

147 FERC ¶ 61,185  
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. ER13-2236-000

ORDER GRANTING PARTIAL WAIVER OF ORDER NO. 764 REQUIREMENTS

(Issued June 5, 2014)

1. On August 23, 2013, Midcontinent Independent System Operator, Inc. (MISO) filed a request for partial waiver of the requirements of Order No. 764<sup>1</sup> with respect to transmission service on a high-voltage direct current (HVDC) transmission facility (ALLETE HVDC Facility) owned by ALLETE, Inc. (ALLETE). Specifically, MISO requests waiver for the ALLETE HVDC Facility of the requirement that MISO offer transmission customers using that facility the option of submitting intra-hour transmission schedules at 15-minute intervals. In this order, we grant the requested partial waiver.

**I. Background**

2. On June 22, 2012, the Commission issued Order No. 764, which requires each public utility transmission provider to: (1) offer intra-hourly transmission scheduling at 15-minute intervals; and (2) incorporate provisions into the *pro forma* Large Generator Interconnection Agreement (LGIA) requiring interconnection customers whose generating facilities are variable energy resources (VER)<sup>2</sup> to provide meteorological and forced outage data to the public utility transmission provider for the purpose of power

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<sup>1</sup> *Integration of Variable Energy Resources*, Order No. 764, 77 FR 41482 (July 13, 2012), FERC Stats. & Regs. ¶ 31,331, *order on reh'g*, Order No. 764-A, 141 FERC ¶ 61,232 (2012), *order on reh'g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013).

<sup>2</sup> Order No. 764 defined a VER as a device for the production of electricity that is characterized by an energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator. Order No. 764, FERC Stats. & Regs. ¶ 31,331 at n.1.

production forecasting. The Commission also provided guidance regarding the development and evaluation of proposals related to recovering the costs of regulation reserves associated with VER integration.<sup>3</sup>

3. The reforms adopted in Order No. 764 were designed to remove barriers to the integration of VERs and to ensure that the rates, terms, and conditions for Commission-jurisdictional services provided by public utility transmission providers are just and reasonable and not unduly discriminatory or preferential.<sup>4</sup> Upon noting the increasing number of VERs being brought online, the Commission found that reforms were needed to ensure that transmission customers are not exposed to excessive or unduly discriminatory charges, and that public utility transmission providers have the information needed to efficiently manage reserve-related costs.

4. In Order No. 764, the Commission amended the *pro forma* Open Access Transmission Tariff (OATT) to provide all transmission customers the option of using more frequent transmission scheduling within each operating hour, at 15-minute intervals.<sup>5</sup> The Commission found transmission customers' inability to adjust their transmission schedules within the hour to reflect changes in generation output can cause charges for Schedule 9 generator imbalance service to be unjust and unreasonable or unduly discriminatory. Thus, this reform was designed to allow transmission customers the flexibility to adjust their transmission schedules, in advance of real-time, to reflect the variability of output in generation, more accurate power production forecasts, and other changes in load profiles and system conditions.<sup>6</sup> It was also designed to allow public utility transmission providers, over time, to use fewer reserves to maintain overall system balance.<sup>7</sup> Finally, the Commission implemented this reform to ensure that charges for generator imbalance service under Schedule 9 of the *pro forma* OATT and for other ancillary services through which reserve-related costs are recovered are just and reasonable and are not unduly discriminatory.

5. On December 20, 2012, the Commission issued Order No. 764-A, largely affirming the reforms adopted in Order No. 764. Among other things, Order No. 764-A extended the deadline for compliance with Order No. 764 to November 12, 2013.<sup>8</sup> On

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<sup>3</sup> *Id.* P 4.

<sup>4</sup> *Id.* P 1.

<sup>5</sup> *Id.* P 91.

<sup>6</sup> *Id.* PP 92-93.

<sup>7</sup> *Id.* P 95.

<sup>8</sup> Order No. 764-A, 141 FERC ¶ 61,232 at P 8.

