



2. As discussed below, in this order, we accept the Revised White Pine SSR Agreement, suspend it for a nominal period, to be effective April 16, 2015, as requested, subject to refund, and set the proposed rates in the Revised White Pine SSR Agreement for hearing and settlement judge procedures. We also conditionally accept Revised Rate Schedule 43H, suspend it for a nominal period, to be effective April 16, 2015, as requested, subject to the outcome of the SSR cost allocation proceeding in Docket No. ER14-2952 and a compliance filing, and direct MISO to provide refunds accordingly, as further described below.

### **I. Background**

3. 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.<sup>4</sup> 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 costs identified in the SSR agreement to be recovered from the identified beneficiaries, consistent with section 38.2.7.k of MISO's Tariff.

4. 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

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<sup>4</sup> See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, order on reh'g, 109 FERC ¶ 61,157 (2004).

90 and 180 days of the date of the order.<sup>5</sup> On July 22, 2014, the Commission conditionally accepted MISO's compliance filing, subject to further compliance.<sup>6</sup>

5. On April 15, 2014, in Docket No. ER14-1724-000, MISO submitted a proposed SSR agreement between White Pine and MISO under its Tariff (the Original White Pine SSR Agreement) to ensure the continued availability of White Pine Unit No. 1 as an SSR Unit (White Pine SSR Unit).<sup>7</sup> In a contemporaneous filing in Docket No. ER14-1725-000, MISO filed proposed Rate Schedule 43H under its Tariff to authorize MISO to allocate SSR costs that are associated with the White Pine SSR Unit (Original Rate Schedule 43H). MISO stated that the proposed cost allocation in Original Rate Schedule 43H was consistent with the Tariff in effect at the time, which required MISO to assign SSR costs on a *pro rata* basis to all load-serving entities (LSEs) within the ATC footprint.<sup>8</sup> On June 13, 2014, the Commission issued an order accepting the Original White Pine SSR Agreement and associated Original Rate Schedule 43H, suspending them for a nominal period, to be effective April 16, 2014, as requested, subject to refund and further Commission order.<sup>9</sup>

6. On July 29, 2014, the Commission issued an order addressing a complaint filed by the Public Service Commission of Wisconsin against MISO arguing that the provision requiring SSR costs to be allocated on a *pro rata* basis to all LSEs in the ATC footprint was unjust, unreasonable, and unduly discriminatory or preferential.<sup>10</sup> The Commission granted the complaint and found that the Tariff was unjust, unreasonable, unduly

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<sup>5</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012) (2012 SSR Order), *order on compliance*, 148 FERC ¶ 61,056 (2014) (SSR Compliance Order).

<sup>6</sup> SSR Compliance Order, 148 FERC ¶ 61,056.

<sup>7</sup> White Pine Unit No. 1 is a generator turbine located in White Pine, Michigan, within the footprint of the American Transmission Company, LLC (ATC) with a nameplate capacity of 20 MW. *See* MISO White Pine SSR Agreement Filing, Docket No. ER14-1724-000, Transmittal Letter at 2 (filed Apr. 15, 2014).

<sup>8</sup> MISO White Pine Rate Schedule 43H Filing, Docket No. ER14-1725-000, Transmittal Letter at 3 (filed Apr. 15, 2014).

<sup>9</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,199 (2014).

<sup>10</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,071 (2014) (Wisconsin Commission Complaint Order).

discriminatory, or preferential because the ATC *pro rata* SSR cost allocation provision did not follow cost causation principles.<sup>11</sup> The Commission directed MISO to remove the ATC *pro rata* SSR cost allocation provision from its Tariff, thereby extending to the ATC footprint the general SSR cost allocation Tariff language, which requires MISO to allocate SSR costs to “the LSE(s) which require(s) the operation of the SSR Unit for reliability purposes.”<sup>12</sup>

7. On August 21, 2014, the Commission issued a further order in Docket Nos. ER14-1724-000 and ER14-1725-000, addressing various issues related to the Original White Pine SSR Agreement and directing MISO to align cost allocation under Original Rate Schedule 43H with the Wisconsin Commission Complaint Order.<sup>13</sup> Specifically, the Commission directed MISO to conduct a load-shed study that identifies the LSEs which require the operation of White Pine Unit No. 1 for reliability purposes and submit in a compliance filing Tariff revisions adjusting the SSR cost allocation under Original Rate Schedule 43H such that White Pine SSR costs are allocated in accordance with the load-shed study, with such revised cost allocation to be effective as of April 16, 2014.<sup>14</sup> The Commission also directed MISO to refund, with interest, any costs allocated to LSEs under Original Rate Schedule 43H from April 16, 2014, until the August 21, 2014 date of the order that were higher than the costs to be allocated to those LSEs according to the forthcoming load-shed study.<sup>15</sup>

8. On February 19, 2015, the Commission granted clarification of and denied rehearing of the Wisconsin Commission Complaint Order. The Commission affirmed its finding that it is unjust, unreasonable, unduly discriminatory, or preferential for MISO to allocate SSR costs on a *pro rata* basis to all LSEs in the ATC footprint, and instead required SSR costs to be allocated to the LSEs that require the operation of the SSR Units for reliability purposes.<sup>16</sup> The Commission also granted clarification of the Wisconsin

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<sup>11</sup> *Id.* PP 59-61.

<sup>12</sup> *Id.* P 66.

<sup>13</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,136, at P 43 (2014) (August 2014 White Pine Order), *reh'g denied*, 150 FERC ¶ 61,104 (2015).

