

150 FERC ¶ 61,035
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission
System Operator, Inc.

Docket No. ER12-309-004

ORDER ON CLARIFICATION

(Issued January 21, 2015)

1. In this order, we grant in part and deny in part the request of the Midwest Independent Transmission System Operator, Inc. (MISO)¹ for clarification or, in the alternative, rehearing (Rehearing Request) of an order issued on June 27, 2012² concerning MISO's proposed revisions to Attachment X, "Generator Interconnection Procedures" (GIP), of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).³ Specifically, as discussed below, we clarify that MISO may restudy an interconnection customer without specific Commission approval when any member of the same group study withdraws its interconnection request or enters the System Planning and Analysis Phase, rather than moving forward into the Definitive Planning Phase. However, we clarify that if a situation arises that is not otherwise addressed in the Generator Interconnection Agreement (GIA) and GIP of MISO's Tariff or this clarification order, MISO must seek approval from the Commission prior to conducting a restudy, pursuant to article 11.3.1(8) ("when ordered to restudy by the Commission").

¹ Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

² *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,253 (2012) (Compliance Order).

³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,233 (2012) (Queue Reform Order), *order on reh'g and compliance*, Compliance Order, 139 FERC ¶ 61,253.

I. Background

2. On November 1, 2011, MISO proposed revisions to its GIP to address backlogs in its generator interconnection queue and late-stage terminations of GIAs by interconnection customers. The Commission conditionally accepted MISO's proposed changes and directed MISO to submit a compliance filing.⁴ Subsequently, the Commission conditionally accepted MISO's compliance filing, subject to further compliance.⁵

3. Among other things, the Commission made several determinations in the two orders concerning interconnection studies. In the Queue Reform Order, the Commission accepted MISO's proposal to revise section 8.7 of the GIP (Interconnection Study Restudy)⁶ to clarify that a project will be subject to restudy if such restudy is determined to be necessary when a project recommences following a suspension.⁷ The Commission also required MISO to provide notice of restudy when it decides restudy is necessary and

⁴ Queue Reform Order, 138 FERC ¶ 61,233 at P 1 and Ordering Paragraphs (A) and (B).

⁵ MISO submitted the further required compliance filing on July 25, 2012, which the Commission conditionally accepted on December 19, 2013. *Midwest Indep. Transmission Sys. Operator, Inc.*, 145 FERC ¶ 61,260 (2013).

⁶ Section 8.7 of the GIP provides, in pertinent part:

If a restudy of any Interconnection Study is required because (1) an Interconnection Request in the same or earlier Definitive Planning Phase withdrew or was deemed to have withdrawn, (2) the GIA associated with a higher queued Interconnection Request was terminated prior to the project's In-Service Date, or (3) an Interconnection Customer recommences work following suspension under its GIA, Transmission Provider shall provide notice of restudy. The Transmission Provider's notice shall include a summary of a preliminary analysis supporting the need for an Interconnection Study restudy, an explanation of why an Interconnection Study restudy is required and a good faith estimate of the cost to perform the Interconnection Study restudy. . . . Any cost of restudy shall be borne by Interconnection Customer being restudied unless Transmission Owner with the concurrence of Transmission Provider agrees to perform the study at the Transmission Owner's expense for all Interconnection Customers indiscriminately. . . . Transmission Provider may elect to perform any Interconnection restudy of Network Upgrades common to more than one Interconnection Request as a Group Study, which may include lower queued Interconnection Requests that also require a restudy.

