

153 FERC ¶ 61,380
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System Operator, Inc.

Docket No. ER16-33-000

ORDER ON INTERCONNECTION AGREEMENT

(Issued December 30, 2015)

1. On October 7, 2015, Midcontinent Independent System Operator, Inc. (MISO) submitted an executed Generator Interconnection Agreement (Interconnection Agreement) among Consumers Energy Company (Consumers), on behalf of its Generation Business Unit (as Interconnection Customer), MISO (as Transmission Provider), and Consumers, on behalf of its Transmission Business Unit (as Transmission Owner).¹ The Interconnection Agreement governs the interconnection of Consumers' Lake Winds Energy Park (Lake Winds) generating facility, which entered service in November 2012. As discussed below, we will accept the Interconnection Agreement effective January 1, 2016, as requested.

I. Background

2. Lake Winds consists of 56 wind turbines connected to Consumers' 34.5 kilovolt (kV) collector system.² The plant provides up to 100.8 megawatts (MW), entered commercial service on November 22, 2012, and is located in Mason County, Michigan.³ As described in the Interconnection Agreement, the 34.5 kV collector system has been

¹ MISO has designated the Interconnection Agreement as Original Service Agreement No. [SA 2849, Consumers Energy-Consumers Energy Lake Winds GIA, 31.0.0](#), under MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).

² Interconnection Agreement at Appendix A.

³ *Id.*; Consumers' Motion for Leave to Respond and Response to Michigan Electric Transmission Company, LLC's Protest and to Wolverine Power Supply Cooperative, Inc.'s Motion to Intervene and Conditional Protest (Consumers Answer) at 3.

classified as state-jurisdictional distribution facilities, and as such was processed by state interconnection rules on local distribution facilities.

3. Consumers recently received approval from the Michigan Public Service Commission (Michigan Commission) and this Commission to reclassify the local distribution facilities connecting Lake Winds from state-jurisdictional to Commission-jurisdictional transmission facilities.⁴ Following issuance of the Reclassification Order, MISO and Consumers (in its capacity as both Transmission Customer and Transmission Owner) executed the Interconnection Agreement.

4. As set forth in the Interconnection Agreement, Consumers does not intend to construct any new transmission facilities, network upgrades, system protection facilities, or distribution upgrades under the terms of the Interconnection Agreement.⁵ Rather, Consumers has already completed construction of various interconnection facilities, including a 138 kV radial line of approximately 5.5 miles in length from the Lake Winds generating facility substation to Consumers' Amber substation and a 138 kV line exit at the Amber substation.⁶

5. As described in the Reclassification Order, in 2001, Consumers transferred the entirety of its transmission facilities to Michigan Electric Transmission Company, LLC (METC), then a subsidiary of Consumers. In 2002, Consumers sold METC to an unaffiliated third party controlled by Trans Elect, Inc., which in turn sold METC to ITC Holdings Corp., METC's current owner.⁷

6. Some ten years later, on May 14, 2012, Consumers received a letter from ReliabilityFirst Corporation (ReliabilityFirst) stating that, in the course of conducting an audit, ReliabilityFirst had identified certain facilities owned by Consumers that were originally classified as distribution that ReliabilityFirst determined were, in fact, transmission facilities.⁸ On April 18, 2014, Consumers filed an application with the Michigan Commission to reclassify the aforementioned facilities from distribution to

⁴ *Consumers Energy Company*, 151 FERC ¶ 61,033, at PP 2-4 (2015) (Reclassification Order).

⁵ Interconnection Agreement at 1, Appendix A.

⁶ *Id.* at Appendix A.

⁷ Reclassification Order, 151 FERC ¶ 61,033 at P 2.

