

149 FERC ¶ 61,225  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;  
Philip D. Moeller, Tony Clark,  
and Norman C. Bay.

Midcontinent Independent  
System Operator, Inc.

Docket No. ER14-2445-001

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued December 12, 2014)

1. On July 16, 2014, the Midcontinent Independent System Operator, Inc. (MISO) filed, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and Part 35 of the Commission's regulations,<sup>2</sup> proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (MISO Tariff) that add a hurdle rate to the Sub-Regional Power Balance Constraint Demand Curve that is used to price Sub-Regional Power Balance Constraints (Hurdle Rate Filing).<sup>3</sup>

2. In this order, we conditionally accept the Hurdle Rate Filing effective July 17, 2014, as requested, subject to a compliance filing due within 30 days of the date of this order, and an informational filing twelve months after the acceptance of MISO's compliance filing in this proceeding, and a second informational filing twelve months thereafter, as discussed below. We find that MISO has demonstrated that its hurdle rate

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. pt. 35 (2014).

<sup>3</sup> The Sub-Regional Power Balance Constraint is a net energy injection and withdrawal constraint established to manage intra-regional flows in accordance with applicable seam agreements, coordination agreements, transmission service agreements, or operating procedures. In this instance, intra-regional flows are defined as flows between the MISO Midwest and MISO South sub-regions. Midcontinent Independent System Operator, Inc., Filing of Revisions to MISO Tariff to Include Sub-Regional Power Balance Constraints, Docket No. ER14-1713-000, at 6 (filed Apr. 11, 2014) (Power Balance Filing).

proposal would improve the currently effective Sub-Regional Power Balance Constraint Demand Curve and could provide significant benefits by allowing increased intra-regional flows when economic. However, we find that MISO's proposed method of calculating the hurdle rate will undermine MISO's objective of allowing flows over 1,000 MW only when production cost savings exceed the potential SPP transmission charges. Accordingly, as discussed further below, we will require MISO to make a compliance filing to modify its calculations of the initial hurdle rate and adjustments to the hurdle rate, and to clarify several aspects of the Hurdle Rate Filing.

## **I. Background**

3. In 2004, the Commission approved a Joint Operating Agreement to better coordinate power flows and improve seams management between MISO and the Southwest Power Pool, Inc. (SPP) (MISO-SPP JOA).<sup>4</sup>

4. On January 28, 2014, SPP filed a complaint (SPP Complaint) in which it sought a Commission order finding that MISO is violating the MISO-SPP JOA and the SPP Open Access Transmission Tariff (SPP Tariff), and requiring MISO to compensate SPP for use of the SPP transmission system under the SPP Tariff. Alternatively, SPP requested that the Commission find that: (1) the MISO-SPP JOA is no longer just and reasonable, and is unduly discriminatory, to the extent that it does not provide a mechanism by which SPP may assess charges for MISO's use of the SPP transmission system to enable MISO to integrate the Entergy Operating Companies into MISO; and (2) the compensation mechanism set forth in the SPP Complaint is the just, reasonable, and not unduly discriminatory rate for MISO's use of the SPP transmission system.<sup>5</sup>

5. Concurrent with the SPP Complaint, SPP also filed an unexecuted service agreement to assess charges for MISO's use of the SPP transmission system as a result of MISO's real-time energy transfers between the MISO Midwest and MISO South regions (SPP Service Agreement). SPP explained that all entities that use the SPP transmission system to move energy must reserve transmission service and compensate SPP for service, and they must do so under a transmission service agreement. SPP argued that it

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<sup>4</sup> See *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,008 (2004), *reh'g denied*, 110 FERC ¶ 61,031 (2005).

<sup>5</sup> Southwest Power Pool, Inc., Complaint and Request for Fast Track Processing and Motion to Consolidate, Docket No. EL14-21-000 (filed Jan. 28, 2014).

treats MISO comparably to other entities that seek to use the SPP transmission system to transfer energy.<sup>6</sup>

6. On March 28, 2014, the Commission issued an order placing into effect the SPP Service Agreement between MISO and SPP.<sup>7</sup> The MISO-SPP JOA Order addressed four proceedings involving the MISO and SPP dispute over the terms of the MISO-SPP JOA: (1) an opinion of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacating and remanding orders of the Commission that interpreted section 5.2 of the MISO-SPP JOA;<sup>8</sup> (2) the SPP Complaint against MISO under section 206 of the FPA<sup>9</sup> alleging various violations by MISO of the terms of the MISO-SPP JOA, or in the alternative, that the MISO-SPP JOA is no longer just and reasonable; (3) a complaint filed by MISO against SPP under section 206 of the FPA alleging SPP's violation of the terms of the MISO-SPP JOA;<sup>10</sup> and (4) SPP's filing under section 205 of the FPA of the Service Agreement (SPP Service Agreement Filing). In the MISO-SPP JOA Order, the Commission accepted for filing the SPP Service Agreement, suspended it for a nominal period, and made it effective January 29, 2014, subject to refund. In addition, the Commission consolidated the four proceedings and established hearing and settlement judge procedures.

7. After reviewing market results following the initial integration of the Entergy Operating Companies<sup>11</sup> into MISO, MISO developed and proposed the Sub-Regional Power Balance Constraint to limit intra-regional flows, i.e., those flows between MISO Midwest and MISO South, to the 1,000 megawatt (MW) contract path limit between MISO Midwest and MISO South, rather than allowing flows up to the 2,000 MW limit

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<sup>6</sup> Southwest Power Pool, Inc., Submission of Unexecuted Non-Firm Point-to-Point Transmission Service Agreement, Docket No. ER14-1174-000 (filed Jan. 28, 2014).

<sup>7</sup> *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,231 (2014) (MISO-SPP JOA Order).

<sup>8</sup> *Southwest Power Pool, Inc. v. FERC*, 736 F.3d 994 (D.C. Cir. 2013).

<sup>9</sup> 16 U.S.C. §§ 824e, 825e (2012).

<sup>10</sup> Midcontinent Independent System Operator, Inc., Complaint and Motion to Consolidate, Docket No. EL14-30-000 (filed Feb. 18, 2014).

<sup>11</sup> Entergy Arkansas, Inc. (Entergy Arkansas); Entergy Gulf States Louisiana, L.L.C.; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; and Entergy Texas, Inc.

established in the Operations Reliability Coordination Agreement (ORCA).<sup>12</sup> On June 10, 2014, the Commission conditionally accepted MISO's proposal to establish the Sub-Regional Power Balance Constraint and the Sub-Regional Power Balance Constraint Demand Curve.<sup>13</sup>

8. On June 16, 2014, the Commission accepted, suspended for a nominal period, and set for hearing and settlement judge procedures, MISO's proposed Tariff revisions related to the recovery of costs invoiced to MISO under the tariff of another transmission provider (Cost Recovery Filing).<sup>14</sup>

## II. Hurdle Rate Filing

9. MISO proposes revisions to Schedule 28B to add an additional step to the Sub-Regional Power Balance Constraint Demand Curve to reflect potential charges under the SPP Service Agreement for intra-regional flows in excess of 1,000 MW that occur under MISO's transmission service agreements with SPP.<sup>15</sup> Specifically, MISO's proposed revisions would add a "hurdle rate" to the economic dispatch in the day-ahead and real-time market. This hurdle rate would allow intra-regional flows to exceed the 1,000 MW contract path limit when the incremental savings from allowing the flows exceed the transmission charges under the SPP Service Agreement.<sup>16</sup> The hurdle rate would apply

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<sup>12</sup> Entergy Arkansas, Ameren Corporation (Ameren), and Associated Electric Cooperative, Inc. (Associated Electric) are parties to an interconnection agreement under which they share the capacity of the 500/345 kV transformers on a high-voltage interconnection. The direct contiguous tie capability between Entergy Arkansas and Ameren is approximately 1,000 MW of the 1,500 MW total capability of the interconnection (i.e., the 1,000 MW contract path limit). The ORCA provides agreed upon transmission limits to address reliability and loop flow concerns among MISO and neighboring entities. *See Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,032 (2013).

<sup>13</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,194 (2014) (Power Balance Order). Prior to the implementation of the Sub-Regional Power Balance Constraint and the Sub-Regional Power Balance Demand Curve in Schedule 28B, MISO managed intra-regional flows using a multi-transmission element proxy flowgate approach (proxy flowgate approach).

<sup>14</sup> *See Midcontinent Indep. System Operator, Inc.*, 147 FERC ¶ 61,206 (2014) (Cost Recovery Order).

<sup>15</sup> Hurdle Rate Filing, Vannoy Test. at 3.

<sup>16</sup> *Id.* at 4.

until the 2,000 MW ORCA limit is reached. MISO asserts that these modifications will result in annual production cost savings of approximately \$34 million.<sup>17</sup>

10. MISO explains that cost recovery and allocation matters related to invoices received pursuant to the SPP Service Agreement are not included in this filing; rather, they are being discussed as part of the settlement procedures established in the Cost Recovery Order. MISO states that it is committed to ensuring alignment between the modifications to the Sub-Regional Power Balance Constraint Demand Curve proposed in the instant filing and any cost recovery mechanism ultimately adopted.

11. On September 12, 2014, Commission staff, pursuant to delegated authority, issued a deficiency letter requesting MISO to provide additional information in order to process the Hurdle Rate Filing. On October 14, 2014, MISO filed a response (Deficiency Letter Response).

### **III. Notice, Interventions and Responsive Pleadings**

12. Notice of the Hurdle Rate Filing was published in the *Federal Register*, 79 Fed. Reg. 43,743 (2014) with interventions and protests due on or before August 6, 2014. In response to a motion to extend the comment date,<sup>18</sup> the deadline for filing comments, protests, and interventions on the Hurdle Rate Filing was subsequently extended to August 11, 2014. Various entities filed motions to intervene, notices of intervention, comments, protests, answers, and other pleadings. The appendix to this order lists the responsive pleadings. The entity abbreviations listed in the appendix will be used throughout this order.