⁷ Queue Reform Order, 138 FERC ¶ 61,233 at P 189.

directed MISO to revise section 8.7 to restore preexisting language regarding notices of restudy.⁸

4. In the Queue Reform Order, the Commission rejected one party's request to clarify section 8.7 of the GIP. Specifically, the party had requested clarification of section 8.7 of the GIP to provide that, if MISO determines that it must conduct a restudy for a project that recommences following suspension, other interconnection customers cannot be responsible for the costs or impacts of the restudy, unless that project was expressly identified as a higher queued contingency in the studies and in the GIA of such other interconnection customers. The Commission did not address the question regarding what may happen to *other* interconnection customers as a result of an interconnection customer coming out of suspension, but observed that an interconnection customer that is restudied after coming out of suspension assumes a certain amount risk and will be required to decide whether to fund the additional costs or to withdraw its interconnection request.⁹

5. In the Compliance Order, the Commission addressed arguments regarding article 11.3.1 of the *pro forma* GIA (Contingencies Affecting Network Upgrades, System Protection Facilities and Distribution Upgrades).¹⁰ The Commission agreed that, in order

⁸ *Id.* P 192.

⁹ *Id.* P 190.

¹⁰ Section 11.3.1 of the GIA provides, in pertinent part:

Network Upgrades, System Protection Facilities and Distribution Upgrades that are required to accommodate the Generating Facility may be modified because (1) a higher queued interconnection request withdrew or was deemed to have withdrawn, (2) the interconnection agreement associated with a higher queued interconnection request was terminated prior to the project's In-Service Date, (3) the Commercial Operation Date for a higher queued interconnection request is delayed, or the project itself is delayed (including due to suspension) such that facilities required to accommodate lower queued projects or the project itself may be altered, (4) the queue position is reinstated for a higher queued interconnection request whose queue position was subject to dispute resolution, (5) changes occur in Transmission Provider or Transmission Owner equipment design standards or reliability criteria giving rise to the need for restudy, (6) the facilities required to accommodate a higher queued Interconnection Request were modified constituting a Material Modification pursuant to Section 4.4 of the GIP, (7) a GIA with an effective date prior to this GIA is terminated, or (8) when ordered to restudy by FERC.

to reduce uncertainty for interconnection customers, article 11.3.1 specifies the contingencies that may affect an interconnection customer's cost responsibility for network upgrades. However, the Commission declined to insulate an interconnection customer from any risk in the event that the suspended project was not listed as a contingency in the interconnection customer's GIA, recognizing that there may be "unusual circumstances that require MISO to restudy a project outside of the contingencies listed in the GIA."¹¹ The Commission noted, however, that article 11.3.2 (Agreement to Restudy)¹² only obligates an interconnection customer to enter into a restudy agreement with MISO if MISO determines a restudy is needed as a result of a contingency listed in the GIA. The Commission also added that, if MISO were to seek to restudy a project due to a contingency not expressly listed in the GIA, MISO would need to seek permission from the Commission to undertake the restudy.¹³

II. Rehearing Request

6. On July 27, 2012, MISO filed the Rehearing Request, seeking clarification or, in the alternative, rehearing of the Compliance Order. The focus of MISO's request is its authority to conduct a restudy when a contingency occurs that is not listed in article 11.3.1 of an interconnection customer's GIA.

7. MISO states that, according to article 11.3.2 of the GIA, an interconnection customer must agree to a restudy if, at any time before the completion of Network Upgrades, System Protection Facilities and/or Distribution Upgrades associated with a higher queued interconnection request that also has a GIA in place prior to the interconnection customer's GIA, MISO determines that a restudy is required because one of the contingencies in article 11.3.1 occurred (and MISO provides notice to the interconnection customer). MISO then lists the contingencies in article 11.3.1 that may trigger a restudy.¹⁴

¹¹ Compliance Order, 139 FERC ¶ 61,253 at P 100.

¹² Section 11.3.2 of the GIA provides, in pertinent part:

Interconnection Customer agrees to enter into an Interconnection Study Agreement, if at any time before the Network Upgrades, System Protection Facilities and/or Distribution Upgrades associated with higher queued Interconnection Requests with GIA in effect prior to this GIA are completed, Transmission Provider determines restudy is required because one of the contingencies in Article 11.3.1 occurred, and provides notice to Interconnection Customer. . . .

