

145 FERC ¶ 61,300
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Central Minnesota Municipal Power Agency

Docket No. ER14-246-000

ORDER ACCEPTING AND SUSPENDING PROPOSED RATES AND
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued December 30, 2013)

1. On October 31, 2013, pursuant to section 205 of the Federal Power Act (FPA),¹ Midcontinent Independent System Operator, Inc. (MISO) and Central Minnesota Municipal Power Agency (Central Minnesota) filed a request to begin to recover in MISO rates, prudently-incurred costs associated with Central Minnesota's transmission function and investments, including investment in the Brookings County, South Dakota to Hampton, Minnesota transmission line (Brookings Project or Project), which is expected to go into service on December 20, 2013 (October 31 Filing).² As discussed below, the Commission accepts Central Minnesota's proposed rates, suspends them for a nominal period, to become effective, subject to refund, on January 1, 2014, and establishes hearing and settlement judge procedures.

¹ 16 U.S.C. § 824d (2012).

² MISO joins the instant filing as the administrator of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), but takes no position on the substance of the filing.

I. Background

2. Central Minnesota is a municipal corporation and political subdivision of the State of Minnesota. It is member-owned, with 12 members in south central Minnesota.³ Its members have a total load of 107 megawatts (MW). On behalf of its members, Central Minnesota performs resource and transmission planning, and purchases transmission service.

3. Central Minnesota is a project-based agency whose members can opt in or out of each project that Central Minnesota undertakes. Central Minnesota became a MISO transmission owner in 2007. Central Minnesota is a participant in the Transmission Capacity Expansion Initiative by the Year 2020 (CapX2020 Initiative), and it is a joint owner in the Brookings Project.

4. The Brookings Project was created under the CapX2020 Initiative. It is a 240-mile, 345 kV transmission line that will run from Brookings County, South Dakota, to the Southeast Twin Cities in Minnesota, as well as a 10-mile, 230 kV line from a new Hazel Creek substation to a substation in Granite Falls, Minnesota.⁴ The Brookings Project is being constructed in three phases, with all three phases expected to be complete by late 2014 or early 2015. Central Minnesota states that it currently has an investment share in the Project of 3.6 percent.⁵ The Brookings Project was approved as a Multi-Value Project (MVP) in the MISO Transmission Expansion Plan. Central Minnesota notes that MVP costs are shared among all customers in MISO.

5. Central Minnesota states that the Project will deliver wind power from South Dakota and from the Buffalo Ridge area in southwestern Minnesota to load centers in

³ Central Minnesota's members are: the cities of Blue Earth, Delano, Fairfax, Glencoe, Granite Falls, Janesville, Kasson, Kenyon, Mountain Lake, Sleepy Eye, Springfield, and Windom.

⁴ See *Cent. Minn. Mun. Power Agency & Midwest Mun. Transmission Group*, 134 FERC ¶ 61,115 (2011).

⁵ October 31 Filing at 3-4.

Minnesota, including the Twin Cities area. It states that the Project will also provide improved system reliability and high capacity transmission to serve load growth and wholesale market transactions.

6. In Docket No. ER11-2700-000, Central Minnesota and the Midwest Municipal Transmission Group (MMTG)⁶ proposed revisions to the Tariff to enable Central Minnesota to recover costs for its proposed investment in the Project. The Commission found that there was no mechanism by which Central Minnesota could recover its expenses on a current basis, because Central Minnesota did not yet have any transmission facilities in service. But, the Commission noted that regulatory asset treatment was an option available to Central Minnesota, and it provided guidance concerning the types of costs that belong in specific accounts under the Uniform System of Accounts.⁷

7. In Docket No. ER12-427-000, pursuant to section 205 of the FPA and Order No. 679,⁸ MISO filed, on behalf of Central Minnesota, a request to allow Central Minnesota to establish a regulatory asset account to include Central Minnesota's: (1) pre-commercial expenses related to the Brookings Project, not included in construction work in progress (CWIP), incurred from January 1, 2007 and continuing until Central Minnesota has transmission plant in service; and (2) operations and maintenance (O&M) and administrative and allocated general (A&G) expenses, beginning on January 1, 2007 and continuing until it has transmission plant in service. In addition, MISO proposed revisions to its Tariff to modify its Attachment O-CMMPA to

⁶ MMTG is a group of 54 municipal utilities in Iowa, Minnesota, and Illinois, a group formed by Central Minnesota and two other municipal entities, Iowa Association of Municipal Utilities and the Minnesota Municipal Utilities Association. Through Central Minnesota, several MMTG members participated in the Project. October 31 Filing at 2.

