

150 FERC ¶ 61,238
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. ER15-943-000

Illinois Power Marketing Company Docket No. ER15-948-000

Midcontinent Independent System Operator, Inc. Docket No. ER15-368-000

Docket No. ER15-346-000

Docket Nos. ER13-1962-000
ER13-1962-001

Docket No. ER14-1210-000

Illinois Power Marketing Company Docket No. ER14-2619-000

AmerenEnergy Resources Generating Company Docket No. EL13-76-000
(consolidated)

v.

Midcontinent Independent System Operator, Inc.

Midcontinent Independent System Operator, Inc. Docket No. ER15-946-000
(not consolidated)

ORDER CONDITIONALLY ACCEPTING AND SUSPENDING TARIFF FILINGS,
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES,
CONSOLIDATING PROCEEDINGS AND REQUIRING FURTHER COMPLIANCE,
AND ACCEPTING TARIFF FILING

(Issued March 31, 2015)

1. On January 30, 2015, in Docket No. ER15-943-000, pursuant to section 205 of the Federal Power Act (FPA),¹ Midcontinent Independent System Operator, Inc. (MISO) filed an unexecuted System Support Resource (SSR)² agreement between Illinois Power Marketing Company (Illinois Power) and MISO under MISO's Tariff for Edwards Unit 1,³ covering a one-year term beginning on January 1, 2015 and terminating on December 31, 2015 (Edwards Year 3 SSR Agreement). Because MISO and Illinois Power were unable to reach an agreement regarding an appropriate level of compensation, the Edwards Year 3 SSR Agreement does not include the monthly fixed compensation and the dollar per MW-hour component for pollution control costs.
2. On January 30, 2015, in Docket No. ER15-946-000, pursuant to section 205 of the FPA, MISO submitted a proposed Rate Schedule 43C under its Tariff addressing allocation of the costs associated with the Edwards Year 3 SSR Agreement (Edwards Year 3 Rate Schedule 43C).
3. On January 30, 2015, in Docket No. ER15-948-000, pursuant to section 205 of the FPA, Illinois Power filed an unexecuted version of the Edwards Year 3 SSR Agreement under the Illinois Power Marketing Company/Ameren Energy Marketing Company

¹ 16 U.S.C. § 824d (2012).

² MISO's Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) defines SSRs as "Generation Resources or Synchronous Condenser Units [(SCU)] that have been identified in Attachment Y – Notification to this Tariff and are required by the Transmission Provider for reliability purposes, to be operated in accordance with the procedures described in Section 38.2.7 of this Tariff." MISO, FERC Electric Tariff, [1.643, System Support Resource \(SSR\);, 0.0.0](#). Unless indicated otherwise, all capitalized terms shall have the same meaning given them in the MISO Tariff.

³ Edwards Unit 1 is a 90 MW coal fired steam generator located in Bartonville, Illinois that was the subject of SSR designation and associated proceedings in calendar years 2013 and 2014, as described more fully below.

General Tariff which sets forth its proposed Monthly SSR Payment and the pollution control costs component for 2015 (Illinois Power Restated 2015 SSR Agreement).

4. In this order, we conditionally accept the Edwards Year 3 SSR Agreement and the Illinois Power Restated 2015 SSR Agreement, suspend them for a nominal period, to become effective January 1, 2015, as requested, subject to refund and compliance, set the proposed rates in the Illinois Power Restated 2015 SSR Agreement for hearing and settlement judge procedures, and consolidate the Edwards Year 3 SSR Agreement proceeding in Docket No. ER15-943-000 and the Illinois Power Restated 2015 SSR Agreement proceeding in Docket No. ER15-948-000 with the ongoing hearing and settlement judge procedures established by the Ameren Complaint Order in Docket No. ER13-1962-000, *et al.* (Edwards SSR Proceedings).⁴ We also accept the Edwards Year 3 Rate Schedule 43C and make it effective January 1, 2015, as requested.

I. Background

5. Under MISO's Tariff, market participants that have decided to retire or suspend a generation resource or SCU must submit a notice (Attachment Y Notice), pursuant to Attachment Y (Notification of Potential Resource/SCU Change of Status) of the Tariff, at least 26 weeks prior to the resource's retirement or suspension effective date. During this 26-week notice period, MISO will conduct a study (Attachment Y Study) to determine whether all or a portion of the resource's capacity is necessary to maintain system reliability, such that SSR status is justified. If so, and if MISO cannot identify an SSR alternative that can be implemented prior to the retirement or suspension effective date, then MISO and the market participant shall enter into an agreement, as provided in Attachment Y-1 (Standard Form SSR Agreement) of the Tariff, to ensure that the resource continues to operate, as needed.⁵

6. On July 25, 2012, in Docket No. ER12-2302-000, MISO submitted proposed Tariff revisions regarding the treatment of resources that submit Attachment Y Notices. On September 21, 2012, the Commission conditionally accepted MISO's proposed Tariff revisions effective September 24, 2012, subject to two compliance filings due within 90 and 180 days of the date of the order.⁶ On July 22, 2014, the Commission

⁴ *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,057, at P 88 & n.177 (2014) (Ameren Complaint Order).

⁵ *See Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163 (TENT II Order), *order on reh'g*, 109 FERC ¶ 61,157 (2004).

⁶ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012) (2012 SSR Order), *order on compliance*, 148 FERC ¶ 61,056 (2014) (2014 SSR Order).

conditionally accepted MISO's compliance filing made in response to the 2012 SSR Order subject to further compliance.⁷

7. On July 5, 2013, pursuant to section 206 of the FPA,⁸ AmerenEnergy Resources Generating Company filed a complaint (Complaint) in Docket No. EL13-76-000 against MISO, which was supplemented by Illinois Power Marketing Company and Illinois Power Resources Generating, LLC⁹ on February 20, 2014. The Complaint argued that the Commission should find that, regarding the SSR compensation provision in the MISO Tariff, the term "going forward costs" includes the fixed costs of existing plant, which are recovered as depreciation expense, return on rate base, and associated taxes; or alternatively, the Commission should find that the existing Tariff is unjust and unreasonable and unduly discriminatory or preferential, to the extent that it does not compensate SSRs for the fixed costs of existing plant.

8. On July 11, 2013, in Docket No. ER13-1962-000, pursuant to section 205 of the FPA, MISO submitted a proposed unexecuted SSR agreement between Ameren and MISO (Edwards Year 1 SSR Agreement) for Edwards Unit 1, covering a one-year term beginning on January 1, 2013 and terminating on December 31, 2013. The Edwards Year 1 SSR Agreement only included compensation for Ameren's going-forward costs and did not include any compensation for Ameren's fixed costs of existing plant. On November 25, 2013, the Commission accepted the Edwards Year 1 SSR Agreement and the associated rate schedule, suspended them for a nominal period, to be effective January 1, 2013, as requested, subject to refund and further Commission order.¹⁰

9. On January 30, 2014, in Docket No. ER14-1210-000, pursuant to section 205 of the FPA, MISO filed an SSR agreement between Illinois Power and MISO for Edwards Unit 1, covering a one-year term beginning on January 1, 2014 and terminating on

⁷ 2014 SSR Order, 148 FERC ¶ 61,056 at P 1.

⁸ 16 U.S.C. § 824e (2012).

⁹ On December 2, 2013, Illinois Power Holdings acquired several Ameren Corporation subsidiaries, including AmerenEnergy Resources Generating Company and Ameren Energy Marketing. AmerenEnergy Resources Generating Company was renamed as Illinois Power Resources Generating, LLC, and Ameren Energy Marketing was renamed as Illinois Power Marketing Company. For purposes of this order, both AmerenEnergy Resources Generating Company and Ameren Energy Marketing will be referred to as Ameren, and both Illinois Power Marketing Company and Illinois Power Resources Generating, LLC will be referred to as Illinois Power.

¹⁰ *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,163 (2013).