September 19, 2013, the Commission issued Order No. 764-B, which granted in part and denied in part the requests for clarification and denied the requests for rehearing of the Commission's determinations in Order No. 764-A.<sup>9</sup>

6. On August 23, 2013, MISO submitted, in Docket No. ER13-2233-000, revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to comply with Order No. 764. The Commission accepted in part and rejected in part that filing, finding, among other things, that MISO did not fully comply with the 15-minute scheduling requirement, and required MISO to make a further compliance filing.<sup>10</sup>

7. On December 27, 2013, MISO submitted Tariff revisions to comply with the October 2013 Order by incorporating required and clarifying changes to section 8.4 of MISO's Large Generator Interconnection Agreement. MISO also requested an extension of time until June 20, 2015 to fully comply with the intra-hour scheduling directives of the October 2013 Order and Order No. 764. The Commission accepted MISO's proposed Tariff revisions and granted MISO's request for an extension of time, subject to the submission of a status report by May 1, 2014 and further compliance filing.<sup>11</sup>

## **II. Request for Partial Waiver**

8. MISO states that the ALLETE HVDC Facility is a 465-mile, 250-kV HVDC transmission line that runs from Center, North Dakota, to ALLETE's Arrowhead Substation near Duluth, Minnesota.<sup>12</sup> MISO further states that transmission service provided over the ALLETE HVDC Facility is unidirectional, and therefore the ALLETE HVDC Facility is not considered a network facility over which full functional control has been transferred to MISO. MISO explains that this facility is a "non-transferred" facility under an Agency Agreement executed by MISO and ALLETE.<sup>13</sup> Consistent with this Agency Agreement, MISO administers transmission and generator interconnection services over the ALLETE HVDC Facility under section 27A of the Tariff, while

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<sup>9</sup> Order No. 764-B, 144 FERC ¶ 61,222.

<sup>10</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,064 (2013) (October 2013 Order).

<sup>11</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,046 (2014).

<sup>12</sup> MISO Waiver Request at 4.

<sup>13</sup> *Midwest Indep. Transmission Sys. Operator, Inc. and ALLETE, Inc.*, 129 FERC ¶ 61,172 (2009).

ALLETE maintains day-to-day operations, including coordinating scheduling of the line with MISO.<sup>14</sup>

9. MISO requests that the Commission grant a partial waiver of the requirement in Order No. 764 that public utility transmission providers offer intra-hour scheduling on 15-minute intervals with regard to the ALLETE HVDC Facility.<sup>15</sup> MISO raises concerns that a 15-minute scheduling requirement on the ALLETE HVDC Facility could increase the likelihood of transformer failures and result in substantially higher maintenance and operational costs.<sup>16</sup> According to MISO, ALLETE anticipates that implementation of 15-minute schedules would require significantly more physical inspections of the transformers and tap changers, which would in turn require a greater number of outages on the ALLETE HVDC Facility. MISO adds that implementation of 15-minute schedules on the ALLETE HVDC Facility would require a substantial increase in personnel hours and labor costs for additional full-time system operators.

10. MISO asserts that because ALLETE takes all VER output that is interconnected to the ALLETE HVDC Facility, it bears all the risk of any imbalance charges and other transmission customers would not be impacted by the requested waiver. MISO states that there are only five VERs that currently schedule transmission service on the ALLETE HVDC Facility:<sup>17</sup> three owned and operated by ALLETE, and two owned and operated by NextEra Energy Resources (NextEra) from which ALLETE purchases the full output and is responsible for transmission charges associated with delivering all power purchased from these facilities under power purchase agreements.<sup>18</sup> Thus,

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<sup>14</sup> MISO Waiver Request at 4.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 4-5. MISO states that ALLETE's analysis of the impact of 15-minute schedules on the ALLETE HVDC Facility anticipates tap change operations associated with the line to increase by 300 percent compared to hourly schedules, and the ALLETE HVDC Facility equipment was not designed for such frequent scheduling activity. However, MISO states that if the equipment on the facility were updated in the future, a waiver may no longer be necessary. *Id.* at 7-8.

<sup>17</sup> MISO notes that ALLETE or its affiliate currently have plans to develop three more wind facilities near Center, North Dakota, scheduled to begin commercial operation between January 2014 and January 2016. MISO adds that while these facilities may require transportation over the ALLETE HVDC Facility, ALLETE anticipates that it or its affiliate would be responsible for transmission charges for such transmission services. *Id.* n.14.

<sup>18</sup> *Id.* at 5-6. MISO states that the power purchase agreements run through December 28, 2031 and December 20, 2032 for the facilities owned by NextEra. *Id.* at 6.

according to MISO, the only VERs that may be impacted by the waiver are those that ALLETE either owns or from which it currently purchases the full output.