⁸ *Id.* P 4.

transmission, which was approved on October 16, 2014.⁹ On January 23, 2015, Consumers requested that the Commission also approve the reclassification, which the Commission granted in the Reclassification Order.¹⁰

II. Notice of Filings and Responsive Pleadings

7. Notice of MISO's filing was published in the *Federal Register*, 80 Fed. Reg. 61,808 (2015), with interventions and protests due on or before October 28, 2015. METC filed a timely motion to intervene and a protest. Wolverine Power Supply Cooperative, Inc. (Wolverine) filed a timely motion to intervene and a conditional protest. On November 12, 2015, MISO and Consumers filed motions for leave to answer and answers. On November 18, 2015, METC filed a motion for leave to answer and an answer to the answers of MISO and Consumers. On November 23, 2015, Wolverine filed a motion for leave to answer and an answer to the answers of MISO and Consumers. On December 1, 2015, Consumers filed a motion for leave to respond to the November 18 and 23 filings of METC and Wolverine. Finally, on December 2, 2015, Wolverine filed a motion for leave to answer and an answer to the December 1 filing of Consumers.

A. Protests

1. METC Protest

8. METC asks the Commission to reject the Interconnection Agreement or set it for an evidentiary hearing, arguing that: (1) MISO and Consumers failed to follow the requirements of MISO's Tariff and the Commission's interconnection policies as established in Order No. 2003;¹¹ and (2) Consumers is bound by contractual commitments with METC entered into more than ten years ago which allegedly prevent

⁹ *Id.* PP 3-4 (citing *Consumers Energy Company*, Case No. U-17598 (Michigan Public Service Commission), Oct. 16, 2014).

¹⁰ *Id.* P 1.

¹¹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

Consumers from owning the interconnection facilities that are the subject of the Interconnection Agreement.¹²

9. In particular, METC claims that, in 2012, Consumers and MISO failed to follow the MISO Tariff and Order No. 2003 when the Lake Winds facility connected to Consumers' system at 138 kV. METC argues that by failing to follow the Tariff and Order No. 2003 in 2012, Consumers will now have a "free-pass" to avoid the MISO interconnection process and MISO Tariff.¹³

10. METC contends that distribution-level interconnections of generators selling into the wholesale market must follow the interconnection rules under Order No. 2003.¹⁴ METC argues that other facilities interconnecting at a low voltage (69 kV) have followed the required Order No. 2003 interconnection process, and therefore the Lake Winds facilities should have done the same.¹⁵

11. METC argues that policies established under Order No. 2003 and MISO's Generation Interconnection Procedures (GIP) require Consumers to enter MISO's interconnection queue before the Commission can approve the Interconnection Agreement, even if Lake Winds is already in service. METC argues that MISO's Tariff does not have bypass procedures for the MISO queue and that there is no exception that would allow MISO to process and execute the Interconnection Agreement.¹⁶

12. METC argues that because its transmission facilities are connected to the Amber substation and are "intertwined" with Consumers' facilities, MISO should have performed additional studies to determine the impact of the Lake Winds interconnection on METC's system. However, METC claims that METC was never consulted, nor did it have the opportunity to determine the impacts of the Lake Winds interconnection on its system.¹⁷

¹² Protest of Michigan Electric Transmission Company, LLC (METC Protest) at 1.

¹³ *Id.* at 9-10.

¹⁴ *Id.* at 10 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 804).

¹⁵ *See id.* at 10, n.27 (describing two GIAs for generators connecting within MISO at 69 kV that METC contends followed the rules established under Order No. 2003).

¹⁶ *Id.* at 11.

¹⁷ *Id.* at 12.

13. METC also objects that it was not consulted regarding the System Protection Facilities Section of the Interconnection Agreement.¹⁸ METC asserts that, because the facilities were interconnected when “governed by state interconnection rules governing local distribution facilities,” there is no assurance that non-discrimination and open access protocols were followed.¹⁹

14. METC further questions how Lake Winds could have been interconnected since 2012 without the need for transmission service, Commission-jurisdictional interconnection service, or wholesale distribution access service. METC expresses doubt that Consumers would not offer energy at wholesale into the MISO energy market. According to METC, if the Interconnection Agreement is accepted, Consumers will have been allowed to implement a scheme to avoid MISO’s interconnection process, and thereby avoid the costs and risks that other interconnecting generators are required to face.²⁰