December 31, 2014 (Edwards Year 2 SSR Agreement). On March 31, 2014, the Commission accepted the Edwards Year 2 SSR Agreement and the associated rate schedule, suspended them for a nominal period, to be effective January 1, 2014, as requested, subject to refund and further Commission order.¹¹

10. On July 22, 2014, the Commission issued the Ameren Complaint Order where it directed MISO to “revise its Tariff to reflect that SSR compensation should not exceed a resource’s full cost-of-service, including the fixed costs of existing plant (rather than providing that this compensation must not exceed a resource’s going-forward costs). . . .”¹² The Commission further found that the MISO Tariff should allow for “generation or SCU owners designated as SSRs to file their own revenue requirements in order to protect that generation or SCU owner’s rights under FPA section 205.”¹³ The Commission also established hearing and settlement judge procedures in order to address issues of material fact with regard to the appropriate level of compensation under the Edwards Year 1 SSR Agreement and Edwards Year 2 SSR Agreement.¹⁴

11. On August 7, 2014, in Docket No. ER14-2619-000, Illinois Power submitted, pursuant to section 205 of the FPA, a revised unexecuted Amended and Restated SSR Agreement between Illinois Power and MISO (Illinois Power Restated 2014 SSR Agreement) under the Illinois Power Market Company/Ameren Energy Marketing Company General Tariff, seeking full cost-of-service compensation for Edwards Unit 1 for 2014 SSR service. The Illinois Power Restated 2014 SSR Agreement provided for additional compensation, adjusting Edwards Unit 1 monthly fixed compensation from \$927,860 to \$1,344,570. Illinois Power requested an effective date of January 1, 2014. On October 6, 2014, the Commission conditionally accepted the Illinois Power Restated 2014 SSR Agreement, denied Illinois Power’s request for an effective date of January 1, 2014, and suspended it for a nominal period to become effective August 8, 2014, subject to refund and further compliance.¹⁵ The Commission also set the proposed rates under the Illinois Power Restated 2014 SSR Agreement for hearing and settlement judge procedures, and consolidated the proceeding in Docket No. ER14-2619-000 with the ongoing hearing and settlement procedures established in the Ameren Complaint Order

¹¹ *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,238 (2014).

¹² Ameren Complaint Order, 148 FERC ¶ 61,057 at P 87.

¹³ *Id.* P 92.

¹⁴ *Id.* PP 82, 88.

¹⁵ *Illinois Power Mktg. Co.*, 149 FERC ¶ 61,017, at P 1 (2014) (October 6 Order).

and directed Illinois Power and MISO to maintain the Illinois Power Restated 2014 SSR Agreement in their respective tariffs.

12. On November 5, 2014, MISO made a filing in Docket No. ER15-346-000 that incorporates into its Tariff the proposed rates in the Illinois Power Restated 2014 SSR Agreement that the Commission accepted, subject to refund and hearing and settlement judge procedures, and consolidated with the Edwards SSR Proceedings, in the October 6 Order. In an order issued on January 2, 2015, the Commission accepted MISO's filing in Docket No. ER15-346-000, to become effective August 8, 2014, subject to refund, set MISO's proposed rates for hearing and settlement judge procedures, and consolidated the proceeding with the ongoing hearing and settlement judge procedures in the Edwards SSR Proceedings.¹⁶

13. On November 10, 2014, pursuant to section 205 of the FPA, MISO submitted in Docket No. ER15-368-000 an unexecuted amended and restated SSR Agreement between Illinois Power and MISO containing additional compensation for unanticipated repairs to Edwards Unit 1 associated with a generator turbine overhaul. On January 9, 2015, the Commission accepted MISO's filing, suspended it for a nominal period to become effective November 1, 2014, as requested, subject to refund, set the proposed rate for hearing and settlement judge procedures, and consolidated the proceeding with the ongoing Edwards SSR Proceedings.¹⁷

II. MISO's Filings

14. On January 20, 2015, MISO filed the Edwards Year 3 SSR Agreement in Docket No. ER15-943-000 to designate Edwards Unit 1 as an SSR unit for a third year for 2015. As with the Edwards Year 1 and Year 2 SSR Agreements, MISO notes that there are novel legal issues or other unique factors that justify departures from the Standard Form SSR Agreement for the Edwards Year 3 SSR Agreement. Thus, MISO proposes several modifications in the Edwards Year 3 SSR Agreement, including, among other changes: (1) an explanation of a one-year extension on compliance with the Environmental Protection Agency's Mercury and Air Toxics Standards (MATS) rule that was submitted to the Illinois Environmental Protection Agency, and information regarding what would happen should the request for an extension be denied;¹⁸ and (2) provisions addressing

¹⁶ *Midcontinent Indep. Sys. Operator Inc.*, 150 FERC ¶ 61,002 (2015).

¹⁷ *Midcontinent Indep. Sys. Operator Inc.*, 150 FERC ¶ 61,008 (2015).

¹⁸ Among other things, MISO states that in the event that the extension is denied, additional emissions limits would be implemented, provisions concerning the installation of emissions control equipment would apply, and the notice for termination by MISO shall be reduced from at least 90 days to 30 days.

cooperation and compensation associated with testing.¹⁹ MISO states that the Edwards Year 3 SSR Agreement contains the same operational limitations that were present in the Edwards Year 2 SSR Agreement, specifically a maximum of 1,200 annual hours of operation and a maximum of 10 annual starts.

15. MISO states that it convened a Central Technical Study Task Force to review the continued need for Edwards Unit 1 and its renewal for 2015. At the meeting, MISO states that it presented the issues identified in the 2013 Attachment Y Study and the timeline of upgrades previously proposed that remain to be completed before Edwards Unit 1 may be retired. MISO states that a number of transmission upgrades were proposed in the MISO Transmission Expansion Plan process to eliminate the issues caused by the Edwards Unit 1 retirement.²⁰ MISO states that the final transmission upgrade identified in the 2013 Attachment Y Study, the 345 kV Maple Ridge-Fargo line and Maple Ridge Substation, should be completed in mid-2016. Until this final transmission upgrade is completed, MISO represents that Edwards Unit 1 will be required for system reliability, and that other circumstances of the study area and MISO's evaluation of those circumstances have not changed since MISO completed its initial reliability study.²¹

16. MISO states that the Edwards Year 3 SSR Agreement submitted by MISO omits two terms from Exhibit 2 – the monthly fixed compensation and the dollar per MW-hour component for pollution control costs. MISO states that these terms are not included because MISO and Illinois Power were unable to reach an agreement regarding the appropriate level of compensation. MISO states that, consistent with the Ameren Complaint Order, MISO filed the non-rate terms and conditions of the Edwards Year 3 SSR Agreement in Docket No. ER15-943-000, while Illinois Power filed a version of the Edwards Year 3 SSR Agreement in Docket No. ER15-948-000 including the rate information, explained further below. MISO states that the remaining provisions in Exhibit 2 contain usual SSR terms such as settlement terms for periods when Edwards Unit 1 is dispatched for reliability and for economic reasons, and they also contain the usual mechanisms to ensure that when the Edwards Unit 1 is dispatched, Illinois Power will not receive market revenues above variable generation costs.²² MISO also notes that

¹⁹ MISO observes that these provisions were contained in the Presque Isle SSR agreement in Docket No. ER14-2860-000 and were accepted by the Commission. MISO Transmittal Letter, Docket No. ER15-943-000, at 5 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,114 (2014)).

²⁰ *Id.* at 6.

²¹ *Id.* at 2, 6.

²² *Id.* at 8-9.

Exhibit 2 no longer contains provisions for the overhaul that was undertaken as part of the Edwards Year 2 SSR Agreement.²³

17. MISO also filed the associated Edwards Year 3 Rate Schedule 43C in Docket No. ER15-946-000 outlining cost recovery under the Edwards Year 3 SSR Agreement. MISO states that SSR costs are generally assigned on a *pro rata* basis to the affected load-serving entities (LSE) that require the operation of the SSR Unit for reliability purposes. MISO states that the Edwards Year 3 Rate Schedule 43C allocates costs within the Ameren Illinois local balancing authority area based on each LSE's contribution to the peak of the local balancing authority area, according to MISO's load shed study methodology.²⁴

18. MISO requests an effective date of January 1, 2015 for the Edwards Year 3 SSR Agreement and the associated Edwards Year 3 Rate Schedule 43C. As it did with the Edwards Year 1 and Year 2 SSR Agreements, MISO requests that the January 1, 2015 effective date be granted either through waiver of the prior notice rule or by treating the Edwards Year 3 SSR Agreement and Edwards Year 3 Rate Schedule 43C as late-filed service agreements.²⁵

III. Illinois Power's Filing

19. On January 30, 2015, in Docket No. ER15-948-000, Illinois Power filed the Illinois Power Restated 2015 SSR Agreement, which is Illinois Power's version of the Edwards Year 3 SSR Agreement since Illinois Power was unable to reach an agreement on compensation with MISO during negotiations. Illinois Power states that the Illinois Power Restated 2015 SSR Agreement closely mirrors the Edwards Year 3 SSR Agreement filed by MISO, except that it includes values for the monthly SSR payment and the pollution control costs component, which were left out of the Edwards Year 3 SSR Agreement. Illinois Power states that the monthly SSR payment amount is \$842,351 and the pollution control costs component is \$6.09 per MWh.²⁶

20. Illinois Power requests an effective date of January 1, 2015. Like MISO, Illinois Power requests that the January 1, 2015 effective date be granted either through waiver of the prior notice rule or by treating the Illinois Power Restated 2015 SSR Agreement as a

²³ *Id.* at 5.