<sup>14</sup> August 2014 White Pine Order, 148 FERC ¶ 61,136 at P 44.

<sup>15</sup> *Id.* P 45.

<sup>16</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,104, at PP 73-79 (2015) (February 2015 SSR Rehearing Order).

Commission Complaint Order and found that MISO's general SSR cost allocation practice, which was based on Local Balancing Authority (LBA) boundaries and an optimal load-shed study as provided in its Transmission Planning Business Practice Manual (BPM),<sup>17</sup> when applied to the allocation of SSR costs associated with three SSR Units located in the ATC footprint (the Presque Isle SSR Units,<sup>18</sup> the Escanaba SSR Units,<sup>19</sup> and the White Pine SSR Unit), failed to allocate SSR costs directly to the LSEs that benefit from those SSR Units.<sup>20</sup>

9. Due to the shortcomings of MISO's general SSR cost allocation practice as applied to the three SSR Units in the ATC footprint, the Commission directed MISO to file a new study methodology that will allocate the costs associated with the Presque Isle, White Pine and Escanaba SSR Units directly to benefitting LSEs, as required by MISO's Tariff.<sup>21</sup> The Commission directed MISO to submit Tariff revisions adjusting the SSR cost allocation under the rate schedules associated with the three SSR Units in accordance with the new study methodology, with such revisions effective as follows: on June 15, 2014 for the Escanaba SSR Units; on April 16, 2014 for the White Pine SSR Unit; and on April 3, 2014 for the Presque Isle SSR Units.<sup>22</sup> The Commission required MISO to refund any White Pine SSR costs allocated to LSEs that were higher than the

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<sup>17</sup> *Id.* P 81 (citing MISO Transmission Planning Business Practices Manual, BPM-020-r10 (dated Apr. 10, 2014) at § 6.2.6 (System Support Resource Agreement Cost Allocation Methodology)).

<sup>18</sup> The Presque SSR Units, located in Marquette, Michigan, within the ATC footprint, are operated under an SSR agreement between MISO and the Wisconsin Electric Power Company (Wisconsin Electric).

<sup>19</sup> The Escanaba SSR Units, located in Escanaba, Michigan, within the ATC footprint, are operated under an SSR agreement between MISO and the City of Escanaba, Michigan.

<sup>20</sup> February 2015 SSR Rehearing Order, 150 FERC ¶ 61,104 at PP 83-86.

<sup>21</sup> *Id.* PP 86, 89.

<sup>22</sup> *Id.* P 89. The effective date for the Escanaba SSR Units aligned with the effective date of a previous compliance filing conditionally accepted by the Commission, while the effective date for the Presque Isle SSR Units aligned with the refund effective date set in the Wisconsin Commission Complaint Order. *See Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,116, at P 37 (2014); Wisconsin Commission Complaint Order, 148 FERC ¶ 61,071 at P 68.

costs to be allocated to those LSEs according to the forthcoming study for the White Pine SSR Unit, with such refunds to begin April 16, 2014. On May 20, 2015, in Docket No. ER14-2952-003, MISO filed with the Commission a revised study methodology and a revised Original Rate Schedule 43H for the White Pine SSR Unit, along with revised rate schedules for the Presque Isle and Escanaba SSR Units. This filing is currently pending before the Commission.

10. In a separate proceeding, on February 27, 2015, in Docket No. ER15-765-000, the Commission issued an order conditionally accepting a proposed SSR agreement between White Pine and MISO to ensure the continued availability of White Pine Unit No. 2 as an SSR Unit.<sup>23</sup> The Commission suspended the agreement for a nominal period, subject to refund, and set all cost-related issues for hearing and settlement judge procedures. The Commission also conditionally accepted a contemporaneous filing made in Docket No. ER15-767-000 of a proposed Rate Schedule 43I to authorize MISO to allocate SSR costs associated with White Pine Unit No. 2. The Commission suspended Rate Schedule 43I for a nominal period, subject to refund and compliance filing. On April 23, 2015, in Docket Nos. ER15-1395-000 and ER15-1396-000, the Commission accepted MISO's notice of termination of the SSR agreement for White Pine Unit No. 2 and MISO's request to cancel Rate Schedule 43I.<sup>24</sup> The Commission accepted MISO's explanation that the owner of the Portage combustion turbine generator had changed the status of the generator from "emergency" to "economic," and that Portage generation was an adequate replacement for White Pine Unit No. 2 availability.<sup>25</sup>

## **II. MISO's Filings**

11. On April 20, 2015, in Docket No. ER15-1535-000, MISO submitted the Revised White Pine SSR Agreement to ensure the continued availability of White Pine Unit No. 1 as an SSR Unit. MISO states that, pursuant to its Tariff, MISO annually reviews the SSR Unit and transmission system characteristics to determine whether an SSR Unit is

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<sup>23</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,147 (2015). White Pine Unit No. 2 is located in White Pine, Michigan, within the ATC footprint.

<sup>24</sup> *Midcontinent Indep. Sys. Operator, Inc.*, Docket Nos. ER15-1395-000 and ER15-1396-000 (Apr. 23, 2015) (unpublished letter order).