15. In addition to these arguments, METC claims that certain agreements it entered into with Consumers in 2001 and 2002 prohibit Consumers from entering into the Interconnection Agreement, and that the interconnection facilities should be owned by METC. Specifically, METC refers to a Distribution-Transmission Interconnection Agreement, which Consumers and METC entered into in connection with the transfer of Consumers’ transmission assets to METC.²¹ The Distribution-Transmission Interconnection Agreement sets forth the terms and conditions that govern the interconnections between the transmission facilities of METC and the distribution facilities of Consumers. METC states that under section 3.4 of that agreement, existing or new distribution facilities that are later determined to be transmission facilities are required to be transferred from Consumers to METC. As stated in section 3.4, “[s]hould future system modifications result in the reclassification of assets, the Parties agree to convey ownership of those assets to the appropriate Party.”²² METC states that the

¹⁸ *Id.* (citing the Interconnection Agreement at § 9.7.4.2, which reads, “Interconnection Customer’s and Transmission Owner’s System Protection Facilities shall be designed and coordinated with Affected Systems in accordance with Good Utility Practice”).

¹⁹ *Id.* (citing the Interconnection Agreement at 4th Whereas Clause).

²⁰ *Id.* at 13.

²¹ For a history of the Distribution-Transmission Interconnection Agreement, *see* Docket No. ER15-611, MISO’s Filing of Amended and Restated Distribution-Transmission Interconnection Agreement (filed Dec. 11, 2014).

²² METC Protest at 5-6.

parties to the agreement have transferred existing assets on several prior occasions.²³ Further, METC states that, on April 29, 2002, Consumers and METC entered into an Amendment and Restatement to their Operating Agreement, dated April 1, 2001 (Operating Agreement), under which METC provides open access, non-discriminatory transmission service to all transmission customers, including Consumers. METC contends that, given Consumers' execution of the Interconnection Agreement, as well as its refusal to transfer the interconnection facilities to METC, as required by the Distribution-Transmission Interconnection Agreement, METC is essentially unable to perform its required duties under the Operating Agreement.²⁴

2. Wolverine Conditional Protest

16. Wolverine filed a conditional protest, requesting that the Commission condition its acceptance of the Interconnection Agreement on Consumers demonstrating that the proposed interconnection will have no adverse reliability impacts on systems, such as Wolverine's, or alternatively, agreeing to hold Wolverine harmless from any reliability impacts associated with this interconnection.²⁵ Wolverine states that it is concerned that the Lake Winds interconnection may not have been subjected to a reliability analysis comparable to that conducted for all other generators seeking to interconnect to the MISO grid for the first time. Wolverine claims that because the Interconnection Agreement was not processed in accordance with MISO's GIP, Wolverine has not received adequate notice of potential reliability or safety impacts, or whether the proposed interconnection will require upgrades to Wolverine's system.²⁶

17. Wolverine states that prior to the interconnection of Lake Winds to the MISO-controlled grid, the facility was interconnected with Consumers' local distribution system and as such was governed by state interconnection rules governing local distribution facilities. Wolverine claims that state rules did not require Lake Winds to follow MISO's *pro forma* GIA and GIP, so that Wolverine received different information under the state

²³ *Id.* at 6 (citing *Michigan Elec. Transmission Co., LLC*, 113 FERC ¶ 62,220 (2005)).

²⁴ *Id.* at 16. The Operating Agreement was accepted by the Commission in *Trans-Elect, Inc.*, 98 FERC ¶ 61,142 (2002).

²⁵ Motion to Intervene and Conditional Protest of Wolverine Power Supply Cooperative, Inc. (Wolverine Conditional Protest) at 1.