²⁴ MISO Transmittal Letter, Docket No. ER15-946-000 at 3.

²⁵ MISO Transmittal Letter, Docket No. ER15-943-000 at 7-8.

²⁶ Illinois Power Transmittal Letter at 6.

service agreement. Illinois Power adds that the accumulated depreciation balance and the depreciation expense will need to be adjusted based on the outcome of the consolidated proceedings. Accordingly, Illinois Power commits to make a compliance filing to amend the monthly SSR payment presented in the Illinois Power Restated 2015 SSR Agreement based on the outcome of the consolidated proceedings and make refunds pursuant to 18 C.F.R. § 35.19a of the Commission's regulations. Finally, Illinois Power requests that this filing be consolidated with the proceeding in Docket No. ER15-943-000 concerning the Edwards Year 3 SSR Agreement.²⁷

IV. Notice of Filings and Responsive Pleadings

21. Notices of MISO's filing of the Edwards Year 3 SSR Agreement in Docket No. ER15-943-000 and the Edwards Year 3 Rate Schedule 43C in Docket No. ER15-946-000 were published in the *Federal Register*, 80 Fed. Reg. 7,451 (2015), with interventions and protests due on or before February 20, 2015. Notice of the Illinois Power Restated 2015 SSR Agreement in Docket No. ER15-948-000 was published in the *Federal Register*, 80 Fed. Reg. 7443 (2015), with interventions and protests due on or before February 20, 2015.

22. The following entities made filings in Docket Nos. ER15-943-000, ER15-946-000, and ER15-948-000. Wisconsin Electric Power Company, Ameren Services Company, Illinois Municipal Electric Agency, Wabash Valley Power Association, Inc., and Prairie Power, Inc. filed timely motions to intervene. Hoosier Energy Rural Electric Cooperative, Inc. and Southern Illinois Power Cooperative filed a joint motion to intervene. Illinois Commerce Commission filed a notice of intervention. Southwestern Electric Cooperative, Inc. (Southwestern) filed a motion to intervene, protest, and request for consolidation of Docket No. ER15-943-000 with Docket No. ER15-948-000, or alternatively, consolidation of the Docket No. ER15-948-000 with the Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.* Prairie Power, Inc., Illinois Municipal Electric Agency, Hoosier Energy Rural Electric Cooperative, Inc., Southern Illinois Power Cooperative, and Wabash Power Association, Inc. (collectively, Joint Protestors) filed a joint protest. MISO filed a timely motion to intervene and comments in Docket No. ER15-948-000.

23. On March 6, 2015, Illinois Power filed an answer in Docket Nos. ER15-943-000 and ER15-948-000 in response to two February 20, 2015 protests filed by Southwestern and Joint Protestors. On March 9, 2015, MISO filed an answer in Docket Nos. ER15-943-000, ER15-946-000, and ER15-948-000 in response to the February 20, 2015 Joint Protestors' protest; on March 20, 2015, Joint Protestors, in the same dockets, filed an answer in response to Illinois Power's and MISO's answers.

²⁷ *Id.* at 6-8.

A. Protests and Comments

1. Designation of Edwards Unit 1 as an SSR for 2015

24. Joint Protestors argue that Edwards Unit 1 should not be designated as an SSR because MISO has failed to reevaluate whether Edwards Unit 1 is needed as an SSR in 2015, and MISO has relied upon outdated studies and stale data from 2010. Joint Protestors observe that section 38.2.7(m) of the Tariff requires MISO to review the resource on an annual basis to determine whether that resource should continue to be designated as an SSR. According to Joint Protestors, however, MISO only reviewed two sections of the 2013 Attachment Y Study when reevaluating Edwards Unit 1's SSR status and concluded that, aside from the new Maple Ridge-Fargo 345 kV transmission line to be completed mid-2016, "[t]he other circumstances of the area studied and MISO's evaluation of those circumstances have not changed since MISO completed its initial reliability study."²⁸ Joint Protestors claim, however, that there have been relevant transmission developments over the last five years, including the Fargo Capacitor Bank, that are not reflected in the 2010 data used by MISO. Joint Protestors add that the 2013 Attachment Y Study does not reflect the current capacity ratings for the Edwards units (and apparent de-rating of Edwards Unit 1).²⁹

25. Similarly, Southwestern argues that Illinois Power and MISO have failed to demonstrate that exigent circumstances exist that would justify engaging with Illinois Power in a one-year SSR agreement for the continued operation of Edwards Unit 1 to resolve an apparent long-term transmission issue, given that the Commission has stated that SSR designation is to be considered a "last resort" and "must not exceed a one-year term except in exigent circumstances."³⁰ Southwestern argues that MISO's claim that continued operation of Edwards Unit 1 as an SSR is the only feasible reliability solution is questionable when it has been unable to prioritize completion of the Maple Ridge-Fargo 345 kV transmission line. According to Southwestern, the annual re-negotiating and re-signing of additional one-year SSR agreements for Edwards Unit 1 is not a long-term solution to reliability needs and represents an end-run around the Commission's requirement that SSR designation be a stop-gap reliability measure with a short-term duration. Southwestern argues that the Commission should not accept the Edwards Year 3 SSR Agreement until MISO has demonstrated that "exigent circumstances" exist. In

²⁸ Joint Protestors Protest at 8 (citing MISO Transmittal Letter, Docket No. ER14-943-000, at 6).

²⁹ *Id.* at 7-9, 16-17.

³⁰ Southwestern Protest at 6 (citing Ameren Complaint Order, 148 FERC ¶ 61,057 at P 86 (citing 2012 SSR Order, 140 FERC ¶ 61,237 at PP 36, 106)).

addition, Southwestern asserts that MISO should also be required to identify instances in the last year in which Edwards Unit 1 was called into service in order to resolve a reliability concern, and it should also be required to provide detailed progress reports on efforts to complete the Maple Ridge-Fargo 345 kV transmission line.³¹

26. Southwestern further observes that reliability is not sacrificed by selecting more cost-effective solutions than Edwards Unit 1. According to Southwestern, only 2,521 MWh were generated from Edwards Unit 1 in 2014, and this output costs \$6,386/MWh at the revenue requirement of \$16.1 million and \$4,006/MWh at the revenue requirement of \$10.1 million. Southwestern argues that the Commission should not ignore the economics of electric transmission service just because there are captive transmission customers that must pay these costs, and it is the Commission's responsibility to show concern about these costs.³²

27. Joint Protestors argue that Edwards Unit 1 cannot resolve the asserted reliability concerns. According to Joint Protestors' expert witness, under the worst N-2 contingency event identified in the 2013 Attachment Y Study (referred to by Joint Protestors as the "Tazewell Event"³³) which serves as the basis for Edwards Unit 1's SSR designation, operating Edwards Unit 1 would not ensure that the transmission system operates within applicable reliability standards.³⁴ This is because if under summer peak conditions Edwards Unit 3 is out of service at the same time as one of the two Tazewell 345/138 kV transformers, the second Tazewell transformer will overload, thus immediately violating Ameren's transmission planning criteria, regardless of whether Edwards Unit 1 is online. In addition, Joint Protestors observe that Southwest Power Pool, Inc.'s (SPP) models note that Edwards Unit 1 will be out of service the summer of 2015, the time for which the unit was studied and would be needed for reliability purposes.³⁵

³¹ *Id.* at 6-8.

