

150 FERC ¶ 61,004
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. ER15-358-000

ORDER ACCEPTING AND SUSPENDING TARIFF FILING

(Issued January 5, 2015)

1. On November 6, 2014, pursuant to sections 205 and 219 of the Federal Power Act (FPA)¹ and section 35.13 of the Commission's regulations,² the MISO Transmission Owners³ submitted revisions to the Attachment O formula rate templates of Midcontinent

¹ 16 U.S.C. §§ 824e, 824s (2012).

² 18 C.F.R. § 35.13 (2014).

³ The MISO Transmission Owners for this filing consist of the following: ALLETE, Inc. for its operating division Minnesota Power (and its subsidiary Superior Water, L&P); Ameren Services Company, as agent for Ameren Missouri, Ameren Illinois, and Ameren Transmission Company of Illinois; American Transmission Company LLC (ATC); Cleco Power LLC; Duke Energy Corporation for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Indianapolis Power & Light Company; ITC Transmission (ITC); ITC Midwest LLC; Michigan Electric Transmission Company, LLC (METC); MidAmerican Energy Company; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Vectren Energy Delivery of Indiana; and Wolverine Power Supply Cooperative, Inc.

Independent System Operator, Inc.'s (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to implement a 50-basis point adder (RTO Adder) to the authorized rate of return on equity (ROE) based on the MISO Transmission Owners' participation as members in a regional transmission organization (RTO).⁴

2. In this order, we accept the MISO Transmission Owners' request to implement the RTO Adder, subject to it being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis and subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the pending complaint proceeding in Docket No. EL14-12-000 (Complaint Proceeding).⁵ We accept the proposed revisions for filing and suspend them for a nominal period, to become effective January 6, 2015, subject to refund, and subject to the outcome of the Complaint Proceeding. We also accept the MISO Transmission Owners' request to defer collection of the RTO Adder pending the outcome of the Complaint Proceeding.

I. Background

3. On November 12, 2013, a group of large industrial customers (Complainants) filed a complaint against MISO and certain of its transmission-owning members in the Complaint Proceeding.⁶ Complainants contended that the current 12.38 percent base ROE allowed for MISO Transmission Owners is unjust and unreasonable. Complainants also contended that the ROE incentive adders received by ITC for being a member of an RTO and by both ITC and METC for being independent transmission owners are unjust and unreasonable and should be eliminated.

4. In the Complaint Hearing Order, the Commission granted in part the complaint with respect to the ROE and established hearing and settlement judge procedures.⁷ The

⁴ MISO is also a party to the filing but states that it joins the filing solely as the administrator of its Tariff.

⁵ See *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,049 (2014) (Complaint Hearing Order).

⁶ Complainants are Association of Businesses Advocating Tariff Equity (ABATE); Coalition of MISO Transmission Customers; Illinois Industrial Energy Consumers; Indiana Industrial Energy Consumers, Inc.; Minnesota Large Industrial Group; and Wisconsin Industrial Energy Group.

⁷ Complaint Hearing Order, 149 FERC ¶ 61,049 at P 183.

Commission denied the Complainants' challenges to ITC and METC's incentive adders.⁸ In the Complaint Hearing Order, the Commission established a refund effective date of November 12, 2013 for MISO Transmission Owners' base ROE.

II. Filing

5. On November 6, 2014, the MISO Transmission Owners submitted revisions to the Attachment O formula rate templates of the Tariff to allow the RTO Adder in addition to the Commission-approved base ROE for the MISO Transmission Owners.⁹ The MISO Transmission Owners request a 50-basis point adder as an incentive for their membership in MISO, which they state is consistent with FPA section 219, Order No. 679, and Commission precedent granting a 50-basis point ROE adder to other utilities that join and maintain their memberships in RTOs.¹⁰ The MISO Transmission Owners state that, in Order No. 679, the Commission made incentive ROE adders available to all transmission-owning utilities that join a Commission-approved transmission organization, and that subsequent Commission orders have made clear that this incentive for RTO participation remains available both to new and continuing RTO members.¹¹ The MISO Transmission Owners state that the Complaint Hearing Order reaffirmed that the RTO Adder remains available to transmission owners based on their participation in MISO.¹²

⁸ *Id.* P 200.

⁹ The proposed Tariff revisions consist of a revision to Note P of the generic Attachment O formula rate template of the Tariff, which describes how the base ROE is established, and provides notice that the RTO Adder may be added to the base ROE up to the upper end of the zone of reasonableness approved by the Commission, and corresponding revisions to the company-specific Attachment O formula rate templates for each MISO Transmission Owner that has a company-specific formula rate.

¹⁰ MISO Transmission Owners Transmittal Letter at 7 (citing *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, at P 326 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, at P 86, *order on reh'g*, 119 FERC ¶ 61,062 (2007)).

¹¹ *Id.*

¹² *Id.* at 8 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC ¶ 61,355, at P 5 (2005); *Michigan Elec. Transmission Co.*, 116 FERC ¶ 61,164, at P 15 (2006)).

6. The MISO Transmission Owners state that the requested RTO Adder will be added to the base ROE for each MISO Transmission Owner only to the extent that the addition of the adder results in a total ROE within the zone of reasonableness established by the Commission in the Complaint Proceeding.¹³ The MISO Transmission Owners claim that, once the RTO Adder is implemented, their respective Commission-approved ROEs will remain just and reasonable.¹⁴ The MISO Transmission Owners commit to restrict their total ROEs, including the RTO Adder, in accordance with any new range of reasonable returns adopted by the Commission in the Complaint Proceeding.

7. The MISO Transmission Owners state that, in connection with their commitment to restrict their total ROEs in accordance with any new range of reasonable returns adopted by the Commission in a final order in the Complaint Proceeding, the MISO Transmission Owners request a waiver of the portions of the Commission's section 35.13 rules that require the submission of cost of service information and statements, and testimony and exhibits to support the requested tariff changes, including the required discounted cash-flow analysis.¹⁵ The MISO Transmission Owners argue that it is unnecessary to submit this information at this time because it would merely duplicate the exhibits and testimony that have been or may be filed in the Complaint Proceeding, given that the MISO Transmission Owners have agreed, for the purpose of implementing the RTO Adder, to adhere to any range of reasonable returns that the Commission may establish in the Complaint Proceeding.¹⁶ Thus, the MISO Transmission Owners request a waiver of section 35.13(a), (c), (d), (e), and (h), and any other portions of 18 C.F.R. § 35.13 necessary to allow the Commission to accept the MISO Transmission Owners' addition of the RTO Adder to each MISO Transmission Owner's formula rate template contained in Attachment O of the Tariff based on the final outcome of the Complaint Proceeding.¹⁷

8. The MISO Transmission Owners also request waiver of the Commission's prior notice requirement pursuant to section 35.11 of the Commission's regulations to allow an

¹³ *Id.* at 8 (citing *Martha Coakley, Massachusetts Attorney General v. Bangor Hydro-Elec. Co.*, Opinion No. 531-A, 149 FERC ¶ 61,032, at PP 10-11 (2014)).

