

153 FERC ¶ 61,334
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System Operator, Inc. Docket Nos. ER15-1067-001
ER15-1067-002

ORDER ON COMPLIANCE FILINGS

(Issued December 22, 2015)

1. On May 18, 2015, Midcontinent Independent System Operator, Inc. (MISO), on behalf of the Municipal Transmission Owners,¹ submitted a compliance filing (May 18 Compliance Filing) in response to the Commission's April 17, 2015 order in this proceeding.² Specifically, the May 18 Compliance Filing includes revisions to the Attachment O EIA Non-Levelized Generic Rate Formula Template (Municipal Generic Template) of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). On June 5, 2015, MISO filed a supplement (June 5 Supplement) to the May 18 Compliance Filing to make the same or similar revisions for three municipal entities that each have an entity-specific Attachment O in the Tariff.³ In this

¹ The Municipal Transmission Owners consist of the following entities and their member cities, boards, and agencies: Midwest Municipal Transmission Group; Municipal Energy Agency of Nebraska (MEAN); Central Minnesota Municipal Power Agency (CMMPA); and Cedar Falls Utilities (Cedar Falls); Blue Earth Board of Public Works; the City of Mountain Lake; the City of Windom; Delano Water; Light and Power Commission; the City of Elk River; Glencoe Light & Power Commission (Glencoe); Atlantic Municipal Utilities; the City of Eldridge; the City of Pella; the Iowa Public Power Agency; Montezuma Municipal Light & Power (Montezuma); Tipton Municipal Utilities (Tipton); Willmar Municipal Utilities (Willmar); Waverly Light and Power (Waverly); and the Indianola Municipal Utilities for the City of Indianola, Iowa (Indianola).

² *Midcontinent Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,050 (2015) (April 17 Order).

³ The entity-specific formula rates are for CMMPA, Montezuma, and Tipton.

order, we accept the Tariff revisions in the May 18 Compliance Filing and June 5 Supplement.

I. Background

2. On February 18, 2015, MISO, on behalf of the Municipal Transmission Owners, submitted revisions to Attachment O formula rates for the Municipal Generic Template and the entity-specific formula rates of CMMPA, Montezuma, and Tipton, to implement a 50-basis point adder to the authorized rate of return on equity (ROE) based on the Municipal Transmission Owners' participation as members in a regional transmission organization (RTO) (RTO Adder).⁴

3. In the April 17 Order, the Commission conditionally accepted the RTO Adder for the Municipal Transmission Owners and directed MISO to submit a compliance filing within 30 days of the date of the order with Tariff revisions, stating that

[o]ur acceptance of the RTO Adder is conditioned upon a voluntary commitment by the Municipal Transmission Owners (1) to provide refunds 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 the Municipal Transmission Owners, 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 the Municipal Transmission Owners.⁵

⁴ MISO states that it made the filing in its role as administrator of the Tariff and took no position on the filing, reserving its right to comment or protest. MISO February 18, 2015 filing in Docket No. ER15-1067-000 at n.1 (February 18 Filing).

⁵ April 17 Order, 151 FERC ¶ 61,050 at P 24. The Complaint Proceeding referenced therein is Docket No. EL14-12-000, in which the Commission issued an order in *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,049 (2014) (Complaint Hearing Order). The Complaint Hearing Order

(continued ...)

The Commission also directed MISO, on behalf of the Municipal Transmission Owners, to confirm that all of the Municipal Transmission Owners have turned over operational control of their transmission, or revise the proposed tariff sheets as necessary such that the RTO Adder is recovered only by those Municipal Transmission Owners that have turned over operational control of their transmission to MISO or provide service over Non-transferred Transmission Facilities through the MISO Tariff with MISO acting as agent.⁶