²⁶ *Id.* at 4.

process than it would have received had the Commission's interconnection policies under Order No. 2003 and MISO's Tariff applied.²⁷

18. Wolverine claims that because MISO has not referenced any study results in its filing or Interconnection Agreement, Wolverine cannot accept at face value the claim by MISO and Consumers that network upgrades are not needed in connection with the Interconnection Agreement. Wolverine states that, while Consumers may have determined that the continued interconnection of the Lake Winds facility will have no operational or reliability impacts on its own transmission system, the impact on third party connected systems, such as Wolverine's, is unclear.²⁸

19. According to Wolverine, MISO and Consumers should not assume that the proposed interconnection will have no impacts on affected systems simply because Lake Winds is already operational. Even if upgrades are not needed now, that does not necessarily mean that upgrades are not needed over a long-term planning horizon. Wolverine states that, at the very least, the Interconnection Agreement requires MISO and Consumers to coordinate with owners of other affected systems, such as Wolverine, for purposes of operating and maintaining system protection facilities.²⁹

20. Wolverine requests that the Commission condition its approval of the Interconnection Agreement on MISO or Consumers providing Wolverine with the results of any studies or analysis conducted or considered for the interconnection of Lake Winds with the MISO-controlled grid that adequately demonstrates there will be no adverse reliability impacts of that interconnection on Wolverine's transmission system. If such analyses are not available, Wolverine requests that the Commission require MISO to conduct a new study of the proposed interconnection that provides for the same transparent coordination with owners of systems affected by new queue requests as required by the GIP. Further, Wolverine requests that, if the analysis shows that upgrades are required on any affected system, Consumers agree to hold such affected systems harmless from any reliability impacts associated with interconnection Lake Winds to the MISO-controlled grid.³⁰

²⁷ *Id.* at 5.

²⁸ *Id.* at 5-6 (citing MISO Tariff, Attachment X, Generator Interconnection Procedures, § 3.5 "Coordination with Affected Systems").

²⁹ *Id.* at 7 (citing the Interconnection Agreement at § 9.7.4.2).

³⁰ *Id.* at 8.

B. Answers**1. MISO Answer**

21. In its answer, MISO explains that it did not consider Lake Winds a new generator needing new interconnection under MISO's GIP because it was an existing generating facility and no increase in output or change in operating characteristics was proposed. In this regard, MISO notes that Order No. 2003 "provides for the interconnection of *new* generators and *expansion* of existing generators, not to *existing* generators already interconnected to the transmission grid where there is no proposed increase in output or material modifications to physical or operating characteristics."³¹

22. Responding to METC's claim that the Lake Winds interconnection in 2012 should have been processed through the GIP, MISO notes that the facilities in question were owned, controlled, and operated by Consumers as distribution facilities, and were not used to provide transmission service at the time the interconnection was requested.³²

23. Regarding METC's claim that other low voltage interconnections have followed MISO's GIP, MISO observes that those generators were interconnected to lines that were subject to MISO functional control at the time that those interconnections were requested. In contrast, MISO notes that, in this case, Lake Winds will continue to be interconnected to the same facilities, but those facilities have simply been reclassified as Commission-jurisdictional transmission facilities.³³ MISO further observes that pre-existing generating facilities did not need to observe the MISO GIP when Entergy joined MISO.³⁴

24. MISO submits that it processed the requested interconnection consistent with its integration of other new Transmission Owners with existing generation that have integrated their transmission into MISO. Specifically, MISO states that it performed a market transition deliverability study of Consumers' existing generation rather than processing Consumers' existing generation through its interconnection queue. Addressing Wolverine's arguments, MISO claims that the transition deliverability study

³¹ Motion for Leave to Answer and Answer of MISO (MISO Answer) at 3 (citing *Midwest Indep. Trans. Sys. Op., Inc.*, 118 FERC ¶ 61,270, at P 12 (2007) (Palisades Order)).

³² *Id.* at 3-4.

³³ *Id.* at 4-5 and n.8.

