

148 FERC ¶ 61,056
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Midwest Independent Transmission
System Operator, Inc.

Docket No. ER12-2302-001

ORDER ON COMPLIANCE

(Issued July 22, 2014)

1. On December 18, 2012, pursuant to section 205 of the Federal Power Act (FPA),¹ Midwest Independent Transmission System Operator, Inc. (MISO)² submitted proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)³ to comply with the Commission's September 21, 2012 order⁴ regarding the treatment of System Support Resources (SSR)⁵ (December 18 Compliance Filing). In

¹ 16 U.S.C. § 824d (2012).

² Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

³ MISO, FERC Electric Tariff.

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012) (SSR Order).

⁵ The MISO Tariff defines SSRs as "Generation Resources or Synchronous [Condenser] Units [(SCU)] 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 [s]ection 38.2.7 of this Tariff." MISO, FERC Electric Tariff, 2, Modules, Module A, Common Tariff Provisions, II, General Provisions, 1, Definitions, 1.S, Definitions – S (30.0.0).

this order, we conditionally accept MISO's Tariff revisions effective September 24, 2012, subject to a compliance filing due within 30 days of the date of this order, as discussed below.

I. Background

2. Under MISO's version of the Tariff prior to the SSR Order, market participants that have decided to retire or suspend a generation resource or SCU must submit a notice (Attachment Y Notice), pursuant to Attachment Y (Notification of Potential Resource/SCU Change of Status) of the MISO Tariff at least 26 weeks prior to the resource's retirement or suspension effective date. During this 26-week notice period, MISO will conduct a study (Attachment Y Reliability Study) to determine whether all or a portion of the resource's capacity is necessary to maintain system reliability, such that SSR status is justified. If so, and if MISO cannot identify an SSR alternative that can be implemented prior to the retirement or suspension effective date, then MISO and the market participant shall enter into an agreement (SSR Agreement), as provided in Attachment Y-1 (Standard Form SSR Agreement) of the MISO Tariff, to ensure that the resource continues to operate, as needed.⁶

A. July 25 Filing and SSR Order

3. On July 25, 2012, MISO submitted proposed Tariff revisions regarding the treatment of resources that submit Attachment Y Notices (July 25 Filing), including to clarify the resources that should file Attachment Y Notices; amend its disclosure practices; address the termination, retention, and transfer of interconnection rights; and allow certain resources to modify their Attachment Y Notices. MISO proposed Tariff revisions to allow a market participant to submit a notice (Attachment Y-2 Notice), pursuant to Attachment Y-2 (Request for Non-Binding Study Regarding Potential SSR Status) of the Tariff, to request an informational study (Attachment Y-2 Study) regarding whether a resource may qualify as an SSR without committing to retire or suspend the resource. MISO proposed that resources could transition from the Attachment Y-2 process to the Attachment Y process by submitting an Attachment Y Notice within 30 business days of receiving the Attachment Y-2 Study results. For such a transition, the resource could request to retire or suspend on a date 26 weeks from the date of the related Attachment Y-2 Notice. MISO also proposed to change the terms and conditions for

⁶ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163 (TEMT II Order), *reh'g denied*, 109 FERC ¶ 61,157 (2004) (TEMT II Rehearing Order).

SSR Agreements and to modify the compensation of SSRs, as well as the allocation of the costs to compensate SSRs.⁷

4. In the SSR Order, the Commission conditionally accepted MISO's proposed Tariff revisions, effective September 24, 2012, subject to further compliance. Among other things, the Commission required MISO to revise its Attachment Y process to propose a timeline for the completion of each task in the Attachment Y process and an explanation of MISO's rationale for the time needed to complete each task.⁸ The Commission required MISO to submit: (1) an explanation of its process for identifying SSR alternatives and its basis for selecting an SSR alternative among those identified; (2) where an SSR alternative is not selected, an explanation of how it determined that an SSR is the last resort; (3) a proposal to complete this process prior to entering into SSR Agreements at the end of the 26-week notice period, including associated milestones; and (4) corresponding Tariff revisions, including to refer to "demand response" rather than "committed demand response" and to define the term "Generator alternatives."⁹ The Commission also required MISO to submit Tariff revisions to ensure that MISO will treat Attachment Y Notices and Reliability Study results as confidential information in the event that an Attachment Y Reliability Study finds that a resource would not qualify as an SSR.¹⁰

5. With regard to the Attachment Y-2 informational study process, the Commission required, among other things, that MISO propose a timeline for the completion of each task in the process, including when a resource transitions from the Attachment Y-2 process to the Attachment Y process, and an explanation of MISO's rationale for the time needed to complete each task.¹¹ The Commission also required MISO to submit Tariff revisions to ensure that Attachment Y-2 Notices and Study results are treated as confidential information.¹²

⁷ MISO July 25, 2012 Filing, Docket No. ER12-2302-000.

⁸ SSR Order, 140 FERC ¶ 61,237 at P 35.

⁹ *Id.* P 36.

¹⁰ *Id.* P 37.

¹¹ *Id.* P 81.

¹² *Id.* P 89.

6. With regard to the treatment of SSRs, the Commission required, among other things, that MISO submit revisions to the *pro forma* SSR Agreement in Attachment Y-1 to insert language providing that an SSR Agreement must not exceed a one-year term except in exigent circumstances.¹³ The Commission required MISO to revise section 3.A(4) of Attachment Y-1 to reflect language in section 38.2.7.k of the Tariff indicating that in order to extend the term of an SSR Agreement MISO must negotiate a new SSR Agreement and file it with the Commission.¹⁴ The Commission also found MISO's proposal to limit SSR compensation to include only "going forward costs" to be consistent with MISO's initial description of its SSR program and required MISO to define the term "going forward costs."¹⁵ The Commission found MISO's proposed revisions to allocate SSR costs to load-serving entities that require the operation of the SSR unit, without regard to historical local balancing authority boundaries, to be just and reasonable. However, the Commission required MISO to explain the general principles MISO will apply to identify the load-serving entities that should pay SSR costs, including whether MISO will apply its existing planning process to identify SSR beneficiaries.¹⁶

7. In addition, the Commission directed MISO to require resources that return from retirement or to service prematurely to refund certain costs. In particular, the Commission required MISO to submit: (1) an explanation, and corresponding Tariff revisions, regarding how it will identify the costs necessitated by a resource's retirement or suspension plans, including any reliability costs and transmission upgrade costs; (2) Tariff revisions providing that MISO will notify the resource owner of these costs to permit consideration by the resource as to whether it should return from retirement or to service prematurely; and (3) Tariff revisions to allocate these costs to the resource owner in the event that the resource returns from retirement or to service prematurely.¹⁷ With regard to SSRs, the Commission required MISO to submit Tariff revisions to address the treatment of SSRs that later return to service, including to implement a refund provision that requires SSRs that later return to service to refund, with interest, all costs of repairs or capital expenditures, less depreciation, needed to meet the applicable environmental regulations. The Commission also required MISO to submit Tariff revisions to ensure

¹³ *Id.* P 106.

¹⁴ *Id.* P 107.