¹⁴ *Id.* at 9.

¹⁵ *Id.* at 11.

¹⁶ *Id.*

¹⁷ *Id.* (citing 18 C.F.R. § 35.13(a), (c), (d), (e), (h) (2014)).

effective date of November 7, 2014.¹⁸ The MISO Transmission Owners state that ratepayers have been on notice of the MISO Transmission Owners' eligibility for the RTO Adder at least as far back as the order following remand of the 2003 ROE decision, and such notice was recently reiterated when the Complaint Hearing Order affirmed the continued validity of the RTO Adder for ITC.¹⁹

9. The MISO Transmission Owners state that they do not wish to complicate rate collection by collecting rates reflecting the RTO Adder at this time, only to have those rates possibly modified by the outcome of the Complaint Proceeding.²⁰ Therefore, the MISO Transmission Owners request Commission approval to defer collection of the RTO Adder until the Commission issues an order on the Complaint Proceeding, in which the Commission will establish a zone of reasonableness for the MISO Transmission Owners' ROEs.²¹ The MISO Transmission Owners state that as proposed, the deferral would not modify the effective date of the RTO Adder, but would merely impact the timing of collection of the RTO Adder.²² The MISO Transmission Owners state that by deferring the collection, but not the effectiveness, of the RTO Adder until the outcome of the Complaint Proceeding, MISO, the MISO Transmission Owners, and customers will benefit from the increased rate stability achieved by reducing the number of rate changes that may result from implementation of the RTO Adder and possibly from subsequent resolution of the Complaint Proceeding.²³

III. Notice and Responsive Pleadings

10. Notice of the MISO Transmission Owners' filing was published in the *Federal Register*, 79 Fed. Reg. 68,430 (2014), with interventions and protests due on or before November 28, 2014.

¹⁸ *Id.* (citing 18 C.F.R. §§ 35.3, 35.11 (2014)).

¹⁹ *Id.* at 9 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 100 FERC ¶ 61,292 (2002), *reh'g denied*, 102 FERC ¶ 61,143 (2003)).

²⁰ *Id.* at 10.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 10-11.

11. The entities that filed notices of intervention, motions to intervene, protests, comments, and answers are listed in the Appendix to this order. The entity abbreviations listed in the Appendix will be used throughout this order.

A. Comments and Protests

1. Appropriateness of RTO Adder

12. A number of commenters argue that the proposed RTO Adder lacks sufficient justification. The Organization of MISO States argues that the RTO Adder is not just and reasonable nor in the public interest because the MISO Transmission Owners did not demonstrate that the RTO Adder incentive is necessary and results in demonstrable benefits to MISO's transmission customers.²⁴ Similarly, Consumer Advocates state that the RTO Adder is not just and reasonable nor in the public interest because it will not have any effect on RTO membership, the MISO Transmission Owners offer no incentive related justification, and providing a benefit to transmission owners that are already MISO members is unnecessary.²⁵ Joint Consumers state that the MISO Transmission Owners fail to demonstrate that the RTO Adder is necessary to incentivize them to join an RTO or remain members in an RTO.²⁶

13. Coops/Municipals, Joint Consumers, and Resale Power Group of Iowa argue that while the Commission stated in Order No. 679 that "[it] will approve, *when justified*, requests for ROE-based incentives for public utilities that join and/or continue to be a member of an [Independent System Operator (ISO)], RTO, or other Commission-approved Transmission Organization," the MISO Transmission Owners do not provide any justification other than being members of an RTO.²⁷ Coops/Municipals state that the MISO Transmission Owners seek to imply that Order No. 679 created an entitlement to an adder for FERC-regulated transmission owners that are RTO members, but, however, Order No. 679 merely held open the possibility of such an adder, subject to the transmission owner or owners supplying the necessary justification.²⁸ Coops/Municipals

²⁴ Organization of MISO States Comments at 2.

²⁵ Consumer Advocates Protest at 6-7.

²⁶ Joint Consumers Protest at 4.

²⁷ Coops/Municipals Protest at 5; Resale Power Group of Iowa Protest at 10; and Joint Consumers Protest at 4 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 326) (emphasis added by Coops/Municipals).

²⁸ Coops/Municipals Protest at 5.

argue that in lieu of a financial analysis, the MISO Transmission Owners' filing is deficient.²⁹

14. Great Lakes Utilities and Southwestern Electric argue that granting the MISO Transmission Owners' request would not enhance reliability or increase the coordination of planning and operation of transmission facilities, which are the purported benefits of joining an ISO/RTO, because many of the MISO Transmission Owners have been members of MISO since its inception.³⁰ Southwestern Electric states that these adders represent a windfall for the MISO Transmission Owners and a burden on transmission customers that are increasingly saddled with transmission costs that are not connected to the actual cost of providing transmission service.³¹ Great Lakes Utilities states that the Energy Policy Act of 2005 (EPA 2005) does not require the Commission to grant ROE adders of a full 50 basis points, nor does it stipulate that the incentives to be provided must take the form of an ROE adder or prohibit the Commission from limiting participation adders only to those utilities that are newly joining an ISO/RTO or from requiring more stringent criteria or demonstrations of utilities that have participated in an ISO/RTO for a number of years.³² Great Lakes Utilities further comments that this proceeding provides the Commission with the opportunity to revisit its policy on ROE adders in a comprehensive fashion, which it has not done since the issuance of Order No. 679 in 2006.³³ Coops/Municipals also comment that EPA 2005 did not provide for incentives to utilities that had already joined an RTO.³⁴

15. Joint Consumers argue that the benefits and costs of incentives must be roughly proportional, stating that “[i]f the Commission contemplates increasing rates for the purpose of encouraging a policy goal, then the Commission ‘must see to it that the increase is in fact needed, and is no more than is needed, for the purpose.’”³⁵ Joint

²⁹ *Id.* at 4.

³⁰ Great Lakes Utilities Protest at 2; Southwestern Electric Protest at 4.

³¹ Southwestern Electric Protest at 4.

³² Great Lakes Utilities Protest at 2 (citing Pub. L. No. 109-58, § 1241, 119 Stat. 594 (2005)).

