

153 FERC ¶ 61,153
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Gulf States Louisiana, L.L.C.	Docket Nos. ER14-1263-000
Entergy Louisiana, LLC	ER14-1264-000
Entergy Mississippi, Inc.	ER14-1265-000
Entergy New Orleans, Inc.	ER14-1266-000
Entergy Texas, Inc.	ER14-1267-000
Entergy Arkansas, Inc.	ER14-1268-000

ORDER ACCEPTING COMPLIANCE FILINGS

(Issued November 9, 2015)

1. On February 5, 2014, Entergy Services, Inc. (Entergy), as agent and on behalf of the Entergy Operating Companies (Operating Companies),¹ submitted a compliance filing (Compliance Filing) in order to comply with the directive in the December 18, 2013 order² in Docket No. ER13-432-000 to provide revised tariff sheets incorporating into Service Schedule MSS-3 of the Entergy System Agreement (System Agreement) an energy-based allocator to allocate losses, ancillary services, and uplift among the Operating Companies.³ In this order, we accept Entergy's Compliance Filings.

¹ The Operating Companies are Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc. (Entergy Mississippi), Entergy Texas, Inc., and Entergy New Orleans, Inc.

² *Entergy Servs., Inc.*, 145 FERC ¶ 61,247 (2013) (December 18 Order).

³ Entergy's initial filing in Docket No. ER13-432-000 was not submitted through eTariff, but the Compliance Filing contains revised tariff sheets and thus is submitted through eTariff as revisions to the tariffs of each Operating Company, generating new docket numbers. In this order we will refer to the filing as Compliance Filing or Compliance Filings, as appropriate.

I. Background

2. In April 2011, Entergy and the Midwest Independent Transmission System Operator, Inc. (MISO)⁴ announced a proposal for the Operating Companies to join MISO effective December 19, 2013. On November 20, 2012, in Docket No. ER13-432, Entergy filed under section 205 of the Federal Power Act (FPA)⁵ proposed amendments to the System Agreement (Proposed Amendments) consisting primarily of technical revisions needed to address Entergy Arkansas' withdrawal from the System Agreement and to allocate costs that the Operating Companies will incur in MISO among the remaining Operating Companies participating in the System Agreement.

3. In the Proposed Amendments filing, Entergy proposed to allocate losses, ancillary services charges and credits, and uplift charges and credits to load of each participating Operating Company based on a Responsibility Ratio as defined in section 2.18(a) of the System Agreement. The Responsibility Ratio is used in various service schedules of the System Agreement in order to allocate costs or benefits among the participating Operating Companies based on peak-load demand.

4. The Mississippi Public Service Commission (Mississippi Commission) protested Entergy's proposed demand-based allocation methodology on the basis that it conflicted with the allocation methodology under MISO's Open Access Transmission, Energy and Operating Reserves Markets Tariff (MISO Tariff) and under the System Agreement.⁶ The Mississippi Commission argued that Entergy's filing proposed to replace the existing energy-based System Agreement allocation methodology with a methodology that allocates MISO's energy-based costs through a new demand-based allocator, and that change may not be neutral in its effects across Operating Companies.⁷

⁴ Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

⁵ 16 U.S.C. § 824d (2012).

⁶ December 18 Order, 145 FERC ¶ 61,247 at PP 137, 149, 161.

⁷ *Id.* PP 137-138.

5. In an answer, Entergy did not object to the use of an energy-based allocator⁸ for the allocation of losses, ancillary services, and uplift to load. Entergy stated that to address the Mississippi Commission's concerns, it would commit to file revisions to the System Agreement to incorporate an energy-based allocator in a compliance filing.⁹

6. In an answer to Entergy's answer, the Louisiana Public Service Commission (Louisiana Commission) challenged Entergy's revised proposal on the grounds that it failed to provide notice regarding the change in allocation methodology agreed to in Entergy's answer; that it lacked actual or *pro forma* data, testimony or other evidence by Entergy to support this approach, and that it lacked tariff sheets clearly describing the modified approach.¹⁰ The Louisiana Commission stated that the Commission cannot approve a proposal it has never seen.¹¹

