

146 FERC ¶ 61,238
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. ER14-1210-000
ER14-1212-001

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

(Issued March 31, 2014)

1. On January 30, 2014, pursuant to section 205 of the Federal Power Act (FPA),¹ Midcontinent Independent System Operator, Inc. (MISO) submitted an unexecuted Amended and Restated System Support Resource (SSR)² Agreement (Edwards Year 2 SSR Agreement) between Illinois Power Marketing Company (Illinois Power Marketing) and MISO. On January 31, 2014, pursuant to section 205 of the FPA, MISO submitted proposed Rate Schedule 43C (Allocation of SSR Costs Associated with the Edwards 1 SSR Unit).³ In this order, we accept the Edwards Year 2 SSR Agreement and Rate Schedule 43C, and suspend them for a nominal period, to be effective January 1, 2014, as requested, subject to refund and further Commission order.

¹ 16 U.S.C. § 824d (2012).

² MISO's Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) defines SSRs as "Generation Resources or Synchronous Condenser Units [(SCUs)] that have been identified in Attachment Y – Notification to this Tariff and are required by the Transmission Provider for reliability purposes, to be operated in accordance with the procedures described in Section 38.2.7 of this Tariff." MISO, FERC Electric Tariff, Module A, § 1.S, "System Support Resource (SSR)" (30.0.0). Unless indicated otherwise, all capitalized terms shall have the same meaning given them in the Tariff.

³ MISO states that on January 30, 2014, it filed an incorrect version of Schedule 43C in Docket No. ER14-1212-000. The correct version was filed in Docket No. ER14-1212-001. The Commission will treat all pleadings filed in Docket No. ER14-1212-000 as though they were also filed in Docket No. ER14-1212-001.

I. Background

2. On August 6, 2004, the Commission conditionally accepted MISO's proposed revisions to its Transmission and Energy Markets Tariff⁴ regarding the retirement or suspension of generation resources and SCUs, including provisions regarding the designation and treatment of SSRs.⁵ On September 21, 2012, the Commission conditionally accepted MISO's amended SSR Tariff provisions.⁶

3. On July 5, 2013, pursuant to section 206 of the FPA,⁷ AmerenEnergy Resources Generating Company (Ameren Generating) filed a complaint (Ameren Complaint) against MISO requesting that the Commission find that, to compensate Ameren Generating's Edwards Unit No. 1 (Edwards 1)⁸ for its continued service for reliability as an SSR unit, the SSR rate should not be limited to its incremental costs of operation (Docket No. EL13-76-000). Specifically, Ameren Generating alleged that MISO violated its Tariff by narrowly interpreting the term "going forward" costs so as to exclude the fixed costs of existing plant, which is recovered as depreciation expense, return on rate base, and associated taxes. Alternatively, Ameren Generating averred that, if the Commission finds that the MISO Tariff currently limits compensation to incremental costs, then the Commission should find that section of the MISO Tariff to be unjust and unreasonable and fix a new rate that provides SSR units with their fixed costs of existing plant.⁹

4. On July 11, 2013, MISO submitted an unexecuted SSR agreement (Edwards Year 1 SSR Agreement) between Ameren Energy Marketing (Ameren Marketing) and MISO, which MISO designated as Service Agreement No. 6502 under its Tariff (Docket No. ER13-1962-000). The Edwards Year 1 SSR Agreement does not include compensation for the fixed costs of existing plant (recovered as depreciation expense, return on rate base, and associated taxes), the inclusion of which is the subject of the Ameren

⁴ Now referred to as MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), as noted above in n.2.

⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *reh'g denied*, 109 FERC ¶ 61,157 (2004).

⁶ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012).

⁷ 16 U.S.C. §824e (2012).

⁸ Edwards 1 is a coal-fired electric generator located in Bartonville, Illinois and provides 90 MW of capacity.

⁹ Ameren Complaint at 2.