³³ *Id.*

³⁴ Coops/Municipals Protest at 4.

³⁵ Joint Consumers Protest at 4, 5 (citing *City of Detroit v. FPC*, 230 F.2d 810, 817 (D.C. Cir. 1955)).

Consumers argue that the RTO Adder cannot be justified and is unjust and unreasonable because the MISO Transmission Owners do not demonstrate that the RTO Adder provides benefits equal to or greater than the cost to customers.³⁶

16. Some commenters also express concern that the MISO Transmission Owners' filing is improper because it does not reflect a case-by-case determination of the RTO Adder. Specifically, Joint Consumers state that granting the MISO Transmission Owners' request for the ROE Adder simply because the Commission has done so for other transmission owners would, in theory, create a generic adder and would go against the case-by-case approach that was expressly adopted in Order No. 679 and otherwise required by law.³⁷ Resale Power Group of Iowa also states that considering this case on a stand-alone basis does not mean that the Commission is compelled to reach the same result as in other cases because doing so would constitute a *de facto* generic RTO Adder, an approach the Commission has expressly rejected.³⁸ American Municipal Power states that because it would implement the RTO Adder for all MISO Transmission Owners as a group, rather than on a case-by-case basis, the proposed revision would deprive the Commission of the opportunity to consider, in advance of the adder's effectiveness, factors that might bear on the entitlement of any individual MISO Transmission Owner to receive the adder.³⁹ American Municipal Power also states that the Commission has recognized that fulfillment of its statutory mandate requires a case-by-case approach to implementation of the RTO Adder.⁴⁰

2. Procedures For Implementation

17. Joint Consumers state that if the Commission does not reject the MISO Transmission Owners' RTO Adder filing, the Commission should initiate an evidentiary hearing because this proceeding raises genuine issues of material fact regarding whether, in the particular circumstances of this case, the RTO Adder would be just and reasonable.⁴¹ Resale Power Group of Iowa states that a critical component of any rate

³⁶ *Id.* at 5.

³⁷ *Id.* at 6.

³⁸ Resale Power Group of Iowa Protest at 11.

³⁹ American Municipal Power Protest at 3.

⁴⁰ *Id.* at 4.

⁴¹ Joint Consumers Protest at 3, 6-7.

increase application is testimony and the supporting information required by section 35.13(c) of the Commissions regulations of the effect of the proposed rate change.⁴² Resale Power Group of Iowa states that a filing under FPA section 205 requires evidentiary support and without such support, the Commission should reject the filing as patently deficient.⁴³ Resale Power Group of Iowa adds that the Commission must assess the proposed ROE Adder's impact on overall rates, but that the filing lacks critical evidence, which prevents the Commission from performing a full analysis of whether the RTO Adder results in just and reasonable rates.⁴⁴ Therefore, Resale Power Group of Iowa states that if the Commission does not reject the application as patently deficient, then Resale Power Group of Iowa requests that the Commission (1) order the MISO Transmission Owners to submit testimony and exhibits regarding the impact on customer rates of the proposed RTO Adder; and (2) establish a paper hearing on the issue of the rate impact of the RTO Adder.⁴⁵ Resale Power Group of Iowa also states that if the Commission does not reject the application as patently deficient, then Resale Power Group of Iowa requests that the Commission accept the application for filing, suspend the RTO Adder for the maximum five month period suspension provided under FPA section 205, subject to refund, and hold this proceeding in abeyance until issuance of a final order in the Complaint Proceeding.⁴⁶ Resale Power Group of Iowa states that “[i]f the Commission truly desires to advance its policy of encouraging settlements, the more uncertainty as to an ultimate outcome incentivizes the parties [in the Complaint Proceeding] to reach their own agreement.”⁴⁷

18. Alliant, Organization of MISO States, and Consumer Advocates request that the Commission consolidate the instant proceeding with the Compliant Proceeding. Specifically, Alliant states that the most efficient, holistic and expeditious means to resolve the ROE matter is to consolidate the instant proceeding with the broader evaluation of the MISO ROE in the Complaint Proceeding, because the overall ROE is impacted by the base ROE and the capital structure employed including any incentive

⁴² Resale Power Group of Iowa Protest at 6.

⁴³ *Id.* at 7 (citing *Consolidated Edison Co. of New York, Inc.*, 131 FERC ¶ 61,274, at P 12 (2010)).

⁴⁴ *Id.* at 10.

⁴⁵ *Id.* at 12.

⁴⁶ *Id.* at 4.

⁴⁷ *Id.* at 13.

adders granted.⁴⁸ Alliant also notes that, in Order No. 679, the Commission recognized that “issues concerning risk [...] are more appropriately addressed in the proceedings that evaluate proxy companies and set a zone of reasonableness.”⁴⁹ Organization of MISO States and Consumer Advocates contend that the MISO Transmission Owners’ waiver and deferral requests clearly demonstrate the linkage between the RTO Adder and the level of the base ROE and the zone of reasonableness for the MISO Transmission Owners’ ROE to be determined in the ongoing Complaint Proceeding.⁵⁰

19. Coops/Municipals state that the MISO Transmission Owners have made no attempt to meet the requirements for waiver of the 60-day prior notice requirements.⁵¹ Resale Power Group of Iowa and MDEA also state that none of the circumstances justifying waiver exist in this case, and, moreover, the MISO Transmission Owners have not made a strong showing of good cause.⁵² MMTG/MJMEUC also states that the MISO Transmission Owners fail to adequately justify their requested effective date.⁵³

3. Implementation of RTO Adder for MISO Entities Who Are Not Applicants Here

20. MMTG/MJMEUC, Missouri River Energy, and Great River Energy state that they are, or have members who are or may become, public power transmission-owning members of MISO and they request that the Commission also grant the RTO Adder to them and other similarly situated entities subject to an appropriate compliance filing, if the Commission grants the RTO Adder to the MISO Transmission Owners.⁵⁴ Transource Wisconsin and Duke-American state that they are transmission developers who are not yet transmission-owning members of MISO but intend to become MISO Transmission Owners. Transource Wisconsin requests that the Commission find that each Transource

⁴⁸ Alliant Protest at 5.

⁴⁹ *Id.* (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 326).

⁵⁰ Organization of MISO States Protest at 4; Consumer Advocates Protest at 7.

⁵¹ Coops/Municipals Protest at 6.

⁵² Resale Power Group of Iowa Protest at 12; MDEA Protest at 2.

⁵³ MMTG/MJMEUC Protest at 3 n.3.

⁵⁴ MMTG/MJMEUC Protest at 3; Missouri River Energy Comments at 5; Great River Energy Comments at 2.