7. In the December 18 Order, the Commission conditionally accepted Entergy's revised proposal for allocation of losses, ancillary services, and uplift to load, subject to Entergy filing revised tariff sheets within thirty days to use energy as the basis for the allocator instead of peak demand, as Entergy agreed to in its answer.¹² The Commission accepted the use of an energy-based allocator "in principle, subject to a compliance filing in which Entergy will be required to provide tariff sheets specifying how the energy-based allocator will be calculated, with appropriate support."¹³ The Commission stated that there was a sufficient basis to accept an energy-based allocator in principle, and that

⁸ *Id.* PP 140, 151, 162. Entergy did not define "energy-based allocator" or otherwise provide tariff sheets that would clarify its meaning, but said that this change to its original filing was responsive to the Mississippi Commission's January 22, 2013 Comments. In those comments, the Mississippi Commission defined the current approach of both the System Agreement and the MISO Tariff's Marginal Loss Component as "tied predominantly to kWh of energy use," which was the allocation methodology it recommended that Entergy employ for allocation of these costs. *Id.* n.177.

⁹ *Id.* P 140.

¹⁰ *Id.* P 141.

¹¹ *Id.*

¹² *Id.* PP 142, 153, 164.

¹³ *Id.*

parties such as the Louisiana Commission would have an opportunity to comment upon Entergy's proposal in Entergy's compliance filing.¹⁴

8. On January 17, 2014, Entergy submitted the Compliance Filing for the six Operating Companies in Docket Nos. ER14-1090-000, ER14-1091-000, ER14-1092-000, ER14-1093-000, ER14-1094-000, and ER14-1097-000. However, Entergy submitted the filings using an incorrect filing code, and therefore, on January 31, 2014, Entergy withdrew the filings in those dockets. Entergy resubmitted its filings on behalf of the Operating Companies with the instant submissions and requests that the Commission consider the instant filings to be submitted on a timely basis in light of its initial timely compliance filings submitted on January 17, 2014.

II. Entergy's Compliance Filing

9. Entergy contends that it has complied with the Commission's directives in the December 18 Order by eliminating from the Service Schedule MSS-3 tariff sheets the demand-based allocator for allocating losses, ancillary services and uplift charges and credits to load and replacing it with an energy-based allocator. Entergy states that in System Agreement section 30.15 – Allocation of Losses, section 30.16 – Allocation of Ancillary Services Charges and Credits Related to Load Zones, and section 30.18 – Allocation of Uplift Charges or Credits Related to Load Zones, it has eliminated the defined term Responsibility Ratio, which was the originally proposed demand-based allocation methodology.¹⁵ Entergy states that in its place it has added a new defined term Monthly Energy Ratio, defined as “the monthly ratio of each Operating Company's MWh load to the total System monthly load in MWh for the System Agreement Companies for the month.”¹⁶

10. Entergy states that the Intra-System Bill¹⁷ energy load data will be used to calculate the Monthly Energy Ratio.¹⁸ Entergy states that the Operating Company load

¹⁴ *Id.* P 145.

¹⁵ Entergy Transmittal at 3.

¹⁶ *Id.*

¹⁷ Entergy states that the Intra-System Bill is the detailed monthly invoice of costs to be paid and revenues to be received by each participating Operating Company for the transactions that occurred pursuant to the System Agreement during the month, and that the term Intra-System Bill is also often used to describe the inter-related set of computer programs and databases that are used to prepare the invoice known as the Intra-System Bill.

and the System load in MWh, as used in the defined term Monthly Energy Ratio, are currently shown in the energy summary of Attachment 1 to the Intra-System Bill in the column labeled “to net area.”¹⁹

11. Entergy notes that section 30.13 of the System Agreement contains an Energy Ratio variable based on FERC Form 1 data for purposes of the annual bandwidth calculation.²⁰ However, because FERC Form 1 contains annual data filed in April every year, Entergy states that it does not believe it is appropriate to use FERC Form 1 data for the monthly allocation of losses, ancillary services, and uplift charges and credits to load.²¹