¹⁵ *Id.* P 145 (citing MISO, Application, Docket No. ER04-691-000, McNamara Test. at 49 (filed Mar. 31, 2004)).

¹⁶ *Id.* PP 153-154.

¹⁷ *Id.* P 63.

that SSRs are able to fully recover the capital costs associated with their continued operation, including reasonable and prudent costs to comply with environmental regulations or local operating permit requirements.¹⁸

B. December 18 Compliance Filing

8. On December 18, 2012, MISO submitted a filing to comply with the requirements of the SSR Order. With regard to the Attachment Y process, MISO proposes, among other things, to use reasonable efforts to respond to the resource owner that submitted the Attachment Y Notice within 75 days regarding whether the resource is needed for system reliability and may qualify as an SSR, unless an alternative date is agreed to by the resource owner and MISO. MISO proposes to add a milestone requiring MISO to use reasonable efforts to meet with its stakeholders within 30 days of disclosing Attachment Y Reliability Study results to facilitate the consideration of SSR alternatives.¹⁹

9. MISO proposes to evaluate SSR alternatives with its stakeholders pursuant to the open and transparent planning provisions of existing Attachment FF (Transmission Expansion Planning Protocol) of the Tariff. MISO proposes revisions in section 38.2.7.c regarding its evaluation of SSR alternatives:

Consistent with Section B.1.b of Attachment FF, the Transmission Provider will review and evaluate alternatives to an SSR Agreement on a comparable basis and select the most appropriate solution. Comparability includes the ability of the Transmission Provider to obtain contractual assurances that the selected alternative solution will be implemented by the required in-service dates.^[20]

MISO states that the evaluation of SSR alternatives will consider factors such as the re-dispatch of existing generation, new generation in the interconnection queue, system reconfiguration, load reductions via contractual arrangements for such reductions, and transmission upgrade solutions. MISO further proposes to revise section 38.2.7 to clarify that entering into SSR Agreements is a last-resort measure and shall only be used after an

¹⁸ *Id.* P 138.

¹⁹ MISO December 18 Compliance Filing, Transmittal Letter at 5.

²⁰ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.c.

examination of potential alternatives to an SSR Agreement in order to maintain system reliability.²¹

10. In response to the Commission's requirement to refer to "demand response" rather than "committed demand response," MISO proposes to refer to "contracted demand response" to more accurately describe "the level of firmness that is required of a reliable demand response alternative to an SSR Unit . . . that can be counted on as being available to maintain reliability."²² MISO states that it will consider the impact of load reductions in the SSR alternatives development process without requiring any commitment on behalf of demand response resources at that time. MISO proposes contractual requirements for demand-side resources in section 38.2.7.c:

Contractual commitments associated with demand-side resource alternative solutions shall require demonstration to the Transmission Provider of an executed contract between L[oad] S[erving] E[ntity] and End-Use Customers. Such demand-side contracts must be in place by the time that the SSR Agreement alternative solution would otherwise need to be committed in order to ensure a timely solution to the identified planning need, and must be of a sufficient duration such that a reliable alternative solution can be assured.^[23]

MISO states that this Tariff language is "similar to provisions in MISO's approved Attachment FF to clarify how resources can be determined to be comparable."²⁴

11. In response to the Commission's requirement that MISO define the term "Generator alternatives," MISO proposes a definition in section 38.2.7.c:

A Generator alternative may be a new Generator, or an increase to existing Generator capacity, which has an executed Generator Interconnection Agreement [(GIA)] pursuant to Attachment X for a Commercial Operation Date that is prior to the commencement of the change of status date of the

²¹ MISO December 18 Compliance Filing, Transmittal Letter at 6-7.

²² *Id.* at 7.

²³ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.c.

²⁴ MISO December 18 Compliance Filing, Transmittal Letter at 7 (citing Attachment FF, section I.B.1.b).

Generation Resource or SCU that has submitted an Attachment Y Notice.^[25]

MISO states that distributed generation will be treated comparably with all generator alternatives, as well as with demand response. MISO maintains that if an SSR alternative, including demand response and distributed generation, is available to be implemented when needed and such availability is contractually agreed to, then MISO will incorporate these outcomes in its study of SSR alternatives.²⁶

12. MISO proposes Tariff revisions providing that MISO will treat an Attachment Y Notice as confidential information until the Attachment Y Reliability Study is completed and the results are disclosed to the resource owner that submitted the Attachment Y Notice, and that MISO will continue to treat an Attachment Y Notice as confidential information in the event that the Attachment Y Reliability Study determines that the resource would not be eligible for treatment as an SSR.²⁷

13. With regard to the Attachment Y-2 informational study process, MISO proposes, among other things, to retain the Tariff provision requiring it to use reasonable efforts to complete the Attachment Y-2 Study within 75 days. MISO proposes to shorten from 30 business days to 30 calendar days the time market participants have to decide whether to transition to the Attachment Y process by submitting an Attachment Y Notice. For resources that transition from the Attachment Y-2 process to the Attachment Y process, MISO proposes to apply the same timeline and milestones used in the Attachment Y process.²⁸ MISO also proposes revisions to section 38.2.7.n and Attachment Y-2 to treat Attachment Y-2 Notices and Study results as confidential information.²⁹

²⁵ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.c.

²⁶ MISO December 18 Compliance Filing, Transmittal Letter at 8.

²⁷ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.a.

²⁸ MISO December 18 Compliance Filing, Transmittal Letter at 16.

²⁹ *Id.* at 17.

14. As for the treatment of SSRs under Attachment Y-1 (Standard Form SSR Agreement), MISO proposes, among other things, to insert language in section 3.A providing that an SSR Agreement must not exceed a one-year term except in exigent circumstances.³⁰ MISO also proposes to define “going forward costs” as “the costs that will be incurred by an SSR Unit owner or operator to remain in-service that are in excess of the costs the SSR Unit would have incurred had it been retired or suspended.”³¹ MISO states that this definition is consistent with the definition of “Going-Forward Costs” found in section 61.1.c of the MISO Tariff.³²

15. In response to the Commission’s requirement that MISO describe the general principles MISO will apply to identify the load-serving entities that should pay SSR costs, MISO explains that it will apply its existing planning process to identify SSR beneficiaries. MISO further states that:

The general principles to be applied to identify SSR beneficiaries will be to calculate the pricing zones in which a load curtailment would be hypothetically required to relieve reliability issues in lieu of the SSR, and the *pro rata* share of such load curtailments between zones, and to assign to the [load-serving entities] serving load within impacted pricing zones on a twelve (12) month Coincident Peak Load ratio share basis the curtailment based *pro rata* share of the zonal benefits.^[33]

MISO maintains that such a cost allocation is at a level of granularity that is comparable to that of Baseline Reliability Projects that may be an alternative to an SSR Agreement.³⁴

³⁰ *Id.* at 19.

³¹ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.i.ii.

³² MISO states that section 61.1.c defines “Going-Forward Costs” as “Data or information related to the costs of keeping a Generation Resource or Demand Response Resource in operation.” MISO December 18 Compliance Filing, Transmittal Letter at 24.

³³ *Id.* at 25.

