

146 FERC ¶ 61,094
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 No. ER14-684-000

ORDER ACCEPTING SERVICE AGREEMENT

(Issued February 14, 2014)

1. On December 18, 2013, Midcontinent Independent System Operator, Inc. (MISO), pursuant to section 205 of the Federal Power Act (FPA),¹ submitted for filing an executed Network Integration Transmission Service Agreement (NITSA) with Arkansas Electric Cooperative Corporation (AECC).² The NITSA includes a non-conforming Specification Sheet that provides MISO's Schedule 9 network integration transmission service notwithstanding that AECC's load under the NITSA will not be physically interconnected to a MISO transmission owner. Rather, that load is physically connected to transmission facilities operated by the Southwest Power Pool, Inc. (SPP) and the Southwestern Power Administration (Southwestern Power). The NITSA provides transmission service for the AECC load that is planned to be pseudo-tied into the MISO Balancing Authority Area, conditioned on AECC establishing such pseudo-tie arrangements no later than June 1, 2014.³ In this order, we accept for filing the NITSA, to become effective December 19, 2013, as requested.

¹ 16 U.S.C. § 824d (2012).

² MISO designated the NITSA as Service Agreement No. 2555 under its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). Midcontinent Independent System Operator, Inc., FERC Electric Tariff, Midwest ISO Agreements, SA 2555, AECC NITSA NOA, 31.0.0.

³ Throughout this order, capitalized terms are as identified in the MISO Tariff.

I. Background

2. MISO states that AECC is an incorporated, non-profit cooperative electric power association. AECC is owned and controlled by its 17 distribution cooperative members. Its transmission facilities are interconnected with the transmission system of Entergy Arkansas, Inc. (Entergy Arkansas), one of the Entergy Operating Companies that has recently joined MISO as a transmission owner and integrated its loads and resources with MISO markets.

3. MISO states that AECC has joined MISO as a transmission-owning member and plans to integrate its transmission facilities as soon as practicable, which may be several months after the Entergy Operating Companies and their load and generation are integrated into MISO's Energy and Operating Reserve Markets. MISO explains that AECC's native load is located in Balancing Authority Areas in the SPP region as well as the Entergy Balancing Authority Area (now the MISO Balancing Authority Area). To serve the SPP load, AECC takes network service from SPP pursuant to Service Agreement No. 1518 under the SPP Open Access Transmission Tariff (SPP NITSA). MISO states that the SPP NITSA is a long-term firm service arrangement, which is expected to continue in accordance with its terms following AECC's integration into MISO. To serve its load in Entergy Arkansas' area, AECC currently has a grandfathered transmission agreement with Entergy Arkansas, which provides flexibility comparable to the SPP NITSA and which MISO recently listed in Attachment P to the MISO Tariff.⁴ MISO states that AECC has agreed to convert its grandfathered agreement with Entergy Arkansas to MISO open access service upon Entergy's integration into MISO.

4. MISO states that AECC's designated network resources are comprised of generation that is located in four different Balancing Authority Areas or Local Balancing Authority Areas serving loads located in four different Balancing Authority Areas or Local Balancing Authority Areas: Entergy Arkansas; American Electric Power Company's Southwestern Electric Power Company located within SPP; Oklahoma Gas & Electric Company, also within SPP; and the Southwestern Power, a contract participant in SPP. MISO explains that prior to Entergy's decision to become a member of MISO, AECC had put in place various transmission service arrangements that allowed it to economically integrate its loads and resources, despite the unusual geographic dispersal of those loads and resources.

⁴ See *Midwest Indep. Transmission Sys. Operator, Inc.*, Docket No. ER13-945-000 (May 31, 2013) (delegated letter order).

II. MISO Filing

5. MISO explains that the non-conforming NITSA will ensure that AECC is able to retain most of the economic benefits of its existing load serving arrangements, which require transmission service on both the Entergy Arkansas system and the SPP transmission system. MISO states that the NITSA itself is a conforming agreement in all respects, except as to the Specification Sheet for the pseudo-tied load because it provides in sections 3 and 18.1 that AECC will use and pay for MISO network integration transmission service for this load, rather than point-to-point transmission service. MISO submits that the NITSA is just and reasonable and should be approved by the Commission.