13. Notice of the Deficiency Letter Response was published in the *Federal Register*, 79 Fed. Reg. 63,113 (2014) with interventions and protests due on or before November 4, 2014. The appendix to this order lists the responsive pleadings.

### **IV. Discussion**

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

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant

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<sup>17</sup> *Id.* at 6-7.

<sup>18</sup> Motion of the Mississippi Public Service Commission for Extension of Comment Deadline, Docket No. ER14-2445-000 (Aug. 4, 2014).

to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), we will grant the late-filed motions to intervene given the entities' interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

15. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest or an answer to an answer unless otherwise ordered by the decisional authority. We accept the answers because they have provided information that assisted us in our decision-making process.

## **B. Substantive Matters**

16. As explained in further detail below, we conditionally accept the Hurdle Rate Filing, effective July 17, 2014, as requested, subject to certain compliance requirements.

### **1. The Need for a Hurdle Rate**

#### **a. MISO's Proposal**

17. MISO states that since the implementation of the Sub-Regional Power Balance Constraint, when MISO restricts intra-regional flow to a 1,000 MW dispatch flow limit, the MISO market may incur redispatch costs that potentially exceed the cost of the transmission charges under the SPP Service Agreement.<sup>19</sup> MISO explains that, after analyzing the first three months of operations under its Sub-Regional Power Balance Constraint, it can make a clear case that net production cost savings can be attained by allowing flows to exceed the 1,000 MW dispatch flow limit when redispatch costs exceed expected transmission service costs under the SPP Service Agreement. In order to realize these net savings, MISO proposes to modify the Sub-Regional Power Balance Constraint Demand Curve to provide a market price signal for intra-regional flows above 1,000 MW. MISO states that this price signal will be manifested in the Locational Marginal Price (LMP) of the importing sub-region.

18. To establish the necessary price signal, MISO proposes to add a hurdle rate to the economic dispatch in both the day-ahead and real-time market equal to the expected incremental cost of MISO's transmission service charges under the SPP Service Agreement.<sup>20</sup> MISO maintains that this approach will ensure the economic benefits exceed potential costs for intra-regional flows above 1,000 MW. MISO proposes to modify the Sub-Regional Power Balance Constraint Demand Curve by adding a single

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<sup>19</sup> Hurdle Rate Filing at 3.

<sup>20</sup> *Id.*

priced step for flows between 1,000 MW and 2,000 MW. MISO proposes an initial hurdle rate set at \$9.57. According to MISO, net benefits from avoided redispatch costs will exceed expected SPP Service Agreement charges when the price difference between the two regions exceeds \$9.57. MISO estimates that implementing the hurdle rate will result in approximately \$34 million in annual savings.<sup>21</sup>

**b. Comments and Protests**

19. Most parties generally support MISO's proposal to implement a hurdle rate to allow intra-regional flows above the 1,000 MW contract path limit when it is economically justified. The Organization of MISO States, the Market Monitor, the MISO Transmission Owners, the City of New Orleans, the Louisiana Commission, the Wisconsin Commission, Entergy, and Xcel all generally support the filing. Although they protest certain aspects of MISO's filing, the Texas Commission, the Arkansas Commission, and Wisconsin TDUs also note their general support for the hurdle rate concept.

20. The Organization of MISO States argues that the Hurdle Rate Filing, while supported by the Market Monitor, is untested in this region; therefore, it expects that modifications will be offered as experience may indicate.<sup>22</sup> According to the Organization of MISO States, it views the Hurdle Rate Filing as an interim step that should be eliminated through settlement of pending MISO-SPP dockets, market-to-market seams management processes expected in 2015, or other avenues.<sup>23</sup> Likewise, the MISO Transmission Owners state that they support the Hurdle Rate Filing and urge the Commission to permit the proposed revisions to go into effect on July 17, 2014.<sup>24</sup>

21. The Wisconsin Commission argues that the dispute between MISO and SPP should not be an occasion to introduce and make permanent new MISO structures, charges, or devices without thorough stakeholder consideration of all the implications of such alterations.<sup>25</sup> For example, the Wisconsin Commission maintains that the use of the hurdle rate arguably changes the nature of pricing in the existing MISO energy market in

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<sup>21</sup> *Id.*

<sup>22</sup> Organization of MISO States August 5 Comments at 3; Texas Commission August 21 Protest at 3.

<sup>23</sup> Organization of MISO States August 5 Comments at 3.

<sup>24</sup> MISO Transmission Owners August 6 Comments at 4.

<sup>25</sup> Wisconsin Commission August 6 Comments at 2.

that a transmission service charge is being “morphed” into an energy charge adder.<sup>26</sup> Consequently, the Wisconsin Commission argues that the complexities of MISO operations and its interactions with its neighbors warrant a cautious approach to the changes introduced in this docket.<sup>27</sup> The Wisconsin Commission asserts that MISO’s proposed tariff changes should exist for no more time than is necessary to resolve the dispute between MISO and SPP.<sup>28</sup>

22. Entergy argues that the Commission has already approved the Sub-Regional Power Balance Constraint and the restrictions that it imposes on MISO-wide energy prices. According to Entergy, concerns that the hurdle rate will remain in place after the SPP Service Agreement is terminated are unwarranted. Entergy maintains that the proposed tariff revisions provide MISO with authority to update the value of the hurdle rate on a monthly basis – which it asserts that MISO will surely do with great expediency if the SPP Service Agreement is terminated.<sup>29</sup>

23. The Mississippi Commission argues that, if accepted, the hurdle rate will result in consistently uneconomic dispatch.<sup>30</sup> The Mississippi Commission contends that the hurdle rate will almost assuredly over- or under-constrain market dispatch.<sup>31</sup> The Mississippi Commission explains that MISO is proposing to implement a hurdle rate based on computed intra-regional flows from winter peak and shoulder peak months.<sup>32</sup> Doing so, according to the Mississippi Commission, will likely cause MISO to price the costs and benefits associated with increased intra-regional flows incorrectly, and thus, the hurdle rate will lead to uneconomic dispatch of the system.<sup>33</sup> The Mississippi Commission argues that, of the factors that affect MISO’s economic dispatch, some of

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<sup>26</sup> *Id.* at 6, n.7.

<sup>27</sup> *Id.* at 2.

<sup>28</sup> *Id.* at 7.

<sup>29</sup> Entergy August 11 Comments at 9.

<sup>30</sup> Mississippi Commission August 6 Protest at 16.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

the most important factors are tied to seasonal variations in weather that affect demand, generator availability, the price of natural gas, and even wind generator output.<sup>34</sup> It asserts that MISO has modeled the incremental cost associated with increasing intra-regional flows above 1,000 MW based on intra-regional flow data generated during a period with typically lower demand, higher generator outage rates, higher natural gas prices, and higher wind generation.<sup>35</sup>

24. The Mississippi Commission also asserts that market participants engaged in Financial Transmission Right (FTR) and/or virtual transaction speculation may be able to take advantage of the administratively-mandated minimum price spread that the hurdle rate will create.<sup>36</sup> The Mississippi Commission explains that the Hurdle Rate Filing will ensure that, whenever flows from Midwest-to-South or South-to-Midwest regions of MISO exceed 1,000 MW, the congestion cost differential will be at least \$9.57/MWh (i.e., the hurdle rate) and thus, anyone who holds FTRs across that path in the direction of the predominant flow will be paid at least \$9.57 for every megawatt-hour (MWh) of FTRs owned.<sup>37</sup> The Mississippi Commission adds that, where price differences are set administratively, virtual traders will have an incentive to attempt to drive convergence, and in doing so, they will capitalize on congestion component differences.<sup>38</sup> The Mississippi Commission states that, by permitting virtual bids and offers, day-ahead and real-time prices are driven to convergence resulting in reduced costs to serve load (because many utilities rely on day-ahead schedules and prices to serve rather than buying in real-time).<sup>39</sup> While they support the concept of the hurdle rate generally, the Texas Commission and the Arkansas Commission also assert that the hurdle rate proposal may create arbitrage and market manipulation opportunities for FTR and virtual transaction traders.<sup>40</sup>

25. The Mississippi Commission argues that MISO's proposal will distort energy prices and create new seams. According to the Mississippi Commission, the addition of a

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<sup>34</sup> *Id.* at 16-17.

<sup>35</sup> *Id.* at 17.

<sup>36</sup> *Id.* at 18.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 19.

<sup>39</sup> *Id.*

<sup>40</sup> Texas Commission August 21 Protest at 7; Arkansas Commission Protest at 3.

non-physical constraint to the market will result in LMPs that are based on costs different from every other regional transmission organization (RTO) or independent system operator (ISO), which will lead to seams issues with neighboring RTOs.<sup>41</sup> For example, it asserts that parties engaged in existing bilateral transactions based on LMP prices calculated by MISO will be adversely affected because the hurdle rate, as incorporated into LMP, will affect transaction margins.<sup>42</sup>

26. The Mississippi Commission maintains that the Hurdle Rate Filing treats MISO Midwest and MISO South as two separate regions, thus diminishing the benefits of having a single RTO.<sup>43</sup> The Mississippi Commission notes that MISO does not apply transaction costs to bilateral transactions between MISO and PJM, but would consider that cost with the hurdle rate proposal.<sup>44</sup> The Mississippi Commission adds that, to the extent MISO needs a hurdle rate to help it determine when to dispatch flows between MISO Midwest and MISO South, that need exists because of MISO's "continued and unreasonable refusal" to reserve transmission service on the SPP transmission system.<sup>45</sup> With regard to proposals that would have MISO remove all restrictions on intra-regional flows and prepay for 1,000 MW of service from SPP, Entergy states that there is no protection under this approach that will ensure the benefits of purchasing 1,000 MW of service will outweigh the costs of that purchase.<sup>46</sup>

27. The Mississippi Commission asserts that a simple solution that avoids all of the deficiencies of the Hurdle Rate Filing it alleges, would be for MISO to dispatch its system up to the 2,000 MW limit provided under the ORCA and recover the SPP Service Agreement charges under a separate rate schedule.<sup>47</sup> The Mississippi Commission adds that the separate rate schedule should track the ongoing hearing and settlement judge procedures in Docket No. ER14-1736-000.<sup>48</sup>

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<sup>41</sup> Mississippi Commission August 6 Protest at 19.