³⁴ *Id.*

16. With regard to resources that return from retirement or to service prematurely, MISO did not provide an explanation and/or Tariff revisions regarding the identification of the costs necessitated by a resource's retirement or suspension plans, notification to a resource owner of these costs, or allocation of these costs to the resource owner in the event that the resource returns from retirement or to service prematurely. MISO proposes, without explanation, to remove the following Tariff language:

If the owner of an [sic] Generation Resource or SCU that submitted an Attachment Y to Retire fails to terminate operation of such facility and the Transmission Provider has approved construction of Transmission System upgrades that were necessitated by such facility's Retire plans (and such upgrades were approved by the Transmission Provider's Board of Directors as Appendix A projects), then the owner of the Generation Resource or SCU that planned to Retire shall be allocated the costs of such Transmission System upgrades necessitated by the planned unavailability of the facility.^{35]}

17. With regard to "SSR Units"³⁶ that operate pursuant to an SSR Agreement, but later seek to rescind a decision to retire or suspend operations, MISO proposes in section 38.2.7.d.iii(3) that such units be required to refund to MISO, with interest, all costs of repairs or capital expenditures, less depreciation, that were needed to meet the applicable environmental regulations for the SSR Unit while it operated under an SSR Agreement. MISO proposes that SSR Units seeking to rescind a decision to retire would also be allocated the cost of network upgrades necessitated solely by the retirement, incurred or committed to as of the date of the rescission of the decision to retire.³⁷ MISO proposes that the costs of network upgrades that have been identified to address transmission issues not related to the retirement of the SSR Unit will not be allocated to the resource owner. MISO proposes that to the extent that owners or operators of multiple SSR Units rescind their decision to retire, then each owner or operator will pay their *pro rata* share of the incurred or committed network upgrade costs. MISO proposes that if decisions to

³⁵ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.j.

³⁶ The MISO Tariff defines an "SSR Unit" as "[a] Generation Resource or a Synchronous [Condenser] Unit that is operated and compensated in accordance with an SSR Agreement." *Id.* Module A, Common Tariff Provisions, II. General Provisions, 1, Definitions, 1.S Definitions – S (30.0.0).

³⁷ MISO December 18 Compliance Filing, Transmittal Letter at 22.

retire are rescinded at different times, then the owner or operator rescinding after a prior owner's or operator's rescission will reimburse the prior owners or operators its *pro rata* share of the incurred or committed network upgrade costs, with interest, from the date of each prior rescission to the date of the latter rescission.³⁸

18. In addition, MISO proposes Tariff revisions to reflect the Commission's directive that SSRs recover "reasonable and prudent costs" to comply with environmental regulations and local operating permit requirements. In particular, MISO proposes to revise section 38.2.7.c of the Tariff to provide that:

[t]he Market Participant that owns or operates the Generation Resource or SCU subject to review under this section shall make good faith efforts to minimize the costs to be incurred by seeking any available waivers or exemptions from environmental regulatory requirements that would necessitate improvements to the potential SSR Unit.^{39]}

MISO states that the incorporation of this good faith commitment by an SSR owner or operator will minimize the costs of environmental compliance. MISO adds that it will work with market participants to assist them in making good faith efforts to minimize these costs, consistent with the existing provisions of section 38.2.7.c.⁴⁰

II. Notice of Filing and Responsive Pleadings

19. Notice of MISO's December 18 Compliance Filing was published in the *Federal Register*, 77 Fed. Reg. 76,476 (2012), with interventions and comments due on or before January 8, 2013. Arkansas Public Service Commission (Arkansas Commission) and Organization of MISO States (OMS) filed motions to intervene out-of-time. Timely comments and protests were filed by Earthjustice, Environmental Law and Policy Center, Fresh Energy, Great Plains Institute, Natural Resources Defense Council, Sierra Club, The Sustainable FERC Project, and Union of Concerned Scientists (collectively, Public Interest Organizations). Comments were filed out-of-time by Ameren Services Company (Ameren). MISO filed an answer to Ameren's and Public Interest Organizations' comments and protests. AmerenEnergy Resources Generating

³⁸ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.d.iii.

³⁹ MISO December 18 Compliance Filing, Transmittal Letter at 21.

⁴⁰ *Id.*

Company (Ameren Generating) submitted a motion to hold in abeyance MISO's December 18 Compliance Filing, pending the outcome of Ameren Generating's complaint in Docket No. EL13-76-000 regarding SSR compensation.⁴¹ Illinois Commerce Commission (Illinois Commission) and MISO filed answers opposing Ameren Generating's motion.

20. With regard to the Attachment Y process, Public Interest Organizations support MISO's intent to complete the Attachment Y Reliability Study within 75 days, rather than the 20 weeks previously proposed, but express concern with the proposed language permitting MISO and the market participant to agree to an alternative date. Public Interest Organizations are concerned that MISO has excessive discretion to take more than 75 days to complete the Attachment Y Reliability Study, which could shorten the time remaining to consider SSR alternatives. They request that the Commission clarify that MISO must extend the 26-week notice period if it needs more time to complete the Attachment Y Reliability Study and that the 26-week notice period will commence only after the resource owner has provided all of the information needed to complete the Attachment Y Reliability Study.⁴²

21. Public Interest Organizations also maintain that MISO's proposed Tariff revisions are deficient because they do not address what happens if MISO determines that an SSR alternative can address the underlying reliability issue (e.g., whether MISO will inform the resource owner that an SSR Agreement is not necessary).⁴³ Public Interest Organizations argue that MISO's Tariff revisions regarding the disclosure of study information are unclear, and MISO should post the actual studies rather than only a summary of the results.⁴⁴ In addition, they argue that MISO should inform the Independent Market Monitor (Market Monitor) of the outcome of all Attachment Y Reliability Studies, regardless of whether MISO determines that a reliability issue exists,

⁴¹ Ameren Generating July 5, 2013 Motion at 3.

⁴² Public Interest Organizations Comments and Protest at 2-4.

⁴³ *Id.* at 5-6.

⁴⁴ *Id.* at 6 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 471, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126; *Entergy Servs., Inc.*, 127 FERC ¶ 61,272, at P 38 (2009)).

to protect competitive interests and assure that the Market Monitor is aware of all generator deactivation activity.⁴⁵

22. With regard to the Attachment Y-2 informational study process, Public Interest Organizations argue that MISO should clarify how it can apply its milestones for the 26-week Attachment Y process for resources that transition from the Attachment Y-2 process, as MISO proposes to take 75 days to complete the Attachment Y-2 Study and to give resources 30 days to decide whether to transition prior to commencing the Attachment Y process (i.e., MISO would have only 11 weeks remaining to complete the Attachment Y process).⁴⁶ Ameren argues that MISO's proposed Attachment Y-2 Notice continues to refer to the Attachment Y-2 Study as a "non-confidential study" and requests that MISO submit further revisions.⁴⁷

23. With regard to the treatment of SSRs under Attachment Y-1 (Standard Form SSR Agreement), Public Interest Organizations contend that section 38.2.7.e of the Tariff should require that the term of SSR Agreements not exceed 12 months, "except in exigent circumstances," rather than "unless the Transmission provider requires a different term." They also maintain that MISO should clarify in section 3.A(4) of Attachment Y-1 that MISO can extend the term of an SSR Agreement only if it renegotiates and files the new agreement with the Commission. According to Public Interest Organizations, MISO should clarify what it will consider when conducting annual reviews of longer-term SSR Agreements.⁴⁸

24. With regard to MISO's proposed refund provisions for SSRs that later return to service, Public Interest Organizations argue that MISO's proposal to require SSRs that rescind their retirement decision to refund certain network upgrade costs should also apply to SSRs that prematurely rescind decisions to suspend operations. They contend that the SSR Order's requirement did not distinguish between retirements and suspensions.⁴⁹ Ameren requests that MISO provide further clarification regarding the refund process, including MISO's method of determining depreciation.⁵⁰ Ameren also

⁴⁵ *Id.* at 10.