6. MISO states that upon its integration into MISO, AECC will take network integration transmission service from MISO to serve AECC's native load located in the Entergy Arkansas Local Balancing Authority. However, a large portion of the AECC native load is located in three different Balancing Authority Areas in the SPP region and is directly interconnected with the transmission facilities owned and operated by Southwestern Power and two SPP transmission owning members, rather than the facilities of a MISO Transmission Owner.

7. MISO explains that section 31.3 of the Tariff provides that "all Network Load must be physically interconnected with a Transmission Owner or [Independent Transmission Company (ITC)] within the geographic area in which facilities subject to the Tariff are located."⁵ Consequently, without a non-conforming NITSA, AECC would be required to pay the MISO regional through-and-out rate for point-to-point service to integrate AECC's generation and loads on the same basis that it does today. MISO states that it believes that, in the circumstances presented here, the purpose of the physical interconnection requirement of section 31.3 is satisfied by a combination of factors present with respect to AECC's proposed integration.⁶ MISO asserts that the MISO balancing authority and Entergy Arkansas local balancing authority requirements will be satisfied by the proposed pseudo-tie arrangements incorporating the SPP region loads into the Entergy Arkansas Local Balancing Authority Area. MISO explains that these arrangements are reflected in the NITSA.

⁵ Tariff § 31.3.

⁶ MISO states that similar facts and equities earlier led MISO to request approval of a similar non-conforming network integration transmission service agreement for South Mississippi Electric Power Association (SMEPA). *See Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,242 (2013) (accepting MISO's proposed executed non-conforming NITSA with SMEPA).

8. MISO asserts that the pseudo-tie arrangements, as proposed by AECC, will be consistent with the MISO Tariff and should be deemed sufficient to satisfy the requirements of MISO Tariff section 31.3. MISO contends that pseudo-tied loads and resources are normal operating arrangements acceptable for both reliability purposes and financial settlements and that the MISO Tariff, including the provisions that govern the operation of the MISO Energy and Operating Reserve Markets, are fully compatible with pseudo-tied loads like that of AECC. MISO states that its staff has met with AECC staff to analyze the proposed pseudo-tie of the SPP loads into MISO, and to ensure that the load connected to Southwestern Power and SPP facilities can be correctly modeled and financially settled under the MISO Tariff, even though AECC will continue to pay SPP for network integration transmission service under the SPP NITSA.

9. MISO also contends that requiring AECC to take MISO's drive-out point-to-point transmission service for AECC's SPP loads will create operational inefficiencies and deprive AECC and its members of the benefits of the commercial bargains it negotiated prior to Entergy's decision to join MISO. MISO states that under a point-to-point transmission service arrangement, AECC would have to secure a path from AECC to SPP, as well as a path from SPP to AECC. MISO argues that this would impose undue cost and operational burdens on AECC to be able to manage both resources and load efficiently, and would be a factor in its financial analysis when weighing the benefits of Regional Transmission Owner membership. MISO further contends that the loads served under the SPP NITSA represent an integral part of AECC's native load. MISO states that these loads are indistinguishable from the rest of AECC's native load, which is attached to the transmission and/or distribution facilities of AECC and its members or other MISO transmission owners.

10. According to MISO, the SPP NITSA provides AECC with sufficient firm transmission to designate network resources under the SPP NITSA as Designated Network Resources under the MISO Tariff. MISO argues that under the MISO Tariff, AECC will be able to use MISO network integration transmission service arrangements to serve its members connected to MISO Transmission Owners, and there is no basis for treating AECC's SPP NITSA loads differently. MISO argues that requiring a subset of AECC's native load to take drive-out point-to-point transmission service at the regional through-and-out rate, while the rest of AECC's native load can enjoy the benefits of network service, will be unduly discriminatory, or alternatively, will result in cost shifts among its members to equalize transmission rates.

11. Further, MISO states that section 37.3a of the Tariff exempts Transmission Owners taking network integration transmission service to spare their bundled load from paying most transmission service and ancillary services charges. MISO contends that AECC's SPP NITSA loads, upon integration into MISO, will become bundled loads. MISO argues that they shared in the costs of the AECC system, and while they must pay for transmission service on SPP facilities, there is no reasoned basis for subjecting them

to a pricing regime within MISO that differs from the rest of AECC's bundled load. MISO also argues that given the location of its system, AECC has fewer options to serve its native load once Entergy's transmission, load and generation are integrated into the MISO Energy and Operative Reserve Markets. MISO states that AECC's agreement to convert its grandfathered agreement to open access service under the MISO Tariff upon Entergy's integration will benefit not only AECC and Entergy Arkansas, but all of the MISO market. MISO argues that financially penalizing AECC with increased costs for moving to open access transmission service would run counter to the Commission's objectives to encourage greater competition and more efficient service through open access transmission service and regional tariffs.

