

151 FERC ¶ 61,104  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System Operator, Inc.

Docket No. ER15-1210-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued May 8, 2015)

1. On March 10, 2015, pursuant to sections 205 and 219 of the Federal Power Act (FPA)<sup>1</sup> and section 35.13 of the Commission's regulations,<sup>2</sup> Midcontinent Independent System Operator, Inc. (MISO) on behalf of Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier) and Southern Illinois Power Cooperative (Southern Illinois) submitted revisions to the Attachment O-RUS Generic Non-Levelized template of MISO's Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) to implement a 50-basis point adder (RTO Adder) to the authorized rate of return on equity (ROE) based on Hoosier and Southern Illinois' participation as members in a regional transmission organization (RTO) (March 10 Filing).<sup>3</sup>

2. In this order, we conditionally accept Hoosier and Southern Illinois' request to implement the RTO Adder, subject to it being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis, and subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the pending complaint proceeding in Docket No. EL14-12-000 (Complaint Proceeding), as discussed below. We accept the proposed Tariff revisions for filing to become effective May 10, 2015, subject to the outcome of the Complaint Proceeding, and subject to MISO submitting a compliance filing within 30 days of the date of this order, as discussed below. We also accept Hoosier and Southern Illinois' request to defer collection of the RTO Adder pending the outcome of the Complaint Proceeding, as discussed below.

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<sup>1</sup> 16 U.S.C. §§ 824e, 824s (2012).

<sup>2</sup> 18 C.F.R. § 35.13 (2014).

<sup>3</sup> MISO states that it joins the filing solely as the administrator of its Tariff.

## I. Background

3. In the Complaint Proceeding, the Commission issued an order granting in part a complaint that alleged that the current 12.38 percent base ROE allowed for transmission owning members of MISO is unjust and unreasonable.<sup>4</sup> The Commission established hearing and settlement judge procedures with respect to that base ROE,<sup>5</sup> and set a refund effective date of November 12, 2013, for the base ROE.

4. On November 6, 2014, pursuant to sections 205 and 219 of the FPA and section 35.13 of the Commission's regulations,<sup>6</sup> the MISO Transmission Owners<sup>7</sup> submitted revisions to the Attachment O formula rate templates of the Tariff to implement a 50-basis point RTO Adder to the authorized ROE based on the MISO Transmission Owners' participation as members in an RTO.

5. On January 5, 2015, the Commission accepted and nominally suspended the MISO Transmission Owners' proposed RTO Adder, subject to it being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis and subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in

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<sup>4</sup> *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,049 (2014) (Complaint Hearing Order).

<sup>5</sup> *Id.* P 183.

<sup>6</sup> 18 C.F.R. § 35.13 (2014).

<sup>7</sup> The MISO Transmission Owners for the November 6, 2014 filing consisted of the following: ALLETE, Inc. for its operating division Minnesota Power (and its subsidiary Superior Water, L&P); Ameren Services Company, as agent for Ameren Missouri, Ameren Illinois, and Ameren Transmission Company of Illinois; American Transmission Company LLC; Cleco Power LLC; Duke Energy Corporation for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Indianapolis Power & Light Company; ITC Transmission; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Vectren Energy Delivery of Indiana; and Wolverine Power Supply Cooperative, Inc.

the pending Complaint Proceeding.<sup>8</sup> The January 5 Order accepted the proposed revisions for filing and suspended them for a nominal period, to become effective January 6, 2015, subject to refund, and subject to the outcome of the Complaint Proceeding. The Commission also accepted the MISO Transmission Owners' request to defer collection of the RTO Adder pending the outcome of the Complaint Proceeding.