³² *Id.* at 5-6.

³³ Joint Protestors describe the Tazewell Event as "the overload of a Tazewell 345/138 kV transformer which would occur if the other parallel Tazewell 345/138 kV transformer trips out of service while either Edwards Unit 2 or Edwards Unit 3 is out of service, i.e., a double contingency . . ." *Id.*, Cevera Testimony, at 3.

³⁴ *Id.* at 10; Cevera Testimony, at 7-9.

³⁵ *Id.* at 9-11.

28. Next, Joint Protestors assert that Edwards Unit 1 should not be designated as an SSR because it is not needed to address an SSR-justifiable reliability concern. Joint Protestors observe that MISO's Business Practices Manual (BPM) states that, in conducting an Attachment Y Study, "load deliverability will be tested in areas with potential load deliverable deficiency. A 1 day in 10 year LOLE (Loss of Load Expectation) criteria will be applied... In areas with potential load deliverable deficiency, load deliverability study will be performed. The criteria of 1 day in 10 year LOLE will be applied."³⁶ They argue, however, that MISO never performed a LOLE analysis, and, according to their expert witness, the risks associated with the Tazewell Event existed prior to Edwards Unit 1's SSR designation. The Joint Protestors further state that the 1 day in 10 year LOLE in MISO's BPM equates to a LOLE probability of 0.02739 percent and that the LOLE probability of the Tazewell Event is only a probability of 0.001125 percent, or 1 day in approximately 240 years.³⁷

29. Finally, Joint Protestors argue that MISO failed to consider reasonable alternatives to SSR designation in an open and transparent manner, and that there are alternatives which MISO ignored that could have mitigated the issue. They assert that MISO did not provide stakeholders an opportunity to provide comments on alternatives or ask questions regarding the designation until more than a month after MISO gave notice to Illinois Power that Edwards Unit 1 would be designated for service as an SSR in 2015. According to Joint Protestors, MISO did not begin to consider potential alternatives to the 2015 SSR designation until after stakeholders asked specific questions regarding the effectiveness of Tazewell transformer tap adjustments. Joint Protestors add that MISO's review of alternatives to 2015 SSR designation was limited to consideration of the transformer tap adjustment and its reliance upon the 2013 SSR Study assumptions regarding alternatives. Joint Protestors further argue that MISO has failed to adequately consider demand response or load shedding as an alternative, based on MISO's incorrect understanding of Ameren Transmission Planning criteria which do in fact permit load shedding. They argue that load shedding and other demand response alternatives are more viable alternatives given the amount of industrial load. In addition, their expert witness determined that MISO failed to consider the installation of a third parallel Tazewell 345/138 kV transformer, which would ensure reliability under the Tazewell Event at a cost of \$6-\$8 million.³⁸ In conclusion, Joint Protestors request either that the

³⁶ *Id.* at 11 (citing MISO Transmission Planning BPM, section 6.2.3).

³⁷ *Id.* at 11-12.

³⁸ *Id.* at 12-16.

Commission reject the designation of Edwards Unit 1 as an SSR for 2015 or set such designation and the related 2015 costs for hearing.³⁹

2. Illinois Power's Proposed Rate for Cost-of-Service Recovery

30. Joint Protestors and Southwestern argue that the cost-of-service compensation Illinois Power seeks to recover is overstated. For the reasons raised in prior protests associated with SSR designation for Edwards Unit 1 in 2013 and 2014, Joint Protestors assert that the costs are excessive and are based on unreasonable and unsupported budget estimates. According to Joint Protestors, issues concerning cost estimates for Edwards Unit 1 have been the subject of ongoing hearing and settlement procedures because the Commission determined that “the proposed cost-of-service rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.”⁴⁰ Given that MISO and Illinois Power reached an impasse regarding the appropriate level of compensation, Joint Protestors argue that MISO has recognized that further development of the record and procedures are required to address cost-of-service elements if Edwards Unit 1 is designated as an SSR for 2015. Joint Protestors state that they should be permitted an opportunity to participate in these continued discussions on costs, and, even if Edwards Unit 1 SSR designation is permitted, the costs associated with operation of Edwards Unit 1 should be set for hearing and settlement procedures.⁴¹

31. Southwestern states that, although it does not present a comprehensive critique of Illinois Power's cost-of-service due to the limited time available to review, it finds Illinois Power's cost-of-service is “vastly overstated.”⁴² In particular, Southwestern argues that operations and maintenance expenses proposed by Illinois Power are excessive. Although Illinois Power proposes a reduction in the revenue requirement for 2014 (\$16.1 million) to 2015 (\$10.1 million), Southwestern asserts that the majority, if not all, of the reduction is due to the completion of a 2014 generator turbine overhaul project whose costs are not included in 2015.⁴³

³⁹ *Id.* at 18.

⁴⁰ *Id.* at 17 (citing October 6 Order, 149 FERC ¶ 61,017 at P 33) (*see also* *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,008 (2015)).

⁴¹ *Id.* at 17-18.

⁴² Southwestern Protest at 5.

⁴³ *Id.* at 5-6.

3. Request for Consolidation

32. Southwestern states that, if the Commission accepts the filings submitted by MISO and Illinois Power, it supports Illinois Power's request to consolidate the proceeding in Docket No. ER15-948-000 with the corresponding Edwards Year 3 SSR Agreement and Edwards Year 3 Rate Schedule 43C proceedings in Docket Nos. ER15-943-000 and ER15-946-000, respectively. Southwestern observes, however, that Illinois Power did not seek consolidation with the ongoing Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.* which will determine the costs to be recovered by Illinois Power for the continued operation of Edwards Unit 1 for calendar years 2013 and 2014. In the event that the Commission accepts the Illinois Power Restated 2015 SSR Agreement, Southwestern seeks consolidation of the instant proceedings with the Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.* because certain operations and maintenance costs previously forecasted to be expended in prior years may be incurred instead in 2015. To ensure cost harmonization, Southwestern believes that administrative efficiency would be served if the Illinois Power Restated 2015 SSR Agreement were consolidated with the Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.*⁴⁴

4. Tariff Administration

33. MISO expresses concern about the way compensation for an SSR agreement is submitted, accepted, and implemented. MISO contends that, as administrator of the MISO Tariff, MISO should be the entity that ultimately submits revisions to the Tariff, including SSR agreements. MISO states that it takes no position at this time regarding the compensation requested by Illinois Power, but MISO argues that the Ameren Complaint Order did not detail the procedure under which compensation may be adjusted for filed SSR agreements. MISO contends that the determinations in the Ameren Complaint Order would be served if the Commission directed MISO to revise its Tariff in MISO's role as Tariff Administrator because MISO should be the entity that ultimately submits revisions to the Tariff, including SSR agreements.

B. Answers

34. Citing to section 38.2.7(m) of the Tariff,⁴⁵ Illinois Power asserts, contrary to arguments raised by Southwestern, that Illinois Power has no obligation to demonstrate

⁴⁴ *Id.* at 8.

⁴⁵ Section 38.2.7(m) of the Tariff states:

[o]n at least an annual basis, the Transmission Provider will review Generation Resource or SCU characteristics to determine whether the Generation Resource or SCU is qualified to remain as an SSR Unit in

(continued ...)

the continued operation of Edwards Unit 1 as an SSR. Rather, according to Illinois Power, it is required to enter into a new SSR agreement based on MISO's evaluation of the reliability need. Similarly, Illinois Power observes that MISO may also extend an SSR agreement with 90 days' notice.⁴⁶

35. Illinois Power states that Joint Protestors' reliance on the SPP models to support the position that Edwards Unit 1 will not be available in the summer of 2015 is flawed and ignores various filings with the Commission that establish that Edwards Unit 1 will not be out of service for the summer of 2015. Illinois Power observes that MISO's filing of a revised Edwards Year 2 SSR Agreement in Docket No. ER15-368-000 to address compensation for unanticipated repairs (specifically, the generator turbine overhaul) to Edwards Unit 1 was processed under the emergency repair provisions of section 9.E of the Edwards Year 2 SSR Agreement to avoid having the repairs extend into the summer 2015. In the order accepting this filing, Illinois Power states that the Commission found that MISO properly treated the unanticipated repair as an emergency repair provision in so far as MISO expected to designate Edwards Unit 1 for SSR service in 2015.⁴⁷ Illinois Power observes that, with the exception of Southern Illinois Power Cooperative, all of the Joint Protestors intervened and/or protested that filing but did not question the availability of Edwards Unit 1 in the summer of 2015. Illinois Power adds that neither the Edwards Year 3 SSR Agreement nor the Illinois Power Restated 2015 SSR Agreement indicate that Edwards Unit 1 will be unavailable in the summer of 2015. Illinois Power states that while it has no objection to the Joint Protestors' use of SPP models in analyzing the treatment of Edwards Unit 1, such reliance is misplaced in this instance given these various filings.⁴⁸

coordination with a review of the Transmission Provider's annual regional transmission expansion plan in accordance with Attachment FF. If an SSR Unit continues to be required for reliability of the Transmission System, then the Transmission Provider will have the unilateral right to negotiate and enter into a subsequent SSR Agreement by providing the Market Participant at least ninety (90) days advance notice prior to the termination date of the existing SSR Agreement and by negotiating and filing a new SSR Agreement at the Commission.