12. MISO proposes to invoice AECC at the Schedule 9 network integration transmission service rate, and the NITSA Specification Sheet is made conditional on the completion of the proposed pseudo-tie of the AECC load into MISO's Balancing Authority Area, and the integration of the AECC transmission facilities into the MISO transmission system by June 1, 2014.⁷ MISO explains that as set forth in the NITSA, if these conditions are not met, the charges for point-to-point service that otherwise would have been invoiced (absent the NITSA) will become due and owing, less a credit for network integration transmission service already invoiced and paid, and the NITSA for this load will terminate and be replaced by a point-to-point reservation effective on or after June 1, 2014.

13. MISO requests that the NITSA be made effective December 19, 2013, the anticipated integration date for Entergy's facilities into MISO. MISO requests waiver of the notice requirement set forth at 18 C.F.R § 35.3(a)(1) (2013). MISO submits that good cause exists to grant this waiver to allow MISO to implement the timely inclusion of AECC load as network load pending the successful integration of its transmission facilities into the MISO Transmission System, and the completion of the pseudo-tie arrangements that will permit the SPP area loads to be integrated into MISO's Energy and Operating Reserves Market.

III. Notice of Filing and Responsive Pleadings

14. Notice of MISO's Filing was published in the *Federal Register*, 78 Fed. Reg. 79,432 (2013), with interventions and protests due on or before January 8, 2014. Timely motions to intervene were submitted by SMEPA, SPP, the MISO Transmission

⁷ See MISO December 19, 2013 Errata to Filing (correcting the erroneous reference to the year 2013).

Owners⁸ and AECC. Energy Arkansas submitted a timely motion to intervene and comments. On February 6, 2014, American Electric Power Service Company (AEP) filed a motion to intervene out-of-time.

15. On January 22, 2014, AECC filed an answer to the motion to intervene and comments filed by Entergy Arkansas (AECC Answer to Entergy Arkansas). On January 23, 2014, SPP filed a motion to accept comments out-of-time and comments. On February 7, 2014, AECC filed an answer to SPP's motion to accept comments out-of-time and comments (AECC Answer to SPP) and Southwestern Power submitted a motion to intervene with comments out-of-time. On February 11, 2014, AECC filed an answer to Southwestern Power.

A. Procedural Matters

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

17. 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 AECC's answers because they have

⁸ 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.; 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 ITCTransmission; 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.

provided information that assisted us in our decision-making process, and we also accept the late-filed comments submitted by SPP.

18. 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 accept AEP's and Southwestern Power's late-filed motion to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

1. Comments

19. Entergy Arkansas states that it does not oppose the NITSA provided that Energy Arkansas' understanding of the agreement is correct. Energy Arkansas requests that MISO confirm certain aspects of the NITSA. Specifically, Entergy Arkansas requests that for the pseudo-tied load and AECC's load physically located in the Entergy Arkansas Local Balancing Authority, under the NITSA, AECC will pay the rate for network integration transmission service under Schedule 9 of the Tariff. Entergy Arkansas states that it requests confirmation in light of MISO's statement that the pseudo-tied load qualifies as bundled load under the MISO Tariff and MISO's discussion of the bundled load exemption in the transmittal letter.⁹

20. Entergy Arkansas also requests that MISO confirm that the NITSA does not provide for credits under section 30.9 of the Tariff. Entergy Arkansas states that it requests this clarification in light of MISO's statement that "[p]rior to the integration of AECC's transmission facilities into MISO, AECC will be eligible for credits under section 30.9 of the Tariff, for its transmission investments."¹⁰

21. Entergy Arkansas also requests that MISO confirm that AECC will be responsible under the Tariff for losses and congestion associated with the pseudo-tied load. Entergy Arkansas notes that MISO states that the pseudo-tie arrangement "will be accurately modeled and settled under its Tariff, without double charging this AECC load for congestion and losses it will pay to SPP, once the pseudo-tie becomes effective and the AECC facilities are fully integrated into MISO."¹¹ Entergy Arkansas asserts that MISO should confirm that the pseudo-tied load will be treated the same as other network load regarding congestion and losses on the MISO system.