⁴⁶ *Id.* at 12.

⁴⁷ Ameren Comments at 5-6.

⁴⁸ Public Interest Organizations Comments and Protest at 7-8.

⁴⁹ *Id.* at 9-10 (citing SSR Order, 140 FERC ¶ 61,237 at P 63).

⁵⁰ Ameren Comments at 5.

argues that the Commission should clarify that MISO does not have authority to demand repayment in full of environmental upgrade costs upon receipt of notice by an SSR that it intends to return to service; instead, any SSR Agreement that provides compensation for environmental upgrades must also include negotiated terms and conditions of repayment upon the SSR's return to service. Ameren maintains that the owner of an SSR could have liquidity challenges that would prevent repayment in full of environmental upgrade costs should the SSR owner decide to return the resource to service at the end of the SSR Agreement term.⁵¹

25. In its answer, MISO responds to concerns regarding the Attachment Y process by stating that failing to complete the Attachment Y Reliability Study within 75 days would not necessarily prevent an exhaustive study of available alternatives during the time remaining before an SSR Agreement is filed with the Commission.⁵² MISO explains that, in the event that an SSR alternative is identified, MISO would not enter into an SSR Agreement.⁵³ MISO argues that the complete Attachment Y Reliability Study should only be provided as part of a filed SSR Agreement (subject to confidentiality limits) because MISO will continue to develop the study during the entire 26-week notice period and, therefore, it would be unable to provide the full study until it files the SSR Agreement with the Commission. MISO states that section 38.2.7.n of the Tariff requires that MISO "promptly notify the [Market Monitor] of any Resource that may qualify as an SSR Unit."⁵⁴

26. With regard to concerns about the timeline for resources that transition from the Attachment Y-2 process to the Attachment Y process, MISO states that it recognizes that providing this flexibility to market participants may create timing concerns and delays. MISO states that it is willing to modify the Tariff to provide additional time for it to complete the necessary studies prior to filing an SSR Agreement with the Commission, if the Commission directs it to do so.⁵⁵ MISO also agrees to make the Tariff revisions

⁵¹ *Id.* at 4-5.

⁵² MISO January 23, 2013 Answer at 4.

⁵³ *Id.* at 5.

⁵⁴ *Id.* at 7.

⁵⁵ *Id.* at 8-9.

Ameren requests regarding the confidentiality of Attachment Y-2 Studies, if the Commission so directs.⁵⁶

27. As for the treatment of SSRs under Attachment Y-1 (Standard Form SSR Agreement), MISO argues that the SSR Order did not require it to modify language in section 38.2.7.e regarding the term of SSR Agreements. It also argues that modification of section 3.A(4) of Attachment Y-1 is unnecessary because section 38.2.7.1 states that any subsequent SSR Agreements must be filed with the Commission. According to MISO, additional clarification regarding its annual review of SSR Agreements was not required on compliance.⁵⁷

28. MISO argues that the Commission's refund requirement did not specifically apply to SSR suspension plans and that it is quite likely that transmission upgrades would not be constructed in response to a suspension decision because, ultimately, the resource intends to resume service, which could render the upgrades imprudent. MISO adds that network upgrade costs cannot reasonably be assigned to a resource returning prematurely from suspension because the upgrade could eliminate the need for future potential SSR Agreements associated with the unit.⁵⁸ In response to Ameren's repayment concerns, MISO states that it is unwilling to act as a lending authority and receive repayment of network upgrade costs over time. MISO also clarifies that, in determining depreciation, it will use a "straight-line method wherein the book value is equal to the original costs less any accumulated depreciation."⁵⁹

III. Procedural Matters

29. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2013), we will grant the late-filed motions to intervene given Arkansas Commission's and OMS' interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

30. 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 an answer unless otherwise ordered by the decisional authority. We will accept MISO's answer to Ameren's and

⁵⁶ *Id.* at 10.

⁵⁷ *Id.* at 6.

⁵⁸ *Id.* at 7.

⁵⁹ *Id.* at 10.

Public Interest Organization's comments and protests because it has provided information that assisted us in our decision-making process.⁶⁰

IV. Commission Determination

31. With regard to the Attachment Y process, we find that MISO's proposed revisions to its timeline for completing its 26-week Attachment Y process satisfy the requirements of the SSR Order. In particular, MISO proposes to shorten the period for responding to resource owners that submit an Attachment Y Notice regarding whether the resource is needed for system reliability from 20 weeks to 75 days. This 75-day period is consistent with MISO's timeline for completing informational Attachment Y-2 Studies and addresses the Commission's concerns regarding inconsistencies in the Attachment Y process and Y-2 Study processes.⁶¹ Applying this 75-day period would also allow MISO to lengthen the period for considering SSR alternatives and negotiating an SSR Agreement, if needed, from approximately five weeks to 14 weeks,⁶² which should alleviate concerns that the previous five-week period was too short.⁶³

32. We disagree with Public Interest Organizations' contention that MISO's proposed timeline for the Attachment Y process is ambiguous. The SSR Order required MISO to explain its timeline for completing the Attachment Y process, and MISO has done so. MISO's proposal appropriately provides additional specificity regarding MISO's Attachment Y process and gives MISO the flexibility necessary to work with the resource owner that submitted the Attachment Y Notice to complete the required studies. MISO's proposal to make "reasonable efforts" to notify the resource owner within 75 days regarding whether the resource is needed for system reliability is consistent with other

⁶⁰ We are addressing Ameren Generating's complaint in Docket No. EL13-76-000 in an order issued concurrently with this order. *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,057 (2014) (Complaint Order). Therefore, Ameren Generating's motion to hold in abeyance MISO's December 18 Compliance Filing, pending the outcome of Ameren Generating's complaint in Docket No. EL13-76-000, along with Illinois Commission's and MISO's answers thereto, are moot.

⁶¹ SSR Order, 140 FERC ¶ 61,237 at P 35.

⁶² If MISO completes the Attachment Y Reliability Study within 75 days, and the resource owner declines to rescind its Attachment Y Notice within five business days, MISO would have approximately 14 weeks remaining.

⁶³ SSR Order, 140 FERC ¶ 61,237 at P 34.