6. The Commission affirmed that the RTO Adder would be available for use by any transmission-owning members of MISO that have turned operational control of their transmission system over to MISO and use the generally applicable MISO ROE, subject to the conditions concerning the base ROE and zone of reasonableness discussed above.<sup>9</sup> However, the Commission determined that those entities utilizing an Attachment O formula that has not been revised to reflect the RTO Adder in that proceeding would need to make a filing under section 205 of the FPA to reflect the RTO Adder in their formula in order to be able to include the RTO Adder in rates that are calculated pursuant to their formula.<sup>10</sup>

## **II. The March 10 Filing**

7. Hoosier and Southern Illinois state that the instant filing is modeled after the MISO Transmission Owners' November 6, 2014 filing to implement an RTO Adder. Hoosier and Southern Illinois seek the same relief as the MISO Transmission Owners. Specifically, they request the following: (1) approval of their ability to apply the RTO Adder in their MISO Tariff Attachment O filings in accordance with the January 5 Order; (2) authorization to defer collection of the RTO Adder until after the issuance of a final order in the Complaint Proceeding; (3) an effective date of January 6, 2015, the same effective date established by the Commission in the January 5 Order, or, alternatively, "an effective date of 60 days from the date of this filing plus a nominal suspension

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<sup>8</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,004 (2015) (January 5 Order).

<sup>9</sup> *Id.* P 48 (citing *DATC Midwest Holdings, LLC*, 139 FERC ¶ 61,224, at P 83 (2012) (explaining that transmission-owning members of MISO are currently authorized to use a 12.38 percent ROE for calculating their annual transmission revenue requirement, and that if DATC Midwest Holdings, LLC becomes a transmission-owning member of MISO, it will also be entitled to receive the then-current ROE that the Commission has approved for MISO transmission owners, as long as it remains a member of MISO)).

<sup>10</sup> *Id.*

period;”<sup>11</sup> and (4) waivers of certain Commission regulations as necessary to permit acceptance of the filing.

8. Hoosier and Southern Illinois state that they qualify for the RTO Adder under the January 5 Order, in which the Commission held that “transmission-owning members of MISO that have turned operational control of their transmission systems over to MISO and use the generally applicable MISO ROE” are entitled to the RTO Adder.<sup>12</sup> They state that both Hoosier and Southern Illinois have voluntarily placed their transmission facilities under MISO’s functional control and use the generally applicable MISO ROE. They state that all of their covered transmission qualifies under the same measures as the MISO Transmission Owners’ transmission in the January 5 Order. They also state that MISO’s acceptance of Hoosier’s and Southern Illinois’ applicable transmission for Attachment O cost inclusion and recovery evidences that such transmission qualifies for the RTO Adder.

9. Hoosier and Southern Illinois state that the Commission has stated unequivocally that public and cooperative systems are entitled to the same equity rates of return as investor-owned utilities.<sup>13</sup> They state that the RTO Adder comprises part of the MISO Transmission Owners’ equity rates of return and must be allowed equally for Hoosier and Southern Illinois. Further, Hoosier and Southern Illinois state that section 219 of the FPA precludes providing certain investor-owned utilities with an RTO incentive that non-public utility transmission owners do not receive on a comparable basis.<sup>14</sup>

10. Hoosier and Southern Illinois request relief similar to that which was granted to the MISO Transmission Owners and accept the same terms and conditions made applicable to their filings and rates.<sup>15</sup>

11. Hoosier and Southern Illinois state that, to reflect the addition of the RTO Adder to the base ROE, the MISO Transmission Owners proposed a revision to Note P of Attachment O of the Tariff, which describes how the base ROE is established. Hoosier and Southern Illinois assert that the revision provides for the 50-basis point RTO Adder

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<sup>11</sup> March 10 Filing, Transmittal Letter at 3, n.6.

<sup>12</sup> *Id.* at 3 (citing January 5 Order, 150 FERC ¶ 61,004 at P 48).

<sup>13</sup> *Id.* at 4 (citing *Midwest Indep. Sys. Transmission Operator, Inc.*, 106 FERC ¶ 61,219, at PP 30-31 (2004)).

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 6.

and is designed to provide notice that the RTO Adder may be added to the base ROE up to the upper end of the zone of reasonableness approved by the Commission. Hoosier and Southern Illinois state that they request the exact same procedures as the MISO Transmission Owners and agree that they should be subject to the same requirements. Thus, Hoosier and Southern Illinois state that they rely on the same or an almost identical revision to Attachment O of the MISO Tariff.<sup>16</sup>

12. Specifically, Hoosier and Southern Illinois propose a revision to Attachment O-RUS Generic Non-Levelized template that adds after Note P the following language:

A 50 basis point adder for RTO participation may be added to the ROE or Proprietary Capital Cost up to the upper end of the zone of reasonableness established by FERC.