MISO entity may include the RTO Adder in its formula rate once it becomes a MISO Transmission Owner and makes a compliance filing to incorporate the formula rate into Attachment O of the Tariff.⁵⁵ Duke-American similarly requests that the Commission find that the RTO Adder will be applicable to Duke-American entities that become MISO Transmission Owners in the future.⁵⁶

21. Great River Energy states that it is concerned that granting the RTO Adder to the MISO Transmission Owners without granting the same to other transmission-owning members of MISO, such as Great River Energy, will not be a just and reasonable outcome.⁵⁷ MMTG/MJMEUC state that to allow the incentive only to the requesting MISO Transmission Owners would be unduly discriminatory and preferential.⁵⁸ MMTG/MJMEUC also note that “[section 219 of the FPA] states that incentive-based rate treatments to ‘promote reliable and economically efficient transmission’ are to be applied ‘regardless of the ownership of the facilities.’”⁵⁹ MMTG/MJMEUC also state that section 219 of the FPA precludes providing certain investor owned utilities with an RTO incentive that public power systems do not receive on a comparable basis, noting that subsection 219(c) of the FPA mandates that an incentives “rule issued under this section [. . .] provide[s] for incentives *to each transmitting utility or electric utility* that joins a Transmission Organization.”⁶⁰

22. MMTG/MJMEUC also state that, if the dominant transmission owners who are represented in the MISO Transmission Owners’ filing need an RTO incentive, this need would apply no less to smaller MISO public power entities because they are smaller entities and newer investors in high voltage grid transmission relative to the MISO Transmission Owners and would find financing more difficult than the MISO Transmission Owners.⁶¹ MMTG/MJMEUC state that, moreover, a failure to allow

⁵⁵ Transource Wisconsin Comments at 2.

⁵⁶ Duke-American Comments at 1.

⁵⁷ Great River Energy Comments at 2.

⁵⁸ MMTG/MJMEUC Protest at 3.

⁵⁹ *Id.* at 3-4 (citing 16 U.S.C. § 824s (2012)).

⁶⁰ *Id.* at 5 (citing 16 U.S.C. § 824s(c) (2012)) (emphasis added by MMTG/MJMEUC).

⁶¹ *Id.* at 7 (citing *Central Minnesota Mun. Power Agency*, 134 FERC ¶ 61,115, PP 30-33 (2011)).

MMTG transmission-owning members, and like smaller systems, incentive rate recovery that the MISO Transmission Owners will receive can only disadvantage smaller systems competitively in their abilities to finance and invest in transmission, to the overall public's detriment.⁶² Missouri River Energy states that the Commission has held that transmission-owning, non-public utilities are entitled to the same ROE as transmission-owning Public Utilities, and accordingly, acceptance of the proposed 50-basis point adder for the MISO Transmission Owners should therefore be extended to MISO's transmission-owning, non-public utility members.⁶³

23. Regarding the availability of the RTO Adder to transmission developers who will become MISO Transmission Owners, Transource Wisconsin states that it is important that non-incumbent developers are able to compete for transmission projects on a level playing field.⁶⁴ Transource Wisconsin notes that its proposed formula rate currently exists in a stand-alone eTariff database, and has not yet been included in Attachment O of the Tariff.⁶⁵ Transource Wisconsin states, therefore, that the MISO Transmission Owners proposed Tariff changes do not benefit Transource Wisconsin.⁶⁶

B. MISO Transmission Owners' Answer

1. Appropriateness of RTO Adder

24. The MISO Transmission Owners assert that arguments suggesting that the MISO Transmission Owners have not provided sufficient justification for granting the RTO Adder or a showing of need for the RTO Adder are unavailing.⁶⁷ The MISO Transmission Owners state that when reviewing RTO incentive requests, the Commission looks only at whether the utility is or will become a member of an RTO and whether the resulting total ROE, including the RTO incentive, remains within a zone of

⁶² *Id.*

⁶³ Missouri River Energy Comments at 5 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 128 FERC ¶ 61,047, at P 24 (2009)).

⁶⁴ Transource Wisconsin Comments at 5.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ MISO Transmission Owners Answer at 13.

reasonableness established by the Commission.⁶⁸ The MISO Transmission Owners argue that the additional information requested by commenters has not been required previously and should not be required here, and arguments to the contrary are collateral attacks on the Commission's prior orders and should be rejected as such.⁶⁹

25. The MISO Transmission Owners state that requests to deny the RTO Adder on the basis that EPCRA 2005 does not specifically authorize an incentive adder for continued RTO participation, the MISO Transmission Owners already participate in an RTO, few members have left RTOs, or new members have joined MISO, all represent impermissible collateral attacks on Order No. 679.⁷⁰ The MISO Transmission Owners assert that the Commission expressly stated in Order No. 679 that “entities that *have already joined, and that remain members* of, an RTO, ISO, or other Commission-approved Transmission Organization are eligible to receive this incentive...” and “[The Commission’s] interpretation of the statute is that eligibility for this incentive flows to an entity that ‘joins’ a Transmission Organization and is not tied to when the entity

⁶⁸ *Id.* at 11-13, 12 n.39 (citing *Central Transmission, LLC*, 135 FERC ¶ 61,145, at PP 78-79 (2011) (granting an RTO incentive conditioned upon RTO membership and subject to the overall ROE being within the zone of reasonableness); *New York Reg'l Interconnect, Inc.*, 124 FERC ¶ 61,259, at P 38 (2008) (accepting RTO incentive “conditioned on [New York Independent System Operator, Inc. (NYISO)] approving [New York Regional Interconnect, Inc.’s (NYRI)] membership application and on NYRI’s continued participation in NYISO” and “further conditioned on the final ROE being within the zone of reasonable returns”); *Niagara Mohawk Power Corp.*, 124 FERC ¶ 61,106, at P 35 (2008) (“We will grant up to 50 basis points of incentive ROE for Niagara Mohawk’s continued participation in NYISO, subject to the conditions of this order and the zone of reasonable returns.”)).

⁶⁹ *Id.* at 13.

