

151 FERC ¶ 61,051  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

April 17, 2015

In Reply Refer To:  
Midcontinent Independent System  
Operator, Inc.  
Docket Nos. ER15-1070-000 and  
ER15-1071-000

Midcontinent Independent System Operator, Inc.  
720 City Center Drive  
Carmel, IN 46032

Reference: Notice of Termination Regarding the SSR Agreement for Presque Isle Units 5-9 and Request to Cancel Rate Schedule 43G Associated with the SSR Agreement for Presque Isle Units 5-9 and Associated Requests for Waiver

Attention: Jeffrey L. Small  
Matthew R. Dorsett

Dear Messrs. Small and Dorsett:

1. Under the Midcontinent Independent System Operator, Inc.'s (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), market participants that have decided to retire or suspend a generation resource or Synchronous Condenser Unit (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 System Support Resource (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.<sup>1</sup>

2. The SSR agreement is filed with the Commission and specifies the terms and conditions of the service, including the compensation to be provided to the resource. For each SSR agreement filed with the Commission, a separate rate schedule must be filed to provide for the allocation of costs identified in the SSR agreement, consistent with section 38.2.7.k of MISO's Tariff.

3. On September 12, 2014, in Docket No. ER14-2860-000, MISO submitted a proposed replacement SSR agreement under its Tariff between itself and Wisconsin Electric Power Company, Inc. (Wisconsin Electric) to provide for the operation of Presque Isle Units 5-9 for a 14.5-month term between October 15, 2014 and December 31, 2015 (Replacement Presque Isle SSR Agreement), and requested that the Original Presque Isle SSR Agreement<sup>2</sup> previously in effect be terminated effective October 15, 2014. The Replacement Presque Isle SSR Agreement reflected, among other things, a new Attachment Y Notice from Wisconsin Electric indicating its intent to retire, rather than temporarily suspend operation of, Presque Isle Units 5-9. Also on September 12, 2014, in Docket No. ER14-2862-000, MISO submitted a revised Presque Isle Rate Schedule 43G under its Tariff to reflect the new requested effective date of October 15, 2014, and to reflect the same cost allocation percentages that were proposed in a compliance filing directed in the Wisconsin Commission Complaint Order.

4. On November 10, 2014, the Commission issued an order accepting the Replacement Presque Isle SSR Agreement, suspending it for a nominal period, to be effective October 15, 2014, subject to refund, setting the cost-related issues for hearing and settlement judge proceedings, consolidating these proceedings with the ongoing hearing and settlement judge procedures established in the Wisconsin Commission Complaint Order, and terminating the Original Presque Isle SSR Agreement. The Commission also accepted the revised Presque Isle Rate Schedule 43G, suspended it for a nominal period, to be effective October 15, 2014, subject to refund and further Commission order in Docket Nos. ER14-1242, ER14-1243, and EL14-34.<sup>3</sup>

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<sup>1</sup> See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *order on reh'g*, 109 FERC ¶ 61,157 (2004).

<sup>2</sup> The Original Presque Isle SSR Agreement was the subject of a July 29, 2014 Commission order. See *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,071 (2014) (Wisconsin Commission Complaint Order), *order on reh'g*, 150 FERC ¶ 61,104 (2015).

<sup>3</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,114 (2014) (November 10 Order), *order on reh'g*, 150 FERC ¶ 61,104 (2015).

5. On February 19, 2014, the Commission issued an order that, as relevant here, required MISO to submit, in a compliance filing, a further revised Presque Isle Rate Schedule 43G that adjusts the allocation of SSR costs under the Replacement Presque Isle SSR Agreement, with such revised cost allocation to be effective October 15, 2014, superseding the rate schedule conditionally accepted in the November 10 Order.<sup>4</sup>
6. On February 18, 2015, in Docket No. ER15-1071-000, MISO submitted a request for waiver and notice of termination regarding the Replacement Presque Isle SSR Agreement. Also on February 18, 2015, in Docket No. ER15-1070-000, MISO submitted a request for waiver and to cancel Presque Isle Rate Schedule 43G, associated with the termination of the Replacement Presque Isle SSR Agreement. MISO seeks an effective date of February 1, 2015 for both terminations.
7. Among other things, MISO notes that on February 17, 2015, Wisconsin Electric notified MISO that it sought to rescind its Attachment Y Notice of retirement for Presque Isle Units 5-9 and continue to have the SSR Units in commercial operations, such that Presque Isle Units 5-9 would continue to support reliability in the area of its operation, and that Wisconsin Electric asked for the rescission to be effective on February 1, 2015.<sup>5</sup>
8. MISO states that it seeks waiver of the early termination notice provision found in the Replacement Presque Isle SSR Agreement to the extent necessary to terminate the Replacement Presque Isle SSR Agreement and provide for an orderly transition of the early termination. MISO notes that: (1) Wisconsin Electric is willing to waive the provision of notice of early termination that is contained in the Replacement Presque Isle SSR Agreement; and (2) the effect will be to leave Presque Isle Units 5-9 in commercial operation without the need for the Replacement Presque Isle SSR Agreement or continued designation of Presque Isle Units 5-9 as SSR Units, such that reliability of the transmission system will not be endangered. MISO also specifically seeks waiver in both Docket Nos. ER15-1070-000 and ER15-1071-000 of the Commission's 60-day notice requirement for cancellation or termination of rate schedules.<sup>6</sup>

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<sup>4</sup>*Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,104 at P 152.

<sup>5</sup> February 18, 2015 Transmittal Letter, Docket No. ER15-1071-000 at 2.