⁴⁶ Illinois Power Answer at 2-4.

⁴⁷ *Id.* at 4 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,008 at P 29).

⁴⁸ *Id.* at 4-5.

36. Regarding Joint Protestors' assertions that the Commission must reject the designation of Edwards Unit 1 as an SSR for 2015 and Southwestern's assertions that exigent circumstances must be demonstrated, Illinois Power responds that the Commission must reject the requested relief as a collateral attack of the Edwards Year 2 SSR Agreement and the Ameren Complaint Order addressing 2013 and 2014 SSR service from Edwards Unit 1. Illinois Power observes that MISO has unilaterally extended Edwards Unit 1's SSR service through 2015, and Illinois Power has a contractual and Tariff obligation to provide this service.⁴⁹

37. Illinois Power argues that, should the Commission determine that Edwards Unit 1 is not needed as an SSR for 2015, the Edwards Year 3 SSR Agreement and the Illinois Power Restated 2015 SSR Agreement must be terminated pursuant to the termination provisions of those agreements, requiring MISO to provide 90 days' notice prior to termination of the agreements. According to Illinois Power,

“[f]ailure to follow this termination process, summarily reject the designation of Edwards 1 for SSR service in 2015, or not accept the 2015 SSR Agreement until MISO makes a further showing would (i) punish [Illinois Power] for complying with Section 38.2.7(m) of the Tariff and Section 3.A(5) of the 2014 SSR Agreement, (ii) be a collateral attack of the Tariff and the 2014 SSR Agreement accepted for filing by the Commission,[□] (iii) be a collateral attack of the Commission's SSR precedent that requires SSR units to be fully compensated for any costs incurred because of their extended service, and (iv) potentially undermine the SSR designation process.⁵⁰

38. While Illinois Power states that it does not take a position with respect to the need for a hearing to address the designation of Edwards Unit 1 as a SSR for 2015, it does take exception to the compensation under the Illinois Power Restated 2015 SSR Agreement being set for hearing where the request is based on “bare allegations” and states that such requests must be rejected. With the exception of Southwestern's statement regarding the potential recovery of costs in 2015 that may have been incurred in 2014, Illinois Power asserts that the remainder of Joint Protestors' and Southwestern's statements, such as accusations that the costs are “vastly overstated” and “excessive” and observations that MISO and Illinois Power failed to agree on compensation, are no more than bare allegations. Regarding Southwestern's assertion about recovery of 2014 costs in 2015, Illinois Power points to Exhibit D to the Illinois Power Restated 2015 SSR Agreement which provides further detail on the test period and budgeted data. Illinois Power

⁴⁹ *Id.* at 5.

⁵⁰ *Id.* at 6-7 (footnote omitted).

concludes that Commission precedent is clear that the Commission need not hold a hearing based on bare allegations⁵¹ as are found in this case and, since Joint Protestors and Southwestern have not demonstrated the existence of a material issue of fact that supports setting the proposed compensation for hearing, the Commission must reject these requests for hearing.⁵²

39. Finally, Illinois Power argues that Southwestern's request for consolidation of the instant proceedings with the ongoing Edwards SSR Proceedings must be rejected. According to Illinois Power, since there is no basis for setting the compensation proposed in the Illinois Power Restated 2015 SSR Agreement for hearing as discussed above, consolidation is not necessary. If, however, the Commission were to set compensation for hearing, Illinois Power asserts that the current status of the Edwards SSR Proceedings does not support consolidation since they involve compensation for 2013 and 2014 where SSR service has been completed and where the parties remain actively involved in settlement discussions. If 2015 compensation issues were to be consolidated, Illinois Power is concerned that progress on settling the 2013 and 2014 compensation could be delayed until months into 2016 when the actual costs for service in 2015 would be available. Illinois Power further asserts that it will be harmed because, for example, as time goes by, subject matter experts with respect to Edwards Unit 1 and cost support can become unavailable, and the delay increases the amount of interest on any refund amount agreed to in settlement, and these problems may be exacerbated if settlement is not reached and a hearing is required. Illinois Power concludes that to the extent MISO's designation of Edwards Unit 1 for SSR service in 2015 is set for hearing, the issue of compensation should not be consolidated with the 2013 and 2014 compensation issues due to the lack of similarity of issues and the delay that also prejudices Illinois Power.⁵³

40. Regarding Southwestern's concerns about whether MISO should continue entering into one-year SSR agreements when MISO has not sufficiently demonstrated that the designation of Edwards Unit 1 as an SSR was a "last resort" or that "exigent circumstances" exist, MISO argues that it has consistently explained these matters to the Commission, and the Commission has accepted this designation. MISO maintains that it

⁵¹ *Id.* at 8 (quoting *British Columbia Power Exch. Corp.*, 78 FERC ¶ 61,024, at 61,099 (1997) ("[i]t is well-established that the Commission need not hold a hearing based on bare allegations") (citing, *e.g.*, *Illinois Muni. Elec. Agency v. Central Illinois Pub. Serv. Co.*, 76 FERC ¶ 61,084, at 61,482-83 (1996); *Philadelphia Elec. Co.*, 58 FERC ¶ 61,060, at 61,132-33 (1992) (party requesting a hearing must make an adequate demonstration that there exists material issue of fact; bare allegations are insufficient)).

⁵² *Id.* at 7-8.

⁵³ *Id.* at 9-10.

reassessed the need for Edwards Unit 1 in connection with the Edwards Year 3 SSR Agreement, and again stated that the SSR designation for Edwards Unit 1 could be removed upon the completion of transmission facilities that include the 345 kV Maple Ridge-Fargo line and Maple Ridge substation.⁵⁴

41. Regarding Southwestern's request for reports on Edwards Unit 1's operation, MISO states that its filings in Docket Nos. ER15-943-000 and ER15-946-000 were responsive to the reporting requirements set out in SSR-related orders that responded to stakeholder comment. Specifically, MISO observes that it filed information on the Edwards Year 3 SSR Agreement, provided a description of alternatives that were evaluated, discussed the estimated earliest termination date for the Edwards Year 3 SSR Agreement, and explained how MISO would ensure grid reliability once the SSR Unit retires, and that these descriptions provided were supplemented by the attachments – the Edwards Year 3 SSR Agreement, the Attachment Y Study Report and the affidavit. MISO reported on the stakeholder discussions, including the explanations provided by Ameren and MISO's evaluation of the effectiveness of transformer tap adjustments that did not resolve thermal overload issues. MISO states that its progress report on the Maple Ridge-Fargo 345 kV transmission line is that it should be completed by mid-2016, earlier than reported in filings for the prior agreements.⁵⁵

42. In response to Southwestern's arguments that the Commission should consider the economics of Edwards Unit 1's SSR designation, MISO states that it assesses reliability issues related to power plant retirements, and the Commission has directed MISO to address violation of planning criteria by the SSR designation of a generator as a back-stop measure to address a reliability problem. MISO further asserts that cost effectiveness was addressed in an earlier SSR order,⁵⁶ in which the Illinois Commerce Commission previously argued that the Commission should consider the economics of the SSR designation for Edwards Unit 1 and the Ameren Complaint Order found that MISO had justified the need for the SSR unit.⁵⁷

43. Regarding concerns raised by Joint Protestors that MISO improperly concluded that “[t]he other circumstances of the area studied and MISO's evaluation of those circumstances have not changed since MISO completed its initial reliability study,” MISO states that, in its 2015 review, a new study was not necessary because the recently

⁵⁴ MISO Answer at 5-6.