⁹ Entergy Arkansas Comments at 2 (citing Transmittal Letter at 6).

¹⁰ *Id.* (citing Transmittal Letter at 6).

¹¹ *Id.* at 3 (citing Transmittal Letter at 4).

22. Entergy Arkansas also requests that MISO confirm that the pseudo-tied load value will be based, in its entirety, on the physical AECC load at each specific off-system point of delivery designated as off-system network load. Entergy Arkansas adds that Schedule 9 charges will be solely based on actual loads at the designated delivery points in SPP or Southwestern Power.

23. Entergy Arkansas states that to the extent that these understandings are not confirmed, it reserves the right to object to the NITSA. Finally, Entergy Arkansas notes that the pseudo-tie arrangements have not been finalized, and as an affected local balancing authority, Entergy Arkansas expects that MISO and AECC will work with Entergy Arkansas and share appropriate information as such arrangements are developed.

24. SPP asserts that certain ambiguities exist within the NITSA that, without clarification, may inhibit AECC's transition to MISO network integration transmission service. SPP further asserts that the NITSA casts a broad net over AECC's load and resources, and it is unclear which load and resources MISO intends to pseudo-tie into MISO.

25. SPP argues that while the instant filing correctly recognizes the potential scope of network service available to AECC under the SPP NITSA, the structure of transmission service arranged by AECC and as currently provided by SPP to AECC is not as extensive as described in the filing and assumed in the NITSA. Specifically, SPP clarifies that the SPP NITSA is not currently structured to serve AECC load within Entergy Arkansas, nor does the SPP NITSA recognize that AECC designated network resources may be utilized for AECC load located outside of SPP. Thus, SPP contends, MISO's claim that AECC's loads are indistinguishable from all of its native load is not consistent with AECC's current arrangement with SPP.

26. SPP also claims that MISO misrepresents the service sought by AECC and arranged by AECC from SPP to Entergy Arkansas and that MISO fails to recognize that the existing grandfathered agreement between AECC and Entergy Arkansas is conditioned upon point-to-point reservations and is unrelated to network integration transmission service. SPP states that it is concerned that MISO's representation implies that MISO would have inherent rights to leverage designated network resources within SPP to serve MISO load. SPP clarifies that this is correct only to the extent that AECC's network service arrangements under the SPP NITSA are modified to accommodate this possibility, which AECC has so far not requested.

27. SPP states that it has not had the opportunity to assess the reliability impacts on SPP's transmission system of using SPP designated network resources to serve AECC load in MISO, and that SPP has not granted transmission service to AECC to allow this arrangement. Thus, SPP requests that the Commission require AECC to request any desired or necessary changes in the currently effective SPP network integration transmission service under the provisions of SPP's tariff prior to accepting the NITSA

and allow SPP sufficient time to perform the necessary studies under its tariff to grant the modified network service arrangement. SPP argues that the Commission should also require AECC to clarify how its resources and load will be divided and how the potential ramifications on SPP's Integrated Marketplace will be mitigated.

28. SPP expresses concerns regarding the planned pseudo-tie arrangements. SPP argues that a pseudo-tie for load in excess of AECC's intended transfers out of Entergy Arkansas imposes an operational burden on AECC and SPP and results in additional seams issues in coordination of the meter data for both load and generation across balancing authorities and creation of additional congestion that impacts transmission reservations. SPP states that MISO and AECC did not include SPP in their analysis and discussions regarding pseudo-tying of AECC's loads into MISO. SPP further states that it is concerned that there is a limited window of time for AECC to secure the necessary arrangements with SPP to accomplish the intended results of the NITSA. SPP also argues that either MISO or AECC must make arrangements with SPP and SPP Local Balancing Authorities into which the pseudo-ties are proposed to extend.

29. Noting that MISO's Tariff denies the availability of network service to any load outside the MISO transmission system, SPP avers that MISO may not have had reason to consider provision of network service to loads outside its transmission system until its recent proposals for SMEPA and AECC. SPP is concerned that MISO's design of its market has not considered the necessity of coordination with an external market such as SPP and the unintended consequences that result.