<sup>42</sup> *Id.* at 20.

<sup>43</sup> *Id.* at 21-22.

<sup>44</sup> *Id.* at 22.

<sup>45</sup> *Id.*

<sup>46</sup> Entergy August 11 Comments at 8.

<sup>47</sup> Mississippi Commission August 6 Protest at 28-29.

<sup>48</sup> *Id.*

**c. Answers**

28. MISO states in its answer that, as suggested by the Organization of MISO States, it will monitor the Sub-Regional Power Balance Constraint Demand Curve and to make any modifications warranted by experience.<sup>49</sup> MISO also responds to the Mississippi Commission's assertion that MISO's proposal is unjust, unreasonable and ripe for abuse. MISO contends that its market dispatch should only exceed the 1,000 MW contract path limit when benefits exceed potential transmission service costs. It further explains that the hurdle rate will serve as the threshold for determining when increased flows exceed potential transmission service costs and argues that it is proposing a true-up mechanism that will remedy any under-collection or over-collection of the hurdle rate.<sup>50</sup>

29. In its response, the Mississippi Commission states that MISO's response did not address its specific arguments demonstrating that the hurdle rate is unjust and unreasonable. It argues that MISO's silence justifies the Commission's rejection of the proposal.<sup>51</sup> The Mississippi Commission also argues that Entergy's attempt to characterize its protest as a "collateral attack" on the Power Balance Order is incorrect. The Mississippi Commission highlights that, in the proceeding on the Power Balance Filing, the question was whether the Sub-Regional Power Balance Constraint Demand Curve was just and reasonable to *restrain* intra-regional flows while the question in the Hurdle Rate Filing is whether the hurdle rate is a just and reasonable mechanism to *increase* intra-regional flows.<sup>52</sup>

**d. Commission Determination**

30. We find that MISO has demonstrated that its proposal for a hurdle rate improves the currently effective Sub-Regional Power Balance Constraint Demand Curve. Therefore, we accept MISO's proposal, subject to modifications in its calculation, as discussed in more detail below, and we deny requests to reject the proposal and implement alternative relief.

31. We disagree with the Mississippi Commission's arguments that the hurdle rate proposal is unjust, unreasonable and ripe for abuse. Given the nature of the SPP Service Agreement charges, MISO's hurdle rate represents an approximation of the incremental

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<sup>49</sup> MISO August 29 Answer at 3.

<sup>50</sup> *Id.* at 10-11.

<sup>51</sup> Mississippi Commission September 3 Answer at 3.

<sup>52</sup> *Id.* at 7-8.

cost of additional flow. We disagree with the Mississippi Commission's assertion that the hurdle rate is inherently flawed and find that MISO's practice of using data from previous months represents a reasonable approach to approximate the incremental cost of additional intra-regional flow. The SPP Service Agreement charges are peak-based; therefore, it is unreasonable to expect that MISO's approximation of the SPP Service Agreement charges, and by extension the hurdle rate, will reflect the incremental cost of additional flow with absolute precision in all instances. As discussed further below, we believe MISO's basic process for calculating the hurdle rate is just and reasonable, subject to certain conditions. We also find no merit in the Mississippi Commission's claims that the hurdle rate will distort energy prices and create seams issues with neighboring RTOs by adding a "non-physical" constraint cost to the congestion component of LMP. As a modification of the currently effective Sub-Regional Power Balance Constraint, the hurdle rate will, like other constraint demand curves, affect the congestion component of LMPs. This impact is consistent with that of other constraints and associated demand curves and we find nothing improper about this effect.

32. With regard to protests that the hurdle rate will provide excessive opportunities for arbitrage or market manipulation, we find that commenters have provided insufficient explanation to support these claims. For example, the Mississippi Commission argues that FTR or virtual transactions may be able to "take advantage of the administratively mandated minimum price-spread that the hurdle rate will create."<sup>53</sup> However, the Mississippi Commission provides no explanation as to how FTR holders or virtual transaction traders might take unfair advantage of the potential price-spread between MISO Midwest and MISO South generated by the hurdle rate. Similarly, the Mississippi Commission alleges that the market's use of virtual transactions to drive price convergence between day-ahead and real-time markets "will not work" under the hurdle rate proposal because the price difference is "not set by the market."<sup>54</sup> As an initial matter, we disagree with the Mississippi Commission's assertion that price differences are not set by the market, because under the hurdle rate proposal, LMPs are still set based on the marginal cost of supply to each location. Moreover, the Mississippi Commission provides no explanation as to why virtual transactions may have a negative impact on the market in light of MISO's proposal.

33. We also disagree with the Mississippi Commission's claims that the hurdle rate will treat MISO Midwest and MISO South as two different RTOs, and we deny the Mississippi Commission's request to reject the hurdle rate proposal as unjust and unreasonable. The hurdle rate itself does not impose fees on transactions between MISO Midwest and MISO South; rather, the hurdle rate represents the shadow price at which

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<sup>53</sup> Mississippi Commission August 6 Protest at 18.

<sup>54</sup> *Id.* at 19.

the production cost benefits of allowing increased intra-regional flows outweigh the potential SPP Service Agreement charges. Indeed, the hurdle rate filing is likely to reduce any difference in LMPs between the two areas, by allowing additional flows beyond the 1,000 MW limit, when those flows are economic.

34. Additionally, we deny the Wisconsin Commission's request to allow the hurdle rate to remain effective only until the seams dispute between MISO and SPP is resolved. We find that limiting the effectiveness of MISO's proposal is unnecessary and would pre-judge the outcome of ongoing settlement discussions and potential litigation in Docket No. ER14-1174-000, *et al.* We expect that MISO will file changes to the hurdle rate proposal, if necessary, based on the outcome of the Docket No. ER14-1174-000, *et al.* proceeding.

## 2. Proposed Calculation and Adjustment of the Hurdle Rate

### a. MISO's Proposal

35. To calculate the initial hurdle rate, MISO states that it first approximates the SPP Service Agreement charges by converting the SPP Service Agreement charges, which are based on peak daily or hourly flow, into an approximate \$/MWh value. MISO then divides this approximation of the total SPP Service Agreement charges to MISO by the flows between MISO Midwest and MISO South, including in the divisor of the hurdle rate calculation the first 1,000 MW of flow that do not accrue transmission charges under the SPP Service Agreement.<sup>55</sup> MISO argues that, because the initial hurdle rate is only calculated once for the purpose of setting the Sub-Regional Power Balance Constraint Demand Curve value, it is sufficient to document the calculation of the initial hurdle rate in the Hurdle Rate Filing rather than including the calculation in the Business Practices Manuals or Schedule 28B of the Tariff.

36. MISO also proposes a "true-up" adjustment that would be used to modify the initial hurdle rate on a going forward basis. The adjustment would be used to modify the currently effective hurdle rate to account for: (1) changes to transmission rates applied under the SPP Service Agreement; and (2) differences between invoiced amounts under applicable transmission service agreements and congestion revenue associated with the Sub-Regional Power Balance Constraint.<sup>56</sup> Although it provides a general description of the formula, MISO does not include a formula for the adjustment in its tariff. MISO's proposed tariff revisions state that the adjustment will be applied on a monthly basis, "if

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<sup>55</sup> MISO Deficiency Letter Response at 6-7.

<sup>56</sup> *Id.* at 13.

appropriate.”<sup>57</sup> MISO argues that with the proposed tariff language, including the adjustment mechanism, it seeks to establish a framework to ensure economic benefits exceed potential costs for intra-regional flows above 1,000 MW, given the limited experience that MISO has with this unprecedented SPP Service Agreement.<sup>58</sup> MISO further argues that Hurdle Rate Filing provides some discretion and flexibility to adjust the hurdle rate given there has been no experience with such a rate in any market context. MISO states that it intends to specify procedures for updates of the hurdle rate in its Business Practices Manuals.<sup>59</sup>

37. MISO explains that when redispatch costs exceed the hurdle rate and MISO intentionally schedules intra-regional flows above the 1,000 MW limit, it will accrue charges under the SPP Service Agreement. As a result, MISO asserts that the LMP differences between the exporting and importing regions will generate congestion revenues sufficient to cover the SPP Service Agreement charges.<sup>60</sup> MISO states that, per its tariff provisions for FTR settlement and revenue neutrality, these congestion revenues will be distributed to FTR holders and Market Participants withdrawing energy *pro rata*. MISO argues that this approach, assuming the hurdle rate can be set appropriately, should result in sufficient congestion revenue to offset allocation of SPP invoices under the SPP Service Agreement on a *pro rata* basis as accepted by the Commission in Docket No. ER14-1736-000.<sup>61</sup>

**b. Comments and Protests**

38. The MISO Transmission Owners state that Schedule 28B lacks a sufficiently detailed description of how the hurdle rate demand curve is calculated.<sup>62</sup> The MISO Transmission Owners argue that the tariff must provide a reasonable degree of specificity to describe a proposed rate, and in the case of the hurdle rate proposal, that specificity is

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 14.

<sup>59</sup> *Id.* at 15.

<sup>60</sup> *Id.* at 12.