⁷⁰ *Id.* at 15 (citing *Virginia Elec. & Power Co.*, 123 FERC ¶ 61,098, at P 54 (2008) (rejecting an argument that incentive adders should not be awarded for continued RTO participation as “a collateral attack on Order No. 679-A”); *Baltimore Gas & Elec. Co.*, 120 FERC ¶ 61,084, at P 31 (2007) (characterizing arguments that RTO incentives should not be awarded for continued RTO membership as collateral attacks on Order No. 679-A); *Pepco Holdings, Inc.*, 121 FERC ¶ 61,169, at P 16 (2007) (“[Delaware Municipal Electric Corporation, Inc.’s] protest that PHI Affiliates should not be rewarded for its continued membership in [PJM Interconnection, L.L.C.] is inconsistent with Order No. 679-A”)).

joined.”⁷¹ The MISO Transmission Owners state that the Commission should continue to honor its policy for current RTO members and reject arguments that the incentive is no longer necessary for current RTO members as collateral attacks.⁷²

26. The MISO Transmission Owners state that arguments requesting the RTO Adder be rejected because of a lack of cost-benefit showing lack merit and should be rejected. The MISO Transmission Owners state that the Commission rejected arguments requiring a showing of net benefits or a cost-benefit analysis to grant rate incentives,⁷³ and the Commission upheld its determination in Order No. 679-A.⁷⁴ The MISO Transmission Owners also state that the Commission has routinely granted RTO membership incentives without any cost-benefit showing, observing that “[t]he consumer benefits, including reliability and cost benefits, provided by Transmission Organizations are well documented, and the best way to ensure those benefits are spread to as many consumers as possible is to provide an incentive that is *widely available* to member utilities of Transmission Organizations and is effective for the entire duration of a utility’s membership in the Transmission Organization.”⁷⁵

27. The MISO Transmission Owners state that commenters who claim that the MISO Transmission Owners’ filing is improper because it does not reflect a case-by-case determination of the RTO Adder misconstrue the language of Order No. 679.⁷⁶ The MISO Transmission Owners argue that by declining to establish a “generic” adder for RTO membership, the Commission did not preclude members of an RTO from petitioning the Commission as a group for an incentive adder to a group ROE.⁷⁷ The

⁷¹ *Id.* at 15-16 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 331).

⁷² *Id.* at 16.

⁷³ *Id.* at 14 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 65 (“We affirm the NOPR’s determination not to require applicants for incentive-based rate treatments to provide cost-benefit analysis.”)).

⁷⁴ *Id.* at 14 (citing Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at PP 35-40).

⁷⁵ *Id.* at 14-15 (citing Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 86).

⁷⁶ *Id.* at 16.

⁷⁷ *Id.*

MISO Transmission Owners state that, instead, the Commission merely opted to “consider the appropriate ROE incentive when public utilities request this incentive.”⁷⁸

2. Procedures For Implementation

28. The MISO Transmission Owners state that requests to initiate an evidentiary hearing in this proceeding are groundless and should be rejected. The MISO Transmission Owners argue that the courts and Commission have consistently held that a hearing is not required to resolve disputed issues of material fact unless issues of motive, intent, credibility, or a past event are in dispute,⁷⁹ and “[t]he mere assertion that a trial-type hearing is necessary, without identifying specific factual disputes that cannot be resolved on the basis of a written record, is not sufficient.”⁸⁰ The MISO Transmission Owners state that the only relevant issue of fact is whether the MISO Transmission Owners are members of a Commission-approved RTO, which is undisputed, and, thus, the Commission’s standard for initiating a hearing has not been met.⁸¹ The MISO Transmission Owners also state that because the appropriate zone of reasonableness will

⁷⁸ *Id.* (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 326; *Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC ¶ 61,355, at P 5 (2005); *Michigan Elec. Transmission Co.*, 113 FERC ¶ 61,343, at P 15 (2005)).

⁷⁹ *Id.* at 6 (citing *Union Pac. Fuels v. FERC*, 129 F.3d 157, 164 (D.C. Cir. 1997) (“FERC may resolve factual issues on a written record unless motive, intent, or credibility are at issue or there is a dispute over a past event.”); *Southern California Edison Co.*, 109 FERC ¶ 61,086, at P 38 (2004); *Blumenthal v. FERC*, 613 F.3d 1142, 1145 (D.C. Cir. 2010) (“Even when there are disputed factual issues, FERC does not need to conduct an evidentiary hearing if it can adequately resolve the issues on a written record.”)).

⁸⁰ *Id.* at 6-7 (citing *Pub. Serv. Co. of Ind., Inc.*, 51 FERC ¶ 61,367, at 62,219 (1990) (emphasis added by MISO Transmission Owners); *Ill. Commerce Comm’n v. FERC*, 721 F.3d 764, 776 (7th Cir. 2013) (stating that the Commission “need not conduct an oral hearing if it can adequately resolve factual disputes on the basis of written submissions”), *cert. denied*, 134 S. Ct. 1277 (2014); *Woolen Mill Assoc. v. FERC*, 917 F.2d 589, 592 (D.C. Cir. 1990) (stating that “mere allegations of disputed fact are insufficient to mandate a hearing”); *Pepco Holdings, Inc.*, 124 FERC ¶ 61,176, at P 130 (2008)).

⁸¹ *Id.* at 7.

be determined in the Complaint Proceeding, there is no need to establish another hearing in this case to address the issue.⁸²

29. The MISO Transmission Owners also state that Resale Power Group of Iowa's request for a five-month suspension or indefinite abeyance of the instant proceeding seeks relief that is inappropriate under Commission precedent. The MISO Transmission Owners state that it is Commission policy to impose a five-month suspension only when "[the Commission's] preliminary analysis indicates that proposed rates may be unjust and unreasonable and substantially excessive."⁸³ The MISO Transmission Owners also note that given the limitation imposed by the zone of reasonableness, the rate resulting from the inclusion of the RTO Adder will be just and reasonable. Furthermore, the MISO Transmission Owners state that the instant proceeding does not meet the standard for a five-month suspension because the upper end of the zone of reasonableness ensures that any possible rate increase will not be substantially excessive.⁸⁴

30. The MISO Transmission Owners argue that the alleged "linkage" between the instant proceeding and the Complaint Proceeding provides no basis for consolidation and the Commission should reject such consolidation requests.⁸⁵ The MISO Transmission Owners note that "[t]he Commission's policy is to consolidate matters only if a trial-type evidentiary hearing is required to resolve common issues of law and fact and consolidation will ultimately result in greater administrative efficiency."⁸⁶ The MISO Transmission Owners state that the instant proceeding and the Complaint Proceeding are separate cases involving different matters, different burdens of proof, and different

⁸² *Id.*

⁸³ *Id.* at 9-10 (citing *American Elec. Power Serv. Corp.*, 120 FERC ¶ 61,205, at P 27 (2007) (citing *West Texas Utils. Co.*, 18 FERC ¶ 61,189 (1982) (*West Texas*)) (summarizing the Commission's standard for a five-month suspension), *order on reh'g*, 121 FERC ¶ 61,245 (2007); *Pacific Gas & Electric Co.*, 148 FERC ¶ 61,245, at P 26 (2014) (stating that, under *West Texas*, the Commission imposes a five-month suspension when its preliminary analysis indicates that the proposed rates may be unjust and unreasonable and may be substantially excessive)).