30. SPP states that it is similarly concerned how MISO's must-offer rules will be implemented to require AECC resources located within SPP to serve MISO load. SPP argues that the must-offer requirement that external resources designated under a MISO NITSA must be offered to the full extent of the designation under MISO's Tariff will result in use of the SPP network integration transmission service to transact a wholesale energy trade with capacity that belongs to an SPP party when it is not being used to meet the load of AECC. SPP contends that, although MISO can utilize its own transmission facilities in excess of the actual load under the NITSA, the Commission should not allow MISO to grant this type of usage on SPP's, or any third party, system.

31. SPP states that MISO should have attempted to work with SPP to ensure a smooth transition, and further states that a joint study to consider the impacts of the pseudo-tied load on third parties and SPP is appropriate. SPP also requests clarification that MISO's must-offer rules will not be applicable to resources located within SPP if the designation to serve MISO load would exceed AECC's transmission rights and capacity availability on SPP facilities.

32. Southwestern Power states that although it does not oppose AECC's decision to take network integration transmission service under the MISO Tariff, it shares SPP's concerns regarding the ambiguity of the NITSA. Specifically, Southwestern Power states

that it is unable to clearly determine which designated resources MISO intends to utilize for the AECC loads, nor how MISO intends to treat the use of Southwestern Power's facilities currently serving the AECC load at delivery points included in the proposed pseudo-tie arrangements. Southwestern Power requests that the Commission require MISO to reformulate the proposed NITSA to provide more specificity as to which resources are to serve which loads that AECC has proposed be pseudo-tied from Southwestern Power into MISO. Southwestern Power states that this additional information will provide Southwestern Power and SPP with the opportunity to determine how the MISO/AECC arrangement and the NITSA will impact: (1) Southwestern Power; (2) AECC's current contractual arrangements for the use of Southwestern resources; and (3) the current grandfathered point-to-point transmission agreements and agreements between Southwestern Power and AECC under Southwestern Power's open access transmission tariff. Southwestern Power states that this information will also assist them in determining whether or not SPP and Southwestern Power will need to study the impacts of the pseudo-tied loads into MISO.

2. AECC Answers

33. AECC states that it does not oppose Entergy Arkansas's intervention, explaining that AECC's ability to quickly and effectively accomplish the operational and technical work needed to effectuate the pseudo-tie arrangement requires maximum input and consistent cooperation from Entergy Arkansas. AECC responds to the points raised by Entergy Arkansas.

34. First, AECC agrees that the billing determinates for network transmission service will be the sum of the load served directly from the Entergy Arkansas transmission system and the pseudo-tied load, and that the NITSA does not apply the bundled load exemption.¹² Second, AECC clarifies that it is eligible for credits related to the reimbursement agreement accepted by the Commission related to upgrading the Haskell

¹² The NITSA provides that AECC will be charged the transmission service rate in the Energy Arkansas transmission pricing zone. The MISO Tariff provides:

[A] Transmission Owner located in a pricing zone or Local Balancing Authority Area with one or more other Transmission Owners shall remain obligated to pay for Transmission and/or Other Ancillary Services it receives within that pricing zone or Local Balancing Authority Area that it does not provide itself unless the transmission and/or ancillary services are provided pursuant to a Grandfathered Agreement.

MISO Tariff § 37.3(a).

to Woodlawn 115 kV transmission line.¹³ Third, AECC explains that the NITSA provides for treatment for load pseudo-tied into MISO comparable to that of all other network integration transmission service load. Fourth, AECC states that the NITSA provides that load pseudo-tied into the MISO system is treated the same as all load served at any other delivery points. As a result, the billing determinant for AECC's network transmission service is the sum of the load served directly from the MISO transmission system, plus all pseudo-tied load.

35. AECC concedes that Entergy Arkansas is correct that the pseudo-tie arrangements have not been finalized, but emphasizes that AECC plans to do everything possible to finalize the pseudo-tie work in advance of the June 1, 2014 deadline. Finally, AECC states that it does not believe Entergy Arkansas's comments have identified any basis for changing the NITSA as filed, or for altering MISO's proposed implementation of the MISO Tariff to accommodate the proposed pseudo-tie arrangement in a manner that would preserve the benefits to be realized from AECC's MISO membership.

