146 FERC ¶ 61,020
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. ER14-295-000
ER13-1631-001

ORDER ACCEPTING TARIFF REVISIONS AND GRANTING LIMITED EXTENSION OF WAIVERS

(Issued January 14, 2014)

1. In this order, the Commission accepts Midcontinent Independent System Operator, Inc.'s (MISO) proposed modifications to the provisions of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) that govern the processing of point-to-point transmission service requests and the treatment of unreserved use, effective January 15, 2014, as explained below.

2. Also in this order, the Commission grants MISO's request for a limited extension of waivers of certain aspects of its Tariff provisions governing unreserved use penalties,[1] determination of reservation priority for point-to-point transmission service,[2] and the reservation priority for exercise of the right of first refusal (ROFR) for point-to-point transmission service[3] from November 19, 2013 until January 15, 2014, the requested effective date of the proposed Tariff revisions, as explained below.

I. Background

3. On January 2, 2013, as amended on February 2, 2013, February 8, 2013, and February 27, 2013, in Docket No. ER13-692-000, MISO proposed several revisions to its Tariff in conjunction with its plans to replace its Open Access Same-Time Information

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[1] Tariff Sections 13.7, 14.5, 27A.1.6, 27A.2.4, 30.4, and 37.2.

[2] Tariff Sections 13.2, 14.2, 27A.1.2, 27A.2.2, and 27A.2.6.

[3] Tariff Sections 13.2 and 27A.1.2.

System (OASIS).[4] MISO stated that the proposed revisions improved the existing OASIS practices and satisfied the "consistent with or superior to" standard that the Commission reaffirmed in Order No. 890.[5] MISO Transmission Owners filed comments opposing several of the proposed revisions. By order issued on April 26, 2013, the Commission accepted certain of the proposed revisions, but rejected proposed Tariff provisions relating to penalties for unreserved use, reservation priority for point-to-point transmission service, and reservation priority for exercising a ROFR. The Commission found that MISO had not satisfied the "consistent with or superior to" standard for the revisions related to reservation priority for point-to-point transmission service and reservation priority for exercising a ROFR provisions. The Commission also rejected revisions relating to penalties for unreserved use, stating that MISO's proposal only addressed how unreserved use penalties will be imposed on Interchange Schedules but not on non-Interchange Schedules. Accordingly, the Commission directed MISO to submit a compliance filing removing these rejected Tariff revisions.[6]

4. On June 4, 2013, as amended on August 8, 2013, in compliance with the April 26 Order, MISO submitted revisions to its Tariff in order to re-file the previously effective

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[4] *See Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,070, at P 2 (2013) (April 26 Order) (noting MISO's plans to replace its OASIS). Prior to its filing in Docket No. ER13-692-000, MISO requested, and the Commission granted, in Docket No. ER11-2923-000, a limited, one-time waiver of certain Commission regulations and Tariff provisions until April 30, 2012 (for waiver of requirements of Attachment O and 18 C.F.R. § 38.2(a)(2) regarding posting data to the security template in the OASIS) and December 31, 2012 (for waiver of Tariff sections 13.2 and 14.2). *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,062 (2012). MISO requested that waiver in order to allow it to upgrade its OASIS to comply with Order No. 676-E, which set forth revised standards adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board and directed public utilities to either incorporate them into their jurisdictional tariffs or seek a waiver from the Commission. *See Standards for Business Practices and Communication Protocol for Public Utilities*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 (2009).

[5] *See Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

[6] The affected Tariff provisions were sections 13.2, 13.7, 14.2, 14.5, 27A.1.2, 27A.1.6, 27A.2.2, 27A.2.4, 27A.2.6, 30.4, and 37.2.

versions of the provisions rejected in the April 26 Order. On the same day, as amended on July 22, 2013, in Docket No. ER13-1631-000, MISO filed a request for limited waivers of certain aspects of the provisions of its Tariff governing unreserved use penalties, determination of reservation priority for point-to-point transmission service, and the reservation priority for exercise of the ROFR for point-to-point transmission service. MISO stated that the requested waivers would allow MISO time to evaluate, develop, test and implement the process, software and Tariff language revisions necessary to respond to the April 26 Order, to allow for appropriate training and transition assistance, and to ensure that any downstream process impacts are identified and understood.

5. By order issued on October 25, 2013, the Commission accepted MISO's compliance filing which, as indicated, restored the previously effective versions of the Tariff provisions rejected in the April 26 Order.[7] The October 25 Order also granted MISO's request for limited waivers of the restored Tariff provisions from April 15, 2013 until November 19, 2013.

II. <u>Docket No. ER14-295-000</u>

6. On November 1, 2013, MISO filed proposed revisions to the Tariff to address the unreserved use penalty and reservation priority issues associated with its new OASIS platform as developed by MISO and vetted with MISO's transmission owners (November 1 Filing). MISO requests an effective date of January 15, 2014 for the proposed Tariff changes.