¹³ Compliance Order, 139 FERC ¶ 61,253 at P 100.

¹⁴ Rehearing Request at 3.

8. MISO specifically mentions the Commission's statement in the Compliance Order that "article 11.3.1 is intended to reduce uncertainty for interconnection customers," and also notes the Commission's refusal to insulate interconnection customers completely from any risk due to a contingency that is not listed in article 11.3.1.¹⁵ While MISO expresses support for this policy, it also highlights its concern with the following statement made by the Commission in the same paragraph:

There may be unusual circumstances that require MISO to restudy a project outside the contingencies listed in the GIA. We do note, however, that article 11.3.2 [of the GIA] only obligates an interconnection customer to enter into a restudy agreement with MISO if MISO determines that a restudy is required due to the occurrence of a contingency listed in the GIA. Further, if such circumstances were to arise, we find that MISO would be required to seek permission to conduct such a restudy through a filing with the Commission.¹⁶

9. MISO states that this excerpt could be "reasonably interpreted" to require MISO to seek permission from the Commission to conduct a restudy whenever a contingency occurs that is not listed in article 11.3.1 of the interconnection customer's GIA.¹⁷ MISO asks the Commission to clarify that MISO will not be required to file a request with the Commission seeking permission to perform a restudy in every instance in which a contingency occurs that is not described in article 11.3.1 of the GIA. MISO seeks clarification that it should only be required to request the Commission's permission to conduct a restudy when the contingency necessitating the restudy is "unforeseeable or extraordinary in nature."¹⁸ If the Commission were to deny this clarification, then MISO requests rehearing.

10. MISO argues that requiring Commission permission to authorize a restudy whenever a contingency occurs that is not listed in article 11.3.1 of the GIA would be inconsistent with Commission precedent and with MISO's understanding of article 11.3.2, which MISO states is based on such precedent.¹⁹ MISO states that it has consistently interpreted article 11.3.2 to include an obligation to restudy based on

¹⁵ *Id.* at 4 & n.5 (quoting Compliance Order, 139 FERC ¶ 61,253 at P 100).

¹⁶ *Id.* at 4 & n.6 (quoting Compliance Order, 139 FERC ¶ 61,253 at P 100).

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 9.

¹⁹ *Id.* at 5.

contingencies involving group studies²⁰ that are typically listed in the appendices of the GIA, even if all such contingencies are not expressly listed in article 11.3.1. MISO contends that, if the contingency is the result of certain common occurrences, such as the withdrawal of a project in the same group study or a decision of a project in the same restudy to enter the System Planning and Analysis phase during the transition period in the new GIP, then: (1) MISO should not be obligated to make a filing with the Commission seeking permission to conduct a restudy; and (2) the interconnection customer should be required to fund its own share of the restudy under article 11.3.2.²¹ MISO also asserts that a project's decision to enter the System Planning and Analysis phase during the transition period, rather than moving forward into the Definitive Planning Phase, effectively removes that project from any group study of which it had been a part. MISO states that this is the functional equivalent of the withdrawal of the project in the same group study, in which event MISO asserts it should be able to proceed to restudy without seeking Commission approval.

11. MISO elaborates that it seeks clarification or rehearing of the Compliance Order concerning these common scenarios to eliminate potential confusion regarding the need to seek Commission permission for necessary restudies that do not meet the exact contingencies listed in article 11.3.1 of the *pro forma* GIA. MISO explains that in some cases a higher queued project will withdraw, clearly triggering the provisions in article 11.3.2 as a contingency involving a higher queued project in article 11.3.1. MISO contends, however, that it is also possible for a lower queued project in the same group study to trigger the restudy of that group. MISO argues that every instance of “such common alternative grounds for restudy” should not require MISO to seek Commission permission to conduct the restudy.²² MISO insists that articles 11.3.1 and 11.3.2 should not be strictly construed to require MISO to seek Commission pre-approval to restudy a group when one project of the group withdraws, even if that project is not higher in the queue than all of the other projects in that group. MISO contends that this strict constructionist approach “endangers the efficiencies permitted by group studies by slowing the process which MISO’s recent queue reforms since 2008 have been designed to expedite.”²³

²⁰ Group study is the process whereby more than one interconnection request “is studied together, instead of serially, for the purpose of conducting one or more of the required Interconnection Studies.” Attachment X, “Group Study(ies).”