12. Entergy requests that the Commission accept the revised Service Schedule MSS-3 tariff sheets for filing with an effective date of December 19, 2013.²² In addition, Entergy asserts that while it is requesting an effective date consistent with the Operating Companies’ integration into MISO, the switch from a demand-based allocator to an energy-based allocator for losses, ancillary services, and uplift requires Entergy personnel to perform the necessary changes to the Intra-System Bill software. In order to accommodate the programming changes, Entergy proposes to implement the energy-based allocator on a prospective basis beginning on February 1, 2014, stating that it will calculate the difference between the demand-based allocator and energy-based allocator for losses, ancillary services, and uplift for the period between December 19, 2013 and January 31, 2014, process any refunds and surcharges, and file a refund report at FERC no later than March 15, 2014.²³

III. Notice of Filing and Responsive Pleadings

13. Notice of Entergy’s filing of the Compliance Filings was published in the *Federal Register*, 79 Fed. Reg. 8445 (2014), with interventions and protests due on or before February 26, 2014. Notices of intervention were filed by the Council of the City of New Orleans (New Orleans), the Louisiana Commission, and the Mississippi Public Service

¹⁸ Entergy Transmittal at 3.

¹⁹ *Id.* at 4.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

Commission (Mississippi Commission). The Mississippi Commission filed comments in support of the Compliance Filings. The Louisiana Commission filed a protest. On February 27, 2014, Entergy filed an answer to the Louisiana Commission's protest.

A. Protests and Comments

14. The Louisiana Commission protests the Compliance Filing on the ground that it is inconsistent with the purpose and intent of the Commission's modifications in the December 18 Order.²⁴ The Louisiana Commission contends that in the December 18 Order the Commission held that the charges for losses, ancillary services and uplift should be based on energy use, to better approximate how the charges are allocated to load in MISO and how they were allocated under the System Agreement before the Operating Companies entered MISO.²⁵ The Louisiana Commission argues that both the MISO Tariff and the pre-MISO System Agreement allocate these costs based on *hourly* energy usage. Therefore, the Louisiana Commission argues that by proposing to allocate these costs based on *monthly* energy usage, Entergy "departs dramatically from the criteria articulated by the Commission."²⁶

15. The Louisiana Commission contends that the December 18 Order determined that the allocations for ancillary service and uplift in the pre-MISO System Agreement and under the MISO Tariff occur on an hourly basis, based on hourly energy usage.²⁷ It also contends that with regard to uplift, in the December 18 Order the Commission determined that the pre-MISO System Agreement allocated "unit commitment cost responsibility on an hourly basis" and "in MISO such costs and credits are largely tied to demands in the market in each dispatch interval..."²⁸ The Louisiana Commission also contends that with regard to losses, the Commission observed that the pre-MISO System Agreement allocated them based on energy use, and in that case the allocation was also based on hourly energy.²⁹

²⁴ Louisiana Commission Protest at 1.

²⁵ *Id.* at 2 (citing December 18 Order, 145 FERC ¶ 61,247 at PP 143, 154, 165).

²⁶ *Id.* at 4.

²⁷ *Id.* at 3.

²⁸ *Id.* (citing December 18 Order, 145 FERC ¶ 61,247 at P 165).

²⁹ *Id.* (citing December 18 Order, 145 FERC ¶ 61,247 at PP 137, 143)

16. The Louisiana Commission asserts that Entergy's proposed allocation method is inconsistent with cost-causation because ancillary services and uplift costs in any given hour are caused by conditions in that hour, not by total energy usage in a month.³⁰ It argues that Entergy's method will misallocate costs and will be inconsistent with principles underlying the pre-MISO System Agreement and the MISO Tariff. The Louisiana Commission similarly argues that losses may vary with changes in hourly demand, so Entergy's proposal may misallocate those costs as well. In addition, the Louisiana Commission contends that "this inconsistency further underscores the folly in interposing System Agreement reallocations between MISO allocations and market participants."³¹ The Louisiana Commission argues that MISO's charges should be assessed to market participants and Entergy's redistribution attempts should be eliminated.³²

17. The Louisiana Commission states that the Commission should reject Entergy's proposed modifications as inconsistent with the December 18 Order, the MISO Tariff, and cost-causation.³³

18. The Mississippi Commission supports the Compliance Filing. It states that it is aware that the Louisiana Commission has sought rehearing of the December 18 Order underlying the present compliance proceeding,³⁴ and submitted a February 12, 2014 protest herein that likewise contests the basis for Entergy's filing. The Mississippi Commission maintains, however, that the December 18 Order was correct and well-founded, both procedurally and substantively.³⁵ Notwithstanding, the Mississippi Commission asserts that as compliance dockets, these proceedings are limited to two questions: whether Entergy has complied with the December 18 Order, and whether any discretion it exercised as to the means of compliance was exercised properly.³⁶

³⁰ *Id.* at 4.