13. They state that this proposed revision differs from the MISO Transmission Owners' proposed and accepted revision only in the inclusion of the language "or Proprietary Capital Cost," which reflects the terminology used in Note P of the RUS Generic Non-Levelized template.

14. Hoosier and Southern Illinois request that the Commission grant waiver of the Commission's prior notice requirement, 18 C.F.R. § 35.3 (2014), and make the RTO Adder effective January 6, 2015, the same effective date that the Commission established in the January 5 Order for the MISO Transmission Owners' RTO Adder. They contend that good cause exists to grant waiver of notice, i.e., to avoid transmission settlement billing adjustments and also to keep the effective date consistent with the MISO Transmission Owners' filing. However, as noted above, alternatively, they request an effective date 60 days after filing the instant filing plus a nominal suspension period.<sup>17</sup>

15. Hoosier and Southern Illinois request deferred collection of the RTO Adder until the Commission issues an order in the Complaint Proceeding in which the Commission will establish a zone of reasonableness for the MISO Transmission Owners' and Hoosier and Southern Illinois' ROEs. Hoosier and Southern Illinois state that this treatment will protect against charging rates above the upper end of the range of reasonable returns.<sup>18</sup>

16. Hoosier and Southern Illinois also request the same waivers that were granted to the MISO Transmission Owners in the January 5 Order, i.e., waiver of portions of

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<sup>16</sup> *Id.* at 6-7.

<sup>17</sup> *Id.* at 7 (citing *id.* at 3, n.6).

<sup>18</sup> *Id.* at 7-8.

section 35.13 of the Commission's regulations that require the submission of cost of service information, statements, testimony, and exhibits to support the requested tariff changes, including the required discounted cash-flow analysis.<sup>19</sup>

### **III. Notice of Filing and Responsive Pleadings**

17. Notice of the March 10 Filing was published in the *Federal Register*, 80 Fed. Reg. 14,127 (2015), with interventions and protests due on or before March 31, 2015. Wisconsin Electric Power Company submitted a timely motion to intervene. A group of MISO transmission owners (TO Intervenor)<sup>20</sup> filed a timely motion to intervene and comments. The TO Intervenor state that they do not oppose Hoosier and Southern Illinois' request for the RTO Adder. However, they request that the Commission condition its grant of the RTO Adder upon the following: (1) Hoosier and Southern Illinois agreeing to be bound not only by the zone of reasonableness established in the Complaint Proceeding, but also by any base ROE resulting from that proceeding and any subsequent proceeding in which the MISO-wide base ROE is at issue; and (2) Hoosier and Southern Illinois providing a refund commitment consistent with the refund effective date established in the Complaint Proceeding and in any such subsequent proceeding.<sup>21</sup>

18. The TO Intervenor state that, if the ROE ultimately determined by the Commission to be just and reasonable in the Complaint Proceeding is less than the current base ROE, TO Intervenor may owe refunds to their customers going back to the November 12, 2013 refund effective date. They argue that if Hoosier and Southern Illinois will be subject to the same ROE that will be established in the Complaint

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<sup>19</sup> *Id.* at 8.

<sup>20</sup> The TO Intervenor consist of the following: Ameren Services Company, as agent for Ameren Missouri, Ameren Illinois, and Ameren Transmission Company of Illinois; American Transmission Company LLC; Cleco Power LLC; Duke Energy Corporation for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Vectren Energy Delivery of Indiana; and Wolverine Power Supply Cooperative, Inc.

<sup>21</sup> TO Intervenor Comments at 5.