⁵⁵ *Id.* at 6-7.

⁵⁶ *Id.* at 7 (citing 2012 SSR Order, 140 FERC ¶ 61,237 at PP 136-137).

⁵⁷ *Id.* (citing Ameren Complaint Order, 148 FERC ¶ 61,057 at P 147).

completed transmission upgrades (such as the Fargo Capacitor Bank) were already included in the original study and additional reinforcements (such as the Maple Ridge-Fargo 345 kV transmission project) are already determined to be necessary in order to eliminate the need for the SSR.⁵⁸ Additionally, MISO states that it performed an analysis for transformer tap adjustments, a new alternative proposed by stakeholders, and applied the completed transmission upgrades based on the updated project schedules. MISO also states that, in addition to the transformer tap adjustments, there was additional evaluation in response to stakeholder concerns raised at the Central Technical Study Task Force meeting. These included concerns regarding the Fargo Capacitor Bank project and other completed projects, and the evaluation investigated the impact on area voltages. However, the capacitor bank upgrade alone was shown to be inadequate to address all the voltage issues, and provided no mitigation for other thermal overloads that were observed. While the combination of the Fargo Capacitor Bank and the transformer tap adjustments improved the area voltages, the transformer tap changes worsened the thermal overloads.⁵⁹

44. With respect to Joint Protestors' assertion that operating Edwards Unit 1 would not ensure that the transmission system operates within applicable reliability standards because the Tazewell Event would still occur, MISO states that the Tazewell Event was identified as a pre-existing condition that is exacerbated by the retirement of Edwards Unit 1. According to MISO, the availability of Edwards Unit 1 limits the potential of equipment failure and further reduces the risk of load shedding when the load is below peak conditions.⁶⁰ Regarding the concern that Edwards Unit 1 would not be in service in summer 2015 according to SPP's models, MISO states that it is unaware of any reason that Edwards Unit 1 would not be available during this time.⁶¹

45. With respect to the assertion that MISO failed to perform an LOLE analysis, MISO states that although the BPM mentions LOLE criteria, this criteria is meant to supplement the transmission reliability studies where generation retirement could result in a local generation deficiency, but this provision does not relax the transmission reliability planning criteria. MISO states that it was unnecessary to include a LOLE analysis because the need for the Edwards Year 3 SSR Agreement was based on a

⁵⁸ *Id.* at 8.

⁵⁹ *Id.* at 9.

⁶⁰ *Id.*

⁶¹ *Id.* at 10.

deterministic analysis required for transmission reliability planning, and included the analysis of contingencies that are required by NERC and local planning standards.⁶²

46. Regarding load shedding, MISO states that Ameren transmission planning criteria do not allow the use of firm load shedding except in emergency conditions, and the severe thermal overloading of the Tazewell transformer in this instance is the result of coincident line and generator outages which are not considered to be emergency conditions for which firm load shed is acceptable.⁶³

47. Regarding whether MISO failed to consider the installation of a third parallel Tazewell 345/138 kV transformer to ensure reliability under the Tazewell Event, MISO states that it was not raised during stakeholder discussions and was therefore not analyzed. According to MISO, it is too late to consider the transformer as a serious alternative since the time required to implement the upgrades would not avoid extension of the contract through 2015. MISO contends that pursuing this alternative would also require additional expenditures with no substantial benefit since it would not likely be completed in advance of the pending Maple Ridge-Fargo transmission line.⁶⁴

48. Joint Protestors argue that MISO's answer demonstrates that MISO failed to reevaluate the designation of Edwards Unit 1 as an SSR. According to Joint Protestors, MISO's assertions that it reviewed the 2013 Attachment Y Study does not mean that it was properly evaluated because there have been substantial changes to the system, including the Fargo Capacitor Bank. Joint Protestors contend that even though MISO mentioned the Fargo Capacitor Bank in the 2013 Attachment Y Study, MISO provides no evidence that its "piecemeal and incomplete review" has adequately examined whether construction of this facility and other system modifications would eliminate the SSR designation. Joint Protestors also assert that MISO failed to provide support for the cost allocation associated with SSR units⁶⁵ and continues to inappropriately propose cost allocation to the Ameren Illinois local balancing authority area on a *pro rata* basis, even

⁶² *Id.*

⁶³ *Id.* at 11-12.

⁶⁴ *Id.* at 12.

⁶⁵ Joint Protestors Answer at 4 (citing *Pub. Serv. Comm'n of Wisconsin v. Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,104, at PP 83-85, 86 (2015)) (Presque Isle SSR Order) (stating that "...MISO provides no support for how apportioning SSR costs to LBAs is 'reasonably' or 'roughly' commensurate with Presque

though this methodology was recently rejected by the Commission.⁶⁶ Joint Protestors ask the Commission to similarly find that MISO must support its findings regarding SSR determinations in the instant proceeding.⁶⁷

49. Regarding alternatives, Joint Protestors state that MISO's evaluation of the transformer tap adjustments at the request of stakeholders was limited and only completed after MISO had already designated Edwards Unit 1 as an SSR for 2015. Joint Protestors further assert that MISO's response that it discounted load shedding as a possible alternative because there were no "stakeholder offers" to curtail indicates that MISO ignored this as a viable alternative and is inconsistent with LSE obligations to shed load as necessary for reliability. Joint Protestors state that MISO's answer is a post-hoc rationalization which evidences the fact that stakeholders have been deprived of a meaningful opportunity to participate in the SSR evaluation process.⁶⁸

50. Regarding whether the designation of Edwards Unit 1 as an SSR will resolve the Tazewell Event, Joint Protestors assert that MISO's answer, that taking Edwards Unit 1 out of service would exacerbate existing conditions and the potential need to shed load, implicitly admits that Edwards Unit 1 cannot resolve this reliability issue. Joint Protestors conclude that Edwards Unit 1 therefore does not enable MISO to operate the system within MISO's desired spectrum of reliability, that Edwards Unit 1 is not a necessary SSR unit, and that this designation is unjust and unreasonable. Joint Protestors add that MISO improperly stated that Joint Protestors asserted that the probability of the Tazewell Event is too low to justify the costs of SSR designation; rather, Joint Protestors state that the extremely low probability of the Tazewell Event, together with the failure of

Isle, White Pine, and Escanaba SSR Unit benefits beyond general statements" and that "MISO should submit a study methodology that identifies the LSEs that require the operation of the SSR Units for reliability....").

⁶⁶ *Id.* at 2 (citing Presque Isle SSR Order, 150 FERC ¶ 61,104 at n.210 ("If MISO proposes to apply its BPM methodology in future filings, MISO must address the concerns with the methodology that we identify here and show that the methodology allocates SSR costs to those LSEs that require the operation of the SSR Unit for reliability purposes, such that assignment of costs is commensurate with the benefits received by such LSEs.")). Joint Protestors state that they do not take a position at this time as to which cost allocation methodology MISO should apply to SSR units.

⁶⁷ *Id.* at 3-4.

⁶⁸ *Id.* at 4-5.

Edwards Unit 1 to resolve the Tazewell Event, demonstrate that SSR designation for 2015 is unjust and unreasonable.⁶⁹

51. Finally, Joint Protestors argue that Illinois Power, contrary to its assertions, is not entitled to compensation for providing SSR service when SSR designation is unjust and unreasonable. According to the Joint Protestors, the Commission has stated that ratepayers should not be burdened with the costs of facilities that fail to provide appreciable benefits to those ratepayers.⁷⁰ To the extent that Illinois Power receives compensation, Joint Protestors argue that such compensation should arise from uplift charges since customers in the Ameren Illinois local balancing authority area would not have received any service and should not be billed as though they are served from this facility. Joint Protestors add that the SSR designation has been undermined by MISO's and Illinois Power's failure to follow the appropriate Tariff procedures for designation, cost allocation, and notice, and it would be unjust and unreasonable to punish ratepayers for the failure of sophisticated parties to submit rate filings within the Commission's 60-day notice period. Joint Protestors also reiterate that Illinois Power failed to support its cost-of-service, and the disagreement between MISO and Illinois Power regarding the appropriate cost-of-service demonstrates that there are material issues of fact that require hearing and settlement procedures if SSR designation is permitted.⁷¹

V. Discussion

A. Procedural Matters

52. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed.

