

153 FERC ¶ 61,374
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 30, 2015

In Reply Refer To:
Midcontinent Independent System
Operator, Inc.
Docket No. ER16-208-000

Stuntz, Davis & Staffier, P.C.
555 Twelfth Street, NW
Suite 630
Washington, DC 20004

Attention: Ellen S. Young

Dear Ms. Young:

1. On October 30, 2015, pursuant to section 205 of the Federal Power Act,¹ International Transmission Company (ITC), Michigan Electric Transmission Company, LLC and ITC Midwest LLC (ITC Midwest) (collectively, the ITC Companies) and Midcontinent Independent System Operator, Inc. (MISO)² filed proposed revisions to the ITC Companies' respective formula rate templates under Attachment O of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) (October 30 Filing).³ In this order, we accept the Tariff revisions, subject to condition, to become effective January 1, 2016, as requested.

¹ 16 U.S.C. §§ 824d (2012).

² MISO states that it joins in this filing in its capacity as administrator of the Tariff but takes no position on the substance of this filing.

³ MISO FERC Electric Tariff, Attachment O, Rate Formulae, ITC Rate Formula Template (31.0.0), ITC Depreciation Rates (31.0.0), METC Rate Formula Template (33.0.0), METC Depreciation Rates (31.0.0), ITCM Rate Formula Template (35.0.0), ITCM Depreciation Rates (31.0.0).

2. The ITC Companies are independent, stand-alone transmission companies engaged in the development, ownership and operation of facilities for the transmission of electric energy. Each company is a subsidiary of ITC Holdings Corp. and a transmission-owning member of MISO.

3. Transmission Owners within MISO calculate their annual transmission revenue requirements pursuant to the formula rate templates under Attachment O of the MISO Tariff. The ITC Companies' formula rate templates are company-specific Attachment Os which utilize forward looking data with a true-up mechanism whereby each ITC Company recovers its annual revenue requirements for its transmission facilities under MISO's control.

4. The ITC Companies state that the proposed revisions to their respective formula rates under Attachment O are intended to compute the effect on the ITC Companies' income tax expense associated with permanent book/tax differences and the effects of after-tax accounting for deferred taxes associated with the equity component of the deferred Allowance for Funds Used During Construction (AFUDC). The ITC Companies explain that, in order to recover the income tax effects of items treated as permanent differences or AFUDC equity, these items must be added when determining income tax expense under a method that bases the income tax expense calculation on the allowed return (such as the method used in the ITC Companies' formula rates). The ITC Companies also propose to recover income tax expense associated with excess/deficient deferred income taxes that result from changes to income tax laws, income tax rates or other action taken by a taxing authority. In addition, the proposed revisions seek to adjust Note F of their formula rate templates to exclude from rate base Accumulated Deferred Income Taxes (ADIT) balances when the associated income tax consequences have been paid by others. Specifically, the ITC Companies state that they may receive Contributions in Aid of Construction (CIAC) from others where the MISO Tariff provides for participant funding of transmission facilities. In addition, the ITC Companies gross up the CIACs for income taxes. Because adequate recovery of the tax consequences associated with CIACs is received from contributors, an additional return as part of the revenue requirement under Attachment O is not necessary and refunds will be awarded to customers for the period 2004-2014, as part of their 2016 projections. Finally, the return on CIAC-related ADIT amounts collected through rates in 2015, with interest, will be refunded through the 2015 true up calculated in June 2016, and reflected in the 2017 rates.

5. The ITC Companies also seek revisions to Note F to reflect Internal Revenue Service (IRS) guidance on specific tax normalization issues. The revised Note F explains that the ITC Companies will apply proration in a manner consistent with the direction received by the IRS. The ITC Companies state that in applying the proration formula, they will include a workpaper in each projected annual informational filing showing the calculations under the proration formula.

6. Finally, the ITC Companies propose revisions to the allocators for Material & Supplies and transmission- related Regulatory Commission Expenses. In addition to the changes to the Attachment O templates, ITC and ITC Midwest seek Commission authorization to use a 2 percent amortization rate for intangible plant and to adopt a depreciation rate for Account No. 355 of 1.83 percent.

7. Notice of the October 30 Filing was published in the *Federal Register*, 80 Fed. Reg. 68,258 (2015), with interventions and protests due on or before November 20, 2015. Alliant Energy Corporate Services Inc. (Alliant) filed a motion to intervene and comments. The Iowa Utilities Board filed a notice of intervention. American Municipal Power Inc. filed a motion to intervene. Great River Energy filed a motion to intervene out-of-time. On December 3, 2015, ITC filed an answer to the comments filed by Alliant.

8. Alliant states that it supports the ITC Companies' proposed changes related to the treatment of CIAC and agrees that refunds are necessary to reflect proper accounting and to avoid double recovery. Although the ITC Companies have committed to provide workpapers for the projected refund amounts during the reposting of future formula rate projections, Alliant requests that the ITC Companies supplement the filing with refund calculation workpapers to fully understand and interpret the impact of the ITC Companies' proposed corrections.

9. In addition, Alliant does not oppose the ITC Companies' proposal to adjust the income tax calculation to provide for the recovery of permanent income tax differences associated with revenue requirements in Attachment O templates, as well as the effect of after-tax accounting for deferred taxes associated with AFUDC equity, but requests clarification regarding the specific permanent income tax differences that the ITC Companies propose to include in the revised calculations, that are in addition to AFUDC equity.

10. In their answer, the ITC Companies provided workpapers for the period 2004-2014, documenting the calculation of the refund on returns on CIAC-related ADIT amounts. The ITC Companies state that the refunds for 2015 rate year will be based on 2015 actuals, and that additional workpapers will be provided with the formula rate true-ups in June 2016. The ITC Companies also state that they would include a workpaper in each annual formula rate posting that identifies all permanent differences and depreciation expenses associated with AFUDC equity. The ITC Companies state that currently, other than the tax cost of AFUDC equity, other nominal amounts included as a permanent income tax difference relate to certain meal expenses included in recoverable administrative and general expense accounts but only partially deductible for income tax purposes. The ITC Companies clarify that other permanent tax difference experiences relate to certain lobbying or penalty related expenses that would not be included as a result of the proposed change as they are not included in the calculation of Attachment O revenue requirement. Finally, the ITC Companies clarify that any new

permanent differences that may arise would be included in the workpapers posted along with the annual formula rate update.

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.215 (2015), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), we grant Great River Energy's motion to intervene out-of-time given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay. 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 accept the ITC Companies' answer because it provides information that assisted us in our decision-making process.

12. We will accept the proposed tariff revisions, subject to condition, as discussed below.⁴ The proposed Attachment O revisions and related depreciation rates provide for a more accurate annual revenue requirement for the ITC Companies. Accordingly, we find that the proposed revisions are just and reasonable.

13. We also note that Alliant does not oppose the revisions but only seeks further clarification and related workpapers. We find that the ITC Companies appear to have addressed Alliant's requested clarifications in their answer. Further, Alliant will have the opportunity to review any subsequent workpapers as they are developed when the inputs to the formula rate are recalculated and reposted for the annual true-up.

14. Additionally, ITC Companies have committed to provide as part of the projected annual formula rate showing the calculations under the proration formula. However to ensure appropriate transparency in calculating formula rates, we direct the ITC Companies, in a compliance filing due within 30 days of the date of this order, to include

⁴ The Commission can revise a proposal filed under section 205 of the Federal Power Act 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 by withdrawing its filing.

the ADIT worksheets showing the proration calculations for each of their respective formula rate templates.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.