Proceeding, the same refund obligation that applies to the TO Intervenor should apply to Hoosier and Southern Illinois.<sup>22</sup>

19. The TO Intervenor also argue that the Commission previously has conditioned its acceptance of non-jurisdictional utilities' requests to include their revenue requirements in RTO rates on the non-jurisdictional utility voluntarily agreeing to refunds and that the same principle applies in this proceeding.<sup>23</sup> They assert that it is unclear whether Hoosier and Southern Illinois' statements that they accept the same terms and conditions and that they will be subject to the same ROE that will be established in the Complaint Proceeding legally binds Hoosier and Southern Illinois to be bound by the same base ROE that results from the Complaint Proceeding. Further, they argue that Hoosier and Southern Illinois do not specifically agree to be bound by the same refund obligation that applies to the TO Intervenor. Therefore, they argue that the Commission should condition its acceptance of the March 10 Filing and any applicable effective date on Hoosier and Southern Illinois providing a voluntary refund commitment going back to November 12, 2013, the refund effective date in the Complaint Proceeding or, at a minimum, require such a voluntary refund commitment as of the effective date of the March 10 Filing. In addition, they request that Hoosier and Southern Illinois' voluntary refund commitment be bound by the base ROE resulting from the Complaint Proceeding and in any subsequent proceeding.<sup>24</sup>

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<sup>22</sup> *Id.* at 5-6.

<sup>23</sup> *Id.* at 6-8 (citing *Midcontinent Independent System Operator, Inc.*, 149 FERC ¶ 61,287, at P 10 (2014) (absent a refund commitment by the non-jurisdictional entity, the Commission would not set an effective date until a future order once it issues an order resolving the issues concerning the MISO region-wide ROE, following hearing and settlement judge procedures in the Complaint Proceeding); *Midcontinent Independent System Operator, Inc.*, 149 FERC ¶ 61,282, at P 60 (2014) (acting on a filing of a non-jurisdictional entity joining MISO, the Commission accepted the use of the currently effective MISO regional base ROE, subject to the outcome of the Complaint Proceeding, and accepted the non-jurisdictional entity's commitment to provide refund protection, with interest, as of the date the non-jurisdictional entity joined MISO); *Southwest Power Pool, Inc.*, 149 FERC ¶ 61,050, at PP 5, 24 (2014) (citing *Southwest Power Pool, Inc.*, 142 FERC ¶ 61,135, at P 13 (2013); *Lively Grove Energy Partners, LLC*, 140 FERC ¶ 61,252, at P 47 & n.59 (2012); *City of Riverside, California*, 128 FERC ¶ 61,207, at P 26 (2009); *Midwest Indep. Transmission Sys. Operator, Inc.*, 135 FERC ¶ 61,131, at P 70 & n.92) (2011)) (the appropriate action would have been to withhold an effective date for SPP's filing for recovery of the non-jurisdictional entity's revenue requirement until SPP provided the non-jurisdictional entity's voluntary refund commitment)).

<sup>24</sup> *Id.* at 9.

20. On April 15, 2015, Hoosier and Southern Illinois filed an answer. Hoosier and Southern Illinois state that, assuming that the Commission grants their request to implement the RTO Adder effective January 6, 2015, they voluntarily agree to be bound by the zone of reasonableness established in the Complaint Proceeding; to be bound by any base ROE established in the Complaint Proceeding; and to provide refund protection consistent with the refund effective date established in the Complaint Proceeding. They also state that they agree voluntarily to be bound by any zone of reasonableness, base ROE, and refund effective date that may be set in Docket No. EL15-45.<sup>25</sup>

21. Hoosier and Southern Illinois state, however, that they do not and cannot agree to be bound by orders that may be issued in unknown and unknowable future proceedings. Hoosier and Southern Illinois state that none of the TO Intervenors have agreed to such conditions. To the contrary, state Hoosier and Southern Illinois, each of the MISO public utility transmission owners retains the right to seek approval of a company-specific ROE at any time by submitting a filing pursuant to section 205 of the FPA.<sup>26</sup> Hoosier and Southern Illinois state that the TO Intervenors cite no case in which the Commission has conditioned approval of an RTO Adder on the requesting transmission owner's agreeing to be bound by orders that may be issued in the future in hypothetical future administrative proceedings, and they provide no basis for the Commission to do so here.

