

150 FERC ¶ 61,002
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.	ER15-346-000
	Docket Nos.	ER13-1962-000 ER13-1962-001
	Docket Nos.	ER13-1963-000 ER13-1963-001 ER13-1963-002
	Docket No.	ER14-1210-000
	Docket No.	ER14-1212-001
	Docket No.	EL14-53-000
Illinois Power Marketing Company	Docket No.	ER14-2619-000
AmerenEnergy Resources Generating Company		
v.	Docket No.	EL13-76-000 (consolidated)
Midcontinent Independent System Operator, Inc.		

ORDER ACCEPTING AND SUSPENDING TARIFF FILING, ESTABLISHING
HEARING AND SETTLEMENT JUDGE PROCEDURES, AND CONSOLIDATING
PROCEEDINGS

(Issued January 2, 2015)

1. On November 5, 2014, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Midcontinent Independent System Operator, Inc. (MISO) submitted an unexecuted Amended and Restated System Support Resources (SSR)³ Agreement (Restated SSR Agreement) by and between Illinois Power Marketing Company (Illinois Power) and MISO for Edwards Unit No. 1,⁴ which is providing SSR service in MISO as described below.

2. MISO's Restated SSR Agreement incorporates the rates accepted to become effective on August 8, 2014, subject to refund, and set for hearing and settlement judge procedures, in the Commission's October 6, 2014 order on Illinois Power's section 205 filing in Docket No. ER14-2619 seeking full cost-of-service as compensation for SSR service provided by its Edwards 1 facility during 2014.⁵ The Restated SSR Agreement here results in no change to the rates that the Commission accepted, subject to refund and hearing and settlement judge procedures, in its October 6 Order, but merely incorporates those rates into the MISO Tariff.

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2014).

³ The MISO Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) defines SSRs as "Generation Resources or Synchronous Condenser Units [(SCU)] that have been identified in Attachment Y – Notification to this Tariff and are required by the Transmission Provider for reliability purposes, to be operated in accordance with the procedures described in Section 38.2.7 of this Tariff." MISO, FERC Electric Tariff, [1.643, System Support Resource \(SSR\);, 0.0.0](#). Unless indicated otherwise, all capitalized terms shall have the same meaning given them in the MISO Tariff.

⁴ The Edwards Unit No. 1 (Edwards 1) is a 90 MW coal fired steam boiler located in Bartonville, Illinois that was the subject of SSR designation and associated proceedings in calendar year 2014. On December 2, 2013, Illinois Power Holdings acquired Edwards 1 as part of its acquisition of several Ameren Corporation subsidiaries, including AmerenEnergy Resources Generating Company and Ameren Energy Marketing Company. AmerenEnergy Resources Generating Company was renamed as Illinois Power Resources Generating, LLC (IPRG), and Ameren Energy Marketing Company was renamed as Illinois Power.

⁵ See *Illinois Power Marketing Co.*, 149 FERC ¶ 61,017 (2014) (October 6 Order). Requests for rehearing of the October 6 Order are pending before the Commission.

3. In this order, we accept the Restated SSR Agreement, suspend it for a nominal period, to become effective August 8, 2014, subject to refund, set the proposed rates under the Restated SSR Agreement for hearing and settlement judge procedures, and consolidate this filing with the ongoing hearing and settlement judge procedures in Docket No. ER13-1962-000, *et al.* (Edwards SSR Proceedings).

I. Background

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

5. On July 25, 2012, in Docket No. ER12-2302-000, MISO submitted proposed Tariff revisions regarding the treatment of resources that submit Attachment Y Notices. On September 21, 2012, the Commission conditionally accepted MISO's proposed Tariff revisions effective September 24, 2012, subject to two compliance filings due within 90 and 180 days of the date of the order.⁷ On July 22, 2014, the Commission conditionally accepted MISO's compliance filing made in response to the 2012 SSR Order subject to further compliance.⁸

6. A detailed history of proceedings related to the designation of Edwards 1 as an SSR is provided in the October 6 Order.⁹

⁶ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *order on reh'g*, 109 FERC ¶ 61,157 (2004).

⁷ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012) (2012 SSR Order), *order on compliance*, 148 FERC ¶ 61,056 (2014) (2014 SSR Order).

⁸ 2014 SSR Order, 148 FERC ¶ 61,056 at P 1.

⁹ October 6 Order, 149 FERC ¶ 61,017 at PP 4-8.

7. On January 30, 2014 in Docket No. ER14-1210-000, pursuant to section 205 of the FPA, MISO filed an SSR agreement between Illinois Power and MISO for Edwards 1, covering a one-year term beginning on January 1, 2014 and terminating on December 31, 2014. On March 31, 2014, the Commission accepted the SSR agreement and the associated rate schedule, suspended them for a nominal period, to be effective January 1, 2014, subject to refund and further Commission order.¹⁰ On July 22, 2014, the Commission issued an order where it directed MISO to “revise its Tariff to reflect that SSR compensation should not exceed a resource’s full cost-of-service, including the fixed costs of existing plant (rather than providing that this compensation must not exceed a resource’s going-forward costs). . . .”¹¹ The Commission also allowed for “generation or SCU owners designated as SSRs to file their own revenue requirements in order to protect that generation or SCU owner’s rights under FPA section 205.”¹² The Commission also established hearing and settlement judge procedures in order to address issues of material fact with regard to the appropriate level of compensation for Edwards 1 SSR service.