Tariff sections providing MISO with flexibility in satisfying study milestones.⁶⁴ We agree with MISO that, in the event that its reliability analysis is not complete within the 75-day initial review period, this would not preclude the completion of the stakeholder process to identify SSR alternatives during the remaining weeks of the 26-week notice period. We will also deny Public Interest Organizations' request to modify the commencement or length of the 26-week notice period under the Attachment Y process. The SSR Order did not require MISO to make these changes as part of its compliance filing.

33. We find MISO's explanation of its process for identifying SSR alternatives with its stakeholders pursuant to the open and transparent planning provisions of existing Attachment FF of the MISO Tariff to be consistent with the requirements of the SSR Order, except where noted below.⁶⁵ We find Public Interest Organizations' argument regarding whether MISO's Tariff revisions should address what happens if MISO determines that an SSR alternative can address the underlying reliability issue (e.g., whether MISO will inform the resource owner that an SSR Agreement is not necessary) to be beyond the scope of this proceeding. In the SSR Order, the Commission did not require MISO to address this issue on compliance.⁶⁶ In any event, we anticipate that, as a

⁶⁴ See, e.g., MISO, FERC Electric Tariff, 4, Attachments, Attachment X, Generator Interconnection Procedures (GIP) (30.0.0), §§ 6.3 (Interconnection Feasibility Study Procedures), 7.4 (Interconnection System Impact Study Procedures), 8.5 (Interconnection Facilities Study Procedures), 8.7 (Interconnection Study Restudy).

⁶⁵ In an order issued concurrently regarding, among other things, the SSR agreement associated with the first year of the continued service of Edwards Unit No. 1 in Docket No. ER13-1962-000, *et al.*, we find that, with regard to MISO's evaluation of feasible alternatives to entering into an SSR agreement, MISO should provide a short explanation of the proposed solutions, as well as timetables for when the preferred solution will be implemented, and direct MISO to revise its Tariff accordingly pursuant to our authority under section 206 of the FPA. Complaint Order, 148 FERC ¶ 61,057 at PP 152-154.

⁶⁶ We note that, as MISO explains, in the event that an SSR alternative is identified and can be implemented prior to the effective date of the associated Attachment Y Notice, MISO would not be required to enter into an SSR Agreement under the existing Tariff. See, e.g., MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0).

matter of course, MISO will notify the Attachment Y applicant that an alternative has been found to address the underlying reliability issue.

34. In light of the unique characteristics of MISO's SSR program, we agree with MISO that it may need to obtain certain contractual assurances that a selected SSR alternative will be implemented prior to the required in-service date. For example, absent these contractual assurances for proposed generation and demand-side SSR alternatives, MISO might forgo executing an SSR Agreement or terminate an existing SSR Agreement (i.e., MISO could allow the resource to retire or suspend operations) based on a preferred SSR alternative that ultimately fails to remedy the underlying reliability concern. However, MISO has not demonstrated that the required contractual commitments that apply to generation and demand-side resources are comparable to the commitments that apply to transmission solutions.⁶⁷ Therefore, we direct MISO to submit, in the compliance filing directed below, further explanation, and corresponding Tariff revisions, to clarify how the contractual commitments required of generation resources, demand-side resources, and potentially additional types of resources, are comparable to the commitments that apply to transmission solutions.⁶⁸

35. We are concerned that MISO's proposal to disclose only Attachment Y Reliability Study results and the associated reliability need for a potential SSR as part of its process for identifying SSR alternatives will not provide stakeholders with sufficient information to "ensure a thorough consideration of all types of SSR alternatives in an open and transparent manner," consistent with the SSR Order.⁶⁹ We agree with Public Interest Organizations that disclosing complete Attachment Y Reliability Studies, subject to Critical Energy Infrastructure Information (CEII) limitations, would better enable MISO stakeholders to analyze the studies and consider potential SSR alternatives. While we understand that MISO may continue updating the Attachment Y Reliability Study prior to filing any associated SSR agreement with the Commission, this should not preclude the disclosure to MISO stakeholders of the complete study prior to commencing the process for identifying SSR alternatives. Therefore, we will require MISO to submit, in the

⁶⁷ See, e.g., Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216 (clarifying that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and, therefore, how it will determine comparability for purposes of transmission planning).

⁶⁸ In addition, section 38.2.7.a should read, in part, "[i]f the Attachment Y Reliability Study determines that a reliability concern exists," rather than "[o]nce the Attachment Y Reliability Study determines that a reliability concern exists."

⁶⁹ SSR Order, 140 FERC ¶ 61,237 at P 36.

compliance filing due within 30 days of the date of this order, Tariff revisions to ensure that, when MISO publicly discloses that a resource may qualify as an SSR, MISO will also post on its OASIS the associated Attachment Y Reliability Study, subject to CEII limitations.

36. Public Interest Organizations' other argument regarding the Attachment Y process –whether MISO should notify its Market Monitor of all Attachment Y Notices and Reliability Study results – is beyond the scope of this proceeding. While the Commission required MISO to disclose the results of Attachment Y-2 Studies to the Market Monitor,⁷⁰ the Commission did not require MISO to address the disclosure to the Market Monitor of Attachment Y Notices or Reliability Study results on compliance.⁷¹ In any case, as MISO notes, Tariff section 38.2.7.n requires that MISO “promptly notify the [Market Monitor] of any Resource that may qualify as an SSR Unit.”⁷² We agree that such notification is sufficient to address Public Interest Organizations' concern.

37. With regard to the Attachment Y-2 informational study process, we find that MISO has not fully satisfied the Commission's requirement that MISO propose a complete timeline for the completion of each task in the Attachment Y-2 process, including when a resource transitions from the Attachment Y-2 process to the Attachment Y process.⁷³ Under MISO's proposed milestones for the Attachment Y-2 process, approximately 15 weeks of the 26-week notice period could elapse before a resource transitions to the Attachment Y process.⁷⁴ We agree with Public Interest Organizations that it is unclear how MISO could then apply the same milestones for its 26-week Attachment Y process with only 11 weeks remaining in the 26-week notice period.

⁷⁰ *Id.* n.106, P 90.

⁷¹ We note that, as discussed above, MISO will publicly disclose that an Attachment Y Notice was submitted and that the Attachment Y Reliability Study concluded that the resource is required for the reliability of MISO's transmission system. MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.a.

⁷² MISO January 23, 2013 Answer at 7.

⁷³ SSR Order, 140 FERC ¶ 61,237 at P 81.

⁷⁴ If MISO completes the Attachment Y-2 Study in 75 days, and the market participant submits an associated Attachment Y Notice 30 days later, then 15 weeks of the 26-week notice period will have elapsed.

MISO's proposal to apply the same Attachment Y milestones regardless of whether a resource has transitioned from the Attachment Y-2 process would be feasible only if MISO calculates the start of the 26-week notice period upon submission of the Attachment Y Notice for all resources. Therefore, we will require MISO to submit, in the compliance filing due within 30 days of the date of this order, Tariff revisions to indicate that the requirement that resources submit an Attachment Y Notice at least 26 weeks prior to retiring or suspending operations applies uniformly, including to resources that transition from the Attachment Y-2 process.