#### **IV. Discussion**

##### **A. Procedural Matters**

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the TO Intervenors and Wisconsin Electric Power Company parties to this proceeding.

23. 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 unless otherwise ordered by the decisional authority. We will accept the answer submitted by Hoosier and Southern Illinois because it has provided information that assisted us in our decision-making process.

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<sup>25</sup> Hoosier and Southern Illinois Answer at 2.

<sup>26</sup> *Id.* at 2-3 (citing *Atlantic City Elec. Co. v. FERC*, 295 F.3d 1 (D.C. Cir. 2002)).

## **B. Substantive Matters**

### **1. Hoosier and Southern Illinois' Request for the RTO Adder**

24. We conditionally grant Hoosier and Southern Illinois' request for a 50-basis point adder to their base ROE for their participation in MISO, consistent with section 219 of the FPA and Commission precedent,<sup>27</sup> subject to it being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis, subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the Complaint Proceeding, and subject to the compliance filing ordered below.

25. In the Energy Policy Act of 2005, Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability or reducing the cost of delivered power by reducing transmission congestion.<sup>28</sup> The purpose of this rule is, *inter alia*, to promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in electric transmission infrastructure.<sup>29</sup> The Commission subsequently issued Order No. 679,<sup>30</sup> which sets forth processes by which a public utility may seek transmission rate incentives, pursuant to section 219 of the FPA, including the incentives requested here by Hoosier and Southern Illinois.

26. We find that Hoosier and Southern Illinois have demonstrated that they are qualified to receive the requested 50-basis point adder. Our approval of this incentive is based on Hoosier and Southern Illinois' commitment to continue being members of MISO.

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<sup>27</sup> See, e.g., *Pacific Gas and Electric Co.*, 148 FERC ¶ 61,245, at P 30 (2014) (granting 50-basis point adder for continued RTO participation); *Valley Elec. Ass'n, Inc.*, 141 FERC ¶ 61,238, at P 26 (2012) (granting 50-basis point adder for RTO participation); *Pacific Gas and Electric Co.*, 141 FERC ¶ 61,168, at P 25 (2012).

<sup>28</sup> 16 U.S.C. § 824s(a), (b) (2012).

<sup>29</sup> *Id.*

<sup>30</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 61,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

27. Additionally, consistent with the Commission's recent acceptance of an RTO Adder for other non-jurisdictional MISO transmission owners,<sup>31</sup> our acceptance of the RTO Adder is conditioned upon a voluntary commitment by Hoosier and Southern Illinois to (1) provide refunds, with interest at Commission refund interest rates, to the extent that the ROE or zone of reasonableness established in the Complaint Proceeding when applied as of the effective date of the instant filing would result in a lower revenue requirement than that charged by Hoosier and Southern Illinois, and (2) provide refunds, with interest at Commission refund interest rates, consistent with any refund effective date established in any other proceedings resulting in a new base ROE or a new zone of reasonableness for the MISO transmission owners' base ROE, to the extent that the ROE or zone of reasonableness established in such proceedings, when applied as of the refund effective date established in such proceedings, would result in a lower revenue requirement than that charged by Hoosier and Southern Illinois, for as long as Hoosier and Southern Illinois apply the Commission approved base ROE of the MISO transmission owners. With respect to the concern raised in Hoosier and Southern Illinois' answer, the refund condition does not bind Hoosier and Southern Illinois to using the MISO base ROE in perpetuity, and they are free to seek an entity-specific ROE through a MISO section 205 filing to amend their formula rates. However, as long as Hoosier and Southern Illinois use the base ROE established for MISO transmission owners, it is appropriate that their customers receive refund protections comparable to that afforded to customers of public utility transmission owners that use that base ROE.

28. Given that MISO is proposing to revise the Attachment O-RUS Generic Non-Levelized template to implement the RTO Adder, and that non-jurisdictional entities other than Hoosier and Southern Illinois may seek to use this generic template, we direct MISO to submit a compliance filing within 30 days of the date of this order with revisions to note P reflecting that applicability of the RTO Adder in the Attachment O-RUS Generic Non-Levelized template is conditioned on an entity making the voluntary refund commitment required by this order.