<sup>25</sup> See MISO Notice of Termination, Docket No. ER15-1395-000, at 2 (filed Mar. 27, 2015); MISO Request to Cancel Rate Schedule 43I, Docket No. ER15-1396-000, at 2 (filed Mar. 27, 2015).

qualified to remain an SSR Unit.<sup>26</sup> The filing indicates that MISO provided White Pine with 90 days' advance notice, by a letter dated January 14, 2015, that it might be necessary to extend the term of the Original White Pine SSR Agreement for an additional term of 12 months, to April 15, 2016.<sup>27</sup> According to MISO, in its annual review of the continued need for an SSR agreement for White Pine Unit No. 1, MISO reviewed the Attachment Y Study that was completed for White Pine Unit No. 1 and filed with the Commission on April 15, 2014 in Docket No. ER14-1724.<sup>28</sup> MISO states that it determined that there is a continued need for the SSR status of White Pine Unit No. 1, in the absence of any development of feasible alternatives.<sup>29</sup> MISO reports that it worked with White Pine and the MISO Independent Market Monitor to negotiate and develop the Revised White Pine SSR Agreement.<sup>30</sup> According to MISO, White Pine agreed to a 12-month term for the period between April 16, 2015 and April 15, 2016. MISO states that White Pine has agreed to continue operating White Pine Unit No. 1 on and after April 16, 2015. MISO requests waiver of the prior notice requirement to allow the Revised White Pine SSR Agreement to go into effect on April 16, 2015.<sup>31</sup>

12. In Docket No. ER15-1536-000, MISO submitted Revised Rate Schedule 43H under its Tariff, which specifies the allocation of the costs associated with the continued operation of White Pine Unit No. 1 as an SSR Unit. MISO states that Revised Rate Schedule 43H allocates costs associated with the Revised White Pine SSR Agreement to all LSEs within the footprint of ATC on a *pro rata* basis, based upon each entity's contribution to the peak of its LBA.<sup>32</sup> MISO requests waiver of the prior notice

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<sup>26</sup> Revised White Pine SSR Agreement Filing, Docket No. ER15-1535-000, Transmittal Letter at 6 (filed Apr. 20, 2015) (Revised White Pine SSR Agreement Filing).

<sup>27</sup> *Id.*, Ex. A (MISO Notice of Extension).

<sup>28</sup> *Id.*, Transmittal Letter at 5, Ex. C (Reddoch Aff.) at 1.

<sup>29</sup> *Id.*, Ex. C (Reddoch Aff.) at 2.

<sup>30</sup> *Id.*, Transmittal Letter at 3.

<sup>31</sup> *Id.* at 7.

<sup>32</sup> MISO White Pine Rate Schedule 43H Filing, Docket No. ER15-1536-000, Transmittal Letter at 3-4 (filed Apr. 20, 2015) (Revised Rate Schedule 43H Filing).

requirement to allow Revised Rate Schedule 43H to go into effect on April 16, 2015 to correspond with the effective date of the Revised White Pine SSR Agreement.<sup>33</sup>

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

13. Notice of MISO's filings in Docket Nos. ER15-1535-000 and ER15-1536-000 was published in the *Federal Register*, 80 Fed. Reg. 22,989 (2015), with interventions and protests due on or before May 11, 2015.

14. Timely motions to intervene were filed in both dockets by: The City of Escanaba, Michigan (The City of Escanaba); the Upper Peninsula Power Company (UPPCo); ATC; White Pine; Alliant Energy Corporate Services, Inc.; WPPI Energy; Wisconsin Public Service Corporation; Consumers Energy Company; Cloverland Electric Cooperative; Verso Corporation; and Wisconsin Electric. UPPCo filed a separate protest in both dockets on May 6, 2015. The City of Escanaba filed a separate conditional protest in both dockets on May 11, 2015. The Michigan Public Service Commission (Michigan Commission) filed a notice of intervention and protest in both dockets.

15. MISO filed a motion for leave to answer and answer to the protests on May 21, 2015.

### **IV. Discussion**

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

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>34</sup> the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

17. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority.<sup>35</sup> We accept the answer filed by MISO, as it has provided information that assisted us in our decision-making process.

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<sup>33</sup> *Id.* at 5.

<sup>34</sup> 18 C.F.R. § 385.214 (2014).

<sup>35</sup> 18 C.F.R. § 385.213(a)(2) (2014).

**B. Substantive Matters****1. Revised White Pine SSR Agreement****a. Need for Renewal and Assessment of Feasible Alternatives****i. Filing**

18. MISO states that, when it originally received notice on October 15, 2013 that White Pine Unit No. 1 would be retired, MISO conducted an Attachment Y Study in order to determine if designation of White Pine Unit No. 1 was necessary for transmission system reliability.<sup>36</sup> MISO states that the study concluded that the proposed retirement of White Pine Unit No. 1, without curtailment of load by means of demand response or other alternative, would result in violations of specific reliability standards. Specifically, the analysis indicated that: (1) retirement of White Pine Unit No. 1 caused several NERC Category C overloads and also aggravated pre-existing NERC Category B overloads; (2) under planned outage plus single contingency events in shoulder conditions, the remaining transmission path could not support the Western Upper Peninsula load pocket; and (3) during summer peak conditions, risk of voltage collapse existed for multiple contingency events.<sup>37</sup> This Attachment Y Study was filed with the Commission on April 15, 2014 in Docket No. ER14-1724-000, in support of the Original White Pine SSR Agreement.<sup>38</sup> MISO explains that, according to the terms of the Original White Pine SSR Agreement, MISO notified White Pine that the SSR designation for White Pine Unit No. 1 might be necessary for an additional term of 12 months.<sup>39</sup> During MISO's review of the continued need for the SSR designation, MISO determined that the result of the original Attachment Y Study remained the same under expected conditions.<sup>40</sup>

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<sup>36</sup> Revised White Pine SSR Agreement Filing, Transmittal Letter at 2.

<sup>37</sup> *Id.*, Ex. A (MISO Notice of Extension).

