

145 FERC ¶ 61,296
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. ER14-292-000
ER14-294-000

ORDER ACCEPTING AND SUSPENDING TARIFF FILINGS SUBJECT TO
REFUND AND FURTHER COMMISSION ORDER

(Issued December 30, 2013)

1. On November 1, 2013, pursuant to section 205 of the Federal Power Act (FPA),¹ Midcontinent Independent System Operator, Inc. (MISO) submitted an executed System Support Resource (SSR) Agreement between Big Rivers Electric Cooperative (Big Rivers) and MISO designated as Original Service Agreement No. 6501 (Coleman SSR Agreement) under its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).² Also on November 1, 2013, pursuant to section 205 of the FPA, MISO submitted proposed Rate Schedule 43F (Allocation of SSR Costs Associated with the Coleman SSR Units). In this order, we accept the Coleman SSR Agreement and Rate Schedule 43F, and suspend them for a nominal period, to be effective September 1, 2013, as requested, subject to refund and further Commission order.

¹ 16 U.S.C. § 824d (2012).

² The Tariff defines SSRs as “[g]eneration Resources or Synchronous Condenser Units [(SCU)] that have been identified in Attachment Y – Notification to this Tariff and are required by the Transmission Provider for reliability purposes, to be operated in accordance with the procedures described in Section 38.2.7 of this Tariff.” MISO, FERC Electric Tariff, Fourth Revised Vol. No. 1, First Revised Sheet No. 288, § 1.643. Unless indicated otherwise, all capitalized terms shall have the same meaning given them in the Tariff.

I. Background

2. On August 6, 2004, the Commission conditionally accepted MISO's proposed revisions to its Transmission and Energy Markets Tariff³ regarding the retirement or suspension of generation resources and SCUs, including provisions regarding the designation and treatment of SSRs.⁴ On September 21, 2012, the Commission conditionally accepted MISO's amended SSR Tariff provisions.⁵

3. On November 1, 2013, in Docket No. ER14-292-000, MISO submitted the Coleman SSR Agreement for the purpose of providing compensation for the continued availability of Big Rivers' Coleman Unit Nos. 1-3 (Coleman Units 1-3) as an SSR.⁶ MISO states that on December 19, 2012, Big Rivers submitted an Attachment Y-2 (Request for Non-Binding Study Regarding Potential SSR Status) to MISO in order to address the possible suspension of Coleman Units 1-3, beginning on August 20, 2013 and resuming operations on January 1, 2015. MISO states that it completed its analysis of the Attachment Y-2 request and replied to Big Rivers on May 2, 2013. MISO states that, in its response, it identified reliability issues associated with the suspension of Coleman Units 1-3.⁷

4. MISO further states that on May 24, 2013, Big Rivers submitted an Attachment Y (Notification of Potential Generation Resources/SCU Change of Status) to MISO indicating its desire to suspend Coleman Units 1-3 for a period of 28 months, from September 1, 2013 to January 1, 2016. MISO states that, after conducting an Attachment Y Study, it concluded that the proposed suspension of Coleman Units 1-3 during the 28-month suspension period, without curtailment of load by means of demand response, would result in violations of specific applicable reliability standards. Consequently, MISO designated Coleman Units 1-3 as an SSR Unit until such time as appropriate alternatives can be implemented to mitigate reliability issues.⁸

³ Now referred to as MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), as noted above.

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *reh'g denied*, 109 FERC ¶ 61,157 (2004).

⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012).

⁶ Coleman Units 1-3 are located in Hawesville, Kentucky and provide 443 MW of capacity.

⁷ Coleman SSR Agreement Transmittal Letter, Docket No. ER14-292-000 at 2.

⁸ *Id.*

5. According to MISO, the SSR status of Coleman Units 1-3 is expected to continue until Century Aluminum of Kentucky General Partnership (Century Aluminum) is able to make load curtailment arrangements at its Hawesville, Kentucky smelter (Hawesville Smelter), which is located near the Coleman Units. MISO reports that these load curtailment arrangements are adequate to address possible transmission system overloads.⁹ MISO states that it worked with Big Rivers and the MISO Independent Market Monitor to negotiate and develop the Coleman SSR Agreement. MISO explains that Big Rivers proposed an SSR agreement for the 12 month period between September 1, 2013 and August 31, 2014. MISO reports that Big Rivers has voluntarily continued operating Coleman Units 1-3 through the present time.¹⁰ MISO requests an effective date of September 1, 2013 for the Coleman SSR Agreement.¹¹