II. May 18 Compliance Filing and June 5 Supplement

4. The May 18 Compliance Filing states that all of the Municipal Transmission Owners have transferred operational control of their transmission facilities to MISO or have entered into an agency agreement pursuant to Appendix G of the Transmission Owners Agreement (Appendix G Agency Agreement) that provides for such control.⁷ The May 18 Compliance Filing also states that the Municipal Transmission Owners' transmission facilities are recognized as qualifying MISO transmission facilities consistent with their receiving cost recovery under Attachment O of the Tariff.⁸ MISO explains that the City of Pella's transmission facilities are subject to an Appendix G Agency Agreement between Cedar Falls and MISO.⁹ The May 18 Compliance Filing further explains that MISO has operational control of MEAN, Waverly, and Indianola's facilities through agreements with MidAmerican Energy Company, and that MISO has operational control of Willmar's facilities through agreements with Great River Energy (Great River). The May 18 Compliance Filing states that MISO has operational control of some of Glencoe's transmission through agreements with Northern States Power-

granted in part a complaint that alleged that the current 12.38 percent base ROE allowed for MISO Transmission Owners is unjust and unreasonable. The Commission established hearing and settlement judge procedures with respect to the MISO Transmission Owners' base ROE, and set a refund effective date of November 12, 2013, for the MISO Transmission Owners' base ROE.

⁶ April 17 Order, 151 FERC ¶ 61,050 at P 23.

⁷ May 18 Compliance Filing, Transmittal Letter at 1, 3.

⁸ *Id.*

⁹ *Id.*

Wisconsin,¹⁰ and has direct operational control of other Glencoe transmission.¹¹ In addition, the May 18 Compliance Filing states that MEAN, Willmar, Waverly, Indianola, and, in part, Glencoe's facilities are compensated through Tariff section 30.9 rate credits.¹²

5. The May 18 Compliance Filing also states that each of the Municipal Transmission Owners has stated to MISO that it accepts the conditions stated in the April 17 Order.¹³ The May 18 Compliance Filing also states that it is authorized to state that the Municipal Transmission Owners confirm the accuracy of, concur in and support the May 18 Compliance Filing.¹⁴

6. In the May 18 Compliance Filing, MISO submitted a revised Municipal Generic Template with the following revisions to Note P:

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 for a transmission owner that has turned over functional control of its Transmission Facilities to MISO or provides service over Non-transferred Transmission Facilities through the MISO Tariff with MISO acting as agent, subject to the following criteria. By use of this template, any transmission owner utilizing the RTO Adder affirms that it: 1) commits to providing refunds (with interest at the FERC refund interest rates) to the extent that the ROE or zone of reasonableness established in Docket No. EL14-12 when applied to the effective date established in Docket No ER15-1067-000 would result in a lower revenue requirement than that charged; and 2) commits to providing refunds (with interest at the FERC refund interest rates) consistent with any refund effective date established in any other proceedings resulting in a new base ROE or new zone of reasonableness for the MISO transmission owners' base ROE, to the extent that the ROE or zone of reasonableness established in any such proceedings, when applied as of the refund effective date

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 2; *see supra* P 3.

¹⁴ May 18 Compliance Filing, Transmittal Letter at 2.

established in such proceedings, would result in a lower revenue requirement than that charged.^{15]}

7. MISO and the Municipal Transmission Owners request that the Commission accept the May 18 Compliance Filing, effective June 16, 2015.

8. In its June 5 Supplement, MISO states that it came to MISO's attention that the April 17 Order may have intended that Tariff revisions also be made to Note P for the entity-specific Attachment O templates for CMMPA, Montezuma, and Tipton, to reflect that applicability of the RTO Adder is conditioned on a voluntary refund commitment as discussed and required in the April 17 Order. Thus, should the Commission find that such Tariff revisions were intended and are needed in the instant docket, MISO submits revised Tariff sheets accordingly, and it requests that the Commission accept the June 5 Supplement, effective June 16, 2015.¹⁶

III. Notice of Filings and Responsive Pleadings

9. Notice of the May 18 Compliance Filing was published in the *Federal Register*, 80 Fed. Reg. 29,696 (2015), with interventions and protests due on or before June 8, 2015. Notice of the June 5 Supplement was published in the *Federal Register*, 80 Fed. Reg. 33,514 (2015), with interventions and protests due on or before June 26, 2015.