<sup>38</sup> *Id.*, Transmittal Letter at 5, Ex. C (Reddoch Aff.) at 1.

<sup>39</sup> *Id.*, Transmittal Letter at 2-3.

<sup>40</sup> *Id.*, Ex. C (Reddoch Aff.) at 1. The specific upgrade is identified as MISO Transmission Expansion Plan 15 (MTEP15) project 8089.

19. MISO states that it provided for an open stakeholder planning process to assess feasible alternatives to an SSR agreement.<sup>41</sup> MISO states that it held a West Technical Study Task Force stakeholder meeting on February 10, 2015 to further address the need for SSR status of White Pine Unit No. 1 and discuss feasible alternatives. According to MISO, the stakeholder discussions concluded that: (1) generation redispatch, system reconfiguration, special protection schemes, and/or operating guides would not fully address the reliability issues; (2) no new generation would be in commercial operation prior to the end of the Original White Pine SSR Agreement; (3) demand response would not be practical as it would be required from several customers and would not be readily available; and (4) a transmission solution proposed by ATC, which would rebuild a 69 kV transmission line and convert the line to 138 kV operation, had an estimated in-service date of December 31, 2021.<sup>42</sup> MISO states that stakeholders also discussed the availability of another generating unit in the West Upper Peninsula (the Portage generator). However, MISO's studies demonstrated that the Portage generator was only adequate to replace White Pine Unit No. 2; MISO concluded that White Pine Unit No. 1 is required to be available while the Portage generator is available in order to fully address the severe thermal overloads during the planned plus forced outage events.<sup>43</sup> MISO concludes that White Pine Unit No. 1 will be required as an SSR Unit until completion of a transmission project to address the reliability issues caused by the unit's retirement.

**ii. Commission Determination**

20. We find that MISO has studied the continued need for SSR status for White Pine Unit No. 1 and determined that the unit is necessary for system reliability, and therefore, should continue to be designated as an SSR Unit. We find that MISO has justified the need for the unit and has provided sufficient evidence demonstrating that it is necessary to mitigate NERC Category B and Category C contingencies required by NERC Reliability Standards TPL-002-0b (System Performance Following Loss of a Single Bulk Electric System Element (Category B)) and TPL-003-0a (System Performance Following Loss of Two or More Bulk Electric System Elements (Category C)),<sup>44</sup> respectively, and

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<sup>41</sup> *Id.*, Transmittal Letter at 5.

<sup>42</sup> *Id.* at 5-6.

<sup>43</sup> *Id.*, Ex. C (Reddoch Aff.) at 1-2.

<sup>44</sup> See N. Am. Elec. Reliability Corp., *Reliability Standards for the Bulk Electric Systems of North America* (July 26, 2013), available at: <http://www.nerc.com/pa/Stand/Reliability%20Standards%20Complete%20Set/RSCompleteSet.pdf>.

that the unit will continue to be necessary until transmission upgrades can be put into service. As such, MISO has supported continued SSR designation for White Pine Unit No. 1 as a last resort measure to ensure reliability.<sup>45</sup>

21. We accept MISO's explanation of its alternatives assessment. We find that MISO and its stakeholders adequately reviewed the potential for alternatives to continued SSR designation, but that no feasible solutions were identified. We further find that MISO properly considered and ruled out the Portage generator as an alternative, due to the inability of the generator to serve as adequate replacement for both White Pine Unit No. 1 and White Pine Unit No. 2.

**b. Modification of Attachment Y-1 Form Agreement**

**i. Filing**

22. MISO states that there are novel legal issues or other unique factors that justify departures from the *pro forma* SSR agreement contained in Attachment Y-1 to MISO's Tariff.<sup>46</sup> These changes to the *pro forma* agreement include: (1) a new section 7.F providing for compensation for output during times of testing;<sup>47</sup> (2) a new paragraph in section 9.E preserving MISO's access to a boiler that is part of the retired White Pine Unit No. 2, which is intended to help MISO address an unanticipated repair situation involving the boiler that is part of White Pine Unit No. 1; and (3) a new placeholder Exhibit 3 to be used in future filings to describe the compensation for unanticipated repairs where such repairs are undertaken under the terms of the Revised White Pine SSR Agreement.<sup>48</sup> Exhibit 2 to the Revised White Pine SSR Agreement has also been revised to remove provisions for turbine generator overhaul and to add language providing compensation for testing of the White Pine Unit No. 1 condenser under the unanticipated

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<sup>45</sup> See 2012 SSR Order, 140 FERC ¶ 61,237 at PP 134-139.

<sup>46</sup> Revised White Pine SSR Agreement Filing, Transmittal Letter at 3.

<sup>47</sup> MISO states that this provision has been recently accepted by the Commission for SSR agreements that involve the Presque Isle SSR Units and the Escanaba SSR Units. *Id.* (citing *Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,114 (2014); *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,238 (2015)).

