

147 FERC ¶ 61,004  
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. ER14-1242-000  
ER14-1243-000

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

(Issued April 1, 2014)

1. On January 31, 2014, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Midcontinent Independent System Operator, Inc. (MISO) submitted a proposed System Support Resource (SSR) Agreement between Wisconsin Electric Power Company (Wisconsin Electric) and MISO, designated as Original Service Agreement No. 6502 (Presque Isle SSR Agreement) under its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).<sup>2</sup> Also on January 31, 2014, pursuant to section 205 of the FPA, MISO submitted proposed Rate Schedule 43G (Allocation of SSR Costs Associated with the Presque Isle SSR Units) under its Tariff. In this order, we accept the Presque Isle SSR Agreement and Rate Schedule 43G, and suspend them for a nominal period, to be effective February 1, 2014, as requested, subject to refund and further Commission order.

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> The Tariff defines SSRs as “[g]eneration 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.

## I. Background

2. On August 6, 2004, the Commission conditionally accepted MISO's proposed revisions to its Transmission and Energy Markets Tariff<sup>3</sup> regarding the retirement or suspension of generation resources and SCUs, including provisions regarding the designation and treatment of SSRs.<sup>4</sup> On September 21, 2012, the Commission conditionally accepted MISO's amended SSR Tariff provisions.<sup>5</sup>

3. On January 31, 2014, in Docket No. ER14-1242-000, MISO submitted the Presque Isle SSR Agreement for purposes of providing compensation for the continued availability of Wisconsin Electric's Presque Isle Units 5-9 as SSRs.<sup>6</sup> According to MISO, on August 1, 2013, Wisconsin Electric submitted its Attachment Y Notice to MISO for suspension of Presque Isle Units 5-9, beginning on February 1, 2014 and resuming operations June 1, 2015.<sup>7</sup> MISO states that it completed the analysis of the Attachment Y Notice and replied to Wisconsin Electric on October 16, 2013. MISO states that it determined that the proposed suspension of Presque Isle Units 5-9 during the 16-month suspension period, without curtailment of load by means of demand response or other alternatives, would result in reliability violations.<sup>8</sup> Consequently, MISO designated Presque Isle Units 5-9 as SSR Units until such time as appropriate alternatives can be implemented to mitigate reliability issues.

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<sup>3</sup> Now referred to as MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff, as noted above.

<sup>4</sup> *Midwest Indep. Transmission System Operator, Inc.*, 108 FERC ¶ 61,163, at P 368, *reh'g denied*, 109 FERC ¶ 61,157 (2004).

<sup>5</sup> *Midwest Indep. Transmission System Operator, Inc.*, 140 FERC ¶ 61,237 (2012).

<sup>6</sup> Presque Isle Units 5-9 are located in Marquette, Michigan within the footprint of the American Transmission Company LLC (ATC) and provide up to 344 MW of capacity.

<sup>7</sup> Presque Isle SSR Agreement Transmittal Letter, Docket No. ER14-1242-000 at 2.

<sup>8</sup> Specifically, the study performed by MISO showed that the suspension of Presque Isle Units 5-9 would cause violations of North American Electric Reliability Corporation reliability standards under Category B (loss of a single element) and Category C (loss of two or more elements) contingencies. *See* Presque Isle SSR Agreement Exhibit B (Attachment Y Study Report), Docket No. ER14-1242-000 at 2.

4. MISO states that its analysis of the proposed alternatives identified no near term solutions that would eliminate or reduce the number of units needed to address the reliability issues that are caused by the suspension of Presque Isle Units 5-9.<sup>9</sup> MISO reports that it worked with Wisconsin Electric and the MISO Independent Market Monitor to negotiate and develop the Presque Isle SSR Agreement. According to MISO, Wisconsin Electric submitted a draft agreement for MISO's consideration, and Wisconsin Electric agreed to a 12-month term for the period between February 1, 2014 and January 31, 2015. MISO states that Wisconsin Electric has voluntarily agreed to continue operating Presque Isle Units 5-9 on and after February 1, 2014.<sup>10</sup> MISO requests waiver of the prior notice requirement to allow the proposed Presque Isle SSR Agreement to go into effect on February 1, 2014. MISO states that good cause exists to grant the waiver because the Presque Isle SSR Agreement could not be negotiated before the proposed suspension of Presque Isle Units 5-9, and if the February 1, 2014 effective date is not granted, Wisconsin Electric will have provided SSR service on an uncompensated basis while the required Tariff process took its course. MISO further states that the Presque Isle SSR Agreement contains departures from the *pro forma* SSR agreement in Attachment Y-1 of MISO's Tariff due to novel legal issues or other unique factors.<sup>11</sup>

5. In Docket No. ER14-1243-000, MISO submitted a proposed Rate Schedule 43G under its Tariff, which specifies the allocation of the costs associated with the continued operation of Presque Isle Units 5-9 as SSR Units. As stated in the filing, section 38.2.7.k of MISO's Tariff requires that the costs associated with the Presque Isle SSR Agreement be allocated to all load-serving entities within the footprint of the ATC on a *pro rata* basis. MISO requests waiver of the prior notice requirement to allow Rate Schedule 43G to go into effect on February 1, 2014 to correspond with the effective date of the Presque Isle SSR Agreement. MISO states that good cause exists to grant the waiver for the same reason given in Docket No. ER14-1242-000.