Complaint. MISO states that on August 9, 2011, Ameren Marketing submitted an Attachment Y Notice to MISO to suspend Edwards 1 as of February 6, 2012, for a period of 36 months, and on December 12, 2012, Ameren Marketing submitted a revised Attachment Y Notice to retire Edwards 1, effective December 31, 2012. MISO states that it notified Ameren Marketing on December 17, 2012 that MISO had designated Edwards 1 as an SSR unit until such time as appropriate alternatives can be implemented to mitigate reliability issues.¹⁰ According to MISO, the retirement of Edwards 1 would result in violations of Ameren Transmission Company local planning criteria during the summer and shoulder peak load periods until the completion of transmission reinforcements that include the Maple Ridge to Fargo 345 kV line and Maple Ridge Substation.¹¹ MISO requested an effective date of January 1, 2013.¹²

5. Also on July 11, 2013, as revised on September 26, 2013, MISO submitted a proposed Rate Schedule 43C under its Tariff regarding the allocation of the costs associated with the continued operation of Edwards 1 as an SSR (Docket No. ER13-1963-000).¹³ MISO stated that, pursuant to Rate Schedule 43C, SSR costs would be allocated, *pro rata*, to the Load Serving Entities (LSEs) that benefit from the extended availability of Edwards 1.¹⁴ MISO requested an effective date of January 1, 2013.¹⁵

6. On November 25, 2013, the Commission issued an order accepting and suspending the Edwards Year 1 SSR Agreement and Rate Schedule 43C, effective January 1, 2013, subject to refund and further Commission order.¹⁶

¹⁰ MISO, Edwards Year 2 SSR Agreement, Transmittal Letter at 2.

¹¹ *Id.* at 2-3 (citing MISO, Edwards Year 1 SSR Agreement, Transmittal Letter, Docket No. ER13-1962-000, at Ex. D, Attach. Y Study Report (filed July 11, 2013)).

¹² MISO, Edwards Year 1 SSR Agreement, Transmittal Letter, Docket No. ER13-1962-000, at 8-10 (filed July 11, 2013).

¹³ MISO, Edwards Year 1 Rate Schedule No. 43C, Transmittal Letter, Docket No. ER13-1963-000, at 2-3 (filed July 11, 2013).

¹⁴ MISO, Response to the Commission's August 27, 2013 Deficiency Letter, Docket No. ER13-1963-000, at 9-10 (filed Sept. 26, 2013).

¹⁵ MISO, Edwards Year 1 Rate Schedule No. 43C, Transmittal Letter, at 4-6 (filed July 11, 2013).

¹⁶ *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,163 (2013).

7. On December 2, 2013, Illinois Power Holdings acquired several Ameren Corporation subsidiaries, including Ameren Generating and Ameren Marketing.¹⁷
8. On January 30, 2014, MISO submitted the unexecuted Edwards Year 2 SSR Agreement for renewal of the Edwards Year 1 SSR Agreement in order to provide compensation for the continued availability of Edwards 1 as an SSR (Docket No. ER14-1210-000). As with the Edwards Year 1 SSR Agreement, the Edwards Year 2 SSR Agreement does not include compensation for the fixed costs of existing plant. MISO states that, according to the terms of the Edwards Year 1 SSR Agreement, MISO notified Ameren Marketing on September 26, 2013 that the SSR designation for Edwards 1 would be continued for 2014. After the acquisition, Illinois Power Marketing, Illinois Power Generating and MISO worked with the MISO Independent Market Monitor to develop an SSR agreement for 12 months, beginning on January 1, 2014.¹⁸
9. On January 31, 2014, in Docket No. ER14-1212-001, MISO submitted a proposed Rate Schedule 43C under its Tariff regarding the allocation of the costs associated with the continued operation of Edwards 1 as an SSR. According to MISO, SSR costs associated with Edwards 1 are allocated to LSEs within the Ameren Illinois local balancing authority area based upon each LSE's contribution to the peak of this area.¹⁹
10. MISO requests that a January 1, 2014 effective date for the Edwards Year 2 SSR Agreement and Rate Schedule 43C be granted either through waiver of the prior notice requirement or by treating the Edwards Year 2 SSR Agreement as a late-filed service agreement.²⁰

II. Notice of Filings and Responsive Pleadings

11. Notices of MISO's filings in Docket Nos. ER14-1210-000 and ER14-1212-000 were published in the *Federal Register*, 79 Fed. Reg. 7655 (2014) with interventions and protests due on or before February 20, 2014.

¹⁷ Ameren Marketing was renamed as Illinois Power Marketing, and Ameren Generating was renamed as Illinois Power Resources Generating, LLC (Illinois Power Generating). For purposes of this order, both Illinois Power Marketing and Illinois Power Generating will be referred to as Illinois Power.

¹⁸ MISO, Edwards Year 2 SSR Agreement, Transmittal Letter at 3.

¹⁹ MISO, Edwards Year 2 Rate Schedule 43C, Transmittal Letter at 2.

²⁰ MISO, Edwards Year 2 SSR Agreement, Transmittal Letter at 7-8, 10; MISO, Edwards Year 2 Rate Schedule 43C, Transmittal Letter at 5.