7. MISO states that in undertaking efforts to identify unreserved use, it was committed to developing an unreserved use tracking mechanism for internal transmission service (i.e., tracking unreserved use on power flows internal to MISO[8]) that was efficient and cost effective. But, according to MISO, a challenge for tracking internal network service was that MISO does not currently require the submission of schedules for internal transmission service, which would be the most direct, efficient method of identification of unreserved use internally. Thus, it had to explore alternative methods to identify internal unreserved use. MISO states that it considered using metering data to identify internal unreserved use. However, applying that approach across the entire MISO footprint would require MISO to collect and analyze metering data for all internal meter points for all time points during each month. According to MISO, the implementation of such a process would likely cost MISO and its transmission owners

[7] *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,070 (2013) (October 25 Order).

[8] November 1 Filing, Transmittal Letter at 3.

more than might be received from penalties assessed as a result of an occasional finding. In short, states MISO, the costs associated with implementing a daily metering assessment for purposes of identifying internal unreserved use would need to correlate to substantial benefits to justify the significant resources and, analyses performed by MISO (as provided in in Attachments C and D of the November 1 Filing) do not support such correlation.[9]

8. MISO states that it and its transmission owners discussed the potential options for tracking internal unreserved use and determined that future, planned Reliability Standards that require the scheduling of all internal point-to-point transmission service would be the most appropriate method to facilitate the tracking and identification of internal unreserved use. More specifically, MISO identified that North American Electric Reliability Corporation (NERC) Reliability Standard INT-011-1, Intra-Balancing Authority Transaction Identification, requires mandatory tagging of all intra-Balancing Authority transfers that use point-to-point transmission service. MISO determined that the most efficient way to track internal unreserved use was to do so in conjunction with NERC's intra-Balancing Authority tagging requirement, which would track unreserved use of internal point-to-point service on the same basis as is done for Interchange Transactions. MISO states that it is committed to doing so once INT-011-1 is effective.[10]

9. To address the identification and penalization of unreserved use of point-to-point transmission service on MISO's transmission system, MISO proposes in the November 1 Filing an interim sampling approach for monitoring unreserved use associated with internal point-to-point transmission service, until the implementation of INT-11-1 that requires mandatory tagging of all intra-Balancing Authority transfers that use point-to-point transmission service.[11] MISO states that it will detail the sampling methodology and its process for review in its Business Practice Manual 013 – Module B – Transmission Service.[12] MISO states that as it gains experience with the sampling methodology, it will adjust its sample size as necessary to better ensure that unreserved uses internal to its system are identified. With regard to unreserved use for internal network transmission service, MISO states that given the aforementioned challenges it had identified in its analyses it presents in the November 1 Filing, it proposes to remove all provisions related to the tracking of and administration of penalties for such internal

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[9] *Id.* at 4 (citing Attachment C (MISO's confidential transmission revenue assessment) and Attachment D (MISO's confidential unreserved use cost analysis)).

[10] *Id*. at 4-5.

[11] *Id.* at 5.

[12] *Id.*

unreserved use. MISO proposes to retain the provisions related to tracking and administration of penalties for unreserved use as it relates to resources that are not physically connected to the MISO Transmission System, as these uses are currently tracked through Interchange Schedules. MISO states it has attempted to balance the Commission's objectives regarding assessment of operation penalties as set forth in Order No. 890, in crafting its proposed final and interim solutions.

10. To address reservation priority for competing point-to-point transmission service requests, MISO proposes to eliminate price as the primary tiebreaking factor for competing transmission service requests, and to continue to prioritize competing transmission service requests based on the time that competing requests are received by MISO.[13] Given that MISO's overall transmission service rate calculation is comprised of several factors that are determined after or at the time of service, MISO states that eliminating price as a tiebreaker will allow MISO to operate its transmission systems in an orderly and non-discriminatory manner.

11. To address reservation priority for exercising a ROFR when a longer duration point-to-point transmission service request preempts multiple shorter duration reservations, MISO proposes to eliminate duration and price as tiebreakers and to continue to prioritize the exercise of ROFRs by time of response.[14] MISO states that its OASIS is not configured to support duration-based bidding by reservation holders and to do so would expose market participants to complexities that introduce unnecessary risk to their defense of confirmed transmission service rights while also potentially providing an advantage to transmission customers with more resources. MISO further states that it proposes to remove price as a tiebreaker for ROFR for the same reasons as it proposes to remove price as a tiebreaker for reservation priority.

A. Notice of Filing and Responsive Pleadings

12. Notice of the November 1 Filing was published in the *Federal Register*, 78 Fed. Reg. 68,050 (2013), with motions to intervene and protests due on or before November 22, 2013. Timely motions to intervene were filed by NRG Companies,[15] Wisconsin Electric Power Company and American Municipal Power, Inc.