³⁴ *Id.* at 4 (citing *ITC Holdings Corp.*, 143 FERC ¶ 61,257, at P 185 (2013) (Entergy Order)).

provided appropriate analysis of the existing Lake Winds generating facility, which has not changed its operations.³⁵

2. Consumers Answer

25. Consumers asks the Commission to reject METC's and Wolverine's protests without requiring any compliance filings or setting the matter for hearing. Consumers argues that the Commission has made clear that Order No. 2003 applies to an existing generating facility only if it increases its capacity or materially modifies its operating characteristics, and the Lake Winds facility does neither. Moreover, Consumers asserts that the impact of Lake Winds on MISO's transmission system has been studied by METC both prior to the plant's commercial operation date and at least four times by MISO after that date. Consumers points out that Lake Winds has been operational for three years without any negative impacts to either Wolverine's or METC's system.³⁶

26. Consumers further argues that, because Lake Winds interconnected with local distribution facilities, outside of the jurisdiction of the Commission, Order No. 2003 does not apply. In that respect, Consumers notes that, in Order No. 2003-A, the Commission affirmed that it was not asserting jurisdiction over facilities classified as local distribution.³⁷

27. Consumers continues that, as of the date of its answer, the interconnection facilities are still classified as "state-jurisdictional local distribution" facilities, noting that the Commission conditioned the effective date of the Reclassification Order on its approval of two filings by Consumers and/or MISO which will (a) amend MISO Tariff Schedule Nos. 7, 8, and 9; and (b) amend two agreements governing the Michigan Joint Zone, the MISO pricing zone in which Consumers is located. Consumers states that, until those conditions are satisfied, the facilities at the Amber Substation are still

³⁵ *Id.* at 5.

³⁶ Consumers Answer at 5-6.

³⁷ *Id.* at 6 (citing Order No. 2003-A, [FERC Stats. & Regs. ¶ 31,160 at P 700] (cross-referenced at 106 FERC ¶ 61,220 (2004), where the Commission stated:

There is no intent to expand the jurisdiction of the Commission in any way; if a facility is not already subject to Commission jurisdiction at the time interconnection is requested, the Final Rule will not apply. Thus, only facilities that are subject to the Transmission Provider's OATT are covered by this rule. The Commission is not encroaching on the States' jurisdiction and is not improperly asserting jurisdiction over 'local distribution' facilities.)

classified as state jurisdictional.³⁸ Moreover, Consumers states that no modifications were proposed or made to the Amber substation, or any other facilities, as part of the reclassification request.

28. Consumers further argues that, even after the effective date of the reclassification, Order No. 2003 and the MISO GIP will not apply, noting that, in a similar situation, the Commission has confirmed that Order No. 2003 does not apply to an existing generator unless it is increasing its capacity or making a material modification. For example, Consumers refers to the Commission's holding that Order No. 2003 and MISO's GIP did not apply to Entergy's existing generators when the Commission approved Entergy's integration into MISO in 2013, because those facilities were already in existence and connected to Entergy's transmission system upon Entergy's integration into MISO.³⁹

29. Further, Consumers refers to precedent in which the Commission stated that "Order No. 2003 provides for the interconnection of new generators and expansion of existing generators, not to existing generators already interconnected to the transmission grid where there is no proposed increase in output or material modifications to operating characteristics."⁴⁰ Consumers argues that Lake Winds is similarly situated and should be afforded the same treatment.⁴¹

30. Consumers also points to MISO's GIP, asserting that MISO's GIP will not apply to Lake Winds after reclassification. As stated in MISO's GIP:

Sections 2 through 13 of the GIP apply to processing an Interconnection Request pertaining to a Generating Facility. The GIP specifically applies when one of the following is proposed by an Interconnection Customer: (i) a new Generating Facility at a new Point of Interconnection that does not meet the criteria set forth in Sections 2.1 (b) or (c), (ii) additional generation at an existing Point of Interconnection, (iii) an increase in the capacity of an existing Generating Facility, (iv) a substantive modification to the operating characteristics on an existing Generating Facility, or (v) evaluations of the replacement of equipment failures at

³⁸ *Id.* at 4.

³⁹ *Id.* at 7-8 (citing Entergy Order, 143 FERC ¶ 61,257 at P 185).

⁴⁰ *Id.* at 8 (citing Palisades Order, 118 FERC ¶ 61,270 at P 12).