<sup>48</sup> *Id.* at 4.

repair terms of section 9.E, rather than monetary compensation for repair of the condenser up front.<sup>49</sup>

**ii. Commission Determination**

23. We find the proposed modifications to the Attachment Y-1 form agreement to be just and reasonable. The Commission has previously accepted similar provisions on cooperation and compensation associated with testing in the Presque Isle SSR agreement accepted in Docket No. ER14-2860-000 and the Edwards Unit 1 SSR agreement accepted in Docket No. ER15-943-000.<sup>50</sup> We also find that MISO has adequately clarified the type of additional compensation that might be requested for unanticipated repairs under section 9.E of the Revised White Pine SSR Agreement, and we find this provision consistent with a similar provision accepted by the Commission.<sup>51</sup>

**c. SSR Cost Determination**

**i. Filing**

24. MISO states that the Revised White Pine SSR Agreement provides for recovery of both fixed and variable costs to maintain the availability of White Pine Unit No. 1 for reliability.<sup>52</sup> Under Exhibit 2 of the agreement, MISO will pay White Pine a fixed monthly payment of \$605,961.39 to compensate White Pine for maintaining the availability of the SSR Unit. This monthly amount covers the total anticipated annual fixed costs of \$7,271,537 during the Revised White Pine SSR Agreement term.<sup>53</sup> This monthly amount includes several anticipated capital repairs and related projects, all of which are listed in new Exhibit 4 to the agreement, and which will be undertaken by White Pine to repair/replace/update the facilities due to the age and condition of the

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<sup>49</sup> MISO states that compensation for any necessary repairs identified by the testing will be the subject of a future filing requesting compensation for unanticipated repairs under section 9.E of the Revised White Pine SSR Agreement. *Id.*

<sup>50</sup> See *Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,114 (2014) and *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,238 (2015).

<sup>51</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,114 at P 58.

<sup>52</sup> Revised White Pine SSR Agreement Filing, Transmittal Letter at 8, Ex. D (Revised White Pine SSR Agreement) at Ex. 2 (Description of SSR Unit Compensation).

<sup>53</sup> *Id.*, Ex. E (Walsh Aff.) at 7.

White Pine plant and the anticipated need for the White Pine Unit No. 1 as an SSR Unit for a number of years.<sup>54</sup> This monthly amount also includes compensation for maintaining the operability and availability of the boiler that is part of White Pine Unit No. 2. MISO states that the affidavit of Steven L. Walsh supports the proposed rates, which are just and reasonable and no more than necessary to maintain the availability of White Pine Unit No. 1 as long as needed for reliability.<sup>55</sup> According to the Walsh affidavit, the proposed cost compensation is based on historical data for the last three years covering the direct costs of operating and maintaining White Pine Unit No. 1.<sup>56</sup> The Walsh affidavit also estimates the additional capital expenditures for maintaining operability of White Pine Unit No. 1 at \$2,039,500 and provides a description of each anticipated capital cost component.<sup>57</sup>

25. MISO states that the Revised White Pine SSR Agreement provides for variable generation costs when MISO dispatches an SSR Unit to maintain system reliability.<sup>58</sup> MISO states that the Revised White Pine SSR Agreement contains equitable mechanisms to ensure that when the White Pine SSR Unit is dispatched, White Pine will not receive market revenues above variable generation costs.

## ii. Protests

26. The Michigan Commission protests the \$7,271,537 total anticipated annual level of fixed SSR costs reflected in the Revised White Pine SSR Agreement, which has increased from \$4,674,011 in the Original White Pine SSR Agreement, and disputes the inclusion of fixed costs such as depreciation expense, taxes, and return on equity in SSR agreements.<sup>59</sup> The Michigan Commission contends that there is a lack of sufficient information to determine the reasonableness of the proposed level of SSR costs. Furthermore, the Michigan Commission protests the projection of the levels of operation and maintenance costs based on three-year averages incurred during past periods, without any support for the assumption that past history will be reflective of future use of White

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<sup>54</sup> *Id.*, Transmittal Letter at 4.

<sup>55</sup> *Id.* at 8.

<sup>56</sup> *Id.*, Ex. E (Walsh Aff.) at 4.

<sup>57</sup> *Id.* at 5-7, Table 2.

<sup>58</sup> *Id.*, Transmittal Letter at 8.

<sup>59</sup> Michigan Commission Protest at 4.

Pine Unit No. 1. The Michigan Commission also opposes the inclusion of proposed SSR costs based on estimates of capital expenditure which may not actually be incurred. The Michigan Commission requests that the Commission require MISO to file detailed workpapers supporting its claimed levels of SSR costs and an explanation supporting the allocation of common costs to White Pine Unit No. 1. The Michigan Commission also protests the inclusion of projected costs without a true-up mechanism, maintaining that such a mechanism is necessary to keep SSR costs at just and reasonable levels and to avoid repetitive litigation.<sup>60</sup> The Michigan Commission notes that the Commission has approved a true-up mechanism for SSR costs involving the Presque Isle generation units, and should do so here.

27. UPPCo also contends that neither MISO nor White Pine has provided sufficient information to determine whether the rates are just and reasonable.<sup>61</sup> Specifically, UPPCo states that: (1) the cost information submitted by White Pine is listed in broad categories without detailed supporting information, and uses the same general cost categories that the Commission found to be insufficient with respect to the SSR agreement for White Pine Unit No. 2;<sup>62</sup> (2) costs appear to be overstated, e.g., the annual non-capital costs in the Revised White Pine SSR Agreement are six times the annual non-capital costs in the Original White Pine SSR Agreement and include several new cost categories, which alone add more than 10 percent to the non-capital costs; (3) White Pine used a three-year average for the non-capital costs, when UPPCo asserts many of the costs decreased significantly over that time period; (4) customers are unable to adequately determine how White Pine allocated non-capital costs at the White Pine generating station between White Pine Unit Nos. 1 and 2; (5) capital costs should not be collected immediately, but should be included in White Pine's plant investment as they are completed, and then depreciated over White Pine Unit No. 1's expected remaining life; and (6) White Pine failed to provide any engineering studies to justify the \$2 million capital costs expenditure.<sup>63</sup>

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<sup>60</sup> *Id.* at 5.