36. In response to SPP, AECC states that the specific meter points that it is requesting to be pseudo-tied out of SPP into MISO are E. Fayetteville, E. Centerton, Avoca, and Carley Road. AECC further states that it is not requesting that any resources be pseudo-tied out of SPP into MISO, and neither does AECC propose using AECC resources within SPP to serve load in MISO on a firm basis. Similarly, AECC states that it does not intend to convert designated network resources in SPP to designated network services in MISO, and AECC acknowledges that its existing transmission service arrangements within SPP were not designed to address transmission services needs in the Entergy Arkansas Local Balancing Authority area.

37. In response to SPP's comment that it is unclear which load and resources MISO intends to pseudo-tie into MISO, AECC states that it provided SPP a list of loads that it is proposing to pseudo-tie into MISO on December 20, 2013. AECC further states that it provided an updated list directly to SPP that more closely matched the AECC point to point reservation from Entergy Arkansas, at SPP's request, on January 22, 2014.

38. In response to SPP's comment that it is unsure how the proposed NITSA and the related pseudo-tie arrangement will be structured and how they will impact SPP, AECC states that AECC submitted a request for information through the SPP Request Management System regarding requirements to pseudo-tie load out of the SPP area on November 22, 2013. AECC states that it had telephone conversations with SPP personnel beginning at least as early December 4, 2013, including a conference call on December 19, 2013 and that it has had numerous email exchanges with relevant

¹³ AECC Answer to Entergy Arkansas at 3 (citing *Entergy Services, Inc.*, 141 FERC ¶ 61,258 (2012)).

personnel at SPP dating back to November 22, 2013, regarding the proposed pseudo-tie arrangement. AECC represents that in each instance, AECC has stated directly the importance of this effort to saving AECC significant transmission costs and has offered to defray any costs SPP has or will experience associated with the aggressive timeline outlined to accomplish the pseudo-tie work. AECC states that in order to minimize the effect on non-AECC, non-MISO parties, AECC limited its request of SPP to four load points to be pseudo-tied. AECC states that to the extent a lack of clarity still exists with regard to AECC's commitment to partner with SPP in this effort, AECC states that it is open to suggestions and input from SPP on how to proceed most effectively and expeditiously, and AECC would appreciate direct communication with specific requests to the extent AECC is not providing the necessary information or feedback to SPP.

39. In response to SPP's concern that MISO's representations imply that MISO would have inherent rights to leverage designated resources within SPP to serve MISO load, AECC states that it does not agree that SPP resources can be used to serve load in MISO regardless of whether the load is physically on the transmission system of Entergy Arkansas or pseudo-tied load out of SPP into MISO. AECC also clarifies that except for the load that is pseudo-tied out of SPP into MISO, all AECC load and resources within SPP will continue to be part of SPP's Integrated Marketplace.

40. AECC acknowledges that a three-way conversation between MISO, SPP and AECC did not occur prior to December 18, 2013, but contends that the effects on all parties involved were comprehensively considered. With respect to SPP's concerns about the must-offer requirement, AECC submits that it is unsure of the origin of this concern because AECC has not designated, nor will it seek to designate, any of its SPP-area resources to serve load in MISO.

41. AECC contends that it has requested previously, and requests again through this filing, that SPP provide a timeline for completion of its operational and other work to effectuate the pseudo-tie arrangement from SPP's perspective. AECC states that it appreciates SPP's willingness to work toward a timely resolution of the pseudo-tie accommodation request and if SPP will not be able to complete the work required to implement the pseudo-tie by June 1, 2014, it owes AECC and this Commission a definite statement to that effect in order to enable the parties to take steps to avoid forfeiture of AECC's opportunity to avert more than \$4 million per year in unnecessary cost for Arkansas cooperative consumers.

42. AECC states that it is aware that SPP has concerns regarding the terms of the existing SPP NITSA and that SPP is of the opinion that changes to the SPP NITSA may be necessary to accomplish the contractual aspects of the pseudo-tie arrangement. AECC states that it will await SPP's input on the changes that may be required to the SPP NITSA in this regard. AECC also requests, to the extent there are outstanding work items that SPP perceives need to be handled or finalized before the pseudo-tie can become effective, that SPP so advise.