⁸⁴ *Id.* at 10-11.

⁸⁵ *Id.* at 8-9.

⁸⁶ *Id.* at 7-8 (citing *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,059, at P 18 (2013), *order on reh'g*, 149 FERC ¶ 61,048 (2014); *ISO New England Inc.*, 143 FERC ¶ 61,150, at P 10 (2013)).

showings, and no trial-type hearing is necessary in this case because there is no factual issue here regarding the MISO Transmission Owners' eligibility for the RTO Adder.⁸⁷ The MISO Transmission Owners state that the fact that one case will rely on a single finding in another case does not mean that the cases must be consolidated to promote greater administrative efficiency, and no such efficiency will be gained by doing so here.⁸⁸ The MISO Transmission Owners state, therefore, that the Commission can accept the instant proceeding, subject to the outcome of the Complaint Proceeding, without consolidating the two matters or setting the RTO Adder for hearing.⁸⁹ The MISO Transmission Owners state that the Commission routinely has summarily granted an RTO incentive adder without subjecting the requested RTO incentive to further review in a hearing, even when the appropriate base ROE and zone of reasonableness were set for hearing.⁹⁰

⁸⁷ *Id.* at 8.

⁸⁸ *Id.*

⁸⁹ *Id.* (citing *Xcel Energy Transmission Dev. Co.*, 149 FERC ¶ 61,181, at P 53 (2014) (accepting, without consolidation, formula rate protocols subject to the outcome of a separate compliance proceeding); *Transource Wisconsin, LLC*, 149 FERC ¶ 61,180, at P 56 (2014); *Southern California Edison Co.*, 146 FERC ¶ 61,177, at P 16 (2014) (accepting, without consolidation, an agreement subject to the outcome of a separate complaint proceeding involving a common issue)).

⁹⁰ *Id.* (citing *Valley Elec. Ass'n*, 141 FERC ¶ 61,238, at P 26 (2012) (“We will however, consistent with previous orders, summarily grant the 50-basis points of incentive ROE adder for Valley Electric’s participation in CAISO, subject to suspension [of. other aspects of the filing] and the zone of reasonable returns determined at hearing.”); *Pacific Gas and Electric Co.*, 141 FERC ¶ 61,168, at P 24 (2012) (“summarily accept[ing]” an RTO incentive adder, subject to the zone of reasonableness and suspension of other aspects of the rate filing); *AEP Appalachian Transmission Co., Inc.*, 130 FERC ¶ 61,075, at P 21 (2010) (accepting a proposed ROE incentive for RTO participation as just and reasonable and not unduly discriminatory even though other aspects of the filing, including the Base ROE, were set for hearing); *Virginia Electric & Power Co.*, 123 FERC ¶ 61,098, at P 54 (2008) (granting an RTO incentive adder despite rejecting proposed ROE)).

31. In response to commenters, the MISO Transmission Owners state that parties have received ample notice, as contemplated in the FPA, and the request for a waiver of the Commission's prior notice requirement is entirely appropriate.⁹¹

C. MMTG/MJMEUC Answer

32. In their answer, MMTG/MJMEUC argue that the MISO Transmission Owners make no showing that the RTO Adder would serve public needs in this case, such as causing them to join or continue membership in MISO, and neither the waivers nor applying the RTO Adder presently or in the future is justified.⁹²

33. MMTG/MJMEUC state that the MISO Transmission Owners made a voluntary choice to not request an RTO Adder before the instant filing because they would have risked the possibility that a Commission investigation into their ROE would ultimately reduce their authorized ROE.⁹³ MMTG/MJMEUC state that the RTO Adder cannot be included in rates now because the MISO Transmission Owners cannot show the lawfulness of the resulting 12.88 percent ROE with the RTO Adder,⁹⁴ and the MISO Transmission Owners implicitly recognize that the total 12.88 percent equity rate of return may not be just and reasonable or within the zone of reasonableness.⁹⁵

34. MMTG/MJMEUC state that the MISO Transmission Owners' filing cannot be accepted as a change of rate filing under section 205 of the FPA, because the MISO Transmission Owners do not seek a change to the ROE for any rates that they propose to collect currently.⁹⁶ MMTG/MJMEUC state the filing is no more than a current request to authorize a future retroactive rate collection for a rate adder for which collection cannot be currently justified.⁹⁷ MMTG/MJMEUC state, however, that even if the filing were accepted as an FPA section 205 rate change, the MISO Transmission Owners have not

⁹¹ *Id.* at 4-5.

⁹² MMTG/MJMEUC Answer at 3-4.

⁹³ *Id.* at 2.

⁹⁴ *Id.* (citing *Pub. Serv. Comm'n of Ky. v. FERC*, 397 F.3d 1004 (D.C. Cir. 2005)).

⁹⁵ *Id.* at 3 (citing MISO Transmission Owners Answer at 3-4, 10).

⁹⁶ *Id.*

⁹⁷ *Id.*

justified waiving the 60-day prior notice period and five-month suspension period.⁹⁸ MMTG/MJMEUC argue that if the MISO Transmission Owners can support the RTO Adder as an addition to the ROE that may be established in the future, they must file in the context of those rates.

35. MMTG/MJMEUC also state that any order granting the MISO Transmission Owners' request should specify other transmission-owning members of MISO are entitled to non-discriminatory treatment subject to any appropriate implementing filings.⁹⁹

IV. Discussion

A. Procedural Matters

36. 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.

37. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), the Commission will grant the late-filed motions to intervene of East Texas Cooperatives, Southwestern Electric, Duke-American, and Missouri River Energy, given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

38. 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 unless otherwise ordered by the decisional authority. We will accept the MISO Transmission Owners' and MMTG/MJMEUC's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

1. MISO Transmission Owners' Request for the RTO Adder

39. We grant the MISO Transmission Owners' request for a 50-basis point adder to their base ROE for their participation in MISO, consistent with section 219 of the FPA

⁹⁸ *Id.*

⁹⁹ *Id.* at 4 (citing MISO Transmission Owners Answer at 11 n.36).

and Commission precedent,¹⁰⁰ subject to it being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis and subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the Complaint Proceeding.

40. In EPCA 2005, Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability or reducing the cost of delivered power by reducing transmission congestion.¹⁰¹ The purpose of this rule is, *inter alia*, to promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in electric transmission infrastructure.¹⁰² The Commission subsequently issued Order No. 679,¹⁰³ which sets forth processes by which a public utility may seek transmission rate incentives, pursuant to section 219 of the FPA, including the incentives requested here by the MISO Transmission Owners.