8. On August 7, 2014, in Docket No. ER14-2619-000, Illinois Power submitted a revised unexecuted Amended and Restated SSR Agreement between Illinois Power and MISO (Illinois Power Restated SSR Agreement). The Illinois Power Restated SSR Agreement provided for additional compensation, adjusting Edwards 1 monthly fixed compensation from \$927,860 to \$1,344,570. Illinois Power requested an effective date of January 1, 2014. The Commission conditionally accepted the Illinois Power Restated SSR Agreement, denied Illinois Power’s request for an effective date of January 1, 2014, and suspended it for a nominal period to become effective August 8, 2014, subject to refund and further compliance.¹³ The Commission also set the proposed rates under the Illinois Power Restated SSR Agreement for hearing and settlement judge procedures, and consolidated the proceeding in Docket No. ER14-2619-000 with the ongoing hearing and settlement procedures established in the Ameren Complaint Order and directed Illinois Power and MISO to maintain the Illinois Power Restated SSR Agreement in their respective tariffs.

¹⁰ *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,238 (2014).

¹¹ *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,057, at P 87 (2014) (Ameren Complaint Order).

¹² *Id.* P 92.

¹³ October 6 Order, 149 FERC ¶ 61,017 at P 1.

II. MISO's Filing

9. The Restated SSR Agreement in the instant proceeding results in no change to the rates that the Commission accepted, subject to refund and hearing and settlement judge procedures in the October 6 Order, but merely incorporates the rates into MISO's Tariff. In conformity with the Commission's directive in its October 6 Order concerning the effective date of the Illinois Power Restated SSR Agreement, MISO requests an effective date of August 8, 2014.¹⁴

III. Notice of Filings and Responsive Pleadings

10. Notice of MISO's filing was published in the *Federal Register*, 79 Fed. Reg. 68,229 (2014), with interventions and protests due on or before November 26, 2014. Illinois Commerce Commission filed a notice of intervention. Wisconsin Electric Power Company, Prairie Power, Inc. and Ameren Services Co. filed timely motions to intervene. IPRG filed a timely motion to intervene and limited protest. Illinois Municipal Electric Agency (IMEA) filed a timely motion to intervene and to consolidate and protest.

11. Illinois Power and IPRG state that because the underlying SSR agreement in this filing is subject to further action in the Edwards SSR Proceedings, the Restated SSR Agreement must also be subject to the outcome of the Edwards SSR Proceedings.¹⁵

12. IMEA states that "[t]he Commission grounded its October 6 Order in part on protests by IMEA and others that asserted specific challenges to the additional cost-of-service components presented by Illinois Power to be recovered during 2014,"¹⁶ which are directly relevant to this filing, as this filing would put those additional and protested cost-of-service elements into effect.¹⁷ IMEA requests that "the Commission should find that the proposed revisions of the Restated [SSR] Agreement may be unjust and unreasonable for the same reasons as provided by the October [6] Order and on the same

¹⁴ MISO Transmittal Letter at 4.

¹⁵ Illinois Power and IPRG Protest at 4.

¹⁶ IMEA Protest at 5 (citing Joint Protest of the Illinois Municipal Electric Agency and Wabash Valley Power Association, Inc., at 12-16, Docket No. ER14-2619 (Aug. 28, 2014)). Further, IMEA states that it incorporates the aforementioned Joint Protest by reference to apply equally to this filing.

¹⁷ *Id.*

grounds order the consolidation of this docket with the ongoing consolidated proceedings of ER14-2619, *et al.*, for suspension, evidentiary hearing and for settlement.”¹⁸

13. IMEA states that since the filing of the Restated SSR Agreement in this proceeding “raises the same factual issues that are currently pending in the other [Edwards SSR Proceedings], as well as the very rates the Commission has set for hearing and settlement judge proceedings with the October [6] Order,”¹⁹ this filing should be consolidated with the Edwards SSR Proceedings.²⁰ IMEA further asserts that the consolidation would assure that the record in the proceedings is complete and accurate as well as improving the efficiency of the review.²¹

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 notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

15. We find that the revised Monthly SSR Payment for 2014 SSR service from Edwards 1 proposed under the Restated SSR Agreement raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

16. Our preliminary analysis indicates that the proposed cost-of-service rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept the Restated SSR Agreement for filing, suspend it for a nominal period, make it effective August 8, 2014, subject to refund, and set it for hearing and settlement judge procedures.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

17. We note that the proposed Monthly SSR Payment set forth in MISO's filing is already subject to the hearing and settlement procedures in the Edwards SSR Proceedings. Therefore, we grant IMEA's request to consolidate this proceeding with the Edwards SSR Proceedings for purposes of settlement, hearing and decision, as there are common issues of law and fact in these proceedings, and we find that consolidation will promote administrative efficiency.

18. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance. The settlement judge or presiding judge previously designated in the Edwards SSR Proceedings shall determine the procedures best suited to accommodate the consolidation ordered herein.²²

The Commission orders:

(A) The Restated SSR Agreement is hereby accepted for filing and suspended for a nominal period, to become effective August 8, 2014, subject to refund as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of MISO's proposed rate under the Restated SSR Agreement, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in the body of this order.

(C) Docket No. ER15-346-000 is hereby consolidated with the Edwards SSR Proceedings for the purposes of settlement, hearing, and decision, as discussed in the body of this order.

²² 18 C.F.R. § 385.503 (2014).

(D) The settlement judge or presiding judge, as appropriate, designated in the Edwards SSR Proceedings shall determine the procedures best suited to accommodate the consolidation ordered herein.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.