⁷ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 135 FERC ¶ 61,131, at PP 23-27, 38 (May 2011 Order), *clarified*, 137 FERC ¶ 61,186, at PP 8-9 (2011).

⁸ See *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

implement the requested regulatory asset account incentive, and to add a new Attachment MM-CMMPA to allow Central Minnesota to collect its annual transmission revenue requirement if the Brookings Project is treated as an MVP. On January 13, 2012, the Commission conditionally accepted MISO's Tariff revisions, subject to a compliance filing, and granted the request for authorization to create the regulatory asset account for Central Minnesota.⁹ In so doing, the Commission stated:

While we provide [Central Minnesota] with the ability to create the regulatory asset account to record Brookings Project pre-commercial operations and transmission-related expenses as a regulatory asset, [Central Minnesota] must make a section 205 filing to demonstrate that the expenses included in the regulatory asset account were prudently incurred and are just and reasonable.¹⁰

The Commission further stated that when Central Minnesota made its section 205 filing to include the costs recorded in the regulatory asset account in rates, MISO Transmission Owners and other interested parties, if they so choose, may raise issues as to any specific costs recorded and that Central Minnesota must demonstrate that the costs were prudently incurred and are just and reasonable.¹¹

8. The parties to the proceedings in Docket Nos. ER11-2700 and ER12-427 reached an uncontested settlement which the Commission accepted on December 4, 2012.¹²

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,021 (2012) (January 2012 Order).

¹⁰ *Id.* P 25.

¹¹ *Id.* P 27.

¹² *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,187 (2012) (Settlement Agreement).

II. The October 31 Filing

9. Central Minnesota states that, consistent with the Commission's January 2012 Order, it is now submitting this filing under section 205 to recover approximately \$9.6 million in costs deferred to its regulatory asset account.¹³ Central Minnesota states it seeks to recover prudently incurred and just and reasonable pre-commercial costs related to the Project, and transmission-related expenses, including O&M costs, allocated A&G costs and other general costs. Central Minnesota notes that the Brookings Project's expected costs are now lower than the previous estimate of \$10 million primarily due to lower commodity and labor costs, as well as lower-than-expected costs to secure rights of way. Central Minnesota argues that although its ownership structure introduces complexities to cost recovery, it ultimately brings MISO ratepayers benefits from Central Minnesota's tax savings and low debt costs.¹⁴

A. Pre-commercial Expenses

10. Central Minnesota states that it incurred pre-commercial expenses necessary to enable its participation in the Brookings Project. Central Minnesota states that such expenses are directly attributable to the Brookings Project and, therefore, are fully recoverable through the regulatory asset account.¹⁵ Central Minnesota states that its pre-commercial expenses are associated with satisfying regulatory requirements, establishing required project contracts, ensuring advantageous project financing, securing member participation and engaging in Project partner meetings.

11. To satisfy various regulatory requirements, Central Minnesota states that it incurred legal and consulting expenses related to the Brookings Project for the following required regulatory filings: (1) Central Minnesota's request for transmission incentive rates for the Brookings Project, including dispute resolution; (2) section 205 filing for approval of Central Minnesota's Attachment O-CMMPA; (3) Central Minnesota's filing

¹³ October 31 Filing at 6 (citing January 2012 Order, 138 FERC ¶ 61,021 at P 25).

¹⁴ *Id.* at 6-8.

¹⁵ *Id.* at 8.

seeking authorization for regulatory asset treatment; and (4) the instant section 205 filing to recover the regulatory asset through rates. With regard to expenses related to the approval of Central Minnesota's Attachment O-CMMPA, Central Minnesota claims that the Brookings Project represented its first transmission investment that required rate incentive treatment and, thus, it first needed to put its formula rate in place with MISO. Central Minnesota argues that without the requested incentives, the economics of the Project would not have allowed Central Minnesota to proceed. Central Minnesota asserts that these expenses are just and reasonable because they are rate reducing, accurately recorded in the proper Uniform System of Accounts, and deferred to the regulatory asset in accordance with the cost categories specified in January 2012 Order.¹⁶

12. Central Minnesota states that pre-commercial expenses accrued to the regulatory asset also include legal and consulting fees associated with the development of project participation agreements. These agreements include both "downstream" agreements with Central Minnesota member-cities and MMTG cities that elected to participate in the project and "upstream" agreements with other Brookings Project investors.¹⁷ Central Minnesota states that it is a project-based agency for which each project must receive its own terms and conditions and argues that, as a result, costs related to downstream agreements are necessary to lay out the responsibilities of Central Minnesota and MMTG and their member participants' responsibilities for the Brookings Project. Central Minnesota asserts that costs related to upstream and downstream agreements are just and reasonable because they are properly deferred to the cost categories established in the January 2012 Order.¹⁸