⁴¹ *Id.* at 9 (citing *Midwest Indep. Trans. Sys. Op., Inc.*, 125 FERC ¶ 61,210, at P 14 (2008); *New England Power Co.*, 109 FERC ¶ 61,364, at PP 12-13 (2004)).

an existing Generating Facility that constitute a Material Modification to the operating characteristics.⁴²

Consumers contends that none of these criteria apply to Lake Winds, and that the only change that has occurred is a legal reclassification of facilities from local distribution to transmission.⁴³

31. Even if the Commission were to decide that MISO's GIP applies to Lake Winds, Consumers asks the Commission for a limited, one-time waiver of the GIP's requirements for "good cause shown." Consumers submits that good cause is shown because: (a) the impact of Lake Winds on the transmission system was studied by METC before Lake Winds' commercial operation date in 2012; (b) MISO has conducted multiple studies of the Lake Winds interconnection as part of the MISO Transmission Expansion Planning (MTEP) modeling process and MISO has also performed a market transition deliverability study on Lake Winds; (c) Lake Winds has been in commercial operation since 2012 without any generation-related reliability incidents or system issues; and (d) it is unclear what additional studies MISO could conduct because it has already included Lake Winds in its MTEP models since 2012. Contrary to the suggestions of METC, Consumers states that, at METC's request, Consumers provided METC with the data normally used by METC for its interconnection studies so that METC could consider the impact of the Lake Winds interconnection on METC's transmission system, and that METC reported no impact on its transmission system.⁴⁴ Consumers states that METC has indicated that METC included the Lake Winds facility in its stability assessments as long ago as 2011.⁴⁵ Consumers states that both METC and Wolverine had full access and opportunity to review the available studies, and as MISO Transmission Owners, both METC and Wolverine develop their own models, apart from MISO's studies.⁴⁶ Thus, the impact of Lake Winds has already been thoroughly evaluated and no further studies are necessary.

⁴² *Id.* (citing MISO Tariff, Attachment X, Generation Interconnection Procedures, § 2.1(a) "Application of Generation Interconnection Procedures").

⁴³ *Id.* at 10.

⁴⁴ *Id.* at 11-15. This information included steady-state power flow models for the interconnection at the Amber substation; and at METC's request, other data normally used for METC's interconnection studies; and data related to the protective equipment installed at the Amber substation to accommodate Lake Winds' interconnection.

⁴⁵ *Id.* at 13 (citing Exhibit B (an e-mail dated August 26, 2011)).

⁴⁶ *Id.* at 15-18.

32. Yet, if the Commission believes that additional studies are needed, Consumers asks that the Commission conditionally accept the Interconnection Agreement subject to MISO performing such studies. Consumers also asks that the Commission reject any action that would require Lake Winds to not operate during the studies, because requiring the plant to shut down or reduce its output would be, according to Consumers, an extreme and unjustified result. Consumers requests that the Commission reject Wolverine's request to be held harmless, as no facts suggest such protection is necessary or warranted.⁴⁷

33. Consumers argues that METC's assertions based on the terms of the Distribution-Transmission Interconnection Agreement and Operating Agreement are beyond the scope of this proceeding, which only concerns whether the Commission should accept a *pro forma* GIA. Consumers states that a protest is an inappropriate procedural vehicle for a complaint and that METC must raise its arguments in a section 206⁴⁸ complaint in a separate docket, which would provide all interested parties notice and opportunity to respond, whereas a protest in an unrelated proceeding does not provide adequate notice.⁴⁹ Consumers further argues that the Distribution-Transmission Interconnection Agreement and Operating Agreement are beyond the scope of this proceeding because they do not have provisions relating to the interconnection of a generating facility and do not prevent Consumers from entering into the Interconnection Agreement.⁵⁰

34. In addition, Consumers observes that, in the Reclassification Order, the Commission determined that any dispute between Consumers and METC under the Distribution-Transmission Interconnection Agreement and Operating Agreement was outside the scope of that proceeding.⁵¹

35. Consumers further argues that METC's claim under the Distribution-Transmission Interconnection Agreement and Operating Agreement is premised on the notion that Lake Winds' interconnection facilities are transmission. However, those facilities are considered state-jurisdictional local distribution facilities and will continue to be classified as such until the Reclassification Order becomes effective. Consumers asserts

⁴⁷ *Id.* at 20.