29. We deny the TO Intervenors' request that we condition acceptance of the March 10 Filing on a refund obligation on Hoosier and Southern Illinois back to the refund effective date established in the Complaint Proceeding. The rates of Hoosier and Southern Illinois were not at issue in the Complaint Proceeding, and therefore the refund effective date established by the Complaint Order does not apply to them. While Hoosier and Southern Illinois voluntarily commit to such a refund condition in their answer, consistent with the Municipal RTO Adder Order, we will not condition our acceptance of

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<sup>31</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,050, at P 24 (2015) (Municipal RTO Adder Order).

the March 10 Filing on Hoosier and Southern Illinois committing to refund protection going back to the refund effective date established in the Complaint Proceeding.<sup>32</sup>

**2. Hoosier and Southern Illinois' Request for Waiver of the Requirement for Supporting Evidence**

30. Based upon a review of the filing and the comments, our preliminary analysis indicates that the overall ROE resulting from application of the RTO Adder has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful (i.e., it has not been shown to be just and reasonable to apply the RTO Adder to the current base ROE). Accordingly, we accept the revisions to Attachment O-RUS Generic Non-Levelized template of the Tariff to become effective on May 10, 2015, subject to MISO submitting a compliance filing discussed *supra*, and subject to the RTO Adder being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis and the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the Complaint Proceeding, and make the proposed revisions subject to the outcome of the Complaint Proceeding. Because we are accepting the proposed revisions subject to the outcome of the Complaint Proceeding for the purpose of determining the just and reasonable base ROE and the zone of reasonableness to be applied to the RTO Adder requested in the instant filing, we grant Hoosier and Southern Illinois' request for waiver of the portions of the Commission's section 35.13 requirements that require the submission of cost of service information, statements, testimony, and exhibits to support the requested tariff changes, including the required discounted cash-flow analysis.

**3. Hoosier and Southern Illinois' Request for Waiver of Prior Notice Requirement**

31. We deny Hoosier and Southern Illinois' request for waiver of the 60-day prior notice requirement for failure to show good cause.<sup>33</sup> Absent waiver, public utilities must provide the Commission at least 60 days prior notice before any proposed rate, term, or condition is to become effective.<sup>34</sup> Therefore, the earliest date that proposed rates, terms, or conditions may become effective, absent waiver, is the 61st day after filing, i.e., the day *after* the 60-day prior notice period has expired. Thus, given that we are denying

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<sup>32</sup> *Id.* P 25.

<sup>33</sup> See *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

<sup>34</sup> 16 U.S.C. § 824d(d) (2012); 18 C.F.R. § 35.3 (2014).

Hoosier and Southern Illinois' request for waiver of the 60-day prior notice requirement, for the March 10 Filing, the earliest permissible effective date is May 10, 2015.<sup>35</sup> Accordingly, we establish an effective date for the proposed Tariff revisions of May 10, 2015.

**4. Hoosier and Southern Illinois' Request to Defer Collection of the RTO Adder**

32. We accept Hoosier and Southern Illinois' commitment to defer collection of the RTO Adder pending the outcome of the Complaint Proceeding, noting that the RTO Adder will be effective on May 10, 2015. This should promote administrative efficiency.

The Commission orders:

(A) The proposed Tariff revisions are hereby conditionally accepted for filing to become effective on May 10, 2015, subject to the proposed RTO Adder being applied to a base ROE that has been shown to be just and reasonable based on an updated discounted cash-flow analysis and subject to the resulting ROE being within the zone of reasonableness determined by that updated discounted cash-flow analysis, as those may be determined in the Complaint Proceeding, and subject to the outcome of the Complaint Proceeding, and subject to the compliance filing ordered in Ordering Paragraph B, as discussed in the body of this order.

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<sup>35</sup> See, e.g., *California Indep. Sys. Operator*, 117 FERC ¶ 61,181, at P 4 (2006) (citing *Utah Power & Light Co.*, 30 FERC ¶ 61,015, at 61,024 n.9 (1985)).

(B) MISO is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.