²¹ Rehearing Request at 5 & n.7 (citing Queue Reform Order, 138 FERC ¶ 61,233 at PP 108 and 116).

²² *Id.* at 6.

²³ *Id.* at 6 & n.10 (citing Queue Reform Order, 138 FERC ¶ 61,233 at PP 6-7, 29-30, & n.81 (discussing MISO’s response to Commission’s 2008 directive to reduce interconnection process delays)).

12. MISO argues that the possibility of such withdrawal is implicit in the group study process, as well as in section 4.1 of the GIP (Queue Positions – General),²⁴ which states that the costs for a project studied as part of a group study “may depend on factors other than the Definitive Planning Phase Queue Position[]” of a project.²⁵ MISO emphasizes that the Commission has recognized that GIAs cannot account for all contingencies and has directed the parties to revisit the negotiated terms of the GIAs when such events occur.²⁶ MISO also points to precedent in which the Commission allowed a GIA to be amended to incorporate costs, even if they were not identified in the interconnection studies and the GIA, and the Commission explained that execution of the GIA does not preclude later amendment.²⁷ MISO contends that Order No. 2003 dictates that when

²⁴ Section 4.1 provides, in pertinent part:

Transmission Provider shall assign an Initial Queue Position based upon the date and time of receipt of the valid Interconnection Request
The Initial Queue Position of each Interconnection Request will be used to determine the order of performing the Interconnection Feasibility Studies. The Definitive Planning Phase Queue Position will be established based upon the date Interconnection Customer satisfies all of the requirements of Section 8.2 to enter the Definitive Planning Phase. The Definitive Planning Phase Queue Position will also be used for the determination of cost responsibility for the facilities necessary to accommodate the Interconnection Request, except for Group Studies. The determination of cost responsibility for common facilities necessary to accommodate two or more Interconnection Requests participating in a Group Study may depend on factors other than the Definitive Planning Phase Queue Position.

²⁵ *Id.* at 6 & n.12; *see also id.* at 7-8 & nn.15-16.

²⁶ *Id.* at 8 & n.19 (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 409 (2003), *order on reh’g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh’g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh’g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff’d sub nom. Nat’l Ass’n of Regulatory Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008) and *Midwest Indep. Transmission Sys. Operator, Inc.*, 135 FERC ¶ 61,222, at P 31 (2011) (*Settlers Trail I*)). MISO states that, in *Settlers Trail I*, the Commission explains “that [a]rticle 30.11 of the *pro forma* GIA itself provides for amendment to change costs, subject to Commission review.”

²⁷ *Id.* at 9 & n.20 (citing *Settlers Trail I*, 135 FERC ¶ 61,222 at P 31).

certain contingencies not explicitly referenced in the GIA occur, parties should revisit the terms of their negotiated interconnection agreement.²⁸