<sup>61</sup> *Id.*

<sup>62</sup> MISO Transmission Owners August 6 Comments at 6.

lacking.<sup>63</sup> The MISO Transmission Owners maintain that, as drafted, Schedule 28B lacks clarity about the inputs and methodology used to calculate the demand curve.<sup>64</sup>

39. Wisconsin TDUs argue that MISO's methodology is deficient.<sup>65</sup> Wisconsin TDUs argue that MISO improperly includes the 1,000 MW contract path capacity in the hurdle rate calculation, and thus MISO's methodology does not ensure that the production cost benefits from flows above 1,000 MW exceed the SPP Service Agreement charge incurred.<sup>66</sup> Wisconsin TDUs assert that accordingly, MISO's methodology cannot support its proposed initial hurdle rate of \$9.57/MWh.<sup>67</sup> They argue that, if the data from the January through March period were used to perform the calculation in Tab E, but limited to flows exceeding 1,000 MW, the resulting hurdle rate would likely be more than twice the proposed initial hurdle rate.<sup>68</sup>

40. Wisconsin TDUs assert that MISO's hurdle rate is unlikely to produce additional congestion revenues sufficient to cover the SPP Service Agreement charges and neutralize cost impacts on the non-beneficiary region.<sup>69</sup> Wisconsin TDUs also note that, even if the incremental contribution to congestion revenues fully recovered the SPP Service Agreement charges, MISO's excess congestion revenue mechanism is not designed to neutralize the impact of SPP Service Agreement charges on the region not benefitting from the additional flows.<sup>70</sup> Wisconsin TDUs request that, if the Commission does not summarily require MISO to revise what Wisconsin TDUs believe are the flaws in the hurdle rate, the Hurdle Rate Filing should be suspended and made effective, subject to refund, hearing, and settlement judge procedures and consolidated with the ongoing settlement discussions in Docket No. ER14-1736-000. Wisconsin TDUs assert that MISO's failed attempt to structure its filing as an elaborate workaround of the cost

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<sup>63</sup> *Id.* at 7 (citing *Westar Energy, Inc.*, 131 FERC ¶ 61,183, at P 30 (2010)).

<sup>64</sup> *Id.*

<sup>65</sup> Wisconsin TDUs August 6 Protest at 9.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 10.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 15-17.

<sup>70</sup> *Id.* at 16.

recovery mechanism pending in Docket No. ER14-1736-000 demonstrates the need to promptly address together the inter-related issues in both dockets.<sup>71</sup>

41. The Texas Commission argues that the Hurdle Rate Filing serves a distinct purpose – permitting for more economic intra-MISO dispatch of generation – which should not be conflated with the Cost Recovery Filing.<sup>72</sup> The Texas Commission further argues that converting the hurdle rate in this proceeding into a cost recovery mechanism to generate the revenues needed to pay for SPP transmission charges is simply beyond the scope of this proceeding, was not appropriately noticed, and should not be entertained.<sup>73</sup>

42. Entergy states that the Hurdle Rate Filing maximizes market benefits for customers and represents a reasonable response to further mitigate the adverse effects of the SPP Service Agreement.<sup>74</sup> Entergy maintains that proposals to increase the hurdle rate significantly or do away with it altogether would reduce net system-wide savings.<sup>75</sup> Entergy explains that exceeding the 1,000 MW contract path capacity limit, when economically justified, is a superior option to maintaining flows within the 1,000 MW limit.<sup>76</sup>

**c. MISO's August 29 Answer**

43. MISO responds to the MISO Transmission Owners' request that the Commission require MISO to specify how the demand curve is to be calculated within the tariff and file tariff updates if the inputs or methodologies change, stating that it will agree to include detail on how the demand curve is calculated in a compliance filing, if directed to do so by the Commission.<sup>77</sup>

44. In response to Wisconsin TDUs' proposal, MISO argues that Wisconsin TDUs posit a seemingly straightforward approach, but do not propose specifics on which MISO

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<sup>71</sup> *Id.* at 18.

<sup>72</sup> Texas Commission August 21 Protest at 5.

<sup>73</sup> *Id.*

<sup>74</sup> Entergy August 11 Comments at 2.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 7.

<sup>77</sup> MISO August 29 Answer at 4. *See* MISO Deficiency Letter Response at 6-8, 13.

could base changes to its Security Constrained Unit Commitment and Security Constrained Economic Dispatch algorithms.<sup>78</sup> MISO states that the Sub-Regional Power Balance Constraint has proven effective at controlling intra-regional flows and that the instant filing expands on those concepts. MISO argues that categorizing its proposals as an ineffective work-around is an oversimplification and demonstrates a misunderstanding of the proposal itself and the complexity of administering MISO's energy and ancillary services market.

45. MISO states that Wisconsin TDUs' criticism of MISO's inclusion of base flows below 1,000 MW is unfounded because of how congestion charges are assessed in LMP markets. MISO explains that when a transmission constraint binds, congestion charges are collected from all transactions, injections, and withdrawals, based on their impact to the transmission constraint regardless of the level of service, firm or non-firm. MISO further explains that similarly, when the Sub-Regional Power Balance Constraint binds, congestion charges are collected from all transactions, injections, and withdrawals, based on their impact to the Sub-Regional Balance Constraint regardless of whether they were "base flows" or exceedances. MISO explains that it is unable to distinguish the difference between base flow MWs or exceedance MWs when they occur in either the Day-ahead market or in Real-time and, as with transmission constraints, congestion charges will be assessed to all intra-regional flows.<sup>79</sup>

**d. Comments and Protests of the Deficiency Letter Response**

46. Entergy filed comments in support of the Deficiency Letter Response. The Mississippi Commission and Wisconsin TDUs filed protests to the Deficiency Letter Response. Entergy and the Mississippi Commission primarily reiterated arguments introduced during the initial filing; however, Wisconsin TDUs took issue with several aspects of MISO's Deficiency Letter Response.

47. Wisconsin TDUs argue that MISO's Deficiency Letter Response serves to confirm the fundamental flaws that it identified in the hurdle rate proposal. Wisconsin TDUs state that the use of a denominator in the hurdle rate calculation that reflects all flows between MISO Midwest and MISO South produces a hurdle rate that does not achieve MISO's goal of avoiding uneconomic redispatch between MISO Midwest and MISO South. Wisconsin TDUs also argue that MISO's hurdle rate does not achieve what it describes as MISO's "misguided" objective of generating increased congestion revenues sufficient to "pay" the SPP Service Agreement charges. Wisconsin TDUs contend that MISO's calculation mistakenly focuses on *total* congestion revenues – including intra-

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<sup>78</sup> MISO August 29 Answer at 5.

<sup>79</sup> *Id.* at 6-7.

regional flows under 1,000 MW that do not incur SPP Service Agreement charges – rather than the *incremental* congestion revenues produced by flows above the 1,000 MW threshold.<sup>80</sup> Wisconsin TDUs also assert that MISO’s focus on establishing a hurdle rate that generates congestion revenues so that beneficiaries “pay” for the SPP Service Agreement charges is a distraction from the fundamental task of establishing a hurdle rate that generates production cost savings sufficient to justify SPP Service Agreement charges.<sup>81</sup>

48. Wisconsin TDUs further maintain that MISO’s proposed adjustment calculation will not cure the deficiencies Wisconsin TDUs previously identified in the development of the initial hurdle rate. Wisconsin TDUs explain that MISO’s proposed adjustment methodology will generate a hurdle rate that is too low because it counts the congestion revenues from all flows through the constraint, including the initial 1,000 MW that does not incur SPP Service Agreement charges.<sup>82</sup> Wisconsin TDUs argue that MISO’s filing also leaves unclear whether adjustments will be based on the most recent adjusted hurdle rate or on the proposed initial hurdle rate of \$9.57/MWh.<sup>83</sup> Wisconsin TDUs also contend that considering both changes to the SPP Capacity Rate and SPP invoices in the adjustment equation could lead to over-adjustment in response to an SPP rate change. In addition, Wisconsin TDUs claim that MISO has not demonstrated that the cumulative summation of SPP invoices and Sub-Regional Power Balance Constraint congestion revenues since the proposed July 17, 2014 effective date is well suited to developing a forward looking hurdle rate.<sup>84</sup> Finally, Wisconsin TDUs note that MISO proposes to post price adjustments “on a monthly basis...when such adjustments are required.”<sup>85</sup> Wisconsin TDUs maintain that MISO proposes no clear trigger for when this calculation will be made or when MISO will find “such adjustments are required.” According to Wisconsin TDUs, MISO should be required to propose a revised adjustment mechanism that uses only the flows above 1,000 MW that incur the SPP Service Agreement charges and that otherwise produces, on a timely basis, adjusted hurdle rates that achieve MISO’s fundamental objective.

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<sup>80</sup> Wisconsin TDUs Deficiency Letter Response Protest at 8-9.

<sup>81</sup> *Id.* at 11.

<sup>82</sup> *Id.* at 13.

<sup>83</sup> *Id.* at 14.

<sup>84</sup> *Id.* at 15.

<sup>85</sup> *Id.* (citing Hurdle Rate Filing, Vannoy Test. at 10).

49. Wisconsin TDUs assert that MISO's Deficiency Letter Response identifies other defects that the Commission should require MISO to address. First, Wisconsin TDUs note that MISO does not include interest and losses in developing the prospective hurdle rate. While it agrees that losses need not be considered in the hurdle rate because MISO is not currently invoicing for losses, Wisconsin TDUs argue that interest should be considered in the calculation of the hurdle rate for any period when MISO intends to incur interest by withholding payment to SPP.<sup>86</sup> Second, Wisconsin TDUs argue that because of their substantial effect on rates, the hurdle rate methodology and adjustment procedures should be filed in the tariff.<sup>87</sup>

e. **Answers**

50. In response to Wisconsin TDUs, MISO contends that the assertion that the hurdle rate calculation should only include flows above 1,000 MW fails to recognize the basic tenants of locational marginal pricing and MISO's market dispatch.<sup>88</sup> MISO outlines three scenarios in which dispatch flows under the Sub Regional Power Balance Constraint are encountered in operation. In the first scenario, MISO maintains that SPP assesses transmission charges under the SPP Service Agreement for when dispatch flows are well below the 1,000 MW limit. In the second scenario, MISO asserts that SPP also assesses transmission charges when generation is redispatched to maintain flows at or below 1,000 MW. In the third scenario, MISO states that when intra-regional flows exceed the 1,000 MW limit, SPP will assess transmission charges under the SPP service agreement. In each case, MISO argues that over-collection of congestion revenue occurs on transfers of base flows (below 1,000 MW) and exceedance flows. Thus, MISO states both base flows and exceedance flows result in over-collection of congestion revenue, it is appropriate to include such flows in deriving the hurdle rate.<sup>89</sup> The over-collected congestion revenues will be disbursed to load, exports, and FTR holders, according to MISO's existing market settlement rules. MISO states that this also demonstrates that its proposal is consistent with cost-causation.<sup>90</sup>

51. In response, Wisconsin TDUs argue that MISO's answer introduces two extraneous examples to explain the flaws in the Hurdle Rate Filing. Wisconsin TDUs

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<sup>86</sup> *Id.* at 16-17.