<sup>6</sup> *Id.* at 3 (citing 18 C.F.R. § 35.15 (2013)); February 18, 2015 Transmittal Letter, Docket No. ER15-1070-000 at 3 (citing 18 C.F.R. § 35.15 (2013)).

9. MISO further notes that without the SSR designation of Presque Isle Units 5-9, MISO's commitment of the units would require reclassification of these commitments under the Tariff as Voltage and Local Reliability (VLR) commitments, with attendant Revenue Sufficiency Guarantee (RSG) cost allocation consequences. MISO states that Wisconsin Electric has agreed to forego receipt of RSG make-whole payments associated with MISO's commitments of Presque Isle Units 5-9 from February 1, 2015 through February 18, 2015. Accordingly, MISO seeks a limited waiver of the Tariff so that MISO does not have to remit RSG make-whole payments to Wisconsin Electric, nor charge customers for the corresponding SSR-turned-VLR make-whole payments associated with operation of Presque Isle Units 5-9 during the retroactive period of February 1, 2015 through February 18, 2015.

10. Notice of the filing was published in the *Federal Register*, 80 Fed. Reg. 10,472 (2015), with interventions and protests due on or before March 11, 2015. A notice of intervention in both proceedings was filed by the Public Service Commission of Wisconsin. Timely motions to intervene in both proceedings were filed by American Transmission Company, LLC; Consumers Energy Company; Cloverland Electric Cooperative; Verso Corporation; Exelon Corporation; The City of Escanaba, Michigan; and Wisconsin Electric. WPPI Energy filed a timely motion to intervene and comments in support of the filings, asking that the terminations be accepted on the earliest possible date. The Michigan Public Service Commission submitted a notice of intervention in Docket No. ER15-1070-000 and a notice of intervention and comments in support of the filing in Docket No. ER15-1071-000, stating that good cause exists to grant waiver of any VLR charges. Tilden Mining Company L.C. and Empire Iron Mining Partnership filed a timely motion to intervene in both dockets and comments stating their support of MISO's requests for waiver in Docket No. ER15-1071-000 and for an effective date for the tariff revisions of February 1, 2015, as in the public interest. On March 16, 2015, Alliant Energy Corporate Services (Alliant) filed an out-of-time motion to intervene in Docket No. ER15-1071-000.

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), the Commission will grant Alliant's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

12. We accept MISO's notice of termination of the Replacement Presque Isle SSR Agreement and its cancellation of the associated Presque Isle Rate Schedule 43G effective February 1, 2015, as requested, due to Wisconsin Electric's rescission of its Attachment Y Notice of retirement for Presque Isle Units 5-9 and the resulting return of Presque Isle Units 5-9 to commercial operations, such that Presque Isle Units 5-9 will

continue to support reliability in the area of its operation without the need for an SSR agreement. In doing so, we also grant MISO's requests for waivers as discussed more fully below.<sup>7</sup>

13. In granting waivers of tariff provisions, the Commission has generally required that the requested waiver be of limited scope, address a concrete problem that needs to be remedied, and not have undesirable consequences, such as harming third parties.<sup>8</sup> We find that MISO's requested waiver of the Tariff provision requiring RSG make-whole payments associated with MISO's VLR commitments of Presque Isle Units 5-9 from February 1, 2015 through February 18, 2015 meets the Commission's general requirements. First, the requested waiver for the RSG make-whole payments is of limited scope, as it only applies between February 1, 2015 and February 18, 2015. Second, the requested waiver is narrowly tailored to address the concrete problem. The requested waiver would permit MISO to refrain from remitting RSG make-whole payments to Wisconsin Electric and not charge customers for the corresponding make-whole payments associated with operation of the Presque Isle Units 5-9 for the period of February 1, 2015 through February 18, 2015. Third, the requested waiver does not have undesirable consequences, as it will ensure that customers are not charged for any RSG make-whole payments associated with the continued operation of Presque Isle Units 5-9 during this period, consistent with their cost responsibility for these payments had the SSR agreement remained in effect.<sup>9</sup> Moreover, we note that no parties opposed the request. Accordingly, we grant MISO's request for a limited, one-time waiver of the provisions in its Tariff requiring RSG make-whole payments associated with MISO's VLR commitments of Presque Isle Units 5-9 from February 1, 2015 through February 18, 2015.

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<sup>7</sup> We also acknowledge MISO's representation that Wisconsin Electric is willing to waive the notice of early termination provision contained in the Replacement Presque Isle SSR Agreement in order to allow the requested effective date of February 1, 2015.

<sup>8</sup> See, e.g., *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,069, at PP 8-9 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *California Indep. Sys. Operator, Inc.*, 132 FERC ¶ 61,004, at P 10 (2010); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182, at PP 9-10 (2010); *accord ISO New England Inc.-EnerNOC*, 122 FERC ¶ 61,297 (2008); *Central Vermont Pub. Service Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008).

<sup>9</sup> When SSR Units are required to run for reliability purposes, they are ineligible to receive make-whole payments and, therefore, customers do not pay any associated costs. See *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,276, at P 11 (2013).

14. Last, we waive the Commission's prior notice requirements, as requested, to allow the requested effective date of February 1, 2015.<sup>10</sup>

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>10</sup> See 18 C.F.R. § 35.15 (2014) ("For good cause shown, the Commission may by order provide that the notice of cancellation or termination shall be effective as of a date prior to the date of filing or prior to the date the filing would become effective in accordance with these rules.").