10. On June 8, 2015, MISO filed a motion to intervene and limited protest. On June 8, 2015, a group of MISO transmission owners (TO Intervenors)¹⁷ filed a motion to

¹⁵ May 18 Compliance Filing, Municipal Generic Template at 5.

¹⁶ June 5 Supplement at 1-2.

¹⁷ The TO Intervenors 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; ITCTransmission; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; 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, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Vectren Energy Delivery of Indiana; and Wolverine Power Supply Cooperative, Inc.

intervene and protest. On June 22, 2015, Great River filed a motion to intervene and comments.

11. MISO states in its protest that it believes the Commission's April 17 Order was clear on the point that only those facilities that make up the MISO Transmission System as defined in MISO's Tariff, and not facilities that receive credits under section 30.9 of the Tariff, are eligible to receive the 50-basis point RTO Adder.¹⁸ MISO states that the Transmission Owners Agreement makes a clear distinction between facilities transferred to MISO's functional control, and facilities which are used by MISO pursuant to the Appendix G Agency Agreement, and that MISO has no authority over facilities that are not in one of these two categories, including facilities of non-MISO owners who receive section 30.9 credits as network customers.¹⁹

12. MISO states that transmission owners who are not MISO Transmission Owners but who own transmission facilities integrated with those of a MISO Transmission Owner have the option of seeking credits against their invoice for Network Integration Transmission Service under section 30.9 of the MISO Tariff.²⁰ MISO states that, unless the owner of the section 30.9 integrated facilities also signs the Transmission Owners Agreement, transfers all of its higher voltage networked facilities to MISO's control and places any lower voltage facilities under the Appendix G Agency Agreement, those facilities are not part of the MISO Transmission System, nor are they subject to MISO's Tariff or the Transmission Owners Agreement.²¹

13. MISO argues that if a particular Municipal Transmission Owner is not a MISO Transmission Owner, its facilities are not under MISO's operational control and would not be eligible to receive the RTO Adder.²²

14. Accordingly, MISO requests that the Commission require modification of the revised Note P to the Municipal Generic Template that was submitted in the May 18 Compliance Filing. Specifically, MISO requests (1) that the Commission require that "transmission owners" be changed to uppercase "Transmission Owners" to clarify that

¹⁸ MISO Protest at 2-3.

¹⁹ *Id.* at 5.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 6.

only Transmission Owners as defined in the Tariff have facilities subject to MISO's operational control, and (2) add an additional sentence that states that "[t]he ROE associated with facilities for which a Transmission Customer receives credits under Section 30.9 of the Tariff shall not be increased by the RTO Adder" to further clarify that the RTO Adder does not apply to section 30.9 facilities.²³

15. MISO also notes that the May 18 Compliance Filing does not clearly state whether the revised Municipal Generic Template will apply to all municipal Transmission Owners, or only to the parties named in the original filing.²⁴ MISO states that it understands the April 17 Order to mean that the revised Municipal Generic Template can be used by all other municipal Transmission Owners without further section 205 filings.²⁵ Thus, MISO requests that the Commission clarify whether that is correct, or whether additional filings will be required for municipal Transmission Owners who were not parties to this docket.²⁶