⁴⁸ 16 U.S.C. § 824e (2012).

⁴⁹ Consumers Answer at 21-22.

⁵⁰ *Id.* at 22-33.

⁵¹ *Id.* at 24.

that METC's arguments relating to these two agreements are therefore premature and that METC does not have standing to assert any harm under either agreement.⁵²

36. Moreover, Consumers argues that both agreements contain dispute resolution processes that must be completed before parties under either agreement can begin litigation. Consumers claims that METC has not completed these procedures and therefore cannot assert that it has been aggrieved under either the Distribution-Transmission Interconnection Agreement or the Operating Agreement.⁵³

37. Because it believes that METC's arguments concerning the Distribution-Transmission Interconnection Agreement and Operating Agreement are beyond the scope of the instant proceeding, Consumers states that it has not fully responded to the merits of those arguments. Consumers requests that, if the Commission decides to address the substance of METC's arguments in this docket, the Commission allow Consumers the opportunity to provide a complete response to the substance before the Commission issues a final order.⁵⁴

3. METC Answer to the Answers of Consumers and MISO

38. In its answer, METC contends that the Lake Winds interconnection was subject to the Commission's interconnection rules since it began operation in 2012. In support, METC points to the statement of Consumers that it has "offered [Lake Winds] into the MISO markets, and MISO has had the ability to dispatch [Lake Winds], since [entering commercial service]."⁵⁵ METC argues that Order No. 2003 applies to interconnections at the distribution level when those distribution facilities are used to transmit electric energy in interstate commerce on behalf of a wholesale purchaser pursuant to a Commission-filed OATT.⁵⁶

39. METC suggests that Consumers is deliberately misleading the Commission in arguing that the Interconnection Agreement is required now only because of the reclassification of facilities from distribution to transmission. According to METC, the

⁵² *Id.* at 24-25.

⁵³ *Id.* at 25.

⁵⁴ *Id.* at 26.

⁵⁵ Motion for Leave to Answer and Answer of METC (METC Answer) at 3 (citing Consumers Answer at 5).

⁵⁶ *Id.* at 2-3 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 804).

MISO GIP should have been followed in 2012 due to the type of service provided, regardless of the classification of the facilities as distribution or transmission.⁵⁷

40. METC argues that, if the Commission allows Consumers to interconnect the Lake Winds facility without following the MISO GIP, it would effectively ratify a loophole that could be repeated by other market participants. Under this loophole, according to METC, owners of state-jurisdictional facilities, such as Consumers, could interconnect their generation without using the Commission-mandated interconnection process, while independent power producers who do not own local distribution facilities would need to use the Commission-approved interconnection process.⁵⁸

41. METC contends that the interconnection of Entergy's existing generation in 2013 is not similar to interconnecting the Lake Winds facility. At the time of Entergy's application to integrate into MISO, the Entergy facilities were already interconnected to the transmission system consistent with then-applicable Commission rules. Lake Winds differs, METC contends, because Lake Winds was not interconnected pursuant to any Commission rules despite the fact that Consumers appears to have offered Lake Winds into wholesale markets since 2012.⁵⁹ In addition, METC points out that Entergy's existing generators were interconnected prior to Order No. 2003, whereas the Lake Winds facility interconnected after issuance of Order No. 2003.⁶⁰

42. METC asks the Commission to deny any request for waiver of the MISO GIP, stating that there is no ground for a waiver because Order No. 2003 had been in place for eight years when Lake Winds became operational in 2012. METC states that no good cause exists to grant such a waiver because: (1) Consumers' noncompliance with the Commission's rules appears to be based on an affirmative misunderstanding of the rules, not a good faith mistake; (2) there is no evidence that complying with the GIP in 2012 was burdensome; (3) the scope of any waiver granted Consumers could be easily expanded by others seeking to take advantage of the same loophole; and (4) interconnection customers that followed the GIP could be harmed if Consumers can avoid these rules.⁶¹

⁵⁷ *Id.* at 6.