12. Notice of MISO's filing in Docket No. ER14-1212-001 was published in the *Federal Register*, 79 Fed. Reg. 7656 (2014) with interventions and protests due on or before February 21, 2014.

13. The following entities made filings in both Docket Nos. ER14-1210 and ER14-1212. Illinois Industrial Energy Consumers; Ameren Services Company; Wabash Valley Power Association, Inc.; Illinois Municipal Electric Agency; and Wisconsin Electric Power Company filed motions to intervene. Hoosier Energy Rural Electric Cooperative, Inc. and Southern Illinois Power Cooperative (Hoosier-Southern Illinois) filed a joint motion to intervene and protest. Illinois Municipal Electric Agency and Wabash Valley Power Association, Inc. (Illinois Municipal-Wabash Valley) filed a joint protest. Illinois Power filed a motion to intervene, limited protest, supplement to the Ameren Complaint, and request to consolidate proceedings.²¹ Illinois Commerce Commission filed a notice of intervention and comments. In addition, Exelon Corporation filed a motion to intervene in Docket No. ER14-1212.

14. Protesters raise concerns about the Edwards Year 2 SSR Agreement that include, but are not limited to: (1) justification of costs to be recovered; (2) cost provisions associated with the generator turbine overhaul (overhaul); (3) the "unanticipated repairs" provision; (4) penalties and provisions associated with misconduct events; (5) operational limitations placed on Edwards 1 that were not present in the first agreement; (6) participation in the capacity markets; (7) the use of local planning criteria, the reliability analysis and examination of alternatives; and (8) filing rights under section 205 of the FPA. Protesters also ask the Commission to reject Illinois Power's request for waiver of the prior notice requirement. In addition, Illinois Power incorporates by reference the arguments raised by Ameren in the Ameren Complaint regarding full cost-of-service rates and requests consolidation of the Docket No. ER14-1210 proceeding with the proceedings in Docket Nos. EL13-76 and ER13-1962. Protesters made no substantive comments regarding proposed Rate Schedule 43C.

15. On March 7, 2014, MISO filed an answer in Docket Nos. ER14-1210 and ER14-1212. Also on March 7, 2014, Illinois Power filed a reply in Docket Nos. ER14-1210 and ER14-1212. Also on March 7, 2014, Hoosier-Southern Illinois filed an answer in Docket Nos. ER14-1210, ER13-1962, and EL13-76.

16. In its answer, MISO responds to arguments raised by protesters regarding, among other things, filing rights, timing of maintenance expenditures, operational limitations, participation in the capacity auction, misconduct events, unanticipated repairs/overhaul expenses, the effective date, use of appropriate planning criteria, alternatives, and notice of retirement. MISO also resubmits its answer previously filed in the Ameren Complaint

²¹ Illinois Power submitted this filing in Docket Nos. ER14-1210, ER13-1962, and EL13-76.

proceeding and reiterates that it properly interpreted its Tariff insofar as Illinois Power is only entitled to receive going-forward compensation. In its reply, Illinois Power responds to, among other things, the need for the continued operation of Edwards 1, limiting an SSR agreement to summer months, participation in capacity markets, operational limitations, misconduct events, refund provisions, retirement of Edwards 1 as soon as MISO notifies Illinois Power it is no longer needed for reliability, notice of retirement, various cost issues, and the effective date. In its answer, Hoosier-Southern Illinois states that the Commission should reject Illinois Power's request to supplement the pending Ameren Complaint because it was done without the Commission's permission; alternatively, Hoosier-Southern Illinois argues that the supplemental filing established a new effective date that should be noticed.

III. Discussion

A. Procedural Matters

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

18. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept the answers that have been filed in these proceedings because they have provided information that assisted us in our decision-making process.

B. Commission Determination

19. We accept the Edwards Year 2 SSR Agreement and Rate Schedule 43C, suspend them for a nominal period, to be effective January 1, 2014,²² subject to refund and further Commission order.

²² We grant waiver of the prior notice requirement to allow the proposed Edwards Year 2 SSR Agreement and Rate Schedule 43C to be effective January 1, 2014, as requested. See *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,170, at PP 84-86 (granting waiver of prior notice rule and accepting an SSR agreement and associated rate schedule), *order on reh'g*, 144 FERC ¶ 61,128 (2013).

The Commission orders:

The Edwards Year 2 SSR Agreement and Rate Schedule 43C are hereby accepted for filing and suspended for a nominal period, to be effective January 1, 2014, subject to refund and further Commission order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.