41. We reject protestors' arguments that the proposed RTO Adder lacks sufficient justification. A utility is presumed eligible for an RTO incentive "if it can demonstrate that it has joined an RTO, ISO, or other Commission-approved Transmission Organization, and that its membership is on-going"¹⁰⁴ and need not provide additional justification as to the necessity or benefits of the incentive. We agree with protestors that the RTO Adder is not an "entitlement" and may be subject to further analysis,¹⁰⁵ which is

¹⁰⁰ See, e.g., *Pacific Gas and Electric Co.*, 148 FERC ¶ 61,245, at P 30 (2014) (granting 50-basis point adder for continued RTO participation); *Valley Elec. Ass'n*, 141 FERC ¶ 61,238, at P 26 (2012) (granting 50-basis point adder for RTO participation); *Pacific Gas and Electric Co.*, 141 FERC ¶ 61,168, at P 25 (2012).

¹⁰¹ 16 U.S.C. § 824s(a), (b) (2012).

¹⁰² *Id.*

¹⁰³ Order No. 679, FERC Stats. & Regs. ¶ 31,222.

¹⁰⁴ *Id.* P 327. MISO is already covered under the Commission's definition. See *id.* P 328 (stating that all RTOs and ISOs are already covered by the approved definition).

¹⁰⁵ See, e.g., *Central Transmission, LLC*, 135 FERC ¶ 61,145 at PP 78-79 (granting an RTO incentive conditioned upon RTO membership and subject to the overall ROE being within the zone of reasonableness); *New York Reg'l Interconnect, Inc.*, 124 FERC ¶ 61,259 at P 38 (accepting RTO incentive "conditioned on NYISO approving

(continued...)

why we subject our granting of the MISO Transmission Owners' requested 50-basis point adder to the determination of a just and reasonable base ROE and zone of reasonableness, as those may be determined in the Complaint Proceeding.

42. We disagree with protestors' arguments that the RTO Adder should be denied because granting the request would not benefit reliability or increase the coordination of planning and operation of transmission facilities. Protestors provide no support for such assertion. Protestors continue to argue that no incentive adder is needed to incent participation in MISO. We reiterate that the basis for the incentive adder is a recognition of the benefits that flow from membership in an RTO, ISO, or other Commission-approved Transmission Organization and that *continuing* membership is generally voluntary.¹⁰⁶ Therefore, consistent with the policy in Order No. 679 to encourage continued involvement in MISO, we find that the requested 50-basis point adder is appropriate, subject to the determination of the just and reasonable base ROE and zone of reasonableness.¹⁰⁷

43. We also reject protestors' arguments that the MISO Transmission Owners' filing is improper because it does not reflect a case-by-case determination of the RTO Adder. In Order No. 679, the Commission declined to create a generic adder, but stated that it "will consider the appropriate ROE incentive when public utilities request this incentive."¹⁰⁸ Therefore, the Commission did not preclude members of an RTO from requesting an incentive adder as a group, as the MISO Transmission Owners did here.

44. Accordingly, we find that the MISO Transmission Owners are qualified to receive the requested 50-basis point adder, subject to it being applied to a base ROE that has been

NYRI's membership application and on NYRI's continued participation in NYISO" and "further conditioned on the final ROE being within the zone of reasonable returns"); *Niagara Mohawk Power Corp.*, 124 FERC ¶ 61,106 at P 35 ("We will grant up to 50 basis points of incentive ROE for Niagara Mohawk's continued participation in NYISO, subject to the conditions of this order and the zone of reasonable returns.").

¹⁰⁶ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 331 (emphasis added).

¹⁰⁷ See *Pacific Gas and Electric Co.*, 141 FERC ¶ 61,168, at P 25 (2012) (determining that granting Pacific Gas and Electric (PG&E) an incentive ROE for participation in the CAISO is consistent with the stated purpose of FPA section 219 as amended by EPAct 2005 and is intended to encourage PG&E's continued involvement in the CAISO, despite arguments that such incentive is no longer necessary).

¹⁰⁸ Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 326.

shown to be just and reasonable based on an updated discounted cash-flow analysis and subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the Complaint Proceeding, because all of the MISO Transmission Owners are members of MISO, a Commission-authorized RTO. Our approval of this incentive is based on the MISO Transmission Owners' commitment to continue being members of MISO.

2. MISO Transmission Owners' Request for Waiver of the Requirement for Supporting Evidence and Protestors' Motion to Consolidate

45. Based upon a review of the filing and the comments, our preliminary analysis indicates that the overall ROE resulting from application of the RTO Adder has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful (i.e., it has not been shown to be just and reasonable to apply the RTO Adder to the current base ROE). Accordingly, we accept the revisions to Attachment O of the Tariff, suspend them for a nominal period to become effective January 6, 2015,¹⁰⁹ subject to refund, and subject to the RTO Adder being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis and the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the Complaint Proceeding, and make the proposed revisions subject to the outcome of the Complaint Proceeding. Because we are accepting the proposed revisions subject to the outcome of the Complaint Proceeding for the purpose of determining the just and reasonable base ROE and the zone of reasonableness, we grant the MISO Transmission Owners' request for waiver of the portions of the Commission's section 35.13 requirements that require the submission of cost of service information, statements, testimony, and exhibits to support the requested tariff changes, including the required discounted cash-flow analysis.

3. MISO Transmission Owners' Request for Waiver of Prior Notice Requirement

46. We deny the MISO Transmission Owners' request for waiver of the 60-day prior notice requirement for failure to show good cause. The fact that ratepayers were on notice of the MISO Transmission Owners' eligibility to receive the RTO Adder does not constitute notice of the MISO Transmission Owners' decision to request the RTO Adder, nor does it constitute good cause for waiver of the 60-day prior notice requirement.

¹⁰⁹ As discussed below, we deny the MISO Transmission Owners' request that the Commission waive the prior notice requirement.

Accordingly, we establish an effective date for the proposed Tariff revisions of January 6, 2015, subject to refund.

4. MISO Transmission Owners' Request to Defer Collection of the RTO Adder

47. We accept the MISO Transmission Owners' commitment to defer collection of the RTO Adder pending the outcome of the Complaint Proceeding, noting that the RTO Adder will be effective as of January 6, 2015. This should promote administrative efficiency.