38. We agree with Ameren that Attachment Y-2 continues to refer to the Attachment Y-2 Study as "non-confidential," which is contrary to the Commission's requirement that MISO revise its Tariff to ensure that Attachment Y-2 Study results are treated as confidential information.⁷⁵ We will require MISO to submit, in the compliance filing directed below, Tariff revisions in Attachment Y-2 to refer to "study" rather than "non-confidential study."

39. With regard to the treatment of SSRs under Attachment Y-1 (Standard Form SSR Agreement), we find that MISO has complied with the Commission's requirement that it insert language in Attachment Y-1 providing that an SSR Agreement must not exceed a one-year term except in exigent circumstances.⁷⁶ We will not require MISO to revise language in section 38.2.7.e regarding the term of SSR Agreements, as Public Interest Organizations request, because the SSR Order only required revisions in Attachment Y-1, not other Tariff sections.⁷⁷

40. In the SSR Order, the Commission also required MISO to revise section 3.A(4) of Attachment Y-1 to reflect language in section 38.2.7.k of the Tariff indicating that in order to extend the term of an SSR Agreement MISO must negotiate a new SSR Agreement and file it with the Commission.⁷⁸ We agree with Public Interest Organizations' argument that MISO has not complied with this requirement.⁷⁹ We will

⁷⁵ SSR Order, 140 FERC ¶ 61,237 at P 89.

⁷⁶ *Id.* P 106.

⁷⁷ We note that in the SSR Order the Commission required in all cases that MISO must submit a justification of the term of an SSR Agreement. *Id.*

⁷⁸ *Id.* P 107.

⁷⁹ MISO's assertion that such additional clarification is not necessary constitutes an untimely request for rehearing of the SSR Order that we need not address.

require MISO to submit, in the compliance filing directed below, Tariff revisions to section 3.A(4) of Attachment Y-1 to reflect that, in order to extend the term of an SSR Agreement, MISO must also negotiate a new SSR Agreement and file it with the Commission.

41. We will not require MISO to clarify what it will consider when conducting annual reviews of whether an SSR remains necessary beyond the initial term of an SSR Agreement, as Public Interest Organizations request. In the SSR Order, the Commission accepted MISO's proposal to re-examine whether an SSR's continued operation remains necessary to ensure system reliability more frequently than on an annual basis;⁸⁰ the Commission did not require MISO to submit further compliance regarding its annual review process.⁸¹

42. With regard to the SSR Order's requirement that MISO allocate to the resource owner certain costs necessitated by a resource's retirement or suspension plans (such as any reliability costs and transmission upgrade costs) in the event that the resource returns from retirement or to service prematurely, MISO has not fully complied with the Commission's requirements. MISO has not satisfied the Commission's directives that MISO (1) explain and submit corresponding Tariff revisions regarding how it will identify the costs necessitated by a resource's retirement or suspension plans, and (2) submit Tariff revisions providing that MISO will notify the resource owner of these costs and allocate these costs to the resource owner in the event that the resource returns from retirement or to service prematurely.⁸² MISO's explanation and proposed Tariff provisions regarding this issue appear to pertain only to the treatment of SSR Units⁸³ that operate pursuant to an SSR Agreement (i.e., resources that have not retired or suspended operations consistent with their Attachment Y Notice), rather than to all resources that return from retirement or suspension prematurely after submitting an Attachment Y

⁸⁰ SSR Order, 140 FERC ¶ 61,237 at P 106.

⁸¹ We note that the MISO Tariff provides that in its annual review, MISO will determine whether a resource is "qualified to remain as an SSR Unit" and MISO will enter into subsequent SSR Agreements based on whether MISO determines that "an SSR Unit continues to be required for reliability of the Transmission System." MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.1.

⁸² SSR Order, 140 FERC ¶ 61,237 at P 63.

⁸³ *See supra* n.36.

Notice (i.e., resources that were not designated SSRs and former SSRs that no longer operate pursuant to SSR Agreements),⁸⁴ as required by the SSR Order.⁸⁵ We also agree with Public Interest Organizations that the Commission's compliance requirements in this regard are not limited to resources that return from retirement; the Commission required MISO to "identify the costs necessitated by a resource's retirement or *suspension* plans," to "allocate *these costs* to the resource owner in the event that the resource returns from retirement or *to service prematurely*."⁸⁶ Moreover, MISO has removed, without explanation, the following Tariff language regarding the allocation of certain costs to resources that return from retirement, which was not required by the SSR Order:

If the owner of an Generation Resource or SCU that submitted an Attachment Y to Retire fails to terminate operation of such facility and the Transmission Provider has approved construction of Transmission System upgrades that were necessitated by such facility's Retire plans (and such upgrades were approved by the Transmission Provider's Board of Directors as Appendix A projects), then the owner of the Generation Resource or SCU that planned to Retire shall be allocated the costs of such Transmission System upgrades necessitated by the planned unavailability of the facility.^[87]

We will require MISO to submit, in the compliance filing directed below, (1) an explanation and Tariff revisions to comply with the requirements in the SSR Order

⁸⁴ See, e.g., MISO December 18 Compliance Filing, Transmittal Letter at 14-15; MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.d.iii.

⁸⁵ SSR Order, 140 FERC ¶ 61,237 at P 63.

⁸⁶ *Id.* (emphasis added). While we recognize that, according to MISO, transmission upgrades are unlikely to be constructed in response to a suspension decision, we note that the Commission's compliance directive was not limited to transmission upgrade costs; rather, the Commission required MISO to address "how it will identify the costs necessitated by a resource's retirement or suspension plans, including any reliability costs and transmission upgrade costs." *Id.*

⁸⁷ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.j.

regarding all resources that return from retirement or to service prematurely;⁸⁸ and (2) either (a) an explanation of why the Tariff language that was omitted in section 38.2.7.j should be omitted as part of compliance with the SSR Order or (b) Tariff revisions to reinstate this Tariff language.⁸⁹

43. In the SSR Order, the Commission found that MISO had not “explained how it will determine cost responsibility for a transmission upgrade that is necessitated by multiple retirements” and required MISO to submit an explanation, and corresponding Tariff revisions, regarding how it will identify the costs necessitated by a resource’s retirement or suspension plans and to allocate these costs to the resource owner in the event that the resource returns from retirement or to service prematurely.⁹⁰ However, consistent with the discussion above, MISO’s proposed revisions in compliance with this requirement only address SSR Units and not all resources that might potentially return from retirement or to service prematurely. Moreover, MISO has not explained how it will determine whether one or more resources that return from retirement or to service prematurely necessitated a network upgrade (i.e., if MISO determines that retiring or suspending resource(s) necessitated a given network upgrade, what criteria MISO will use to determine that other resource(s) also necessitated the upgrade and should therefore bear responsibility for a share of those costs should they likewise return from retirement or to service prematurely). In addition, it is also unclear whether the identification of network upgrade costs necessitated by resources that return from retirement or to service prematurely should be limited to only network upgrades that were approved solely to allow those resources to retire or suspend operations, or whether any costs of expediting the construction of a network upgrade approved for other purposes should also be included.⁹¹ We will require MISO to submit, in the compliance filing directed below, further explanation and Tariff revisions to address these issues, consistent with the requirements of the SSR Order.