<sup>87</sup> *Id.* at 17-18.

<sup>88</sup> MISO November 19 Answer at 4.

<sup>89</sup> *Id.* at 6.

<sup>90</sup> *Id.* at 7.

assert that two of MISO's examples with scheduled or planned intra-regional flows at or below 1,000 MW are "red herrings" because MISO does not use operating days where only unintentional flows above 1,000 MW occur, in calculating the hurdle rate.<sup>91</sup> Wisconsin TDUs claim that MISO's third scenario provides no logical rationale for including flows below 1,000 MW in the calculation of the hurdle rate. Wisconsin TDUs also contend that the hurdle rate is not an extra charge that is "assessed" on certain market participants. Instead, Wisconsin TDUs maintain that the hurdle rate allows cost effective transfers over 1,000 MW and is not a charge or burden on the importing sub-region.<sup>92</sup>

**f. Commission Determination**

52. We agree with Wisconsin TDUs that MISO's proposed method of calculating the hurdle rate will undermine MISO's objective of allowing flows over 1,000 MW only when the production cost savings exceed the potential SPP Service Agreement charges. Accordingly, as discussed further below, we will require MISO to modify its calculations of the initial hurdle rate and the adjustments to the hurdle rate in a compliance filing as discussed further below.

53. MISO states that the fundamental objective of the hurdle rate proposal is to schedule transfers above the 1,000 MW threshold only when the economic benefits of such transfers, in the form of lower production costs, exceed the potential charges under the SPP Service Agreement.<sup>93</sup> We agree with Wisconsin TDUs that, by dividing the hourly approximation of the SPP Service Agreement charges by all intra-regional flows, MISO's proposed hurdle rate is too low and would allow flows when the economic benefits of such transfers would be less than the SPP Service Agreement charges. We are not persuaded by MISO's arguments that Wisconsin TDUs' position is not consistent with the basic tenets of locational marginal pricing, and that base flows should be included in calculation of the hurdle rate.<sup>94</sup> Under locational marginal pricing, all parties at a location pay the same marginal cost of serving the next increment of load. However, MISO's proposal would seem to result in a locational price that reflects an averaging of

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<sup>91</sup> Wisconsin TDUs November 28 Answer at 2.

<sup>92</sup> *Id.* at 3-4.

<sup>93</sup> MISO Deficiency Letter Response at 11.

<sup>94</sup> MISO November 19 Answer at 6. In addition, MISO alleges that SPP's implementation of the SPP Service Agreement results in "transmission charge exposure" in certain instances. Concerns regarding SPP's implementation of the SPP Service Agreement are outside the scope of this proceeding.

costs incurred through SPP Service Agreement charges over all intra-regional flows, rather than the incremental costs incurred through SPP Service Agreement charges for flows in excess of the 1,000 MW threshold. We find that the locational marginal pricing should reflect the marginal cost of the flows in excess of the 1,000 MW threshold, as would be reflected by not including the base flows in the hurdle rate calculation.

54. We also agree with Wisconsin TDUs that this flaw is caused by an attempt to align total congestion revenues generated by the Sub-Regional Power Balance Constraint to the SPP Service Agreement charges so that they are equal. MISO has provided no support for this approach in its filing; thus, it is unclear why this approach would be warranted in light of the negative impact on the primary objective of the hurdle rate (i.e., the economic benefits of transfers above the 1,000 MW threshold, in the form of lower production costs, should exceed the potential charges under the SPP Service Agreement). We further agree with Wisconsin TDUs that MISO's hurdle rate proposal would achieve its fundamental objective if MISO were to align the SPP Service Agreement charges to be equal to the congestion revenues generated by intra-regional flows over 1,000 MW rather than attempting to make them equal *total* congestion revenues. Accordingly, we direct MISO to use only those flows over 1,000 MW in the "Total Dispatch Flows" parameter when calculating the initial hurdle rate.

55. We agree with Wisconsin TDUs that MISO's proposed adjustment mechanism should be modified so that it can achieve the fundamental objective of the hurdle rate. We agree with Wisconsin TDUs that the adjustment equation should only consider congestion revenues generated by those flows over 1,000 MW. This is consistent with our required changes to the hurdle rate itself. Accordingly, we direct MISO to modify its adjustment equation so that, rather than comparing the SPP Service Agreement charges to total real-time Sub-Regional Power Balance Constraint congestion revenues, it considers only those real-time Sub-Regional Power Balance Constraint congestion revenues generated by flows over 1,000 MW. We direct MISO to submit a compliance filing within 30 days of the date of this order containing updated equations for the initial calculation of the hurdle rate and the adjustment, as well as a re-calculated hurdle rate using these equations that would become effective as the "initial hurdle rate" upon the Commission's acceptance of MISO's compliance filing in this docket.<sup>95</sup>

56. Furthermore, we agree with Wisconsin TDUs that MISO should clarify several other aspects of its proposal. First, in MISO's proposed adjustment equation, it is not clear whether the parameter "Hurdle Rate<sub>Initial</sub>" is the most recent adjusted hurdle rate or the initial hurdle rate of \$9.57/MWh (or the recalculated initial rate on a going forward

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<sup>95</sup> MISO also refers to the initial hurdle rate as the "Sub-Regional Power Balance Constraint Initial Price." *See, e.g.*, MISO Deficiency Letter Response at 6.

basis).<sup>96</sup> Second, it is not clear whether the consideration of SPP rate changes in both the SPP Capacity Rate parameter and SPP invoices would lead to an over-adjustment in the event of a rate change. Third, it is not clear why MISO's proposed adjustment equation considers that summation of all SPP invoices and Sub-Regional Power Balance Constraint congestion revenues from the effective date of the proposal to the end of the current period. Over time, this approach would appear to reduce the impact of more recent disparities between Sub-Regional Power Balance Constraint congestion revenues and SPP invoices. Moreover, MISO states that the process for adjustments will "includ[e] a determination of the frequency of required historical data points."<sup>97</sup> Thus it is not clear whether MISO intends to change the comparison of congestion revenues and SPP invoices in the future. Fourth, where MISO's proposal states that the hurdle rate "may be updated by the Transmission Provider on a monthly basis, if appropriate"; it is not clear under what circumstances MISO would consider an adjustment to be appropriate. We direct MISO to address these issues in a compliance filing within 30 days of the date of this order.

57. In addition, due to the novel nature of the hurdle rate proposal, we direct MISO to file periodic reports on the impact of the hurdle rate. Specifically, we direct MISO to submit an informational filing twelve months after the acceptance of MISO's compliance filing in this proceeding, and a second informational filing twelve months thereafter, that discusses the impact of the hurdle rate on market participants. The informational filings must include a discussion of the following items for the preceding twelve month interval: (1) the applicable hurdle rate in each month; (2) the transmission charges from SPP; and (3) a general estimate of the effects on production costs and costs to load. MISO may also provide any additional information it believes is useful to describe the impact of the hurdle rate on market participants.<sup>98</sup>

58. We also grant in part Wisconsin TDUs' and the MISO Transmission Owners' requests to direct MISO to file the hurdle rate and adjustment process as part of MISO's Tariff. We agree that, given its substantial effect on rates, additional information regarding the hurdle rate should be included in MISO's Tariff. However, given the lack of experience with such a rate in either MISO or other market contexts, we agree with MISO that some discretion and flexibility in the calculation of the hurdle rate is warranted. Therefore, we direct MISO to specify the equations used to calculate adjustments to the hurdle rate in its Tariff. We also direct MISO to include processes for

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<sup>96</sup> See MISO Deficiency Letter Response at 13.

<sup>97</sup> *Id.*

<sup>98</sup> The Commission does not intend to issue a public notice, accept comments, or issue an order on the informational filings.

adjusting the hurdle rate, including specifications for the calculation of inputs to the hurdle rate equation, in its Business Practices Manuals. We find that including the adjustment equation in the tariff and leaving the calculation of specific inputs to the Business Practice Manuals strikes an appropriate balance between flexibility and consistency. Furthermore, we agree with MISO that, because the initial hurdle rate is only calculated once, documenting the formulas used to calculate the initial hurdle rate in the filing is sufficient to conclude whether the proposed hurdle rate is just and reasonable. Accordingly, we deny requests to direct MISO to include the formula used to calculate the initial hurdle rate in the tariff.

59. With regard to interest charges, we disagree with Wisconsin TDUs' assertion that interest charges should be included in the calculation of the hurdle rate. Interest charges are incurred when MISO fails to timely pay its invoices from SPP. Therefore, because interest charges do not represent an incremental cost of additional flow over the 1,000 MW threshold, they should not be considered in the calculation of the initial hurdle rate or subsequent adjustments. It is not clear from MISO's description of the hurdle rate adjustment whether the term " $\Sigma$ SPP Invoice<sup>Effective Date to Current Period End Date</sup>" includes interest charges as a result of late payments. However, moving forward, MISO should not consider interest charges in adjustments to the hurdle rate.