³¹ *Id.*

³² *Id.* at 4.

³³ *Id.* at 5.

³⁴ Mississippi Commission Comments at 2 (citing the Louisiana Commission's Request for Rehearing, filed January 17, 2014 in Docket No. ER13-432-001).

³⁵ *Id.* at 2-5.

³⁶ *Id.* at 2-3 (citing *Calpine Oneta Power, L.P.*, 121 FERC ¶ 61,189, at P 14 (2007) ("As the Commission has repeatedly explained, it will not consider arguments raised in a
(continued ...)

19. The Mississippi Commission contends that Entergy's proposal to allocate losses, ancillary services, and uplift costs by applying the Monthly Energy Ratio satisfactorily complies with the Commission's directive to adopt an energy-based allocator.³⁷ The Mississippi Commission also contends that Entergy's proposed energy-based allocator can provide naturally for the partial month of Entergy Mississippi's participation in the System Agreement, under Entergy Mississippi's previously noticed and approved withdrawal date of November 7, 2015.³⁸ It also contends that the allocator ensures that the sum of the participating Operating Companies' numerators will equal the ratio's divisor, and therefore meets Entergy's stated objective of ensuring that the cost allocation causes neither over-recovery nor under-recovery.³⁹

20. In response to the Louisiana Commission's argument that Entergy's proposed monthly energy allocator is not in accord with MISO's hourly energy market, the Mississippi Commission contends that unlike the demand ratio that Entergy had previously filed, summing each hour's energy usage over the course of a month adds up to the monthly energy usage.⁴⁰ It contends that there is no *a priori* basis to assume that the participating Operating Companies' relative contributions to the causation of costs at MISO are systematically different (speaking proportionally) in low-load hours than in high-load hours.⁴¹ Accordingly, the Mississippi Commission argues that there is no *a priori* basis to assume that applying a monthly energy ratio will yield unreasonable results as compared to applying a series of hourly energy ratios, and further, the former approach is simpler and more administratively convenient.⁴²

compliance proceeding that do not respond to the narrow issue of the filing company's compliance with the explicit directives of the Commission in the underlying order.")).

³⁷ *Id.* at 5.

³⁸ *Id.* at 5-6 & n.4. The Mississippi Commission notes that with a demand-based allocator, allocations for November 2015 might vary greatly depending on whether the monthly peak occurred before or after Entergy Mississippi's November 7 withdrawal, while with an energy-based allocator, Entergy Mississippi's contribution to the November 2015 allocation ratio can be quantified as its MWh load during the days before Entergy Mississippi's withdrawal.

³⁹ *Id.* at 6.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

B. Answer

21. In its answer, Entergy contends that the Louisiana Commission protest provides no direct reference to a directive in the December 18 Order that is violated by Entergy's proposal to use a monthly allocator. Entergy argues that in the December 18 Order, the Commission accepted Entergy's proposal to use an energy-based allocator for these items and specifically left it to Entergy to "provide revised tariff sheets specifying how the energy-based allocator will be calculated...."⁴³

22. Entergy states that within MISO, the ancillary services and uplift charges and credits are related to both load zones and to generating units, resulting in four distinct MISO charges: (1) ancillary services charges and credits related to load zones, (2) ancillary services charges and credits related to generating units, (3) uplift charges and credits related to load zones, and (4) uplift charges and credits related to generating units.⁴⁴ Entergy states that the System Agreement allocates the monthly sum of these four charges depending on whether the charge or credit is related to the load zone or the generating unit. Entergy further states that the Louisiana Commission's protest relates to the load zone charges and credits, which are in sections 30.16 and 30.18 of the System Agreement, and if the Commission were to adopt the Louisiana Commission's proposal of choosing an hourly allocation methodology for these charges, then a misalignment would result between the allocation of these charges and credits and the allocation of the ancillary services and uplift charges for generating units, which are in sections 30.17 and 30.19 of the System Agreement. Entergy contends that the use of consistent energy-based allocators will assist with administration of the System Agreement and the calculation of the Intra-System Bill.