13. Central Minnesota also states that the regulatory asset includes costs related to tax-exempt financing-related analysis to ensure advantageous project financing. Central Minnesota argues that expenses related to this analysis were necessary to ensure that investment in the Brookings Project did not result in revenues great enough to prohibit its ability to issue tax-exempt debt. Central Minnesota additionally contends that the

¹⁶ October 31 Filing at 8-9, Ex. CMMPA-4 at 8-9.

¹⁷ October 31 Filing at 9.

¹⁸ October 31 Filing, Ex. CMMPA-4 at 10-11.

analysis also ensured that each member's tax exempt financing capacity was not infringed upon by another member. Central Minnesota argues that, similarly, it needs to incur certain expenses necessary to evaluate the Brookings Project's bonds to maintain its tax-exempt status. Central Minnesota states that its tax exempt status benefits the Brookings Project and results in lower MISO rates.¹⁹ Central Minnesota asserts that it has acted in accordance with the May 2011 Order by recording these costs in Account 923 (Outside Services Employed).²⁰

14. In addition, Central Minnesota states that expenses related to securing Central Minnesota and MMTG member participation in the Brookings Project are included in the regulatory asset. Central Minnesota states that such expenses consist of internal and external labor associated with educating and informing stakeholders. Central Minnesota contends that certain members would not have elected to invest in the Brookings Project without receiving such materials or attending related briefings. Central Minnesota further explains that additional costs were required to update participants on the Brookings Project's status. Central Minnesota argues that such expenses were necessary to secure member participation and fulfill Central Minnesota's obligations as a project-based agency.²¹ Central Minnesota adds that it recorded such expenses in accordance with the January 2012 Order by placing them in Account 923 (Outside Services Employed).²²

15. Central Minnesota states it also incurred various expenses through Project partner meetings necessary to address the development and construction of the Brookings Project. Central Minnesota explains that such expenses involve costs incurred by outside contractors who assisted Central Minnesota in this process. Central Minnesota argues that, as an investor, it must attend Brookings Project meetings to keep informed and participate in the resolution of any problems and, thus, such costs were prudently

¹⁹ *Id.* at 12-15.

²⁰ *Id.* at 13, 15 (citing January 2012 Order, 138 FERC ¶ 61,021 at PP 12, 21).

²¹ October 31 Filing, Ex. CMMPA-4 at 15-16.

²² *Id.* at 16 (citing January 2012 Order, 138 FERC ¶ 61,021 at PP 12, 21).

incurred.²³ Central Minnesota states it acted in accordance with the Commission's directives by recording these costs in Account 923 (Outside Services Employed).²⁴

16. Further, Central Minnesota states that it incurred property taxes on its existing general plant property and allocated a portion of this expense to the regulatory asset under pre-commercial expenses.²⁵ Central Minnesota argues that a portion of property tax is recoverable by all MISO transmission owners and that the Commission recognized that until Central Minnesota has an in-service transmission asset, Central Minnesota must defer otherwise recoverable costs into the regulatory asset to allow for similar recovery.

B. Transmission-Related Expenses

17. Central Minnesota states that the Commission granted it the ability to incur transmission-related expenses in the January 2012 Order by recognizing that Central Minnesota incurs expenses similar to other MISO transmission owners but is unable to recover costs on a current basis for lack of in-service transmission assets.²⁶ Central Minnesota additionally asserts that the Commission specifically referenced O&M and A&G as Central Minnesota "transmission-related expenses"²⁷ and approved Central Minnesota's request to defer recovery of such costs.²⁸

18. Central Minnesota argues that Commission recognized that Central Minnesota has expenses that are properly recorded in Account 561.5 (Reliability, Planning and

²³ *Id.* at 16-17.

²⁴ *Id.* at 17 (citing January 2012 Order, 138 FERC ¶ 61,021 at PP 12, 21).

²⁵ *Id.* at 18.

²⁶ October 31 Filing at 10 (citing January 2012 Order, 138 FERC ¶ 61,021 at PP 10, 25).

²⁷ October 31 Filing, Ex. CMMPA-4 at 22 (citing January 2012 Order, 138 FERC ¶ 61,021 at PP 8, 13).

²⁸ *Id.* (citing January 2012 Order, 138 FERC ¶ 61,021 at PP 21, 25).