<sup>61</sup> UPPCo Protest at 3.

<sup>62</sup> *Id.* at 4 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,147 at P 37).

<sup>63</sup> *Id.* at 4-6.

iii. MISO Answer

28. MISO states that there is no basis for the Michigan Commission's argument that the Revised White Pine SSR Agreement should not include fixed costs, because MISO notes that the Commission recently found that compensation to SSR Unit owners should not exceed a resource's full cost-of-service, including the fixed costs of existing plant.<sup>64</sup> MISO states that the Revised White Pine SSR Agreement includes such allowable fixed costs, which accounts for the additional categories of costs that increase the SSR compensation amount above the amount stated in the Original White Pine SSR Agreement.<sup>65</sup> MISO states that the negotiated cost compensation under the Revised White Pine SSR Agreement is properly based on historical data where cost items are expected to be repeated over time, and that expected capital costs are properly included because White Pine Unit No. 1 is an aging unit that will require additional attention to maintain.<sup>66</sup> MISO argues that the Walsh affidavit provides proper support for such costs, as it describes capital costs in detailed line items.<sup>67</sup> MISO also responds to the Michigan Commission's argument that precedent supports the use of a true-up mechanism to ensure that the level of SSR costs recovered by White Pine is actually incurred. MISO states that the precedent cited by the Michigan Commission is associated with the Presque Isle SSR Units, and of the nine SSR agreements filed by MISO, only the second Presque Isle SSR agreement contains the true-up mechanism.<sup>68</sup> MISO states that the true-up mechanism was negotiated by the parties because the Presque Isle plant involved very large SSR costs, but that here, the parties did not negotiate such a true-up mechanism, and one is not required.

29. MISO responds to the argument from the Michigan Commission and UPPCo that there is no support for the use of a three-year average (2012-2014) for non-capital costs. MISO states that many of the non-capital costs actually increased from 2012-2014, such

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<sup>64</sup> MISO Answer at 4-5 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,057, at P 87 (2014)).

<sup>65</sup> *Id.* at 5.

<sup>66</sup> *Id.* at 5-6.

<sup>67</sup> *Id.* at 6.

<sup>68</sup> *Id.* at 6-7.

that persons paying for the extended service of White Pine Unit No. 1 benefit from the use of the three-year average.<sup>69</sup>

30. MISO responds to UPPCo's argument that it is unable to determine how MISO allocated non-capital costs between White Pine Unit No. 1 and White Pine Unit No. 2. MISO states that White Pine Unit No. 2 is retired, and thus cannot share the common costs of operating the overall White Pine generating station.<sup>70</sup> MISO states that the costs associated with continued operation of White Pine Unit No. 1 are more than half the costs associated with operating both White Pine Unit No. 1 and White Pine Unit No. 2, because economies of scale make each additional unit less costly to operate. MISO notes that when it proposed the Original White Pine SSR Agreement, White Pine Unit No. 2 was still operational; thus, compensation under that agreement was lower because White Pine Unit No. 2 shared the White Pine generating station's operation cost.<sup>71</sup> MISO explains that under the Revised White Pine SSR Agreement, White Pine Unit No. 1 is the last remaining unit in service that causes White Pine to incur base station costs, and the revised SSR compensation reflects this circumstance.

31. MISO refutes UPPCo's argument that capital items should be included in White Pine's plant investment as they are completed and then depreciated over the remaining life of White Pine Unit No. 1. MISO states that this "rate base" approach has never been taken in other SSR agreements that included capital expenditures.<sup>72</sup> MISO argues that the history of SSR agreements in the Upper Peninsula of Michigan demonstrates that such agreements can be short-lived despite earlier intentions that the arrangements continue, and that compensation for recovery of capital costs in the Revised White Pine SSR Agreement is appropriate.

#### iv. Commission Determination

32. Based upon a review of the filing and the comments, we find that the SSR compensation proposed under the Revised White Pine SSR Agreement presents issues of material fact that cannot be resolved based on the record before us. Our preliminary analysis indicates that the SSR compensation under the Revised White Pine SSR Agreement has not been shown to be just and reasonable, and may be unjust,

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<sup>69</sup> *Id.* at 7.

<sup>70</sup> *Id.* at 8.

<sup>71</sup> *Id.* at 9.

<sup>72</sup> *Id.* at 9-10.

unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we accept the Revised White Pine SSR Agreement for filing, suspend it for a nominal period, to become effective April 16, 2015, subject to refund, and set all SSR cost-related issues for hearing and settlement judge procedures.

33. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>73</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.<sup>74</sup> The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

**d. Effective Date and Duration of the Restated White Pine SSR Agreement Filing**

**i. Filing**

34. MISO states that the Revised White Pine SSR Agreement appears to be required until a transmission upgrade (with an estimated in-service date of December 31, 2021) renders the SSR designation unnecessary.<sup>75</sup> However, in accordance with section 38.2.7e of the Tariff, MISO proposes a term of 12 months. MISO states that it will annually review the SSR Unit and system characteristics to determine whether White Pine Unit No. 1 remains qualified for SSR status. MISO states that it may terminate the White Pine

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<sup>73</sup> 18 C.F.R. § 385.603 (2014).

<sup>74</sup> If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of the date of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

<sup>75</sup> Revised White Pine SSR Agreement Filing, Transmittal Letter at 6.

