it relates to ‘configuration.’”⁹² Entergy Services and MISO dispute these allegations, claiming that, for several reasons, they are without merit.

44. First, Entergy Services and MISO state that the arguments related to loop flows are beyond the scope of the ministerial changes to the MISO Tariff proposed in this proceeding. Second, Entergy Services and MISO claim that the loop flow arguments, like the arguments related to the RTOR issues, are collateral attacks on the Entergy-ITC Rates Order. Entergy Services and MISO state that in that order, the Commission rejected the long-standing requests for hold harmless relief from loop flows over the SPP transmission system, and reaffirmed that the Congestion Management Process, which is part of the MISO-SPP Joint Operating Agreement, addresses “the full range of loop flow issues that exist between SPP and MISO.”⁹³ According to Entergy Services and MISO, casting the arguments regarding loop flows that have been raised before as “configuration” issues does not change the fact that the Commission rejected those arguments in the Entergy-ITC Rates Order. Entergy Services and MISO also note that the precedent cited by protestors on these issues relates to the Alliance RTO and pre-dates the evolution of RTO seams agreements. Finally, Entergy Services and MISO fault Kansas City Power & Light for arguing that the loop flow issues it raises in this proceeding are due to intentional flows. Citing Commission precedent, Entergy Services and MISO claim that the Commission has rejected a *scienter* exception to its policy on loop flows.⁹⁴

⁹¹ *Id.* at 29.

⁹² Joint Answer at 15 (citing Kansas City Power & Light Protest at 21-22).

⁹³ *Id.* at 16-17 (citing Entergy-ITC Rates Order, 143 FERC ¶ 61,157 at P 149).

⁹⁴ *Id.* at 17 (citing *E. Kentucky Power Coop., Inc.*, 114 FERC ¶ 61,035, *reh’g denied*, 115 FERC ¶ 61,347 (2006) (*East Kentucky*)).

45. With respect to MISO and Entergy's responses in the Joint Answer to arguments regarding the requirements of Order No. 2000, Kansas City Power & Light asserts that MISO's transmission path lacks sufficient capacity and that, although MISO only has a single 1,000 MW physical transmission tie to Entergy, MISO plans to transmit more than that amount of power between the two regions.⁹⁵ Given these circumstances, Kansas City Power & Light claims that it is now necessary to answer the question that went unanswered in *East Kentucky*: "When a transmission operator leans upon neighboring systems by scheduling flows for which it does not have 'sufficient capacity,' are the neighboring systems that provide the missing capacity entitled to compensation for doing so?"⁹⁶ In Kansas City Power & Light's view, since it will be providing service that MISO will effectively schedule, but will not provide itself, Kansas City Power & Light is entitled to compensation.⁹⁷

c. Commission Determination

46. As with protestors' arguments regarding the RTOR, Kansas City Power & Light and Arkansas Electric raise issues and concerns which were previously addressed by the Commission in the Entergy-ITC Rates Order. While the protests in that proceeding did not couch their arguments in terms of the scope and configuration requirements of Order No. 2000, many of the same arguments regarding parallel flows and the same requests for relief were raised and addressed in the Entergy-ITC Rates Proceeding. In addition, much, if not all, of the Commission precedent relied on by the protestors in this proceeding was addressed and distinguished in the Entergy-ITC Rates Order. We note that parties have requested rehearing of the Entergy-ITC Rates Order with respect to the loop flow issues, and that parties continue to raise those issues in the Entergy-ITC Rates Proceeding.⁹⁸ The Commission will address the arguments on those issues in that proceeding, rather than in this proceeding.

⁹⁵ Kansas City Power & Light Answer at 14.

⁹⁶ *Id.* at 15.

⁹⁷ *Id.*

⁹⁸ *See, e.g.*, Comments, Protest, and Request for Immediate Action of the Southwest Power Pool, Inc., Docket Nos. ER12-2681-000, ER13-948-000, and ER13-782-000 (consolidated) (Nov. 18, 2013).

The Commission orders:

The proposed revisions to the MISO Tariff are accepted for filing, to be effective December 19, 2013, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.