13. MISO asserts that permitting restudies in such circumstances, i.e., when a lower-queued project in the same group drops out, is consistent with Commission guidance that group studies allow more efficient processing of multiple projects in a given geographic area. MISO states that, consistent with Order No. 2003-A, MISO typically lists in a GIA the projects in the same group study with a given project as contingencies.²⁹ MISO asserts that this practice is consistent with the concept of providing an “estimate of the costs of any Network Upgrades that were assumed in the Interconnection Studies for the Interconnection Customer that are an obligation of an entity other than the Interconnection Customer and that have not yet been constructed.”³⁰ MISO argues that “[i]t is impossible for MISO to list every possible contingency or every scenario under which a change to the group may impact a given project even though some upgrades in group studies will be ‘Network Upgrades that were assumed in the Interconnection Studies for the Interconnection Customer that are an obligation of an entity other than the Interconnection Customer[.]’”³¹ MISO asserts that “the MISO queue has grown more complex than the paradigm envisioned in Order No. 2003 and group studies are a necessary part of that process.”³² MISO argues that clarifying that it may conduct restudies based on changes to another project in the same group would avoid requiring the Commission to review numerous potential restudy requests before they can be performed. Further, MISO reasons that at the point in time that a Transmission Provider provides a draft GIA to an interconnection customer in a group study, the customer is aware of the group study process and is able to evaluate the business risk of possible restudies of the group.³³

14. MISO asserts that, while interconnection customers can better manage risk and thereby retain adequate access to capital on reasonable terms by listing common and foreseeable contingencies, the contingencies listed in article 11.3.1 should not be

²⁸ *Id.* at 11, 9 & n.21 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 409).

²⁹ *Id.* at 6.

³⁰ *Id.* at 6-7 & n.13 (citing Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 320 (discussing “balancing the business risk to the interconnection customer with some estimate of cost exposure.”)).

³¹ *Id.* at 7 & n.14 (quoting Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 320).

³² *Id.* at 7-8.

³³ *Id.* at 8.

regarded as exhaustive. In support, MISO adds that Order No. 2003-A recognized that “not all potential events can be quantified in the GIA and certain costs can ‘become a legitimate component of the Interconnection Customer’s initial funding requirement.’”³⁴ MISO further quotes the Commission’s determination that “[t]his is a business risk that Interconnection Customers must face; the Commission cannot protect them from uncertainty.”³⁵ MISO emphasizes that, while it identifies known contingencies in article 11.3.1, it has been told by interconnection customers that if MISO were to include all possible contingencies or cost scenarios in article 11.3.1 (for example, the potential cost exposure of an interconnection customer if all higher queued projects withdrew), as express contingencies in the GIA, financiers would be less willing to provide capital for project development because of the risk of cost exposure based on the actions of others.

15. MISO argues that the current list of contingencies in the GIA “strikes a fair balance” between the need to conduct restudies in certain circumstances to ensure reliable interconnection and the need for interconnection customers to assess business risk and retain access to capital.³⁶ Thus, MISO argues that while article 11.3.1 captures the most common contingencies facing customers, other common contingencies exist that are not specifically described in the GIA, and MISO should not be required to seek Commission permission in order to perform a restudy in every instance where such contingencies take place. MISO asserts that the appropriate course would be for MISO and the affected interconnection customer to return to the terms of their negotiated GIA, as indicated by Order No. 2003.

16. In sum, MISO argues that it is arbitrary and capricious and an unexplained departure from Order No. 2003, other precedent, and the Tariff for the Commission to require MISO to seek Commission permission to conduct a restudy when a contingency occurs that is not explicitly listed in article 11.3.1 of the GIA.

III. Discussion

17. We grant in part and deny in part MISO’s request for clarification or, in the alternative, rehearing, as discussed below.

18. The Commission stated in the Compliance Order that MISO is required to seek permission from the Commission to conduct a restudy if the circumstances prompting the restudy are not included on the list of contingencies explicitly enumerated in article 11.3.1 of the GIA.³⁷ The enumerated list in article 11.3.1 of the GIA reflects the

³⁴ *Id.* at 11 (quoting Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 320).