60. Further, we deny Wisconsin TDUs' request to suspend the Hurdle Rate Filing subject to refund and order hearing and settlement judge procedures. We find that there are no questions of material fact in this proceeding; therefore we find that hearing and settlement judge procedures are unnecessary. Furthermore, we deny Wisconsin TDUs' motion for consolidation with the ongoing settlement discussions in the Cost Recovery Order. As discussed further below, we agree with MISO and other commenters in this proceeding that the Hurdle Rate Filing does not modify the recovery of costs related to the SPP Service Agreement charges, and therefore consolidation would be inappropriate.

61. Finally, due to the nature of the hurdle rate as a constraint in the day-ahead and real-time market, we exercise our discretion to not order refunds and direct MISO to implement the changes to the hurdle rate following acceptance of MISO's compliance filing in this docket. Since July 16, 2014, MISO has been using the proposed hurdle rate in its day-ahead and real time market. Given the significant impact of the hurdle rate on the decisions of market participants, it is difficult to assess the potential impact of retroactively applying a new hurdle rate to the day-ahead and real-time market. Moreover, re-running the entire MISO market for every day since July 17, 2014, would be complex and likely encourage needless litigation.<sup>99</sup> In cases involving changes in market design, the Commission generally exercises its discretion and does not order

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<sup>99</sup> *New York Independent System Operator, Inc.*, 92 FERC ¶ 61,073, at 61,307 (2000).

refunds when doing so would require re-running a market.<sup>100</sup> Given the difficulties inherent in re-running the MISO market over several months, we exercise our discretion here to not order refunds for the period of time between July 17, 2014 and the date MISO's compliance filing in this proceeding is accepted.

### 3. Distribution of Congestion Revenues Generated by Hurdle Rate

#### a. MISO's Proposal

62. MISO explains that, in proposing a hurdle rate that will be reflected in the LMP, the distribution of congestion revenues generated by the hurdle rate will occur in the same manner as congestion revenues recovered on any other part of the MISO transmission system. Specifically, MISO states that congestion charges generated by the hurdle rate will result in "over-payment" by market participants, which then are either: (1) credited to market participants serving load in real time through a Revenue Neutrality Uplift payment; or (2) credited to market participants holding FTRs through crediting of Day-Ahead Congestion Charges, or to firm transmission customers, to the extent FTRs are fully funded for a calendar year.<sup>101</sup> In the event that Sub-Regional Power Balance Constraint congestion revenues are less than SPP invoices, MISO states that market participants as a whole could cover a portion of the SPP transmission service costs that were not directly covered by the parties paying congestion revenues.<sup>102</sup>

63. MISO explains that cost recovery and allocation matters related to invoices received pursuant to the SPP Service Agreement are not included in this filing; rather, they are being discussed as part of the settlement procedures established in Docket No. ER14-1736-000. According to MISO, it is committed to ensuring alignment between the modifications to the Sub-Regional Power Balance Constraint Demand Curve proposed in the instant filing and any cost recovery mechanism ultimately adopted.<sup>103</sup>

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<sup>100</sup> *Maryland Public Service Comm'n v. PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,169, at P 49 (2008) (citing *Mirant Energy Trading, LLC v. PJM Interconnection, LLC*, 122 FERC ¶ 61,007 (2008); *Bangor Hydro-Electric Company v. ISO New England Inc.*, 97 FERC ¶ 61,339 (2001) (finding that re-running markets even when an error was made would do more harm to electric markets than is justifiable)), *reh'g denied*, 125 FERC ¶ 61,340 (2008). *See also California Indep. Sys. Operator Corp.*, 120 FERC ¶ 61,271, at P 25 (2007) (identifying market reruns as the exception, not the rule).

<sup>101</sup> Hurdle Rate Filing, Ex. F at 1.

<sup>102</sup> MISO Deficiency Letter Response at 17.

<sup>103</sup> Hurdle Rate Filing at 3.

MISO states that, assuming the hurdle rate can be set appropriately, the additional congestion revenues from the hurdle rate should be sufficient to offset the separately allocated SPP Service Agreement costs.<sup>104</sup>

**b. Comments and Protests**

64. Wisconsin TDUs argue that MISO's attempt to generate sufficient congestion revenues that pay for SPP Service Agreement charges is a work-around of the cost recovery mechanism pending in Docket No. ER14-1736. Wisconsin TDUs contend that the energy price differential between MISO South and MISO Midwest is a measure of available production cost savings and the hurdle rate is a measure of the associated SPP Service Agreement charges. According to Wisconsin TDUs, a properly designed hurdle rate does not result in over-collection of congestion charges; rather, it ensures the price differential between the two sub-regions will result in production cost savings sufficient to offset the potential SPP Service Agreement charges. Thus, Wisconsin TDUs state, the Hurdle Rate Filing is misguided because it confusingly treats LMP savings as a burden on the importing sub-region that can somehow relieve MISO of its obligation to allocate SPP Service Agreement charges properly to the beneficiaries.<sup>105</sup>

65. Wisconsin TDUs note that, while MISO distributes surplus congestion revenue from the real-time market to market participants based on their market load ratio share, MISO credits excess congestion revenues from the day-ahead market to FTR holders.<sup>106</sup> Wisconsin TDUs note that if FTRs are fully funded at the end of the year and funds are still available, "that surplus is distributed to all transmission customers taking network integration transmission service or firm point-to-point transmission service based on a *pro rata* share of their billing determinants used in calculating charges associated with Transmission Service taken during that calendar year."<sup>107</sup> Thus, Wisconsin TDUs state, even if excess congestion revenues were sufficient to cover SPP Service Agreement charges, those revenues would not be distributed in a manner that would neutralize the recovery of the SPP Service Agreement charges.

66. Several commenters argue that MISO should not distribute hurdle rate congestion revenues on a MISO-wide basis, but, instead, should distribute congestion revenues to the

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<sup>104</sup> MISO Deficiency Letter Response at 12.

<sup>105</sup> Wisconsin TDUs November 4 Protest at 11-12.

<sup>106</sup> *Id.* at 17 (citing MISO Tariff section 40.3.3, MISO Tariff section 39.3.4).

<sup>107</sup> *Id.* (citing MISO Tariff section 39.3.4).

market participants that paid the congestions charges.<sup>108</sup> These entities argue that, if the hurdle rate generates congestion revenues that are greater than the SPP Service Agreement charges (i.e., the hurdle rate is too high), the entities that paid the congestion charges will not receive a refund for their “over-payment.” Commenters note that, given MISO’s existing processes for distributing congestion revenues, these entities will receive a significantly smaller return of their overpayment. For example, the Mississippi Commission explains that MISO’s proposed true-up mechanism will not cure this design deficiency because the mechanism does not ensure reimbursement; it only adjusts the forward looking hurdle rate to approximate the cost of the most recent SPP invoice.<sup>109</sup> The Texas Commission also agrees and states that it is not aware of any technological constraint which would prevent MISO from matching hurdle rate receipts and credits, nor has MISO identified any such constraint. The Texas Commission argues that if MISO is not capable of crediting the hurdle rate back to those who paid the charge, the Commission should require MISO to explain why.<sup>110</sup>

67. The City of New Orleans also maintains that, if the hurdle rate is too low, MISO will not have collected enough congestion revenues to pay SPP Service Agreement charges from those that benefited from the flows in the importing sub-region. Furthermore, the City of New Orleans contends that other market participants will pick up any shortfalls because the Commission-approved cost allocation mechanism accepted in the Cost Recovery Order provides that SPP Service Agreement charges are allocated, *pro rata*, to market participants’ load based on their load ratio share. Thus, the City of New Orleans argues that MISO should revise its Sub-Regional Power Balance Constraint mechanism to ensure market participants are properly refunded or charged.<sup>111</sup>

68. Entergy counters by contending that excess congestion revenues are properly the subject of ongoing stakeholder proceedings and that no relevant change was made to the Tariff in MISO’s proposal. Entergy argues that the distribution of excess congestion revenues should not delay the Commission’s approval of MISO’s proposal.<sup>112</sup>

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<sup>108</sup> See, e.g., Mississippi Commission August 6 Protest at 15; Arkansas Commission August 26 Comments at 2-3; Texas Commission August 21 Protest at 3-5; City of New Orleans August 11 Comments at 6-7.

<sup>109</sup> Mississippi Commission August 6 Protest at 15.

<sup>110</sup> Texas Commission August 21 Protest at 3-5.

<sup>111</sup> City of New Orleans August 11 Comments at 6-7.

<sup>112</sup> Entergy August 11 Comments at 10-11.

69. The Louisiana Commission maintains that while it supports the Hurdle Rate Filing, it does not support the underlying contention that the cost responsibility should be assigned to the importing region. The Louisiana Commission notes that MISO asserts that the Hurdle Rate Filing does not include a cost allocation mechanism for the SPP Service Agreement charges and that cost allocation remains the subject of ongoing settlement procedures established in Docket No. ER14-1736-000. However, according to the Louisiana Commission, it is clear that the load in the importing region will pay the costs that will be used to pay the SPP invoices. The Louisiana Commission argues that allocating the costs of the SPP Service Agreement from congestion charges imposed on MISO South loads is not just and reasonable. The Louisiana Commission asserts that all MISO members have the opportunity to benefit from the expansion of the MISO markets to include the MISO South footprint.<sup>113</sup>

70. Xcel asserts that the Hurdle Rate Filing proposes a mechanism for MISO to allocate costs to its market participants in order to collect funds to pay the SPP invoices. Xcel states that it believes that the Hurdle Rate Filing would replace certain provisions that were accepted in Docket No. ER14-1736-000, which provided for a *pro rata* allocation to fund SPP invoice payments. Xcel explains that it recognizes, however, that the *pro rata* allocation may need to be applied for periods prior to use of the hurdle rate collection method.<sup>114</sup>

71. Arkansas Cooperative asserts that Wisconsin TDUs' argument that costs associated with the hurdle rate filing should be allocated to the importing region is based on a misunderstanding of the impediments to MISO's market flows. Arkansas Cooperative states that physical transmission capacity does not limit flows between MISO Midwest and MISO South; rather such flows are limited by contractual and regulatory disputes relating to the terms and conditions for the use of the transmission capacity. Consequently, no single MISO market participant is any more responsible than another for impediments to or relief of the 1,000 MW contract path, according to Arkansas Cooperative.<sup>115</sup> Moreover, contrary to Wisconsin TDUs' implicit claim that Arkansas Cooperative has benefited from its location in MISO South, Arkansas Cooperative asserts that it has experienced a significant increase in its transmission costs as a result of replacing its pre-existing relationship as a transmission customer of Entergy Arkansas with service as a transmission customer under the MISO Tariff. Arkansas

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<sup>113</sup> Louisiana Commission August 5 Comments at 2-3.