## **II. Notice and Responsive Pleadings**

6. Notices of MISO's filings in Docket Nos. ER14-1242-000 and ER14-1243-000 were published in the *Federal Register*, 79 Fed. Reg. 7656 (2014), with interventions and protests due on or before February 21, 2014.

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<sup>9</sup> Presque Isle SSR Agreement Transmittal Letter, Docket No. ER14-1242-000 at 7-8.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> *Id.* at 3.

7. Exelon Corporation, Verso Paper Corp., Tilden Mining Company L.C. and Empire Iron Mining Partnership (the Mines), Integrys Energy Services, and Dairyland Power Cooperative filed timely motions to intervene in Docket Nos. ER14-1242-000 and ER14-1243-000. The Michigan Public Service Commission and the Public Service Commission of Wisconsin filed notices of intervention and comments in both dockets. Madison Gas and Electric Company filed a timely motion to intervene in both dockets and separate comments in Docket No. ER14-1243-000. The following parties filed timely motions to intervene and comments in both dockets: Wisconsin Industrial Energy Group and the Citizens Utility Board of Wisconsin; Wisconsin Electric; Wisconsin Power and Light (WPL); WPPI Energy; Wisconsin Public Service Company and Upper Peninsula Power Company; Customers First! Coalition; and the Public Interest Organizations.<sup>12</sup> Great Lakes Utilities and the Municipal Electric Utilities of Wisconsin filed motions to intervene out of time in both dockets. Xcel Energy Services, Inc. filed a timely motion to intervene in Docket No. ER13-1243-000.

8. Several commenters raise concerns relating to cost allocation under proposed Rate Schedule 43G, including whether the allocation of Presque Isle SSR costs pursuant to section 38.2.7.k of MISO's Tariff is consistent with cost causation principles. Commenters also raise other issues, including but not limited to: (1) the appropriate compensation of capital costs; (2) MISO's assessment of demand response alternatives; (3) whether all five Presque Isle Units are required to be designated as SSR units to maintain reliability; (4) MISO's assessment of reliability solutions after termination of the Presque Isle SSR Agreement; (5) whether the Presque Isle SSR Agreement should be restructured to better account for changed circumstances; and (6) whether the Presque Isle SSR Agreement should include language specifying that compensation for reliability commitments shall be paid pursuant to the SSR Agreement and not according to voltage and local reliability (VLR) payment provisions of the Tariff.

9. On March 10, 2014, Wisconsin Electric, WPPI Energy and MISO submitted answers to the comments in Docket Nos. ER12-1242-000 and ER12-1243-000.<sup>13</sup> On March 14, 2014, the Mines submitted answers to the comments in Docket Nos. ER12-1242-000 and ER12-1243-000. The answers argue that: (1) any issue of the applicability of MISO's Tariff must be addressed in a section 205 or 206 proceeding; (2) the costs of Presque Isle VLR commitments should not be allocated and collected separately from the allocation and collection of SSR costs, as this approach is inconsistent with Commission precedent; (3) comments that the filing fails to propose a permanent solution are

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<sup>12</sup> The Public Interest Organizations consist of the Environmental Law and Policy Center, Earthjustice, Sierra Club, and the Sustainable FERC Project.

<sup>13</sup> Wisconsin Electric styles its March 10, 2014 filing as "reply comments." However, the Commission considers the filing to be an answer under 18 C.F.R. § 385.213 (2013).

misguided and/or premature; (4) the renewal and termination provisions in the Presque Isle SSR Agreement are necessary and must not be shortened; (5) all five Presque Isle Units are needed for reliability; (6) compensation under the Presque Isle SSR Agreement is just and reasonable; and (7) the commenters' focus on the Mines and their decision to participate in Wisconsin Electric's retail electric choice program under Michigan state law is inappropriate with respect to the Commission's consideration of the Presque Isle SSR Agreement. On March 18, 2014, WPL submitted an answer to the other answers filed in Docket Nos. ER12-1242-000 and ER12-1243-000. WPL states that the answers misunderstood its original comments and clarifies its initial arguments. On March 21, 2014, MISO submitted an answer to WPL's answer in both dockets. MISO states that it understood WPL's initial comments and that it has properly applied its Tariff in connection with the Presque Isle SSR Agreement.

### **III. Discussion**

#### **A. Procedural Matters**

10. 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. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2013), the Commission will grant Great Lakes Utilities' and the Municipal Electric Utilities of Wisconsin's late-filed motions to intervene given their interest in the proceedings, the early stages of the proceedings, and the absence of undue prejudice or delay.

11. 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**

12. We accept the Presque Isle SSR Agreement and Rate Schedule 43G, suspend them for a nominal period, to be effective February 1, 2014,<sup>14</sup> subject to refund and further Commission order.

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<sup>14</sup> We grant waiver of the prior notice requirement to allow the proposed Presque Isle SSR Agreement and Rate Schedule 43G to be effective February 1, 2014, as requested. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,170, at PP 84-86 (waiver of prior notice rule granted in order accepting an SSR agreement and associated rate schedule), *order on reh'g*, 144 FERC ¶ 61,128 (2013).

The Commission orders:

The Presque Isle SSR Agreement and Rate Schedule 43G are hereby accepted for filing and suspended for a nominal period, to be effective February 1, 2014, subject to refund and further Commission order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.