SSR Agreement on 90 days' notice in its sole discretion, so that customers will not have to pay the SSR costs for any longer than necessary to ensure reliability.<sup>76</sup>

35. MISO requests that the Commission waive the prior notice requirement and grant an effective date of April 16, 2015 for the Revised White Pine SSR Agreement.<sup>77</sup> MISO states that the Revised White Pine SSR Agreement was submitted as soon as possible following the complex process of notification, evaluation, decision-making, and negotiation, including assessing the feasibility of possible alternatives to the designation of White Pine Unit No. 1 as an SSR Unit. MISO states that negotiation of the Revised White Pine SSR Agreement could not be completed by earlier than the proposed effective date. According to MISO, good cause exists to grant the waiver because, if the April 16, 2015 effective date is not granted, White Pine will have provided SSR service on an uncompensated basis while the required Tariff process took its course. Alternatively, MISO requests an effective date of April 16, 2015, consistent with the Commission's rule that service agreements must be filed within 30 days of commencing service. MISO states that the Revised White Pine SSR Agreement is a *pro forma* agreement included in the Tariff, the executed version of which is therefore a service agreement.<sup>78</sup>

## ii. Commission Determination

36. We grant waiver of the prior notice requirement and allow the proposed Revised White Pine SSR Agreement to be effective April 16, 2015, as requested, for a term of 12 months. As the Commission has previously explained, "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."<sup>79</sup> Here, the record indicates that White Pine Unit No. 1 has been providing reliability service pursuant to the Revised White Pine SSR Agreement since April 16,

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<sup>76</sup> *Id.* at 8.

<sup>77</sup> *Id.* at 7.

<sup>78</sup> MISO notes that 18 C.F.R. § 35.10(a) (2014) allows public utilities to adopt standard form of service agreements as part of the utility's tariff on file with the Commission. MISO further states that under 18 C.F.R. § 35.3(a)(2) (2014), service agreements (defined at 18 C.F.R. § 35.2 (2014) as "an agreement that authorizes a customer to electric service under the terms of the Tariff") need only be filed within 30 days after service has commenced.

<sup>79</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,170, at P 84 (2013).

2015. Thus, it is appropriate that White Pine be made whole for the costs it incurred while providing SSR service. However, we note that the circumstances surrounding the need for this SSR agreement indicate that White Pine Unit No. 1 may be needed after April 15, 2016. If MISO determines that White Pine Unit No. 1 is needed beyond April 15, 2016, MISO must file a revised SSR agreement with the Commission and must justify that no alternatives exist to designation of White Pine Unit No. 1 as an SSR Unit.

## 2. Revised Rate Schedule 43H

### a. Filing

37. MISO proposes to allocate the SSR costs using MISO's previous ATC *pro rata* SSR cost allocation method, i.e., among all LSEs in the footprint of ATC on a *pro rata* basis, based upon each entity's contribution to the peak of its LBA.<sup>80</sup> MISO recognizes that this method of cost allocation is subject to the directives in the February 2015 SSR Rehearing Order, but notes that the instant filing is submitted before the May 20, 2015 due date for the MISO compliance filing that will propose a new cost allocation methodology to allocate SSR costs directly to those LSEs that benefit from operation of the SSR Units. MISO argues that those proceedings should not result in delay to compensating White Pine for keeping White Pine Unit No. 1 available as an SSR Unit. MISO argues that the Commission should accept Revised Rate Schedule 43H, subject to compliance with the existing Commission directives in the February 2015 SSR Rehearing Order, and subject to refund.<sup>81</sup>

38. Consistent with its earlier practice, MISO states that Revised Rate Schedule 43H accomplishes the SSR cost allocation based upon peak usage of transmission facilities in each month, as determined by each LSE's actual energy withdrawals during the monthly peak hour for each LBA.<sup>82</sup> In this way, MISO notes that the percentage of costs allocated to each LSE will vary each month based on the entity's coincident peak hour energy usage during that month.

39. MISO requests waiver of the prior notice requirement to allow Revised Rate Schedule 43H to go into effect on April 16, 2015, to correspond with the effective date of

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<sup>80</sup> Revised Rate Schedule 43H Filing, Transmittal Letter at 3.

<sup>81</sup> *Id.* at 3-4.

<sup>82</sup> *Id.* at 4.

the Revised White Pine SSR Agreement.<sup>83</sup> MISO states that good cause exists to grant the waiver for the same reasons given in Docket No. ER15-1535-000.

**b. Protests**

40. The Michigan Commission notes that it protests any change from the as-filed ATC *pro rata* SSR cost allocation in the absence of a showing that changed circumstances or new evidence has caused the existing method to be unjust and unreasonable.<sup>84</sup> The Michigan Commission contends that the existing methodology is just and reasonable, administratively efficient, and similar to the methodology used to allocate costs of transmission projects.<sup>85</sup> It maintains that consistency between such cost allocations ensures that customers in the Upper Peninsula of Michigan are not financially harmed by the delayed in-service date of an alternate transmission project. The Michigan Commission argues that Upper Peninsula customers will be disproportionately harmed if costs increase under a new methodology, as Upper Peninsula customers have paid a *pro rata* share of the cost of transmission projects built to resolve reliability issues in other portions of the ATC zone. The Michigan Commission notes that it has filed a Petition for Review in the Court of Appeals for the District of Columbia Circuit of the February 2015 SSR Rehearing Order's finding that the existing allocation methodology is unjust and unreasonable, and also seeks court review regarding the imposition of a retroactive effective date.

41. The City of Escanaba conditionally protests MISO's cost allocation for White Pine Unit No. 1 insofar as MISO concedes that the cost allocation will be subject to the outcome of the ongoing SSR proceedings subject to the February 2015 SSR Rehearing Order.<sup>86</sup> The City of Escanaba reserves its right to submit comments on the Revised White Pine SSR Agreement and Revised Rate Schedule 43H after the May 20, 2015 compliance filing is submitted in accordance with the February 2015 SSR Rehearing Order.