<sup>114</sup> Xcel August 11 Comments at 3-4.

<sup>115</sup> Arkansas Cooperative November 19 Answer at 4.

Cooperative states that the notion that it should pay further for the “benefit” of paying more to serve its members is simply unsupported.<sup>116</sup>

**c. MISO’s August 29 Answer**

72. In its answer, MISO states that the Sub-Regional Power Balance Constraint, when binding in real-time, will generate excess congestion funds to the extent there is intra-regional flow in real-time rather than in day-ahead. MISO states that such excess funds will be rebated to all loads and exports in real-time. MISO states when the Sub-Regional Power Balance Constraint binds in the day-ahead market, it will create excess funds to the extent intra-regional flow in the day ahead market is greater than outstanding FTR Obligation credits. In this instance, excess congestion funds will fund FTRs in the hour they are collected and then, for any remaining surplus, will cure monthly and then annual FTR shortfalls. MISO notes that the Independent Market Monitor, in the Power Balance Filing, stated that MISO would over-collect congestion revenue when the Sub-Regional Power Balance Constraint binds, thus, adding hurdle rate congestion revenue to the FTR surplus.<sup>117</sup>

**d. Commission Determination**

73. We accept MISO’s proposal to use existing tariff procedures for distribution of congestion revenues generated by the hurdle rate. As noted by MISO and other commenters, MISO’s Tariff provides that congestion revenues from any transaction on the MISO transmission system are to be credited to market participants via a Revenue Neutrality Uplift payment for Real-time transactions, or through FTRs for Day-ahead market transactions.<sup>118</sup> MISO has neither proposed amendments to the tariff sections governing these procedures, nor has it proposed exceptions to these tariff sections for congestion revenues generated by the hurdle rate.

74. According to commenters, MISO’s proposal to distribute congestion revenues according to current procedures would create a mismatch between those that paid the hurdle rate and those that receive the increased congestion revenues generated by the hurdle rate. Commenters argue that MISO should be required to distribute congestion revenues back to those who paid the hurdle rate in order to keep these entities revenue

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<sup>116</sup> *Id.*

<sup>117</sup> MISO August 29 Answer at 9.

<sup>118</sup> As discussed above, Day-Ahead congestion revenues are distributed to firm-transmission customers if FTRs are fully funded for the calendar year.

neutral.<sup>119</sup> We disagree. Commenters have not demonstrated that MISO's proposal, which is consistent with how MISO handles congestion revenues from other constraints, is not just and reasonable. Accordingly, we deny commenters' requests to modify the distribution of congestion revenues generated by the hurdle rate.

75. In addition, several commenters claim that the hurdle rate may produce under-collections or over-collections of revenues relative to the SPP Service Agreement charges.<sup>120</sup> As discussed above, we agree with Wisconsin TDUs that the purpose of the hurdle rate is not to generate congestion revenues that pay the SPP Service Agreement charges; rather, the hurdle rate is intended to allow intra-regional flows over 1,000 MW when production cost savings exceed SPP Service Agreement charges.<sup>121</sup> As discussed above, the costs of SPP Service Agreement charges are allocated *pro rata* pursuant to the cost recovery mechanism accepted by the Commission in the Cost Recovery Order. Therefore, there can be no over-collections or under-collections of revenues for the SPP Service Agreement charges. Any arguments that increased congestion costs created by the hurdle rate should be considered in the allocation of SPP Service Agreement charges are outside the scope of the instant proceeding and should be considered as part of ongoing hearing and settlement judge procedures in Docket No. ER14-1736-000.

76. In addition, we find the Louisiana Commission's claim that the allocation of the SPP Service Agreement charges is unjust and unreasonable to be beyond the scope of this proceeding. As described above, allocation of SPP Service Agreement charges is the subject of rehearing in Docket No. ER14-1736-002, and MISO has not proposed

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<sup>119</sup> See, e.g., Texas Commission August 21 Protest at 4-5; Arkansas Commission August 26 Comments at 2-3.

<sup>120</sup> City of New Orleans August 11 Comments at 6-7; Mississippi Commission August 6 Protest at 15.

<sup>121</sup> We note that MISO has contributed to some confusion surrounding the purpose of the hurdle rate through certain contradictory statements in its transmittal letter, answer, and Deficiency Letter Response. See, e.g., Hurdle Rate Filing, Vannoy Test. at 12 ("The objective of setting the hurdle rate and SRPBC limit is to establish an appropriate market price signal that collects sufficient congestion revenues to offset transmission charges while reducing further redispatch." Hurdle Rate Filing at 4. "Here, MISO only is proposing changes to the SRPBC Demand Curve to increase the efficiency of transactions relating to the SPP transmission service agreement for the benefit of Market Participants."); MISO Deficiency Letter Response at 11 ("[T]he Hurdle Rate was intended to . . . generate increased congestion revenue sufficient to pay the SPP Service Agreement charges, while also sending an appropriate market signal when it is economic to incur those charges (versus internal redispatch).").

amendments to the cost recovery mechanism that the Commission accepted in that docket. Accordingly, we also reject Xcel's assertion that the hurdle rate alters the cost allocation of SPP Service Agreement charges. Furthermore, whether the costs recovered from SPP Service Agreement charges from individual market participants should be adjusted based on their production cost savings generated by the hurdle rate, as some commenters suggest, is also beyond the scope of this proceeding.

**4. Transmission Service Reservations on the SPP Transmission System and Payment of SPP Invoices**

**a. Comments and Protests**

77. The City of New Orleans states that, to date, MISO has refused to reserve the non-firm service under the SPP Service Agreement and, as a result, has incurred \$9,762,335.76 in unreserved use penalties as of June 2014. The City of New Orleans adds that, since MISO has not paid any of the SPP invoices, it has accrued \$128,053.74 in compounded interest charges. The City of New Orleans notes that the total amount of charges under the SPP Service Agreement is \$20,816,381.52, meaning that \$9,890,389.50, or 47.5 percent, of the total charges relate to penalties and interest charges. The City of New Orleans asserts that MISO incurring penalty and interest charges is unnecessary and causes the hurdle rate to be higher than the actual price of transmission under the SPP Service Agreement. It argues that the unnecessarily high hurdle rate will lead to lower intra-regional flows and that it will adversely affect the importing region by increasing congestion costs. The City of New Orleans argues that, to ensure that MISO ratepayers are not paying any more in congestion charges than necessary, MISO should do what it can to stop incurring further penalty and interest charges.<sup>122</sup>

78. The Mississippi Commission also emphasizes that MISO's refusal to reserve transmission service on the SPP transmission system has resulted in penalty and interest charges of almost \$10 million, approximately half of the total bill. The Mississippi Commission asserts that MISO offered no rationale in its Hurdle Rate Filing to justify the failure to reserve service and timely pay the SPP invoices.<sup>123</sup> According to the Mississippi Commission, reserving transmission service and paying SPP's invoice should not be taken to concede the propriety of SPP's litigation position; actions taken to

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<sup>122</sup> City of New Orleans August 11 Comments at 8-9.

<sup>123</sup> Mississippi Commission August 6 Protest at 23-24.

mitigate damages after a filing has been suspended and set for hearing do not constitute precedent or evidence in support of either party's position.<sup>124</sup> The Mississippi Commission states that MISO's goal should be to provide economic and efficient service to its customers at the lowest practicable costs; and that unnecessarily incurring penalty charges and interest payments is inconsistent with that goal.<sup>125</sup>

79. The Mississippi Commission argues that if MISO reserves transmission service, there will be no need for the hurdle rate. According to the Mississippi Commission, with such a reservation, the costs to MISO of increasing intra-regional flows above 1,000 MW would be both fixed and sunk and, thus, should not be factored into future economic decision making. The Mississippi Commission maintains that the Commission has prohibited RTOs from recovering from their members and customers penalties that an RTO incurs such as non-reliability related penalties.<sup>126</sup> Accordingly, the Mississippi Commission requests that the Commission direct MISO to reserve transmission capacity and timely pay SPP Service Agreement charges. The Mississippi Commission states that in the absence of such direction, the Commission should "prohibit MISO from recovering the penalty and interest charges from its customers and require MISO to explain why it may be appropriate for MISO not to comply with SPP's Tariff."<sup>127</sup>

80. The MISO Transmission Owners argue that the Mississippi Commission's requests far exceed the scope of MISO's hurdle rate proposal and state that there is no basis on which to order MISO to reserve transmission capacity on the SPP transmission system. The MISO Transmission Owners contend that it would be improper to override MISO's decision-making process in proposing a hurdle rate, and that reservation of transmission capacity may be unnecessary. The MISO Transmission Owners contend that it would be improper to order MISO to reserve transmission capacity in a particular manner, and that the Commission should permit MISO and its stakeholders to continue work through issues stemming from the SPP Service Agreement.<sup>128</sup>

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<sup>124</sup> *Id.* at 24 (citing Fed. R. Evid. 407 (2011); *Portland Gen. Elect. Co., et al.*, 103 FERC ¶ 61,123, at P 19 (2003)).

<sup>125</sup> *Id.* at 23-25.