³⁵ *Id.*

³⁶ *Id.*

³⁷ Compliance Order, 139 FERC ¶ 61,253 at P 100.

contingencies that the Commission has already considered and determined to be appropriate for triggering restudy. In effect, the Commission has already “pre-approved” these contingencies. As MISO acknowledges, listing these common and foreseeable contingencies enables interconnection customers to better manage risk and obtain access to capital on reasonable terms.³⁸

19. MISO seeks clarification that “it should only seek the Commission’s permission to conduct a restudy when the contingency necessitating the restudy is *unforeseeable or extraordinary in nature*.”³⁹ We find MISO’s proposed standard, “unforeseeable or extraordinary in nature,” to be overly broad and vague. We are concerned that this standard would give MISO too much discretion over the restudy process. Thus, we deny the specific clarification that MISO proposes.

20. None of the cases that MISO cites to support its position precludes the Commission from requiring MISO to seek authorization from the Commission before conducting a restudy when a contingency arises that is not listed in article 11.3.1, as clarified herein.⁴⁰ The *Settlers Trail* proceeding⁴¹ concerned MISO’s ability to revise GIAs after discovering a modeling input error in the system impact study used to determine the costs of network upgrades needed to interconnect certain generating facilities to MISO.⁴² In *Settlers Trail II*, the Commission stated that:

. . . the issue in this case does not involve a restudy based on a change in network configuration. Rather, this case is about the correction of a modeling error that resulted in an erroneous description of MISO’s system, and that erroneous description caused erroneous network upgrades to be identified in the original GIAs. This situation was not addressed in the Tariff or contemplated by the Commission when it established the Order No. 2003 *pro forma* GIA or approved specific GIAs for transmission providers.⁴³

³⁸ Rehearing Request at 10-11.

³⁹ *Id.* at 9 (emphasis added).

⁴⁰ Order No. 2003 and its progeny are silent regarding whether the Commission may require authorization prior to allowing a transmission provider, such as MISO, to conduct a restudy when a circumstance arises that is not expressly listed in the Tariff.

⁴¹ See *Settlers Trail I*, 135 FERC ¶ 61,222, *order on reh’g*, 143 FERC ¶ 61,050, at PP 40, 50 (2012) (*Settlers Trail II*), *order on reh’g*, 148 FERC ¶ 61,047 (2014).

⁴² *Settlers Trail I*, 135 FERC ¶ 61,222 at PP 4-6, 33-34.

⁴³ *Id.* P 49.

21. Thus, in *Settlers Trail*, MISO did not restudy and reallocate costs to the interconnection customers as a result of any events that changed the system configuration after the original study was completed. Indeed, *Settlers Trail* did not involve an event that changed system configuration, whether enumerated in article 11.3.1 or not. Rather, *Settlers Trail* involved correcting an erroneous representation of the system configuration (an input error) in the original system impact study.⁴⁴ Because *Settlers Trail* did not involve a change in circumstances after the original study was completed, article 11.3.1 simply was not implicated in that case. Thus, the Commission did not rely on article 11.3.1 in reaching its determination in *Settlers Trail*, and *Settlers Trail* is not relevant to our determination in this proceeding involving article 11.3.1.

22. Additionally, Order No. 2003 does not specifically address the issue of when Commission approval is required to restudy an interconnection in the group study context. MISO is correct that, in paragraph 409 of Order No. 2003, the Commission recognized that contingencies could arise that are not listed in the GIA and, if such circumstances should arise, the Commission directed the interconnection customer and transmission provider to revisit the negotiated terms of their executed agreement.⁴⁵ However, paragraph 409 of Order No. 2003 focuses on cost responsibility and does not address when Commission permission is required to conduct a restudy; nor does this paragraph address the group study context. Furthermore, none of the provisions of Order No. 2003-A that MISO cites in its Rehearing Request address the issue of when MISO is required to seek Commission permission to restudy an interconnection in the group study context.⁴⁶ Accordingly, we conclude that Order Nos. 2003 and 2003-A do not compel the particular clarification MISO seeks.