16. The TO Intervenors state that the May 18 Compliance Filing fails to comport with the Commission's directive in the April 17 Order to ensure that the Municipal Transmission Owners' requested RTO Adder is recovered only by those among the Municipal Transmission Owners that have turned over operational control of their transmission to MISO or provide service over transmission facilities below 100 kV through the MISO Tariff with MISO acting as agent pursuant to Appendix G of the MISO Transmission Owners Agreement.²⁷ The TO Intervenors argue that, while the Tariff language submitted in the May 18 Compliance Filing appropriately limits the collection of the RTO Adder, the May 18 Compliance Filing appears to state that certain Municipal Transmission Owners that do not meet these requirements, but instead only use Attachment O of the MISO Tariff to calculate their revenue requirements for credits under section 30.9 of the MISO Tariff, are eligible to collect the RTO Adder.²⁸ The TO Intervenors state that the Commission should (1) clarify that only those Municipal Transmission Owners that have turned over functional control of their transmission to

²³ *Id.* at 6-7.

²⁴ *Id.* at 7.

²⁵ *Id.* at 7-8.

²⁶ *Id.* at 8.

²⁷ TO Intervenors Protest at 2.

²⁸ *Id.* at 2-3.

MISO or provide service over Non-transferred Transmission Facilities through the MISO Tariff with MISO acting as agent may recover the RTO Adder; and (2) reject the May 18 Compliance Filing insofar as it seeks to allow the collection of the RTO Adder by entities that do not satisfy the conditions for transfer of control set forth in the April 17 Order.²⁹

17. Great River states that it supports the comments of MISO and TO Intervenors that state the facilities that receive credits under section 30.9 under MISO's Tariff are not eligible to receive the 50-basis point RTO Adder.³⁰ Great River requests that the Commission reject the May 18 Compliance Filing insofar as it seeks to allow the collection of the RTO Adder by entities that do not satisfy the conditions for transfer of control set forth in the April 17 Order.³¹

18. On June 23, 2015, the Municipal Transmission Owners filed a request for time to negotiate (June 23 Request For Time), stating that there are issues and new factual matters that they believe need to be addressed, and that they may be able to significantly accommodate MISO and TO Intervenors' needs as stated in their pleadings.³² Therefore, the Municipal Transmission Owners state that instead of filing a request for leave to answer the two pleadings and MISO's proposed tariff changes, Municipal Transmission Owners are sending MISO and TO Intervenors a communication to open discussions, which they hope will lead to an agreement.³³

19. On August 3, 2015, the Municipal Transmission Owners filed a motion to withdraw (Municipal Withdrawal) in limited part the request, filed on their behalf in the May 18 Compliance Filing, for the RTO Adder as it applies to the Municipal Transmission Owners' transmission facilities that are compensated by MISO Tariff section 30.9 credits. The Municipal Transmission Owners state that without addressing the merits of the MISO and TO Intervenors' protests, they agree to withdraw their request for the RTO Adder for the affected transmission facilities of MEAN; Waverly Utilities (previously Waverly); and Indianola, each of which receives compensation for transmission facilities through section 30.9 credits.³⁴ The Municipal Transmission

²⁹ *Id.* at 3.

³⁰ Great River Comments at 3.

³¹ *Id.* at 3.

³² June 23 Request For Time at 1.

³³ *Id.* at 1-2.

³⁴ Municipal Withdrawal at 3-4.

Owners state that Willmar also withdraws its request for the RTO Adder only before January 1, 2016 because it will become a MISO Transmission Owner as of January 1, 2016, and has signed MISO Appendix G and Appendix H Agreements, which give MISO operational control of all of Willmar's affected transmission facilities.³⁵ The Municipal Transmission Owners state that the remaining Municipal Transmission Owners do not receive compensation through section 30.9 credits, their facilities are under the operational control of MISO, and their eligibility for the RTO Adder is not contested.³⁶

20. The Municipal Transmission Owners also state that their withdrawal of requests for the RTO Adder as specified moots all issues contained in MISO's and the TO Intervenor's protests, and that the Municipal Transmission Owners are authorized to state that the TO Intervenor and Great River agree that issues raised in their protests and comments are moot.³⁷ The Municipal Transmission Owners state that their withdrawal eliminates all open issues in this proceeding and that all Tariff changes contained in the May 18 Compliance Filing and the June 5 Supplement therefore should be accepted.³⁸

21. On August 4, 2015, MISO filed a withdrawal of its protest, in view of the Municipal Transmission Owners' withdrawal of their request for the RTO Adder with regard to parties' facilities that are compensated through section 30.9 credits.³⁹

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 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

23. We accept the revised Tariff provisions submitted with the May 18 Compliance Filing and June 5 Supplement, as discussed below.