<sup>126</sup> *Id.* at 27 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,022, at P 24 (2014); *Calif. Indep. Sys. Operator Corp.*, 138 FERC ¶ 61,156, at P 17 (2012)).

<sup>127</sup> *Id.*

<sup>128</sup> MISO Transmission Owners August 26 Answer at 5-6.

81. The Mississippi Commission argues that the MISO Transmission Owners' assertion that reservation of transmission service is outside the scope of this proceeding is incorrect. The Mississippi Commission contends that MISO's refusal to reserve transmission capacity raises the hurdle rate, which is squarely at issue in this proceeding.<sup>129</sup>

**b. MISO's Deficiency Letter Response**

82. MISO argues that the issues raised by the City of New Orleans and the Mississippi Commission related to reservations of transmission on SPP are not before the Commission in this proceeding. MISO contends that it has no means to reserve transmission on another RTO's transmission system and that reserving transmission service on the SPP transmission system is, in MISO's view, unnecessary based on the MISO-SPP JOA.<sup>130</sup>

**c. MISO's November 19 Answer**

83. MISO contends that the Mississippi Commission's argument fails to recognize that an RTO taking transmission service would "directly conflict" with the Commission's policies requiring non-discriminatory transmission system access.<sup>131</sup> MISO asserts that the Commission reiterated this principal in reforming the *pro forma* OATT in Order No. 890, where it found that RTOs "do not take transmission service" and any penalties associated with transmission service do not apply to RTOs.<sup>132</sup> MISO argues that any suggestion that it should reserve transmission service ignores the Commission's policy underlying RTO creation, undermines inter-regional coordination, and ignores efficient market operation.<sup>133</sup>

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<sup>129</sup> Mississippi Commission September 3 Answer 4-5.

<sup>130</sup> MISO Deficiency Letter Response at 17.

<sup>131</sup> MISO November 19 Answer 3.

<sup>132</sup> *Id.* (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126, at P 868 (2009)).

<sup>133</sup> *Id.* at 3-4.

**d. Commission Determination**

84. We find that requests for the Commission to require MISO to reserve transmission service on the SPP transmission system are beyond the scope of this proceeding. As noted above, the issue of whether MISO can and should reserve transmission service is currently at issue in hearing and settlement procedures under Docket No. ER14-1174-000, *et al.* While penalty charges do increase the hurdle rate, requiring MISO to take service on the SPP transmission system in this filing would pre-judge the outcome in that proceeding. Furthermore, nothing in this filing would prevent MISO from taking service on the SPP transmission system if it is directed to do so.

85. Similarly, we find that requests for MISO to pay timely SPP Service Agreement charges to avoid interest charges are also beyond the scope of this proceeding. In Docket No. ER14-1736-002, MISO submitted a request to defer collection of SPP invoices, which is currently pending on rehearing. Accordingly, we find that MISO's failure to pay SPP Service Agreement charges, and any resulting interest, are more appropriately addressed in Docket No. ER14-1736-002.

**5. Applicability of Proposed Demand Curve Changes to Other Agreements**

**a. MISO's Proposal**

86. MISO's proposed tariff changes amend section 3 of Schedule 28B to add another step to the Sub-Regional Power Balance Constraint Demand Curve. Section 3 states that the demand curves reflect "applicable seams agreements, coordination agreements, transmission service agreements, or operating procedures." Proposed section 3.1 establishes the Sub-Regional Power Balance Constraint Demand Curve "for coordination agreements" which includes three levels of exceedance percentages and corresponding prices. Proposed section 3.2 establishes the Sub-Regional Power Balance Constraint Demand Curve "for transmission service agreements" which includes one level of exceedance and the corresponding price.

**b. Comments and Protests**

87. The MISO Transmission Owners argue that MISO should be required to limit the application of Schedule 28B to identifiable, known agreements.<sup>134</sup> The MISO Transmission Owners assert that the tariff language should be narrowly tailored to fit the circumstances presented and that, if MISO determines that additional agreements should

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<sup>134</sup> MISO Transmission Owners August 6 Comments at 5.

reflected in the Sub-Regional Power Balance Constraint Demand Curve, MISO may file revisions to its tariff at that time.<sup>135</sup>

**c. Commission Determination**

88. We agree with the MISO Transmission Owners that the language in Schedule 28B should be limited to apply only to the ORCA and the SPP Service Agreement. The demand curves in under Schedule 28B contain specific pricing that would only be applicable to the ORCA and the SPP Service Agreement. Therefore, we direct MISO to make a compliance filing, within 30 days of the date of this order, that specifies that Schedule 28B applies only to the ORCA and the SPP Service Agreement

**6. Other Issues**

89. MISO requests that the Commission waive its requirements in 18 C.F.R. § 35.11 (2014) in order to allow a proposed effective date one day following the date of this filing, i.e., July 17, 2014. MISO believes the requested waiver, one-day effective date, and expedited treatment are in the public interest and necessary to further mitigate the indeterminate liability resulting from the MISO-SPP JOA Order, thereby reducing the impact of the general uplift of costs on MISO's stakeholders.

90. Because MISO proposes modifications to its tariff that provide significant benefits by allowing increased intra-regional flows when economic, we find that MISO has provided sufficient basis to support the grant of waiver of the Commission's 60-day prior notice requirement. The Commission will grant waiver of the 60-day prior notice requirement for good cause shown.<sup>136</sup> Accordingly, we establish an effective date of July 17, 2014, as requested. MISO's modified adjustment equation and re-calculated initial hurdle rate will become effective upon the Commission's acceptance of MISO's compliance filing in this docket. Furthermore, given the prospective nature of this change, as discussed above, we decline to order refunds for the time between July 17, 2014 and the date MISO's compliance filing is accepted.

The Commission orders:

(A) MISO's Hurdle Rate Filing is hereby conditionally accepted, effective July 17, 2014, as requested, as discussed in the body of this order.

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<sup>135</sup> *Id.*

<sup>136</sup> *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,339 (1992) (finding that the Commission will grant waiver of the 60-day prior notice requirement if good cause is shown and the agreement is filed prior to the commencement of service).

(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.

(C) MISO is hereby directed to submit an informational filing twelve months after the acceptance of MISO's compliance filing in this proceeding, and a second informational filing twelve months thereafter, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Appendix: List of Pleadings**

**I. Pleadings in Response to July 16, 2014 Filing**

**Notices of Intervention**

Arkansas Public Service Commission (Arkansas Commission)  
Council of the City of New Orleans, Louisiana (City of New Orleans)  
Louisiana Public Service Commission (Louisiana Commission)  
Mississippi Public Service Commission (Mississippi Commission)  
Missouri Public Service Commission  
Public Service Commission of Wisconsin (Wisconsin Commission)  
Public Utility Commission of Texas (Texas Commission)

**Timely Motions to Intervene**

Alliant Energy Corporate Services  
Ameren Services Company  
American Municipal Power, Inc.  
Arkansas Cities<sup>137</sup>  
Arkansas Electric Cooperative Corporation (Arkansas Cooperative)  
Brazos Electric Power Cooperative, Inc.  
City of Alexandria, Louisiana  
City of North Little Rock, Arkansas  
Consumers Energy Company  
Dynegy Inc.  
Entergy Services, Inc. (Entergy)  
Exelon Corporation  
H.Q. Energy Services (U.S.), Inc.  
Kansas City Power & Light Company and KCP&L Greater Missouri Operations  
Company  
MidAmerican Energy Company  
MISO Transmission Owners<sup>138</sup>

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<sup>137</sup> For this filing, Arkansas Cities consist of: the Conway Corporation; the West Memphis Utilities Commission; the City of Osceola, Arkansas; the City of Benton, Arkansas; and the City of Prescott, Arkansas.

<sup>138</sup> For this filing, the MISO Transmission Owners consist of: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois;

(continued...)

NRG Companies<sup>139</sup>

Organization of MISO States, Inc. (Organization of MISO States)<sup>140</sup>

Southwest Power Pool, Inc.

Wisconsin Electric Power Company

Wisconsin TDUs<sup>141</sup>

Xcel Energy Services, Inc. (Xcel)

### **Late-Filed Motions to Intervene**

Wisconsin Public Service Corp. & Upper Peninsula Power Co.

### **Late-Filed Motions to Intervene and Comments**

Potomac Economics, Ltd. (Market Monitor)

### **Other Motions/Pleadings**

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American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, Illinois); Cleco Power, LLC; Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; South Mississippi Electric Power Association; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

<sup>139</sup> For this filing, NRG Companies consist of: Bayou Cove Peaking Power LLC; Big Cajun I Peaking Power LLC; Cottonwood Energy Company LP; Louisiana Generating LLC; NRG Power Marketing LLC; NRG Sterlington Power LLC; NRG Wholesale Generation LP; and GenOn Energy Management, LLC.

<sup>140</sup> For this filing, Organization of MISO States consists of: the Province of Manitoba Canada and the City of New Orleans.

<sup>141</sup> For this filing, Wisconsin TDUs consists of: Madison Gas & Electric Company and WPPI Energy. Wisconsin TDUs filed a “Motion to Intervene, Protest, and Request for Consolidation and Other Relief.”

Motion of the Mississippi Public Service Commission for Extension of Comment  
Deadline, Docket No. ER14-2445-000 (Aug. 4, 2014)

**Comments and Protests**

Arkansas Commission  
City of New Orleans  
Entergy  
Louisiana Commission  
MISO Transmission Owners  
Mississippi Commission  
Organization of MISO States  
Wisconsin Commission  
Wisconsin TDUs  
Xcel

**Answers**

MISO  
MISO Transmission Owners  
Mississippi Commission  
Wisconsin TDUs

**II. Pleadings in Response to MISO October 14, 2014 Response to Deficiency  
Letter**

**Comments and Protests**

Entergy  
Mississippi Commission  
Wisconsin TDUs

**Answers**

Arkansas Cooperative  
MISO  
Wisconsin TDUs