Standards Development) and that such expenses can be placed in the regulatory asset.²⁹ Central Minnesota states that the regulatory asset has thus accrued internal transmission O&M in this account from 2007 going forward, as the Commission deemed appropriate in the January 2012 Order.³⁰ Central Minnesota notes that while it does not yet have in-service transmission assets, it has played an active role in transmission planning and evaluation, incurring O&M costs as both a MISO Transmission Owner and a participant in the CapX2020 Initiative. Central Minnesota argues that these transmission planning O&M expenses are necessary costs of being a transmission owner and investor in transmission infrastructure, which enables Central Minnesota to participate in regional joint transmission planning.

19. Central Minnesota states that, in addition to internal transmission O&M, it is directly assigned ongoing transmission O&M expenses by Great River Energy, the Brookings Project manager, which are also included in the regulatory asset under Account 566 (Miscellaneous Transmission Expense). Central Minnesota contends that it had no discretion to refuse these charges and that these expenses would normally be coverable if Central Minnesota had transmission plant currently in service. Central Minnesota asserts that including these expenses, in addition to internal transmission O&M, is consistent with the May 2011 Order which found that Central Minnesota did incur valid expenses that other MISO transmission owners were incurring and could request an incentive to defer such expenses into a regulatory asset at the time Central Minnesota had plant in service.³¹

20. In addition to O&M expenses, Central Minnesota states that the regulatory asset also includes an allocated portion of corporate overhead A&G expenses under transmission-related expenses. Central Minnesota argues that this practice is consistent

²⁹ October 31 Filing, Ex. CMMPA-4 at 19-20 (citing May 2011 Order, 135 FERC ¶ 61,131 at P 24).

³⁰ October 31 Filing at 10-11 (citing January 2012 Order, 138 FERC ¶ 61,021 at P 26); Ex. CMMPA-4 at 19-20.

³¹ October 31 Filing, Ex. CMMPA-4 at 20-21.

with the Commission's orders³² and the MISO *pro forma* Attachment O.³³ Central Minnesota argues that it has recorded allocated A&G in the regulatory asset appropriately, as the MISO Tariff allows all MISO transmission owners to include an allocated portion of A&G in transmission O&M. Central Minnesota states that its method for developing a wages and salary allocator ensures that only an appropriate portion of corporate A&G expense is placed in the regulatory asset.³⁴ Central Minnesota argues that the Commission recognized the distinction between Central Minnesota's corporate overhead and pre-commercial expenses and approved Central Minnesota's request to defer pre-commercial expenses and an allocated portion of corporate A&G.³⁵ Central Minnesota also argues that the Commission previously granted similar requests to include corporate A&G overhead and, thus, Central Minnesota's request is justified here.³⁶

21. Central Minnesota states that it has also included in corporate A&G the costs associated with the approximately 14-month development of the initial Central Minnesota cities' and MMTG cities' Attachment O. Central Minnesota argues that providing these services is integral to representing and integrating the transmission assets of the member cities. Central Minnesota states that it has not double-recovered costs in that no costs in

³² October 31 Filing at 11 (citing May 2011 Order, 135 FERC ¶ 61,131 at P 38 & n. 49; January 2012 Order, 138 FERC ¶ 61,021 at PP 21, 25).

³³ *Id.* at 11-13.

³⁴ Central Minnesota states that its wages and salary allocator in years 2007 to 2009 is relatively high than for 2010 to present because significant amount of time was spent on transmission issues and analyses in the beginning stages of its transmission planning during that time. October 31 Filing, Ex. CMMPA-4 at 27-28.

³⁵ October 31 Filing, Ex. CMMPA-3 at 13 (citing January 2012 Order, 138 FERC ¶ 61,021 at PP 8, 12, 13, 21, 25).

³⁶ *Id.* at 12 (citing *Green Power Express*, 127 FERC ¶ 61,031, at P 55 (2009); *Tallgrass Transmission*, 125 FERC ¶ 61,248, at P 81, n.87 (2008); *Primary Power*, 131 FERC ¶ 61,015, at P 109 (2010)).