11. With regard to non-VERs connected to the ALLETE HVDC Facility, MISO states that ALLETE and Minnkota Power Cooperative (Minnkota) also use the ALLETE HVDC Facility to transmit output from a coal-fueled generating unit, but, since this facility is independently dispatched by MISO into the MISO market, it does not require 15-minute schedules. Further, MISO states that it anticipates Minnkota's use of the ALLETE HVDC Facility to terminate in early 2014 upon the completion of a new 345-kV transmission line, after which Minnkota will transfer its transmission rights on the ALLETE HVDC Facility to ALLETE, resulting in ALLETE being the only entity that takes transmission service over the ALLETE HVDC Facility.<sup>19</sup>

### **III. Notice of Filing and Responsive Pleadings**

12. Notice of MISO's filing was published in the *Federal Register*, 78 Fed. Reg. 54,247 (2013), with interventions and protests due on or before September 13, 2013. A timely motion to intervene and comments in support of the requested waiver were filed by ALLETE.

13. ALLETE states that it supports the legal and policy assertions made by MISO, and provides further details supporting MISO's description of the likely increase in outages and the additional costs that would be incurred if 15-minute scheduling were imposed on the ALLETE HVDC Facility. ALLETE notes that it filed comments in the Commission's rulemaking proceeding leading to the Commission's issuance of Order No. 764 that explained ALLETE's concerns about the implementation of 15-minute scheduling with respect to the ALLETE HVDC Facility.<sup>20</sup>

14. ALLETE asserts that there would be increased outages on the line because 15-minute scheduling would significantly increase the number of times that tap changers must be adjusted. According to ALLETE, those tap changers are designed to handle a set number of adjustments before a major inspection of them is required, and major inspections taking 24 days would be required every 1.7 years under 15-minute scheduling, during which the ALLETE HVDC Facility's capacity would be reduced by 50 percent.<sup>21</sup> ALLETE maintains that these outages, in turn, could require a curtailment of up to 50 percent of the energy from ALLETE's wind facilities, which could necessitate the purchase of replacement energy. ALLETE argues that increased unplanned outages

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<sup>19</sup> *Id.* at 6-7.

<sup>20</sup> ALLETE Comments at 1-2.

<sup>21</sup> *Id.* at 6-7.

could also result from the increased number of unplanned tap changer and transformer failures.<sup>22</sup> ALLETE also states that the need for additional operators to implement 15-minute schedules would increase labor costs for the facility by approximately 30 percent.

15. ALLETE further asserts that it is willing to assume the risk of any increased cost associated with hourly scheduling. ALLETE states that, because it is the only entity using transmission service over the ALLETE HVDC Facility for the transmission of wind generation, it is the entity that would potentially be most impacted by generator imbalance charges.<sup>23</sup>

#### **IV. Discussion**

##### **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 timely, unopposed motion to intervene of ALLETE serves to make ALLETE a party to this proceeding.

##### **B. Commission Determination**

17. We grant MISO's request for partial waiver of certain requirements of Order No. 764 for good cause shown. As ALLETE notes, it raised concerns in the Order No. 764 rulemaking proceeding regarding whether the 15-minute scheduling requirements should apply to ALLETE HVDC facilities.<sup>24</sup> The Commission responded by noting that a transmission provider has the right to request a waiver of all or part of the OATT requirements for good cause shown, and that "[w]aiver requests will be evaluated in separate proceedings if and when they are submitted based on the facts and circumstances of each request."<sup>25</sup>

18. Here, the facts and circumstances presented by MISO and ALLETE demonstrate that implementing 15-minute scheduling on the ALLETE HVDC Facility would be technically difficult. ALLETE estimates that nearly three times as many line outages to inspect tap changers would be needed to implement 15-minute scheduling. ALLETE adds that there would also be three times as many tap changer adjustments, and these adjustments would increase the risk of unplanned outages due to tap changer and

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<sup>22</sup> *Id.* at 8.

<sup>23</sup> *Id.* at 10.

<sup>24</sup> Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 148.

<sup>25</sup> *Id.* P 151.

transformer failures. The facts and circumstances here further show that the only transmission customers currently using the ALLETE HVDC Facility support the waiver and that the only generators using the ALLETE HVDC Facility are either owned by or sell their total output to ALLETE, thus limiting any exposure to imbalance charges solely to ALLETE.

19. Based on these facts and circumstances, we find that MISO has provided good cause for granting the requested partial waiver. However, we note that if these facts and circumstances change, a waiver may no longer be appropriate and the Commission may reevaluate the continued eligibility for this waiver at that time.

The Commission orders:

MISO's request for partial waiver of certain requirements of Order No. 764 is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.