23. While we reject the “unforeseeable or extraordinary circumstances” standard that MISO proposes, we nevertheless recognize that clarification of article 11.3.1 is necessary to enable MISO and its customers to realize the efficiencies intended by MISO’s queue reform generally and the group study process in particular.⁴⁷

⁴⁴ *Id.* P 40.

⁴⁵ Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 409.

⁴⁶ *See* Rehearing Request at 8 & nn.17-18.

⁴⁷ *See* Queue Reform Order, 138 FERC ¶ 61,233 at PP 6-7, 29-30 (discussing the history of MISO queue reform efforts to reduce delays).

24. Specifically, we clarify that, in light of sections 4.1⁴⁸ and 8.7 of the GIP, MISO may conduct restudies without seeking prior Commission permission based on the withdrawal of any project in a group study, either because the customer withdraws its interconnection request altogether or because it enters the System Planning and Analysis phase rather than moving forward into the Definitive Planning Phase.⁴⁹ Section 4.1 provides that cost responsibility in the group study context may depend on factors other than the Definitive Planning Phase Queue Position. Section 8.7 requires the transmission provider to provide notice of restudy when, among other reasons, an interconnection request in the same or earlier Definitive Planning Phase withdrew or was deemed to have withdrawn. These Tariff provisions acknowledge that changes to any project that was part of a group study could impact other projects in a group. Consequently, the list of contingencies in article 11.3.1 that authorizes MISO to conduct restudies should be read to encompass withdrawal of any project in a group study. This understanding is possible if one understands that – for purposes of cost allocation – members of a group study are dependent on each other, in the same way as interconnection customers (whether studied alone or in a group) are dependent on higher queued customers.

25. To place this determination in context, we recap the history of article 11.3.1 of the GIA. On January 20, 2004, MISO submitted a compliance filing responding to Order No. 2003.⁵⁰ Among other things, MISO proposed new article 11.3.1 to the Large Generator Interconnection Agreement to specify the contingencies that may result in a restudy.⁵¹ MISO's proposed Tariff language in article 11.3.1 did *not* explicitly provide that the removal of any interconnection customer within the same group study, whether lower or higher queued, could result in the restudy of another interconnection customer in the same group study. However, on April 26, 2004, MISO submitted an amended compliance filing proposing revisions to section 4.1 of the LGIP. The revisions to section 4.1 provided that the determination of cost responsibility for common facilities necessary to accommodate two or more interconnection requests participating in a group study may depend on factors other than queue position, and that the transmission provider, in performing the System Impact Study, will consider along with the base case

⁴⁸ See *supra* P 12.

⁴⁹ We agree with MISO that the decision of a project to enter the System Planning and Analysis phase, rather than moving forward into the Definitive Planning Phase, is the functional equivalent of withdrawal of a project from the group study. See *supra* P 10.

⁵⁰ MISO's January 20, 2004 Order No. 2003 Compliance Filing, Docket No. ER04-458-000.

⁵¹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 109 FERC ¶ 61,085, at P 34 (2004) (MISO Order No. 2003 Compliance).

any generating facilities that are part of a System Impact Group Study.⁵² The Commission ultimately approved MISO's revisions to section 4.1.⁵³

26. The Commission recently applied section 4.1 in the context of the restudy of a group of interconnection customers. In that proceeding, the Commission found that a specific interconnection customer, as a member of a group study, has a responsibility to fund its share of common facilities required for the reliable interconnection of that group.⁵⁴ Additionally, earlier in the instant proceeding, the Commission accepted section 8.7 of the GIP, which specifically requires MISO to provide notice of a restudy if a restudy of any Interconnection Study is required because an interconnection request in the same or earlier Definitive Planning Phase withdrew or was deemed to have withdrawn.⁵⁵

27. Thus, in order to give effect to pertinent portions of sections 4.1 (cost responsibility in the group study context) and 8.7 (notice of restudy) of the GIP, we clarify that MISO may restudy an interconnection customer without specific Commission approval when any member of the same group study withdraws its interconnection request or enters the System Planning and Analysis Phase, rather than moving forward into the Definitive Planning Phase.