Central Minnesota's Attachment O at the agency level have been duplicated in the Attachment Os of Central Minnesota's transmission-owning member cities.³⁷

22. Central Minnesota states that the regulatory asset also includes an allocated portion of the depreciation expense of Central Minnesota's general plant. Central Minnesota explains that although it did not explicitly request general plant depreciation in the regulatory asset incentive request, the January 2012 authorized Central Minnesota to accumulate costs in a regulatory asset that Central Minnesota would recover as a MISO transmission owner if it had transmission assets in service.³⁸

23. Central Minnesota states that the carrying charge included in the regulatory asset was accrued in accordance with the timeframe specified by Commission and the Settlement Agreement.³⁹ Central Minnesota states that the carrying charge will cease to accrue the date Central Minnesota begins recovery of the regulatory asset through rates. Central Minnesota explains that the calculation of interest on a semi-annual basis is consistent with the Commission's findings and reflects the hypothetical capital structure approved by the Commission.⁴⁰ Central Minnesota states that all carrying charges have been debited to Account 182.3 (Other Regulatory Assets) and credited to Account 421 (Miscellaneous Non-Operating Income). Central Minnesota states that it will amortize the regulatory asset over a period of five years, beginning on the date Central Minnesota begins to recover the regulatory asset in rates, as approved by the Commission.⁴¹ Central Minnesota states the amortization of the regulatory asset will be credited to

³⁷ October 31 Filing, Ex. CMMPA-4 at 25-26.

³⁸ October 31 Filing at 12; Ex. CMMPA-4 at 40-41.

³⁹ October 31 Filing at 13 (citing January 2012 Order, 138 FERC ¶ 61,021 at P 22); Ex. CMMPA-4 at 42-43 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 63,001, at P 20 (2012) (certification of uncontested settlement)).

⁴⁰ October 31 Filing, Ex. CMMPA-4 at 4 (citing January 2012 Order, 138 FERC ¶ 61,021 at P 23).

⁴¹ *Id.* (citing January 2012 Order, 138 FERC ¶ 61,021 at P 22).

Account 182.3 and debited under Account 556 (Miscellaneous Transmission Expense).⁴² Central Minnesota explains that if Phase 1 of the Brookings Project is placed in service later than the planned date, December 20, 2013, Central Minnesota will calculate the carrying charge based on the actual in-service date and correct the regulatory asset balance through Attachment O true-up procedures.⁴³ Central Minnesota further states that the true-up will enable rectification and refunds in the event of any differences between forecasted and actual expenses between September 1, 2013 and the in-service date of Phase I of the Brookings Project.⁴⁴

24. Outside of pre-commercial and transmission-related expenses, Central Minnesota explains that the Settlement Agreement allows Central Minnesota to recover a prorated portion (nine twelfths) of its Attachment O-CMMPA annual transmission revenue requirement (ATRR) through the regulatory asset using twelve months of 2009 data. Central Minnesota states that because it had no transmission assets during this time, the ATRR deferred to the regulatory asset only includes return on the Brookings Project CWIP and an accrued carrying charge.⁴⁵ With regard to CWIP, Central Minnesota states that the only Brookings Project costs that are included as CWIP are those construction costs assigned to Central Minnesota as CWIP. Central Minnesota states that, consistent with accounting treatment used by other Brookings Project partners, it properly assigned

⁴² *Id.* at 42.

⁴³ In a filing on September 27, 2013, in Docket No. ER13-2468-000, the Commission conditionally accepted Central Minnesota's proposed amendments to Attachments O-CMMPA and MM-CMMPA of the Tariff to facilitate Central Minnesota's transition from a historical formula rate to a forward-looking formula rate, effective January 1, 2014. *Midcontinent Indep. System Operator, Inc.*, 145 FERC ¶ 61,263 (2013).

⁴⁴ Central Minnesota estimates its pre-commercial expenses during this time will reach \$115,000. October 31 Filing, Ex. CMMPA-4 at 4.

⁴⁵ *Id.* at 29.

its investment portion of the CapX2020 Brookings Project Team Assessments to Account 107 (CWIP).⁴⁶

25. Central Minnesota requests approval to begin recovering the costs contained in the regulatory asset in its MISO rates beginning January 1, 2014, 60 days after filing.

26. Central Minnesota seeks waiver of the requirement to provide detailed statements of its cost of service under 18 C.F.R. § 35.13(d) (2013) on the basis that the proposed regulatory asset recovery reflects cost inputs derived from Central Minnesota's FERC Form No. 1, as detailed in the exhibits to the instant filing. Central Minnesota also requests waiver of Rule 203(b)(3) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3) (2013), to permit service to more than two designated service recipients, in order to facilitate communications. Lastly, Central Minnesota seeks waiver of any other Commission rule or regulation that may be necessary.

III. Notice of Filing and Pleadings

27. Notice of the October 31 Filing was published in the *Federal Register*, 78 Fed. Reg. 67,355 (2013), with motions to intervene and protests due on or before November 21, 2013. The MISO Transmission Owners⁴⁷ filed a timely motion to intervene and comments. On December 6, 2013, Central Minnesota filed an answer.