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[13] *Id.*

[14] *Id*. at 9.

[15] NRG Companies are Louisiana Generating LLC, NRG Power Marketing LLC, GenOn Energy Management, LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, NRG Sterlington Power LLC, Cottonwood Energy Company LP and NRG Wholesale Generation LP.

13. A timely motion to intervene and comments were filed by MISO Transmission Owners.[16] MISO Transmission Owners do not oppose the proposed Tariff revisions. They state that MISO collaborated with them in developing the proposed Tariff changes, and they state that the proposed changes are a reasonable solution to better align MISO's Tariff with the limitations and functionality of the OASIS platform and market systems.[17]

B. Discussion

1. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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[16] MISO Transmission Owners, for purposes of this filing, consist of: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company d/b/a ITC*Transmission*; ITC Midwest LLC; Manitoba Hydro; 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.

[17] MISO Transmission Owners Comments at 6. MISO Transmission Owners also state that the process of implementing Tariff changes to reflect MISO's OASIS platform and market system has been ongoing and that further changes may be coming, e.g., when Reliability Standard INT-011-1 becomes effective. Therefore, they state that they reserve the right to comment upon or protest any further filings to change the Tariff provisions that are the subject of this filing. *Id.* (citing November 1 Filing at 5).

2. **Substantive Matters**

15. We find that MISO has satisfied the "consistent with or superior to" standard of Order No. 890[18] in regards to its proposed Tariff changes and that the proposed Tariff changes are just and reasonable. The changes are justified by the limitations and functionality of MISO's existing OASIS platform and market systems. No party has provided adverse comments and MISO has engaged its stakeholders in developing these changes.

16. Accordingly, we will accept MISO's proposed Tariff changes, effective January 15, 2014, as requested.

III. **Docket No. ER13-1631-001**

17. On November 1, 2013, MISO filed a motion requesting a limited extension of the waivers previously granted in the October 25 Order (November 1 Motion). Specifically, MISO seeks to extend the end date for those waivers from November 19, 2013, to January 15, 2014, which is the requested effective date MISO's proposed Tariff revisions in the November 1 Filing.

18. In the November 1 Motion, MISO states that it anticipates that the Tariff changes proposed in the November 1 Filing will collectively resolve the unreserved use, reservation priority and ROFR issues. MISO states that the Tariff revisions proposed in the November 1 Filing are the same Tariff provisions for which MISO requested limited waiver in Docket No. ER13-1631-000, pending resolution of the unreserved use, reservation priority and ROFR issues in question. Accordingly, MISO states that, should the Commission accept the proposed Tariff modifications effective January 15, 2014, as requested, the implementation of these Tariff changes will nullify the need for the instant request for limited waivers. However, MISO states that until the proposed Tariff modifications take effect, the requested waivers will need to remain in place. Given the direct correlation between the effective date proposed in the November 1 Filing and the waivers requested in Docket No. ER13-1631-001, MISO requests that the end date of the waivers be extended from November 19, 2013 until January 15, 2014, the requested effective date of the Tariff modifications proposed in the November 1 Filing.

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[18] *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 157, 160 (a regional transmission organization's deviations from the *pro forma* Open Access Transmission Tariff must be consistent with or superior to the *pro forma* Open Access Transmission Tariff).

A. Notice of Filing and Pleadings

19. Notice of the November 1 Motion was published in the *Federal Register*, 78 Fed. Reg. 67,137 (2013), with interventions and comments due on or before November 22, 2013. None were filed.

B. Discussion

20. In granting waivers of tariff provisions, the Commission has generally required that the requested waiver be of limited scope, address a concrete problem that needs to be remedied, and not have undesirable consequences, such as harming third parties. We agree that under the circumstance presented here, waiver of those provisions, for the limited period requested, satisfies the Commission's standard for tariff waivers. Specifically, we continue to find, as we found in the October 25 Order, that MISO's requested waivers are of limited scope, address a concrete problem that needed to be remedied, and will not have undesirable consequences, such as harming third parties.[19]

21. Accordingly, we will grant MISO an extension of the waiver of Tariff sections 13.2, 13.7, 14.2, 14.5, 27A.1.2, 27A.1.6, 27A.2.2, 27A.2.4, 27A.2.6, 30.4, and 37.2 until January 15, 2014, as ordered below.[20]

The Commission orders:

(A) The November 1 Filing is hereby accepted for filing, effective January 15, 2014, as discussed in the body of this order.

(B) The November 1 Motion is hereby granted, as discussed in the body of this motion.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[19] *See* October 25 Order, 145 FERC ¶ 61,070 at P 27.

[20] Although MISO states that implementation of the Tariff provisions on the proposed effective date nullifies the request for waiver, we find that waiver is still required for the period from November 19, 2013 until January 15, 2014.