23. Entergy also contends that a number of existing cost allocation methodologies in the System Agreement use a monthly allocator.⁴⁵ Specifically, Entergy contends that Service Schedules MSS-1, MSS-2, MSS-6 and short-term purchases apply an allocation methodology that is recomputed monthly and is similar to the monthly allocator that Entergy proposes in the Compliance Filing.

24. Finally, Entergy contends that the fact that MISO allocations of ancillary services and uplift charges and credits occur hourly is not indicative of a need for that level of granularity for those allocations under the System Agreement. Entergy argues that the Commission's task is to determine whether Entergy's proposal is just and reasonable, and

⁴³ *Id.* (citing December 18 Order, 145 FERC ¶ 61,247 at PP 142, 153, 164).

⁴⁴ *Id.* at 3-4.

⁴⁵ *Id.*

the Commission is not required to find that the proposal is the best or superior to all others in order to adopt it.⁴⁶ Entergy argues that its proposal to use a monthly allocator to allocate losses, ancillary services and uplift charges and credits to load zones is just and reasonable, and that there has been no demonstration by the Louisiana Commission that it is not just and reasonable.

IV. Discussion

A. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the notices of intervention serve to make the entities that filed them parties to this proceeding.

26. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Entergy's answer because it has provided information that has assisted us in our decision-making process.

B. Commission Determination

27. We accept the Compliance Filing effective December 19, 2013. We find that the Compliance Filing implements an energy-based allocator to allocate losses, ancillary services, and uplift in accordance with the Commission's directive in the December 18 Order. The December 18 Order accepted Entergy's proposal to use an energy-based allocator and required Entergy to provide revised tariff sheets specifying how the energy-based allocator will be calculated. We find that Entergy has provided sufficient detail in its Compliance Filing to explain how it will calculate the energy-based allocator, and has justified why its proposal is just and reasonable.

28. The Louisiana Commission argues that Entergy's proposed use of a monthly, as opposed to hourly, energy-based allocator violates cost-causation principles. We disagree. We find that Entergy has shown that using a monthly energy-based allocator is just and reasonable, and that the Louisiana Commission's arguments do not show otherwise. So long as the Entergy Operating Companies are parties to the System Agreement, which we discuss above is appropriate until they leave per the terms of the System Agreement or the System Agreement terminates, Entergy's energy exchange will be conducted on a system-wide basis and not based on the economics of individual Operating Companies. It would be unreasonable for congestion, losses, ancillary services, or uplift charges that are assessed by MISO to be treated differently than the

⁴⁶ *Id.*

cost and revenue allocation of the energy with which they are associated. Consequently, congestion, losses, ancillary services, or uplift charges should be allocated in a manner consistent with the single system principle of the System Agreement, which reallocates such costs to the participating Operating Companies.

29. Second, we agree with Entergy's concern that using hourly allocators for allocations under sections 30.16 and 30.18 (which allocate ancillary services and uplift charges and credits to load zones) would be problematic because it would be inconsistent with the monthly allocation of ancillary services and uplift charges and credits related to generating units under sections 30.17 and 30.19.. In such a case, there would be misalignment between how credits and charges are allocated among the participating Operating Companies. Given the use of monthly allocators elsewhere in the System Agreement, we find that Entergy's proposal to use a monthly allocator here is just and reasonable.

30. The Commission addressed the Louisiana Commission's argument that there should be no System Agreement reallocations between MISO allocations and market participants in the December 18 Order.⁴⁷ The Louisiana Commission raises the argument again here. We find its argument to be outside of the scope of this compliance proceeding.

31. Finally, we direct Entergy to file the refund report that it committed to file, within 30 days of the date of this order.

The Commission orders:

Entergy's February 5, 2014 compliance filing is hereby accepted, as discussed in the body of this order, subject to Entergy filing the refund report within 30 days of the date of this order.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴⁷ See December 18 Order, 145 FERC ¶ 61,247 at P 111.