⁴⁶ *Id.* at 7.

⁴⁷ 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; Big Rivers Electric Corporation; City Water, Light & Power (Springfield, IL); 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; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities

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IV. Discussion**A. Procedural Matters**

28. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motion to intervene of MISO Transmission Owners serves to make them parties to this proceeding.

29. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2013), prohibits an answer to protests unless otherwise ordered by the decisional authority. We will accept Central Minnesota's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters**1. Comments**

30. The MISO Transmission Owners argue that Central Minnesota has not demonstrated that all of the costs it seeks to include in rates are just, reasonable, and prudent. The MISO Transmission Owners argue that Central Minnesota suggests that cost recovery is proper because the costs are included in accounts set forth in the May 2011 Order. But, they also note the Commission deferred a ruling on the specific costs to be recovered, because it determined that Central Minnesota could not recover any costs until it owned transmission in service.⁴⁸

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.

⁴⁸ MISO Transmission Owner Comments at 4 (citing May 2011 Order, 135 FERC ¶ 61,131 at PP 23, 38).

31. The MISO Transmission Owners note that the Commission explained that arguments related to the unverified amounts for those expenditures may be raised by parties if Central Minnesota proposes to recover those expenditures in its regulatory asset.⁴⁹ The MISO Transmission Owners also state that a settlement in that proceeding recognized that Central Minnesota had sought to include costs in a regulatory asset account in Docket No. ER12-427-000, and the settlement preserved the rights of others to challenge costs included in the regulatory asset. Further, the MISO Transmission Owners argue that, in the January 2012 Order, the Commission did not rule on propriety of the costs included in the account. The MISO Transmission Owners contend that the question of which costs Central Minnesota can recover in rates is now squarely before the Commission.

32. The MISO Transmission Owners argue that Central Minnesota has not supported its proposed method of inclusion of regulatory asset amounts in Attachment O-CMMPA and Attachment MM-CMMPA. The MISO Transmission Owners state that Central Minnesota interprets the October 31 Filing as suggesting that Central Minnesota is entitled to recover all cost categories on a dollar-for-dollar basis through Attachment MM-CMMPA, unless otherwise stated. According to the MISO Transmission Owners, the October 31 Filing raises a number of concerns. The MISO Transmission Owners argue that the filing includes only FERC Form No. 1 data from 2009-2012 and does not enable one to verify the precise dollar amounts Central Minnesota selected for inclusion in the regulatory asset. Also, the MISO Transmission Owners argue that Central Minnesota has not provided any workpapers or other documentation explaining how the costs in its regulatory asset will be reported on the line of numbers of Attachment O-CMMPA and Attachment MM-CMMPA. The MISO Transmission Owners contend that the FERC Form No. 1 for each year from 2009-2012 alone are insufficient to demonstrate that Central Minnesota has made the accounting reclassifications required by the Commission in the May 2011 Order. The MISO Transmission Owners also argue that the FERC Form No. 1 data provided also contains apparent discrepancies.

33. The MISO Transmission Owners also argue that permitting Central Minnesota to recover 100 percent of its Account 923 costs would be unjust and unreasonable and unduly discriminatory, because other transmission owners must allocate these costs based

⁴⁹ *Id.* at 5 (citing May 2011 Order, 135 FERC ¶ 61,131 at P 23 n.28).

on the wages & salaries allocator. The MISO Transmission Owners contend that this issue will persist for these and other FERC Accounts as the different allocators change. The MISO Transmission Owners contend that the Commission should require Central Minnesota to explain the amount of regulatory asset costs by year that are placed into their 2014 rate. The MISO Transmission Owners argue that providing this level of detail for each year that the regulatory asset costs are amortized in rates is essential to ensuring that the proper costs are subject to the proper allocator for each year. Further, to ensure that Central Minnesota collects no more than it, or any other transmission owner, would have collected if they recovered costs pursuant to Attachments O and MM each year, the MISO Transmission Owners request that Central Minnesota be required to prepare Attachments O-CMMPA and MM-CMMPA forms for each past year for which costs are included in the regulatory asset, assuming that the Transmission Expense (TE) allocator is set at 1.⁵⁰

34. The MISO Transmission Owners also state that Central Minnesota may have improperly subjected non-transmission costs to the wages & salaries allocator, which would allocate some of those costs to transmission, thus enabling over-recovery of Central Minnesota's costs.⁵¹

35. Further, the MISO Transmission Owners raise other issues, including: Central Minnesota has not supported what portion, if any, of its claimed Account 561.5 costs meet the requirements of that Account;⁵² Central Minnesota has not justified recovery of Attachment O development costs for member and non-member cities,⁵³ and Central

⁵⁰ *Id.* at 12-14.