5. Implementation of the RTO Adder for Other MISO Transmission Owners

48. Consistent with the way that the generally applicable MISO ROE is available for use by any MISO transmission owner,¹¹⁰ we affirm that the RTO Adder would be available for use by any transmission-owning members of MISO that have turned operational control of their transmission system over to MISO and use the generally applicable MISO ROE, subject to the conditions concerning the base ROE and zone of reasonableness discussed above. However, those entities utilizing an Attachment O formula that has not been revised to reflect the RTO Adder in the instant proceeding will need to make a filing under section 205 to reflect the RTO Adder in their formula in order to be able to include the RTO Adder in rates that are calculated pursuant to their formula.

The Commission orders:

The proposed Tariff revisions are hereby accepted for filing, subject to refund, and suspended for a nominal period to become effective January 6, 2015, subject to the proposed RTO Adder being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis and subject to the resulting

¹¹⁰ See, e.g., *DATC Midwest Holdings, LLC*, 139 FERC ¶ 61,224, at P 83 (2012) (explaining that transmission-owning members of MISO are currently authorized to use a 12.38 percent ROE for calculating their annual transmission revenue requirement, and that if DATC becomes a transmission-owning member of MISO, it will also be entitled to receive the then-current ROE that the Commission has approved for MISO transmission owners, as long as it remains a member of MISO).

ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the Complaint Proceeding, and subject to the outcome of the Complaint Proceeding, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Motions to Intervene

Consumers Energy Company

Iowa Utilities Board

DTE Electric Company

Alliant Energy Corporate Services, Inc. (Alliant)

NRG Companies¹¹¹

South Mississippi Electric Power Association (SMEPA)

Wabash Valley Power Association, Inc. (WVPA)

Wisconsin Public Service Corporation

Michigan Public Power Agency

Michigan South Central Power Agency

Occidental Power Services, Inc.

Midcontinent MCN, LLC

Madison Gas & Electric Company and WPPI Energy

Dairyland Power Cooperative (Dairyland)

Arkansas Electric Cooperative Corporation

Great Lakes Utilities

Mississippi Delta Energy Agency, Clarksdale Public Utilities Commission, and Public Service Commission of Yazoo City (MDEA)

Illinois Municipal Electric Agency (IMEA)

¹¹¹ NRG Companies are NRG Power Marketing LLC and GenOn Energy Management, LLC.

Wisconsin Electric Power Company

Xcel Energy Services Inc.

Indiana Industrial Energy Consumers, Inc.

Coalition of MISO Transmission Customers

Illinois Industrial Energy Consumers

Minnesota Large Industrial Group

Association of Businesses Advocating Tariff Equity (ABATE)

Wisconsin Industrial Energy Group

Arkansas Cities¹¹²

Midwest Municipal Transmission Group (MMTG)¹¹³

Steel Producers¹¹⁴

East Texas Cooperatives¹¹⁵

¹¹² Arkansas Cities consists of: the Conway Corporation; the West Memphis Utilities Commission; the City of Osceola, Arkansas; the City of Benton, Arkansas; the North Little Rock Electric Department; and the City of Prescott, Arkansas.

¹¹³ MMTG filed on behalf of itself and its member cities and the Missouri Joint Municipal Electric Utility Commission (MJMEUC) (collectively, MMTG/MJMEUC), its member cities include the following: Central Minnesota Municipal Power Agency; Cedar Falls Utilities; Willmar Municipal Utilities; Waverly Light and Power; Indianola, Iowa.

¹¹⁴ Steel Producers includes Steel Dynamics, Inc. and Nucor Steel-Indiana.

¹¹⁵ East Texas Cooperatives consist of the following: East Texas Electric Cooperative, Inc.; Sam Rayburn G&T Electric Cooperative, Inc.; and Tex-La Electric Cooperative of Texas, Inc. East Texas Cooperatives' motion to intervene was filed out of time.

Notices of Intervention

Missouri Public Service Commission

Council of the City of New Orleans, Louisiana

Mississippi Public Service Commission

Louisiana Public Service Commission

Arkansas Public Service Commission

Motions to Intervene and Comments and/or Protests

Resale Power Group of Iowa

Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), Southern Illinois Power Cooperative (SIPC), Dairyland, IMEA, SMEPA, WVPA (collectively, Coops/Municipals)¹¹⁶

Consumer Advocates¹¹⁷

Transource Wisconsin, LLC (Transource Wisconsin)

American Municipal Power, Inc. (American Municipal Power)

Great River Energy

Southwestern Electric Cooperative, Inc. (Southwestern Electric)¹¹⁸

Duke-American Transmission Company, LLC (Duke-American)¹¹⁹

¹¹⁶ Only Hoosier and SIPC submitted motions to intervene in this motion to intervene and protest, the other filing parties filed separate motions to intervene.

¹¹⁷ Consumer Advocates includes: The Indiana Office of Utility Consumer Counselor, the Iowa Office of Consumer Advocate, Michigan Citizens Against Rate Excess, Minnesota Department of Commerce, the Missouri Office of the Public Counsel, the Montana Consumer Counsel, and the Citizens Utility Board of Wisconsin.

¹¹⁸ Southwestern Electric's motion to intervene and protest was filed out of time.

¹¹⁹ Duke-American's motion to intervene and comments were filed out of time.

Missouri River Energy Services (Missouri River Energy)¹²⁰

Notices of Intervention and Comments and/or Protests

Organization of MISO States¹²¹

Comments and/or Protests

MDEA

Great Lakes Utilities

Alliant

Joint Consumers¹²²

Answers

MISO Transmission Owners

MMTG/MJMEUC

¹²⁰ Missouri River Energy's members included in this filing are: Detroit Lakes Public Utilities; Worthington Public Utilities; Benson Municipal Utilities; Hutchinson Utilities Commission; and Marshall Municipal Utilities. Missouri River Energy's motion to intervene and comments were filed out of time.

¹²¹ The Organization of MISO States includes: Arkansas Commission; Illinois Commission; Indiana Utility Regulatory Commission; the Iowa Utilities Board; Kentucky Public Service Commission; Louisiana Commission; Manitoba Public Utilities Board; Michigan Commission; Minnesota Public Service Commission; Mississippi Public Service Commission; Missouri Commission; Montana Public Service Commission; New Orleans City Council Utilities Regulatory Office; North Dakota Public Service Commission; South Dakota Public Utilities Commission; Public Utility Commission of Texas; and Public Service Commission of Wisconsin.

¹²² Joint Consumers consists of: ABATE; Coalition of MISO Transmission Customers; Illinois Industrial Energy Consumers; Indiana Industrial Energy Consumers, Inc.; Minnesota Large Industrial Group; and Wisconsin Industrial Energy Group.