³⁵ *Id.* at 4.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 4-5.

³⁹ MISO Withdrawal at 1-2.

24. In the April 17 Order, the Commission determined that any of the Municipal Transmission Owners who have not turned over operational control of their transmission to MISO, or do not provide service over Non-transferred Transmission Facilities through the MISO Tariff with MISO acting as agent, are not eligible for the RTO Adder.⁴⁰ The Commission directed MISO to confirm that all of the Municipal Transmission Owners have turned over operational control of their transmission, or revise the proposed tariff sheets as necessary such that the RTO Adder is recovered only by those Municipal Transmission Owners that have turned over operational control of their transmission to MISO or provide service over Non-transferred Transmission Facilities through the MISO Tariff with MISO acting as agent.⁴¹ We find that the May 18 Compliance Filing's proposed revisions to Note P of the Municipal Generic Template sufficiently limit the use of the RTO Adder to transmission owners that have turned over functional control of their Transmission Facilities to MISO or provide service over Non-transferred Transmission Facilities through the MISO Tariff with MISO acting as agent. Also, with the Municipal Transmission Owners' withdrawal of their request for the RTO Adder as it applies to the Municipal Transmission Owners' transmission facilities that are compensated by the MISO Tariff section 30.9 credits, the Municipal Transmission Owners have further confirmed that the May 18 Compliance Filing is limited to those municipalities that have turned over operational control of their transmission to MISO or provide service over Non-transferred Transmission Facilities, as directed by the April 17 Order.⁴²

25. The May 18 Compliance Filing's proposed revisions to Note P of the Municipal Generic Template are sufficient to ensure that Municipal Transmission Owners that utilize the 50-basis point incentive adder for participation in MISO also voluntarily commit to the refund conditions set forth in the April 17 Order. Further, the June 5 Supplement's proposed revisions to the Attachment O formula rates for CMMPA,

⁴⁰ April 17 Order, 151 FERC ¶ 61,050 at P 23.

⁴¹ *Id.*

⁴² We acknowledge the Municipal Transmission Owner's statement that the withdrawal of Willmar's request for the RTO Adder is limited to the period before Willmar becomes a MISO Transmission Owner. To the extent that Willmar does not become a MISO Transmission Owner on January 1, 2016 as stated, Willmar may only utilize the RTO Adder as of the effective date it becomes a MISO Transmission Owner. No additional section 205 filing will be necessary for Willmar to utilize the incentive RTO Adder under the Municipal Generic Template when it becomes eligible to do so.

Montezuma, and Tipton to reflect the refund conditions also comply with the April 17 Order. Therefore, we accept the Tariff revisions.

26. We agree with the Municipal Transmission Owners' claim that given their partial withdrawal of their request for the RTO Adder for transmission facilities that are compensated by the MISO Tariff section 30.9 credits, the issues raised by the TO Intervenors in their protest and Great River in its comments have been resolved. Additionally, MISO has withdrawn its protest.

27. Further, we clarify that, in the April 17 Order, the Commission established that any municipal Transmission Owner, including those that were not a party to the February 18 Filing, that uses the revised Municipal Generic Template may receive the RTO Adder, without a separate filing with the Commission as long as they are otherwise eligible to receive that RTO Adder and permitted to use the Municipal Generic Template, as discussed above.

The Commission orders:

The Tariff provisions submitted in the May 18 Compliance Filing and June 5 Supplement are hereby accepted for filing to become effective June 16, 2015, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.