⁵¹ *Id.* at 14-15.

⁵² *Id.* at 16-17. For example, they argue that Central Minnesota's statements concerning activities it defines as "transmission planning" are vague.

⁵³ *Id.* at 19-20. The MISO Transmission Owners oppose Central Minnesota's proposal to recover corporate A&G overhead costs of developing the Attachment O templates for four of its member cities and one MMTG member city. The MISO Transmission Owners contend that those costs should be borne by the customers within

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Minnesota has not justified recovery of Project development costs incurred by member cities.⁵⁴ Thus, the MISO Transmission Owners argue, the Commission should exclude certain costs from Central Minnesota's rates or set the matter for hearing and settlement judge procedures.

2. Central Minnesota's Answer

36. Central Minnesota argues that some of the MISO Transmission Owners' arguments fail to recognize that the Commission has previously authorized Central Minnesota's creation of a regulatory asset account. Further, it argues that the MISO Transmission Owners request unspecified additional accounting details based on the same vague objections that they raised, and that Central Minnesota thoroughly answered, in the proceeding in Docket No. ER11-2700-000 and the mediation process that produced the Settlement Agreement. Central Minnesota asserts that the MISO Transmission Owners have failed to raise any serious doubt about the prudence of the costs that it seeks to recover. Central Minnesota argues that the MISO Transmission Owners have not identified any cost included in Central Minnesota as-filed regulatory asset that they consider to have been imprudently incurred.⁵⁵

37. In addition, Central Minnesota disputes the MISO Transmission Owners' assertions regarding the justness and reasonableness of expenses in the regulatory asset account. Central Minnesota contends that: (1) the MISO Transmission Owners' transparency have already been addressed; (2) Central Minnesota has properly functionalized costs to transmission; (3) the MISO Transmission Owners' suggestion that

the pricing zone where the Owner's transmission assets are physically located, not on a region-wide basis from all MISO transmission customers.

⁵⁴ *Id.* at 20. The MISO Transmission Owners argue that it is unclear why these expenses should be recovered by Central Minnesota rather than the member or non-member cities that paid them. The MISO Transmission Owners contend that the proposal would shift costs that were unrecovered by member and non-member cities to Central Minnesota for recovery.

⁵⁵ Central Minnesota Answer at 2-3.

Central Minnesota's recovery should flow through retrospective 2007 to 2013 Attachment Os is baseless and bizarre; (4) the MISO Transmission Owners' questions about the assignment of expenses to Account 561.5 and CWIP lack merit; (5) Central Minnesota properly recovers costs associated with developing its members' initial Attachment Os; and (6) the MISO Transmission Owners misunderstand the nature of Central Minnesota's project development costs.⁵⁶

38. With respect to transparency, Central Minnesota disputes the MISO Transmission Owners' claim that its FERC Form No. 1 information is inadequate. Further, Central Minnesota states that, even though the regulatory asset accumulation began with a start date of 2007, the Settlement Agreement expressly contemplates that 2009 is the relevant starting date for calculating the regulatory asset amount.⁵⁷

39. Regarding its functionalization of costs to transmission, Central Minnesota contends that its costs booked to Account 923 are entirely transmission-related costs and that the MISO Transmission Owners have presented no evidence to the contrary. Central Minnesota contends that none of those costs are costs of other functions or associated general corporate overhead. In response to the MISO Transmission Owners' contention that a wages & salaries allocator should be used consistent with the generic MISO Attachment O, Central Minnesota states that under the formula rate approved in its Attachment O-CMMPA, the generic wages & salaries allocator does not apply to amounts booked to Account 923; rather, 100 percent of these expenses are deferred for recovery through Central Minnesota's regulatory asset. It also contends that the allocators that apply to corporate A&G overhead pursuant to the formula rate in Attachment O-CMMPA already apply the wages & salaries allocator to the extent that it is appropriate.⁵⁸

40. With respect to the MISO Transmission Owners' suggestion that Central Minnesota's recovery should flow through retrospective 2007 to 2013 Attachment Os,

⁵⁶ *Id.* at 5.

⁵⁷ *Id.* at 5-8.

⁵⁸ *Id.* at 8-14.

