

153 FERC ¶ 61,329
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Xcel Energy Transmission Development
Company, LLC

Docket Nos. ER14-2752-001
ER14-2752-003

ORDER ON COMPLIANCE

(Issued December 22, 2015)

1. On January 8, 2015, Xcel Energy Transmission Development Company, LLC (XETD) submitted a compliance filing containing revisions to its formula rate template in response to the directives of the Commission's November 26, 2014 order accepting XETD's proposed formula transmission rate, subject to condition.¹ Additionally, on March 9, 2015, XETD submitted a compliance filing to revise its formula rate implementation procedures, consistent with the most recent revisions to Midcontinent Independent System Operator, Inc.'s (MISO) formula rate protocols proceedings.² In this order, we accept XETD's compliance filings, subject to condition and further compliance, as discussed below.

¹ *Xcel Energy Transmission Development Co. LLC*, 149 FERC ¶ 61,181 (2014) (November 26 Order).

² *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013), *reh'g denied*, 146 FERC ¶ 61,209 (2014); *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,212 (2014); *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,025 (2015); *Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER13-2379-004 (Aug. 21, 2015) (delegated letter order); *Midcontinent Indep. Sys. Operator, Inc.*, ER13-2379-005 (Aug. 21, 2015) (delegated letter order).

I. Background

2. On August 29, 2014, XETD, a wholly owned subsidiary of Xcel Energy Transmission Holding Company, LLC, which in turn is a first tier subsidiary of Xcel Energy, Inc. (Xcel), filed a transmission formula rate to recover costs associated with transmission projects that it intends to own and develop as part of MISO's Order No. 1000³ competitive solicitation process. XETD stated that its primary focus is on participating in MISO's Order No. 1000 regional transmission planning and competitive solicitation process. XETD's proposed formula transmission rate is comprised of: (1) a formula rate template, which will calculate, on a project-by-project basis, an annual transmission revenue requirement that will be recoverable through the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), and (2) an Annual True-Up, Information Exchange and Challenge Procedures (Protocols) (collectively, Formula Rate). XETD also requested, pursuant to section 205 of the Federal Power Act (FPA)⁴, a hypothetical capital structure and authorization to defer as a regulatory asset all of its prudently incurred costs that are not capitalized, including pre-commercial and formation costs.

3. On November 26, 2014, the Commission accepted the Formula Rate to be effective once filed with the Commission to become part of MISO's Tariff, consistent with the effective date established in that future proceeding, subject to a further compliance filing.⁵ The Commission also granted XETD's request for a hypothetical capital structure and its request for authorization to defer as a regulatory asset its prudently-incurred costs, including pre-commercial and formation costs, effective November 1, 2014.

³ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012), *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

⁴ 16 U.S.C. § 824d (2012).

⁵ November 26 Order, 149 FERC ¶ 61,181.

4. On January 8, 2015, XETD submitted revised tariff sheets in response to the Commission's directives relating to the formula rate template. Separately, on March 9, 2015, XETD submitted a compliance filing to revise its Protocols.⁶

II. Notice of Filing and Responsive Pleading

5. Notice of XETD's January 8, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 2688 (2015), with interventions and protests due on or before January 29, 2015. None was filed. Notice of XETD's March 9, 2015 filing was published in the *Federal Register*, 80 Fed. Reg. 14,127 (2015) with interventions and protests due on or before March 30, 2015. None was filed.

III. Discussion

A. November 26 Order and XETD's Submittal

6. In the November 26 Order, the Commission directed XETD to propose numerous revisions to its formula rate. Among its directives, the Commission directed XETD to justify its calculation of the cost of debt during the construction period and to provide an explanation of how Attachment 8 will be implemented and updated each year.⁷ Specifically, the Commission stated that it was not clear if XETD's forecast through 2020 was illustrative and that only forecasts and actual costs would be included for each year that the rate is implemented, or if XETD was instead going to forecast out for the construction period (2020) and then update each year based on actual interest, withdrawals, origination fees, commitment fees, as well as Commitment, Utilization, and Ratings Fees and directed XETD to explain and support such calculations.

7. In response, XETD submitted a revised Attachment 8 template with new clarifying notes to explain the calculation of the cost of debt during the construction period for its first project and explain how Attachment 8 will be implemented and updated each year

⁶ XETD submitted a separate compliance filing in Docket No. ER14-2752-002 providing additional supporting documents explaining the cost allocation and direct assignment to XETD from its parent companies or affiliates. On September 22, 2015, Commission staff, pursuant to delegated authority, issued a deficiency letter requesting additional information relating to such cost allocation and direct assignment. XETD was granted an extension of time to respond to that deficiency letter until November 23, 2015. Issues relating to XETD's cost allocation and direct assignment will be addressed in a separate order.