6. On November 1, 2013, in Docket No. ER14-294-000, MISO also submitted a proposed Rate Schedule 43F under its Tariff regarding the allocation of the costs associated with the continued operation of Coleman Units 1-3 as an SSR. As stated in the filing, the Tariff requires that the costs pursuant to the Coleman SSR Agreement be allocated to Load Serving Entities that require operation of the SSR Unit for reliability purposes.¹² MISO requests an effective date of September 1, 2013 for the Rate Schedule 43F to correspond to Big Rivers' requested effective date for the Coleman SSR Agreement.¹³

II. Notice and Responsive Pleadings

7. Notices of MISO's filings in Docket Nos. ER14-292-000 and ER14-294-000 were published in the *Federal Register*, 78 Fed. Reg. 68,050 (2013) with interventions and protests due on or before November 22, 2013.

8. The following entities made filings in both Docket Nos. ER14-292-000 and ER14-294-000. Hoosier Energy Rural Electric Cooperative, Inc.; DTE Electric Company; Consumers Energy Company; Century Aluminum; Wisconsin Electric Power Company; Big Rivers; and Kenergy Corp. filed timely motions to intervene. The Sustainable FERC Project – NRDC and Earthjustice (collectively, Public Interest Organizations) filed a joint

⁹ *Id.* at 8.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 10-11.

¹² Coleman Rate Schedule 43F Transmittal Letter, Docket No. ER14-294-000 at 2-3.

¹³ *Id.* at 4-6.

motion to intervene and protest. Century Aluminum filed a protest. A motion to intervene out-of-time was filed by Kentucky Public Service Commission (Kentucky Commission).

9. Protestors raise concerns about the term of the Coleman SSR Agreement, MISO's consideration of feasible alternatives to the Coleman SSR Agreement, and the appropriate level of compensation that Big Rivers should receive for operating the Coleman Units pursuant to the Coleman SSR Agreement.¹⁴ No party commented or protested the proposed Rate Schedule 43F.

10. On December 9, 2013, MISO filed an answer in Docket Nos. ER14-292-000 and ER14-294-000. On December 11, 2013, Big Rivers filed an answer in the same dockets. On December 20, 2013, Century Aluminum filed an answer in the same dockets.

11. In their answers, MISO and Big Rivers reiterate that the term of the Coleman SSR Agreement need not be changed because MISO will permit its termination upon Century Aluminum's installation of load curtailment technologies at the Hawesville Smelter. MISO and Big Rivers also state that all feasible alternatives to the Coleman SSR Agreement were considered and that the proposed cost recovery provisions of the Coleman SSR Agreement are just and reasonable. Conversely, in its answer, Century Aluminum avers that MISO did not properly consider all feasible alternatives to the Coleman SSR Agreement and that certain cost components of the Coleman SSR Agreement have not been shown to be just and reasonable.

III. Discussion

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely and unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed.

13. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2013), the Commission will grant Kentucky Commission's motion to intervene out-of-time, given its interest in the proceedings, the early stage of the proceedings, and the absence of undue prejudice or delay.

14. 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 the answers that have been filed in

¹⁴ See Public Interest Organizations Protest at 4-7; Century Aluminum Protest at 5-20.

these proceedings because they have provided information that assisted us in our decision-making process.

B. Commission Determination

15. We accept the Coleman SSR Agreement and Rate Schedule 43F, suspend them for a nominal period, to be effective September 1, 2013,¹⁵ subject to refund and further Commission order.¹⁶

The Commission orders:

The Coleman SSR Agreement and Rate Schedule 43F are hereby accepted for filing and suspended for a nominal period, to be effective September 1, 2013, subject to refund and further Commission order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁵ We grant waiver of the prior notice requirement to allow the proposed Coleman SSR Agreement and Rate Schedule 43F to be effective September 1, 2013, as requested. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,170, at PP 84-86 (waiver of prior notice rule granted in order accepting an SSR agreement and associated rate schedule), *order on reh'g*, 144 FERC ¶ 61,128 (2013).

¹⁶ *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 145 FERC ¶ 61,163 (2013) (accepting an SSR agreement and associated Rate Schedule for filing and suspending for a nominal period, subject to refund and further Commission order).