Central Minnesota states that in Docket No. ER11-2700-000, the MISO Transmission Owners successfully opposed a Central Minnesota's proposal to impute an allocator for those years, maintaining that Central Minnesota could not begin rate recovery until it had assets in service. Central Minnesota notes that the Commission has authorized regulatory asset treatment and, thus, it argues that the MISO Transmission Owners' suggestion has no merit. Further, Central Minnesota contends that the MISO Transmission Owners' proposal does not provide for recovery of a return on the unamortized regulatory asset balance, or account for differences between Central Minnesota's applicable capital costs from 2007 to 2013 and those that will flow through the formula rate during 2014 forward, or explain how their proposal would handle the depreciation expense and return on declining rate base effects that would have occurred during 2007 to 2013.⁵⁹

41. In addition, according to Central Minnesota, its booking of costs to Account 561.5 and reclassification to that account the portion of those Brookings-related transmission planning labor costs that had previously been booked to CWIP followed the Commission's directive in the May 2011 Order.⁶⁰ Central Minnesota also disputes the MISO Transmission Owners' comparison of Central Minnesota to a bank or investment fund. Citing its role as a MISO Transmission Owner and a political subdivision of Minnesota, Central Minnesota states that it assesses the multi-faceted potential impacts of each project, including both their potential to enhance reliability or reduce congestion and their financial impacts. It states that any responsible wholesale-level entity that invests in transmission ownership includes as part of its decision-making as assessment of how such an investment will affect its retail-serving members and its funding sources.⁶¹

42. Central Minnesota also disputes the claim of discrepancies in its CWIP balances, noting that the figure questioned by the MISO Transmission Owners represents the Uniform System of Accounts balance that remains after performing the required reclassifications from CWIP to A&G and O&M under the Uniform System of Accounts. In addition, Central Minnesota explains that it has no regulatory balance on its FERC

⁵⁹ *Id.* at 14-16.

⁶⁰ *Id.* at 17 (citing May 2011 Order, 135 FERC ¶ 61,131 at P 24).

⁶¹ *Id.* at 18-19.

Form No. 1s for 2009-2011 because the Commission did not approve a regulatory asset for Central Minnesota until 2012.⁶²

43. With respect to the recovery of costs associated with developing its members' initial Attachment Os, Central Minnesota argues that it would not have been feasible for its members to individually undertake the process of review and approval of the initial Attachment Os. But, once this initial barrier was overcome, Central Minnesota states that it was able to pass future Attachment O preparation responsibility on to the individual cities. Further, Central Minnesota states that by undertaking the start-up effort, it ensured consistency and non-duplication between Central Minnesota and individual-city Attachment O inputs.⁶³

44. Finally, Central Minnesota disputes the MISO Transmission Owners' contention that Central Minnesota should not recover its own project development costs, but rather its members should. It contends that the costs at issue are its own costs. Central Minnesota states that its members provided it with up-front funding so that it could fulfill its mission, acting as agent for its members, to complete transmission investment projects. It asserts that the MISO Transmission Owners misapprehend either the nature of those costs or the fundamental business model of joint action agencies.⁶⁴

3. Commission Determination

45. We find that Central Minnesota's filing raises issues of material fact that cannot be resolved based upon the record before us and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

46. Our preliminary analysis indicates that the October 31 Filing has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept the October 31 Filing, suspend it for a nominal period, to become effective January 1, 2014, as requested,

⁶² *Id.* at 20-21.

⁶³ *Id.* at 21-23.

⁶⁴ *Id.* at 23-24.

subject to refund, and set the October 31 Filing for hearing and settlement judge procedures.

47. While we are setting the October 31 Filing for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁶⁵ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in this proceeding; otherwise, the Chief Judge will select a judge for this purpose.⁶⁶ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

48. We will grant Central Minnesota waiver of the requirement of section 35.13(d), 18 C.F.R. § 35.13(d) (2013), to submit full Period I and Period II cost of service statements because Central Minnesota is providing inputs for its formula rates and is not requesting any change or increase in a stated rate. In addition, we will grant Central Minnesota's request for waiver of Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3) (2013), to permit service to more than two designated service recipients.

⁶⁵ 18 C.F.R. § 385.603 (2013).

⁶⁶ If the parties decide to request a specific judge, they may make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (www.ferc.gov –click on Office of Administrative Law Judges).

The Commission orders:

(A) The October 31 Filing is hereby accepted for filing and suspended for a nominal period, to become effective January 1, 2014, as requested, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of the October 31 Filing. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2011), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge in writing or by telephone within five (5) days of the date of this order.

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

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in these proceedings in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.