53. 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 answer unless otherwise ordered by the decisional authority. We will accept the answers because they provided information that assisted us in our decision-making process.

⁶⁹ *Id.* at 6.

⁷⁰ *Id.* at 7 (citing Presque Isle SSR Order, 150 FERC ¶ 61,104 at PP 83-86).

⁷¹ *Id.* at 7-8.

B. Substantive Matters

54. We conditionally accept the Edwards Year 3 SSR Agreement and the Illinois Power Restated 2015 SSR Agreement, suspend them for a nominal period, to become effective January 1, 2015, as requested, subject to refund and compliance, set the proposed rates in the Illinois Power Restated 2015 SSR Agreement for hearing and settlement judge procedures, and consolidate the Edwards Year 3 SSR Agreement proceeding in Docket No. ER15-943-000 and the Illinois Power Restated 2015 SSR Agreement proceeding in Docket No. ER15-948-000 with the ongoing hearing and settlement judge procedures in the Edwards SSR Proceedings in Docket Nos. ER13-1962-000, *et al.* We also accept the Edwards Year 3 Rate Schedule 43C and make it effective January 1, 2015, as requested. Accordingly, as discussed further below, we grant MISO's and Illinois Power's request for waiver of the prior notice requirement for the Edwards Year 3 SSR Agreement, the associated Edwards Year 3 Rate Schedule 43C, and the Illinois Power Restated 2015 SSR Agreement, allowing for a January 1, 2015 effective date for these filings.

1. Designation of Edwards Unit 1 as an SSR for 2015

55. We find that MISO has demonstrated that there are no significant changes that would lead to a different reliability analysis from that found in the Attachment Y Study Report initially conducted for the Edwards Year 1 SSR Agreement and determined that the unit is necessary for system reliability, and therefore, Edwards Unit 1 should be designated as an SSR for 2015, consistent with the Tariff. We also find the proposed modifications to the Standard Form SSR Agreement to be just and reasonable. We find that MISO has appropriately explained its request for a one-year extension for MATS compliance, and its proposed revisions that would apply should this request be denied are just and reasonable. The Commission has also previously permitted the revisions regarding cooperation and compensation associated with testing in the Presque Isle SSR agreement in Docket No. ER14-2860-000.⁷²

56. We reject Southwestern's argument about whether MISO should continue engaging in one-year agreements and whether MISO and Illinois Power have demonstrated that exigent circumstances exist. As an initial matter, Southwestern misstates the standard associated with "exigent circumstances." In the 2012 SSR Order, when the Commission determined that "an SSR Agreement must not exceed a one-year term except in exigent circumstances," it meant that an individual agreement must not exceed one year in duration, except in exigent circumstances, not that exigent circumstances must exist in order to justify evaluation of a continued need for the SSR

⁷² See *supra* n.19.

and thus a renewal of an existing one-year agreement.⁷³ Here, MISO has filed one-year agreements and has not argued that exigent circumstances exist to justify a term of longer than one year for an individual agreement. Further, MISO, as it explains in its answer, has consistently found that the Maple Ridge-Fargo line transmission solution, due to be completed in 2016, is required to obviate the need for Edwards Unit 1 to be designated an SSR, thus necessitating multiple annual SSR agreements.⁷⁴

57. We also reject Southwestern's assertion that MISO should be required to report both when Edwards Unit 1 was called upon for reliability needs and on the progress of the Maple Ridge-Fargo transmission line. Reporting on the operation of Edwards Unit 1 is unnecessary because the SSR designation is based upon MISO's assessment of an ongoing reliability need that such a reporting requirement would fail to alleviate. Reporting on the progress of the transmission line is also unnecessary as MISO provides updates in its filings in these Edwards Unit 1 proceedings. We also reject Southwestern's arguments asserting that the Commission is ignoring the economics of transmission service. We recognize that reliability is not sacrificed by selecting more cost-effective options as the Commission made clear in the 2012 SSR Order: "SSR designation is a limited, last-resort measure'...In those instances where SSR alternatives *are* available, we expect that MISO will choose among those alternatives by applying its existing Tariff provisions regarding its planning process. As part of that transmission planning process, we expect that MISO will review and evaluate alternatives on a comparable basis and select the most appropriate solution where such process includes both reliability and economic considerations."⁷⁵ As discussed below, we agree with MISO's determination that there are no feasible alternatives to the designation of Edwards Unit 1 as an SSR in 2015, and therefore, concerns about whether Edwards Unit 1 is the most cost-effective option to meet reliability needs are not applicable. Additionally, Illinois Power correctly notes that it has no obligation to demonstrate the continued need for Edwards Unit 1, as that burden is on MISO pursuant to the Tariff.⁷⁶

⁷³ 2012 SSR Order, 140 FERC ¶ 61,237 at P 106.

⁷⁴ MISO Answer at 5-6.

⁷⁵ 2012 SSR Order, 140 FERC ¶ 61,237 at P 99 (citing TEMT II Order, 108 FERC ¶ 61,163 at P 291 (emphasis in original) (footnotes omitted)).

⁷⁶ Illinois Power Answer at 2-4; *see, e.g.*, MISO Tariff, section 38.2.7: "if, after completing a reliability study...and analyzing potential alternatives..., the *Transmission Provider* determines that SSR Unit status is justified for a Generation Resource or SCU, then the Transmission Provider and such Market Participant shall enter into an SSR Agreement..." (emphasis added).

58. We reject Joint Protestors' arguments about whether MISO evaluated the need for Edwards Unit 1 to operate as an SSR in 2015. MISO observes in its answer that it did evaluate the entire 2013 Attachment Y Study, and it was unnecessary to conduct a new analysis because recently completed transmission upgrades, including those identified by Joint Protestors, had been previously identified in that study. Further, MISO reassessed these upgrades and transformer tap adjustments in response to stakeholder comment and found them to be insufficient to obviate the need for Edwards Unit 1's SSR designation.⁷⁷ We also reject Joint Protestors' assertions that Edwards Unit 1 would not permit the transmission system to operate within applicable reliability standards because, according to MISO, the operation of Edwards Unit 1 is necessary to mitigate the risk of equipment failure and load shedding during certain system conditions.⁷⁸

59. Regarding the possibility raised by Joint Protestors of Edwards Unit 1 being unavailable in summer 2015, there is no evidence in the record to support this statement, and what evidence there is in the record, such as the scheduling of the generator turbine overhaul, indicates that Edwards Unit 1 will be available during that time.⁷⁹ We also find that MISO has sufficiently demonstrated that the capacity rating of Edwards Unit 1 at 90 MW was applied in the 2013 Attachment Y Study and in MISO's evaluation for SSR designation in 2015.⁸⁰

60. With respect to the LOLE analysis, we find reasonable MISO's determination that a LOLE analysis does not relax transmission planning criteria, and such an analysis is unnecessary where, as here, MISO's analysis was consistent with applicable planning criteria.⁸¹

61. We also find that MISO has provided sufficient information supporting its review of feasible SSR alternatives and reject Joint Protestors' arguments to the contrary. We find reasonable MISO's interpretation and application of the Ameren transmission planning criteria.⁸² Regarding demand response as an alternative, there is no evidence of

⁷⁷ MISO Answer at 8-9.

⁷⁸ *Id.* at 9.

⁷⁹ *Id.* at 10, 13; Illinois Power Answer at 4-5.

⁸⁰ MISO Answer at 13-14.

⁸¹ *Id.* at 10.