⁷ November 26 Order, 149 FERC ¶ 61,181 at P 34.

prior to the project being placed in service. XETD states that the new notes clarify that the forecast through 2020 in Attachment 8 was an estimate provided for illustrative purposes. Note EE of Attachment O explains that, prior to issuing any debt, XETD's cost of debt will be 2.24 percent. XETD explains that after it issues debt, the cost of debt will be determined using the internal rate of return methodology shown on its revised Attachment 8 until the project is placed into service and will be subject to the true-up pursuant to Attachment 9. XETD further explains that using the internal rate of return methodology, XETD will use current data to estimate both the London Interbank Offered Rate (LIBOR) and the Spread on lines 23 and 24 of Attachment 8 which are added to create the Interest Rate, which is used in that year's calculation of the internal rate of return. XETD explains that the 200 basis point Spread represents the company's best estimate, using 2014 data, of the spread that would be applied by lenders for the years 2014-2020. XETD states that the cost of debt calculation will be trueed up on Attachment 9 once XETD's first project is placed in service. Attachment 9 will compare actual debt costs against those calculated in Attachment 8 for the relevant years and then calculate any over or under recovery, which will then be incorporated into that year's revenue requirement. Note 11 of Attachment 8 states that, after issuing debt, "[t]he inputs shall be estimated based on the current market conditions and are subject to true-up, e.g., fees, interest rates, spread and Table 3 once amounts are known."

8. The Commission also directed XETD to propose revisions to its formula rate template to credit any unfunded reserves against rate base.⁸ In response, XETD proposes to add Line 23c for unfunded reserves to page 2 of Attachment O and revised Attachment 4 to include a new worksheet for calculating unfunded reserves.

9. Finally, as agreed to by XETD, the Commission accepted the protocols subject to the outcome of MISO's formula rate protocols proceedings which were pending in Docket No. ER13-2379-000, *et al.* In response, XETD commits to making an additional compliance filing, if necessary, to revise its formula rate protocols at the conclusion of the proceedings in Docket No. ER13-2379-000, *et al.*⁹

10. In its March 9, 2015 filing to revise the protocols, XETD revised section IV.G of its formula rate protocols, based on the Commission's January 22 order in Docket No. ER13-2379, *et al.*, to include: (i) a discrete revision to Section IV.G to add the phrase "on any issue" to clarify that a party may not pursue a Formal Challenge if such

⁸ *Id.* P 35.

⁹ Transmittal at 17.

party did not also submit an Informal Challenge; and (ii) the use of April 15, instead of March 31, as the deadline for filing a Formal Challenge.

B. Commission Determination

11. We accept XETD's Formula Rate revisions subject to condition.¹⁰ Except as discussed below, XETD's explanations and proposed Formula Rate revisions satisfy the Commission's directives in the November 26 Order. We direct XETD to make a further compliance filing within 30 days of the date of this order to address the issues noted below.

12. We accept XETD's proposed response to the Commission's first directive, to propose revisions to its formula rate template to explain its calculation of the cost of debt during the construction period and an explanation of how Attachment 8 will be implemented and updated each year, subject to condition. XETD's revisions to Attachment 8 generally clarify how the formula works but are still unclear in several respects. Specifically, the amounts on Lines 12 and 13 in Table 3, Column (b) are not consistent in units. Line 27, Column F also does not contain a formula for the Interest and Principal and it is not apparent how this calculation works. Line 27, Column D and E have the word "principal" misspelled. In addition, from the equation in Note 10 for the Commitment, Ratings and Fees column, it is not clear how XETD will keep from double recovering the Revolving Credit Commitment Fee. We direct XETD to address these issues.

13. We accept XETD's proposed Formula Rate provisions in response to the Commission's directive to credit any unfunded reserves against rate base, subject to condition. Although the broad methodology, as shown on page 2 of Attachment 4 appears reasonable, the heading of Attachment 4, Page 2, Column F, as well as the purpose of that column, is unclear, as is the phrase "exclude the portion of any balance offset by a balance sheet account" in Attachment 4, Note G. We direct XETD to explain the purpose of Column F and the quoted phrase in Note G, and how they ensure that capital contributions from customers are appropriately deducted from rate base before they are used to fund liabilities.

¹⁰ The Commission can revise a proposal filed under section 205 of the FPA as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions in by withdrawing its filing.

14. Finally, we accept XETD's changes to its protocols as consistent with MISO's formula rate protocols proceedings in Docket No. ER13-2379-000, *et al.*

The Commission orders:

(A) XETD's compliance filing is accepted subject to condition, as discussed in the body of this order.

(B) XETD is hereby directed to submit a further 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.