42. UPPCo argues that Revised Rate Schedule 43H is inconsistent with the Commission's determination in the Wisconsin Commission Complaint Order and the February 2015 SSR Rehearing Order that the ATC *pro rata* SSR cost allocation method

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<sup>83</sup> *Id.* at 5.

<sup>84</sup> Michigan Commission Protest at 5.

<sup>85</sup> *Id.* at 6.

<sup>86</sup> The City of Escanaba Protest at 1.

is unjust and unreasonable.<sup>87</sup> UPPCo requests that the Commission suspend Revised Rate Schedule 43H, subject to refund and compliance filing, pending the outcome of the Commission's review of the new cost allocation methodology filed by MISO on May 20, 2015 in Docket No. ER14-2952-003.

**c. Commission Determination**

43. We conditionally accept Revised Rate Schedule 43H, suspend it for a nominal period, to be effective April 16, 2015, as requested, subject to refund, and subject to the outcome of the SSR cost allocation proceeding in Docket No. ER14-2952. We find it just and reasonable for MISO to propose cost allocation for the White Pine SSR Unit in the instant filing consistent with MISO's ATC *pro rata* SSR cost allocation practice, as the Commission has not yet approved a new study methodology that could be used to allocate White Pine SSR Unit costs directly to the LSEs that benefit from operation of the SSR Unit.<sup>88</sup> As discussed below, when the Commission ultimately approves MISO's new study methodology, MISO must submit a new Revised Rate Schedule 43H.

44. In the Wisconsin Commission Complaint Order, the Commission found that the ATC *pro rata* SSR cost allocation provision did not follow cost causation principles and directed MISO to extend to the ATC footprint MISO's general SSR cost allocation Tariff language, which requires MISO to allocate SSR costs to "the LSE(s) which require(s) the operation of the SSR Unit for reliability purposes."<sup>89</sup> However, in the February 2015 SSR Rehearing Order, the Commission granted clarification and found that MISO's general SSR cost allocation practice, when applied to the allocation of SSR costs associated with three SSR Units located in the ATC footprint, failed to allocate SSR costs directly to the LSEs that benefit from those SSR Units.<sup>90</sup> The Commission required MISO to submit in a compliance filing a new study methodology that identifies the LSEs that require the White Pine SSR Unit for reliability purposes. This compliance filing was submitted by MISO on May 20, 2015 in Docket No. ER14-2952-003 and is pending before the Commission.

45. Within 30 days of a Commission order approving a new study methodology, MISO must submit a new Revised Rate Schedule 43H that identifies the LSEs which

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<sup>87</sup> UPPCo Protest at 6-7.

<sup>88</sup> As such, we reject UPPCo's protest.

<sup>89</sup> Wisconsin Commission Complaint Order, 148 FERC ¶ 61,071 at PP 59-61, 66.

<sup>90</sup> February 2015 SSR Rehearing Order, 150 FERC ¶ 61,104 at PP 83-86.

require the operation of White Pine Unit No. 1 for reliability purposes and Tariff revisions adjusting the SSR cost allocation under Revised Rate Schedule 43H such that White Pine SSR costs are allocated in accordance with the new study methodology, with such revised cost allocation to be effective as of April 16, 2015. Consistent with the Commission's prior orders, MISO must refund, with interest, any costs allocated to LSEs under Revised Rate Schedule 43H from April 16, 2015 that are higher than the costs to be allocated to those LSEs according to the approved study methodology.<sup>91</sup>

46. We reject as an untimely request for rehearing the Michigan's Commission's contention that the ATC *pro rata* SSR cost allocation provision continues to be just and reasonable, as the Commission has already ruled that the provision does not follow cost causation principles.<sup>92</sup> We also reject the Michigan Commission's contention that the revised study methodology ordered by the Commission in the February 2015 SSR Rehearing Order may be unjust and unreasonable, as we find this argument premature. For this same reason, we reject the protest filed by the City of Escanaba. The Commission will rule on the justness and reasonableness of MISO's new study methodology in a future order.

The Commission orders:

(A) The Revised White Pine SSR Agreement is hereby accepted for filing, suspended for a nominal period, to be effective April 16, 2015, as requested, subject to refund, as discussed in the body of this order.

(B) Revised Rate Schedule 43H is hereby conditionally accepted for filing, suspended for a nominal period, to be effective April 16, 2015, as requested, subject to refund, and subject to the outcome of the SSR cost allocation proceeding in Docket No. ER14-2952.

(C) MISO is hereby directed to make a compliance filing within 30 days of a Commission order accepting MISO's new study methodology in Docket No. ER14-2952, 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

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<sup>91</sup> See August 2014 White Pine Order, 148 FERC ¶ 61,136 at P 44; February 2015 SSR Rehearing Order, 150 FERC ¶ 61,104 at P 89.

<sup>92</sup> Wisconsin Commission Complaint Order, 148 FERC ¶ 61,071 at PP 59-61, *aff'd on reh'g*, 150 FERC ¶ 61,104 at PP 73-79.

Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, 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 MISO's proposed costs under the Revised White Pine 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 Ordering Paragraphs (E) and (F) below.

(E) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2014), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 15 days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five days of the date of this order.

(F) Within 30 days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(G) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within 15 days of the date of the presiding judge's designation, convene a prehearing conference in this proceeding in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided by the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.