⁸² *Id.* at 11-12.

a demand response option in the record,⁸³ and it appears that no demand response alternatives were offered by stakeholders. MISO also analyzed the transformer tap adjustments alternative proposed by stakeholders and found it to be insufficient to obviate the need for Edwards Unit 1's SSR designation. With respect to the installation of a third parallel Tazewell transformer proposed by Joint Protestors, we understand that this is not a feasible alternative from a timing or economic standpoint at this time, and we also encourage stakeholders to raise alternatives, such as the third parallel Tazewell transformer, with MISO in its Order No. 890-compliant stakeholder process. However, we encourage MISO to engage with stakeholders at the earliest possible time to consider all feasible alternatives to the designation of retiring or suspending units as SSRs. As the Commission has stated, "...we expect that MISO will designate resources as SSRs only when there are *no* other SSR alternatives available to address a reliability issue prior to a resource's retirement or suspension date"⁸⁴

2. Illinois Power's Proposed Rate for Cost-of-Service Recovery and Consolidation

62. We find that the compensation proposed for 2015 SSR service from Edwards Unit 1 proposed under the Illinois Power Restated 2015 SSR Agreement raises issues of material fact that cannot be resolved based on the record before us, and that the proposed compensation is more appropriately addressed in the hearing and settlement judge procedures ordered below.

63. Our preliminary analysis indicates that the proposed cost-of-service rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept the Illinois Power Restated 2015 SSR Agreement for filing, suspend it for a nominal period, make it effective January 1, 2015, subject to refund, and set it for hearing and settlement judge procedures.

64. We note that the cost-of-service compensation for continued operation of Edwards Unit 1 for the years 2013 and 2014 are already subject to the hearing and settlement procedures in the Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.* Therefore, we grant Southwestern's request (and reject Illinois Power's request to the contrary) to consolidate the Illinois Power Restated 2015 SSR Agreement proceeding in Docket No. ER15-948-000, as well as the Edwards Year 3 SSR Agreement proceeding in Docket No. ER15-943-000, with the Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.* for purposes of settlement, hearing and decision, as there are common

⁸³ See MISO Tariff, section 38.2.7(c).

⁸⁴ 2012 SSR Order, 140 FERC ¶ 61,237 at P 99 (emphasis in original).

issues of law and fact in these proceedings, and we find that consolidation will promote administrative efficiency.⁸⁵

65. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance. The settlement judge or presiding judge previously designated in the Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.* shall determine the procedures best suited to accommodate the consolidation ordered herein.⁸⁶

3. Edwards Year 3 Rate Schedule 43C

66. Regarding Edwards Year 3 Rate Schedule 43C, the cost allocation methodology outlined in the filing is the same methodology the Commission recently rejected for three SSRs operating in the American Transmission Company pricing zone.⁸⁷ Edwards Year 3 Rate Schedule 43C allocates costs to all LSEs *pro rata* within the Ameren Illinois local balancing authority area based on each LSE's contribution to the peak of the local balancing authority area, which is a methodology the Commission determined "d[id] not adequately identify the LSEs that require the operation of the [three SSR Units at issue] because the [local balancing authority] boundaries applicable to these SSR Units are inconsistent with the LSEs at risk of shedding load without operation of the SSR Units."⁸⁸ In the Presque Isle SSR Order, the Commission stated that:

If MISO proposes to apply its BPM methodology in future filings, MISO must address the concerns with the methodology that we identify here and show that the methodology allocates SSR costs to those LSEs that require the operation of the SSR Unit for reliability purposes, such that assignment of costs is commensurate with the benefits received by such LSEs.⁸⁹

⁸⁵ Accordingly, we deny requests to consolidate the Edwards Year 3 Rate Schedule 43C proceeding in Docket No. ER15-946-000 with these proceedings, given our determination to accept MISO's Edwards Year 3 Rate Schedule 43C in Docket No. ER15-946-000 without further procedures.

⁸⁶ 18 C.F.R. § 385.503 (2014).

⁸⁷ See Presque Isle SSR Order, 150 FERC ¶ 61,104 at P 86.

⁸⁸ *Id.* P 83.

⁸⁹ *Id.* P 86 n.210.

67. However, Edwards Year 3 Rate Schedule 43C was filed prior to the Commission's determination in the Presque Isle SSR Order. Accordingly, we accept Edwards Year 3 Rate Schedule 43C associated with the Edwards Year 3 SSR Agreement, although we expect MISO to make a showing in any future filings that the allocation methodology used allocates SSR costs to those LSEs that require the operation of the SSR Unit for reliability purposes, consistent with the Commission's determination in the Presque Isle SSR Order.

4. Other Matters

68. The Edwards Year 3 SSR Agreement and the Illinois Power Restated 2015 SSR Agreement include the revised non-rate terms and conditions proposed in MISO's compliance filing in Docket No. ER14-1210-001, containing revised non-rate terms and conditions for the Edwards Year 2 SSR Agreement made pursuant to the Ameren Complaint Order, which are pending before the Commission. As a result, our acceptance here of the Edwards Year 3 SSR Agreement and the Illinois Power Restated 2015 SSR Agreement is subject to the outcome of Docket No. ER14-1210-001. Once the compliance filing in Docket No. ER14-1210-001 is addressed by the Commission, MISO and Illinois Power must submit compliance filings in Docket Nos. ER15-943-000 and ER15-948-000, respectively, to conform the non-rate terms and conditions in the Edwards Year 3 SSR Agreement and the Illinois Power 2015 Restated SSR Agreement to reflect the non-rate terms and conditions accepted by the Commission in Docket No. ER14-1210-001, to the extent that the Commission requires further action regarding the proposed revisions in Docket No. ER14-1210-001. Additionally, MISO must submit a compliance filing within 30 days of the date of this order in Docket No. ER15-943-000 to conform the rates in the Edwards Year 3 SSR Agreement to reflect those rates in the Illinois Power 2015 Restated SSR Agreement. If any further revisions to the rates in the Illinois Power 2015 Restated SSR Agreement are subsequently accepted by the Commission, MISO must also submit a filing to conform the rates in the Edwards Year 3 SSR Agreement to reflect those rates in the Illinois Power 2015 Restated SSR Agreement.⁹⁰ Unless otherwise noted, the compliance filings directed here must be made within 30 days of a final Commission determination in the relevant proceedings.

69. Regarding MISO's comments concerning the procedures by which compensation may be adjusted for filed SSR agreements, we note that this issue is pending on rehearing in Docket No. ER14-2619-001.

⁹⁰ The Commission's directives regarding compliance filings in this order is consistent with its directives in the October 6 Order. October 6 Order, 149 FERC ¶ 61,017 at P 32 (requiring compliance filings).

70. We grant waiver of the prior notice requirement to allow the proposed Edwards Year 3 SSR Agreement, the associated Edwards Year 3 Rate Schedule 43C, and the Illinois Power Restated 2015 SSR Agreement to be effective January 1, 2015, as requested. As the Commission stated in the Ameren Complaint Order, “all SSR units should be fully compensated for any costs incurred because of their extended service” and “nothing in the SSR program would require a generator to absorb any uncompensated going-forward costs.”⁹¹ Here, the record indicates that Edwards Unit 1 was providing reliability service pursuant to the Edwards Year 3 SSR Agreement since January 1, 2015. Thus, it is appropriate that Edwards Unit 1 be made whole for the costs it incurred while providing SSR service.⁹²

The Commission orders:

(A) The Edwards Year 3 SSR Agreement and the Illinois Power Restated 2015 SSR Agreement are hereby conditionally accepted for filing and suspended for a nominal period, to become effective January 1, 2015, subject to refund and compliance, as discussed in the body of this order.

(B) The Edwards Year 3 Rate Schedule 43C is hereby accepted for filing and made effective January 1, 2015, as discussed in the body of this order.

(C) Docket Nos. ER15-943-000 and ER15-948-000 are hereby consolidated with the Edwards SSR Proceedings in Docket No. ER13-1962-000, *et al.* for the purposes of settlement, hearing, and decision, as discussed in the body of this order.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act and pursuant to the Commission’s Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Illinois Power’s proposed rate under the Illinois Power Restated 2015 SSR Agreement, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in the body of this order.

⁹¹ Ameren Complaint Order, 148 FERC ¶ 61,057 at P 160 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,170, at P 84 (2013) (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 109 FERC ¶ 61,157 at P 293)).

⁹² Joint Protestors’ response regarding Illinois Power’s ability to receive compensation for providing SSR service did not persuade us otherwise.

(E) The settlement judge or presiding judge, as appropriate, designated in the Edwards SSR Proceedings in Docket Nos. ER13-1962-000, *et al.* shall determine the procedures best suited to accommodate the consolidation ordered herein.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.