⁸⁸ SSR Order, 140 FERC ¶ 61,237 at P 63.

⁸⁹ We note that, if MISO reinserts this language, MISO may propose to modify this language, as needed, in order to comply with the SSR Order’s compliance requirements regarding resources that return from retirement or suspension prematurely. *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

44. With regard to the costs incurred by an SSR to continue operation, including reasonable and prudent costs to comply with environmental regulations or local operating permits, in the SSR Order, the Commission required that MISO submit Tariff revisions to address the “treatment of SSRs that later return to service.”⁹² MISO’s proposed Tariff revisions incorrectly refer only to SSR Units that operate pursuant to an SSR Agreement and that seek to rescind a decision to retire or suspend operations.⁹³ As a result, MISO’s proposal does not address the treatment of resources that were previously designated SSRs but are no longer operating pursuant to an SSR Agreement (e.g., retired resources with expired SSR Agreements) that later return to service. As explained in the SSR Order, this could inappropriately allow an SSR to recover the cost of significant upgrades required by environmental regulations under an SSR Agreement and then return to service by rescinding their Attachment Y Notice.⁹⁴ Moreover, by referring only to resources that *rescind* a decision to retire or suspend operations, MISO’s proposal fails to address the treatment of suspended SSRs that later return to service *on schedule* and without rescinding a decision to suspend operations (e.g., resources that return to service consistent with an initial Attachment Y Notice to suspend operations). We are concerned that this could allow SSR Agreements to be used to allow resource owners to inappropriately recover the cost of long-term capital expenditures from load-serving entities in MISO, as explained in the SSR Order.⁹⁵ MISO also proposes requiring SSRs that later return to service to refund with interest all costs, less depreciation, of repairs or capital expenditures needed to meet the applicable environmental regulations. However, MISO has not addressed whether these resources should be required to refund additional costs (e.g., other capital costs associated with their continued operation). We will require MISO to submit, in the compliance filing directed below, further explanation and Tariff revisions regarding the treatment of SSRs that later return to service, including former SSRs that no longer operate pursuant to an SSR Agreement, as required in the SSR Order.

45. We will not require MISO to provide additional clarification regarding its refund process for SSR Units, as Ameren requests. MISO has resolved the only specific concern raised by Ameren – MISO’s method of determining depreciation – by stating that MISO will use a “straight-line method wherein the book value is equal to the original costs less

⁹² SSR Order, 140 FERC ¶ 61,237 at P 138.

⁹³ *See supra* n.36.

⁹⁴ SSR Order, 140 FERC ¶ 61,237 at P 137.

⁹⁵ *Id.*

any accumulated depreciation.”⁹⁶ If Ameren believes further clarification or Tariff revisions are necessary, it may seek them via MISO’s stakeholder process.

46. With respect to Ameren’s requests regarding repayment by SSR Units, we will not clarify whether MISO may require immediate repayment of environmental upgrade costs, as Ameren requests, because we will consider the repayment of environmental upgrade costs in the event that such an implementing schedule is filed with the Commission. Accordingly, we will require MISO to submit, in the compliance filing directed below, Tariff revisions to remove proposed language from section 38.2.7.d.iii(3) requiring SSRs to refund certain costs associated with meeting applicable environmental regulations “when the SSR Agreement is terminated and the SSR Unit returns to service.”

47. We will accept MISO’s proposed language requiring a resource owner or operator that submits an Attachment Y Notice to make good faith efforts to minimize the potential costs to be incurred under an SSR agreement by seeking any available waivers or exemptions from environmental regulatory requirements that would necessitate improvements to the potential SSR Unit. We agree that this provision will help to ensure that resources recover the costs to comply with environmental regulations or local operating permit requirements only if those costs are “reasonable and prudent,” consistent with the SSR Order.⁹⁷

48. We accept MISO’s proposed definition of “going forward costs.” This definition is consistent with MISO’s initial description of its SSR program, including that costs eligible for cost recovery under SSR agreements “are costs that would be incurred by the SSR Unit owner to provide service above the costs the SSR Unit would have incurred anyway had it been retired, placed into extended reserve shutdown, or disconnected.”⁹⁸ We note that, in the order addressing Ameren Generating’s complaint in Docket No. EL13-76-000, the Commission finds the MISO Tariff to be unjust, unreasonable, and unduly discriminatory or preferential because, when MISO negotiates with a market participant to determine the level of SSR compensation, the Tariff does not allow MISO to compensate SSRs for the fixed costs of existing plant, which are recovered as depreciation expense, return on rate base, and associated taxes, and directs MISO to

⁹⁶ MISO January 23, 2013 Answer at 10.

⁹⁷ SSR Order, 140 FERC ¶ 61,237 at P 138.

⁹⁸ *See supra* n.15.

revise its Tariff to reflect that SSR compensation should not exceed a resource's full cost-of-service, including the fixed costs of existing plant.⁹⁹

49. Finally, we accept MISO's explanation of the general principles that MISO will apply to identify the load-serving entities that should pay SSR costs. However, we note that MISO's explanation – including that it will allocate SSR costs *pro rata* to all load-serving entities in a pricing zone that require the SSR Unit for reliability – is more restrictive than the Tariff requires,¹⁰⁰ and can be at odds with MISO's current practice in situations where the pricing zone and the local balancing authority area are not one and the same.¹⁰¹ We understand that the identification of pricing zones is one basis upon which MISO could then allocate SSR costs to the load-serving entities that require the operation of an SSR, but note that the Tariff also allows MISO the flexibility to apply a different level of granularity (e.g., at the local balancing authority area level) in order to identify the relevant load-serving entities that require the SSR. This is consistent with the Commission's acceptance in the SSR Order of MISO's proposal to remove Tariff language that limited it to use of local balancing authority area boundaries to allocate SSR costs to load-serving entities.¹⁰²

⁹⁹ Complaint Order, 148 FERC ¶ 61,057 at PP 82, 84-87.

¹⁰⁰ MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.j (“The costs pursuant to the SSR Agreement shall be allocated to the [load-serving entity or entities] that require(s) the operation of the SSR Unit for reliability purposes. . .”).

¹⁰¹ We note that after submission of the December 18 Compliance Filing, MISO revised its Business Practices Manuals to add language discussing its allocation of SSR costs, including to explain that MISO will “employ an optimal load shed methodology to determine the relative reliability impact to each MISO Local Balancing Authority (LBA) Area . . . based on relative impacts from the optimal load shed methodology and uplifted to Load Serving Entities in each [Local Balancing Authority] Area, pro rata. . .” See MISO Transmission Planning Business Practices Manual, BPM-020-r10 § 6.2.6 (effective Apr. 10, 2014) *available at* <https://www.misoenergy.org/Library/BusinessPracticesManuals/Pages/BusinessPracticesManuals.aspx>.

¹⁰² SSR Order, 140 FERC ¶ 61,237 at P 153.