28. We note that this outcome is consistent with MISO's practice of listing the members of the group study to which an interconnection customer belongs in the

⁵² *Id.* P 15. MISO stated that it based this modification on the Commission's clarification in Order No. 2003-A that the transmission provider may allocate the cost of network upgrades common to more than one interconnection request on the basis of factors other than queue position. See MISO Order No. 2003 Compliance, 109 FERC ¶ 61,085 at P 15 n.15; MISO's April 26, 2004 Transmittal Letter, Docket No. ER04-458-001 at 7. See also Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 18 ("We clarify that the Transmission Provider may allocate the cost of the common upgrades for clustered Interconnection Requests without regard to Queue Position.").

⁵³ MISO Order No. 2003 Compliance, 109 FERC ¶ 61,085 at P 25.

⁵⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,068, at P 47 (2012) (accepting amended GIA and stating, "[a]s the Commission held in Order No. 2003-A, and section 4.1 of MISO's GIP acknowledges, the determination of cost responsibility for common facilities needed to reliably interconnect a group of interconnection customers may depend on factors other than queue position.").

⁵⁵ Queue Reform Order, 138 FERC ¶ 61,233.

Appendix to a GIA, and including language in the same Appendix recognizing that the provisions of article 11.3.1 apply to projects in the same group study.⁵⁶

29. In light of our clarification here, we believe that article 11.3.1 of the *pro forma* GIA could be improved by amending the contingencies listed to better suit the group study context. For example, MISO could propose revisions that reflect the specific clarifications made in this rehearing order, such as amending “higher queued” to “higher queued and/or same Definitive Planning Phase group study,”⁵⁷ where appropriate. MISO could also propose including internal references to sections 4.1 and 8.7 of the GIP. We will not require such change, given that sections 4.1 and 8.7 already address cost responsibility in the context of group studies and require notice of restudy if a restudy is needed because an interconnection request in the same or earlier Definitive Planning Phase withdrew or was deemed to have withdrawn. Nevertheless, we encourage MISO to consider revisions to reflect the clarification granted in this order in order to enhance interconnection customer notice and avoid confusion.

30. Finally, we clarify that if a situation arises that is not otherwise addressed in the GIA and GIP of MISO’s Tariff or this clarification order, MISO must seek approval from the Commission prior to conducting a restudy, pursuant to article 11.3.1(8), which allows restudy when it is ordered by the Commission. For new contingencies that MISO believes warrant pre-approval by the Commission for conducting restudies, MISO may file under section 205 of the FPA to seek to amend article 11.3.1 by adding new contingencies.⁵⁸

⁵⁶ See, e.g., MISO’s June 16, 2014 Amended and Restated Generator Agreement, Docket No. ER14-2273-000, at Appendix A, Exh. A10 Contingent Facilities (listing “[h]igher queued and/or same DPP group study Interconnection Requests that may create Contingencies pursuant to Article 11.3.1”); MISO’s June 26, 2014 Amended and Restated Generator Agreement, Docket No. ER14-2276-000, at Appendix A, Exh. A10 Contingent Facilities (same). The Commission accepted these filings, subject to the outcome of this ER12-309 proceeding, via delegated orders. See *Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER14-2273, at n.2 (Aug. 12, 2014); *Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER14-2276, at n.2 (Aug. 12, 2014).

⁵⁷ We note that this would be consistent with language in the GIAs the Commission recently accepted. See *supra* n.56.

⁵⁸ See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,188, at PP 37, 37 (2011) (MISO proposed, and the Commission accepted, “when ordered to restudy by FERC” as an eighth instance when network upgrades, system protection facilities, and distribution upgrades may be modified).

The Commission orders:

MISO's request for clarification or, in the alternative, rehearing is hereby granted in part and denied in part, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.