43. In its answer to Southwestern Power, AECC contends that Southwestern Power's comments include some statements that do not represent fully the pseudo-tie process to date. AECC states that in December 2013, AECC informed Southwestern Power that it proposed to pseudo-tie AECC's four Southwestern Power-area loads into MISO, which Southwestern Power acknowledged on December 20, 2013 in an email providing AECC with information regarding the four metering points. AECC avers that it stands ready and willing to provide all required and requested information to Southwestern Power as soon as possible to facilitate Southwestern Power's efforts. AECC states that, to the extent a lack of clarity still exists with regard to AECC's commitment to partner with Southwestern Power in this effort, AECC is open to suggestions and input from Southwestern Power on how to proceed most effectively and expeditiously. AECC clarifies that the specific meter points that AECC is requesting to be pseudo-tied out of Southwestern Power into MISO are Glencoe, Norfolk, Viola and Buford. AECC states that it has no intention to pseudo-tie any load out of MISO, only into MISO.

3. Commission Determination

44. We note, as has MISO, that external loads that are pseudo-tied into the MISO Balancing Authority Area do not meet the eligibility requirements for network resource integration service under section 31.3 of MISO's Tariff, which requires that all Network Load must be physically interconnected with a Transmission Owner or ITC. In another case where MISO sought acceptance of a NITSA with SMEPA for external loads that are pseudo-tied into the MISO Balancing Authority Area, the Commission stated:

While section 31.3 of MISO's Tariff is an approved deviation from the Commission's *pro forma* open access transmission tariff (OATT), section 31.3 of the *pro forma* OATT provides the option of designating Network Load that is not physically interconnected with the transmission provider's system. Thus, we find that the inclusion of SMEPA's pseudo-tied load in the NITSA is just and reasonable because it is consistent with the flexibility provided under section 31.3 of the *pro forma* OATT.¹⁴

In that case, the Commission stated its expectation that "MISO will offer this non-conforming service (i.e., designation of Network Load that is not physically interconnected with the MISO transmission system) on a non-discriminatory basis to other similarly situated transmission customers who request it."¹⁵ We likewise expect

¹⁴ *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,242 at P 11.

¹⁵ *Id.*

that the non-conforming service MISO requests here will be offered on a non-discriminatory basis.

45. We will accept the NITSA, to become effective December 19, 2013, as requested. With regard to SPP's and Southwestern Power's concerns about the effect of the pseudo-tie arrangement on them, we find that they are outside the scope of this proceeding. SPP's and Southwestern Power's concerns relate to arrangements that AECC must make with SPP and MISO to pseudo-tie certain AECC load from the SPP Balancing Authority Area to the MISO Balancing Authority Area and any necessary transmission service arrangements, or modifications to existing transmission service arrangements, that AECC must make with SPP for AECC's use of SPP's transmission system. In contrast, the NITSA only provides for network integration transmission service on the MISO transmission system to serve certain external loads on the SPP transmission system, contingent, among other things, on AECC having in place arrangements to pseudo-tie that load into the MISO Balancing Authority Area by June 1, 2014. Our acceptance is without prejudice to any necessary arrangements AECC must make with SPP regarding the pseudo-tie or any transmission service on SPP's transmission system.¹⁶

46. With regards to Entergy Arkansas' concerns about AECC's eligibility for credits under section 30.9 of the Tariff, we note that the NITSA does not provide for section 30.9 credits to AECC and AECC does not argue otherwise. In its answer to Entergy Arkansas, AECC clarified that it is eligible for credits pursuant to a separate reimbursement agreement that deals with Entergy Arkansas-owned transmission facilities that AECC participant-funded under Attachment T of the Entergy OATT.¹⁷ This reimbursement mechanism is distinct from credits under section 30.9 of the MISO Tariff. Accordingly, the issue of credits under the reimbursement agreement is not relevant to the NITSA filed in this docket.

¹⁶ See, e.g., section 30.6 of the MISO Tariff ("The Network Customer shall be responsible for any arrangements necessary to deliver Capacity and Energy from a Network Resource not physically interconnected with the Transmission System. The Transmission Provider and ITC, if applicable, will undertake reasonable efforts to assist the Network Customer in obtaining such arrangements, including without limitation, providing any information or data required by such other entity pursuant to Good Utility Practice.").

¹⁷ See AECC Answer to Entergy Arkansas at 3. AECC cites to the Commission's order accepting the reimbursement agreement in *Entergy Services, Inc.*, 141 FERC ¶ 61,258 (2012).

The Commission orders:

The NITSA is hereby 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.