V. Outstanding Compliance Requirements

50. While MISO has satisfied many of the requirements of the SSR Order, we find that there are additional compliance requirements that the December 18 Compliance Filing has not fully addressed. We will require MISO to submit, in the compliance filing due within 30 days of the date of this order, further explanation and/or Tariff revisions to address the following issues:

- 1) MISO states that its Attachment Y process will apply to all generation resources, including resources that are connected to other systems as pseudo-tied¹⁰³ resources as well as resources interconnected to transmission systems at lower voltages within the MISO Balancing Authority Area and that are connected to, but not part of, the transmission system that was transferred to MISO's functional control.¹⁰⁴ However, while MISO's corresponding Tariff revisions reflect that the Attachment Y process will apply to pseudo-tied resources, they do not also refer to resources interconnected at lower voltages within the MISO Balancing Authority Area and that are connected to, but not part of, the transmission system that was transferred to MISO's functional control.¹⁰⁵
- 2) MISO has not submitted Tariff revisions to reflect its explanation that it will not use SSR Agreements to address reliability issues on transmission systems that are not under MISO's functional control.¹⁰⁶

¹⁰³ The MISO Tariff defines a "Pseudo tie," in part, as "[a] telemetered reading or value that is updated in real time and used as a tie line flow in the Area Control Error equation but for which no physical tie or energy metering actually exists. The integrated value is used as a metered MWh value for interchange accounting purposes." MISO, FERC Electric Tariff, 2, Modules, Module A, Common Tariff Provisions, II, General Provisions, 1, Definitions, 1.P, Definitions – P (1.0.0).

¹⁰⁴ MISO December 18 Compliance Filing, Transmittal Letter at 2.

¹⁰⁵ SSR Order, 140 FERC ¶ 61,237 at P 17 (requiring MISO to submit an explanation of how its Attachment Y process will apply to resources that are not directly interconnected to the MISO transmission system and Tariff revisions necessary to reflect this explanation).

¹⁰⁶ *Id.* (requiring MISO to submit Tariff revisions to ensure consistency in the description of resources that need not file an Attachment Y Notice).

- 3) MISO's proposed Tariff revisions in section 38.2.7.a that describe the confidentiality of Attachment Y Notices do not address the confidentiality of Attachment Y Reliability Study results when a resource does not qualify as an SSR.¹⁰⁷
- 4) MISO's proposed Tariff revisions providing that decisions to retire operations must be definitive at the time of submittal of the Attachment Y Notice do not likewise require that decisions to suspend operations be definitive.¹⁰⁸
- 5) While MISO explains its proposed treatment of multiple and/or overlapping Attachment Y and/or Y-2 Studies,¹⁰⁹ MISO has not proposed any corresponding Tariff revisions.¹¹⁰
- 6) MISO has not proposed additional procedures to ensure that the transfer of interconnection service to a new generator, or to increase the capacity of an existing facility at the identical point of interconnection, is offered in a just and reasonable and not unduly discriminatory manner.¹¹¹

¹⁰⁷ *Id.* P 37 (requiring MISO to submit Tariff revisions to ensure that MISO will continue to treat "Attachment Y Notices and Study results" as confidential information in the event that an Attachment Y Reliability Study finds that a resource would not qualify as an SSR).

¹⁰⁸ *Id.* P 38 (requiring MISO to submit Tariff revisions to provide that decisions to suspend operations must be definitive when submitting an Attachment Y Notice, unless modified by rescission prior to receiving study results).

¹⁰⁹ MISO December 18 Compliance Filing, Transmittal Letter at 8.

¹¹⁰ SSR Order, 140 FERC ¶ 61,237 P 39 (requiring MISO to submit Tariff revisions, if needed, corresponding to its explanation of how it will conduct multiple and/or overlapping studies).

¹¹¹ *Id.* PP 47-52. MISO's assertions in its Transmittal Letter at 9 that existing provisions of its Tariff already allow the transfer of interconnection service and, therefore, it need not address the Commission's requirements in the SSR Order amount to an untimely request for rehearing, and in any case, are incorrect. Article 19.1 of the GIA and section 4.3 of the Generator Interconnection Procedures (GIP) address the reassignment and transfer, respectively, of interconnection service for a specific Generating Facility from one party to another and do not address a change in the underlying Generating Facility. Section 2.1(a)(iv) of the GIP addresses the application of

(continued...)

7) MISO included the following Tariff language in section 38.2.7.j to extend the term of interconnection service that may be retained by the owner or operator that has retired a resource, which was not required by the SSR Order and therefore should be deleted:

If, during the pendency of the Generator Interconnection process, the In-Service Date (ISD) moves to beyond the thirty-six (36) months after the latter of the date that the Attachment Y Notice and Attachment X are submitted to the Commission, then the term of the interconnection rights shall be extended to the ISD.^[112]

8) MISO has not modified language in Attachment Y-2 referring to the potential posting of Attachment Y-2 Study results on OASIS depending on whether a market participant rescinds its Attachment Y-2 Notice prior to receiving Attachment Y-2 Study results.¹¹³

9) MISO's proposed Tariff revisions allowing a resource to modify a retirement or suspension decision refer to a resource that "has not been designated an SSR Unit,"¹¹⁴ which would improperly exclude resources that were previously designated SSRs but are no longer operating pursuant to an SSR Agreement (e.g.,

the GIP (e.g., study procedures) to any substantive modification to the operating characteristics of an existing Generating Facility. However, section 2.1 does not address the replacement of a retiring unit with new generation. Thus, MISO must propose revisions to its Tariff in order to implement this program.

¹¹² MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.j.

¹¹³ SSR Order, 140 FERC ¶ 61,237 at P 89 (requiring MISO to submit Tariff revisions to ensure that Attachment Y-2 Notices and Study results are treated as confidential information). In addition, the reference to "Section 38.2.7(n)" in Attachment Y-2 should instead refer to "Section 38.2.7.o," to reflect MISO's proposed renumbering of that section.

¹¹⁴ See *supra* n.36.

retired resources with expired SSR Agreements that want to return to service).¹¹⁵ MISO should instead refer to resources that “are not continuing to operate pursuant to an SSR Agreement.”

10) MISO has not revised section 38.2.7 so that it no longer indicates that SSR Agreements will contain the allocation of costs.¹¹⁶

The Commission orders:

(A) MISO’s proposed Tariff revisions are hereby conditionally accepted, as discussed in the body of this order.

(B) MISO is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹⁵ SSR Order, 140 FERC ¶ 61,237 at P 108 (requiring MISO to allow SSRs to modify their decisions to suspend operations and/or the effective date of their definitive decisions to retire or suspend so that they may remain in, or return to, service, consistent with the treatment of other resources retirements and suspensions).

¹¹⁶ *Id.* P 155, n.233. In particular, MISO should remove “and the allocation of costs” from section 38.2.7 and “and shall be specified in the SSR Agreement” from section 38.2.7.k. In addition, in section 9.B of Attachment Y-1, the reference to “Exhibit 3” should instead refer to “Exhibit 2,” to reflect MISO’s proposed renumbering of that exhibit due to the removal of Exhibit 2 regarding the allocation of SSR costs.