⁵⁸ *Id.* at 6, 8-9.

⁵⁹ *Id.* at 7 (citing Consumers Answer at 7-10).

⁶⁰ *Id.* at 7-8.

⁶¹ *Id.* at 10.

43. METC claims that the Distribution-Transmission Interconnection Agreement and Operating Agreement are relevant to this proceeding because they demonstrate that Consumers failed to provide relevant information to the Commission. METC posits that if the facilities were in fact transmission in 2012, and METC's claim that the facilities should have been transferred to METC in 2012 is correct, then the facilities in question should have been transferred to METC in 2012 and a *pro forma* GIA would have been needed among Consumers, METC, and MISO in 2012.⁶²

4. Wolverine Answer to the Answers of Consumers and MISO

44. According to Wolverine, neither Consumers nor MISO assert that Wolverine's system was evaluated as an affected transmission system in the studies that were performed on the transmission grid. A lack of reliability issues under current system conditions is not the same as a lack of issues under future system conditions. Wolverine requests that the Commission determine whether the existing studies are comparable to the studies that would otherwise be required by MISO's GIP, had Lake Winds entered the interconnection queue, particularly with respect to scope and the planning horizon.⁶³

45. Wolverine claims that the cases cited by Consumers involved existing generation which was grandfathered under Order No. 2003. Wolverine states that Lake Winds is not similarly situated because Lake Winds began its interconnection process in 2010, after Order No. 2003 became effective.⁶⁴

46. Wolverine argues that the failure of the Commission to have previously addressed interconnection standards for reclassified transmission should not excuse MISO and Consumers from considering, and to the extent necessary, remedying potential adverse reliability impacts on affected systems. Consumers should be held to the same reliability standards applied to all other generation which seeks to enter the MISO system. Wolverine argues that regardless of whether MISO's GIP applies to Lake Winds, the burden should fall on Consumers to identify and alleviate any reliability impact on all affected systems.⁶⁵

⁶² *Id.* at 11.

⁶³ Motion for Leave to Answer and Answer of Wolverine (Wolverine Answer) at 3-6.

⁶⁴ *Id.* at 5.

⁶⁵ *Id.* at 6.

5. Consumers Answer to Wolverine and METC Answers

47. In response to the argument that Order No. 2003 applied to Lake Winds since 2012, when Consumers was first able to offer Lake Winds into the MISO energy market, Consumers refers to Order No. 2003-A, which provides that, “[w]ith respect to ‘distribution’ facilities, Order No. 2003 applies when the facilities are subject to a Commission-approved OATT and the purpose of the interconnection is to make wholesale sales.”⁶⁶ On that point, Lake Winds was never subject to the MISO Tariff nor was the purpose of the interconnection to make wholesale sales. According to Consumers, MISO did not have functional control over the facilities to which Lake Winds interconnected at any time before commercial operation, and at no point did MISO indicate that the facilities to which Lake Winds interconnects were considered subject to the MISO Tariff.⁶⁷

48. According to Consumers, the Commission would not be permitting a regulatory loophole in Order No. 2003 in accepting the Interconnection Agreement. That is, Consumers points out that any generator, whether an independent power producer or traditional public utility generator, has the option to interconnect under state law with local distribution facilities. These regulations are complementary to Commission-jurisdictional regulations, so that no regulatory gap exists. According to Consumers, the reclassification of distribution assets upon approval by state and federal regulators is too infrequent to be described as a loophole.⁶⁸

49. Consumers claims that it provided significant technical detail about the Lake Winds interconnection to METC and MISO in 2010, and that Consumers has also submitted technical information regarding Lake Winds’ interconnection into the MISO’s Model on Demand system, to which METC and all other MISO Transmission Owners have access.⁶⁹

50. Finally, should the Commission find that Order No. 2003 does apply to the Interconnection Agreement, then Consumers asks that the Commission grant a waiver

⁶⁶ Motion of Consumers Energy Company for Leave to Respond and Response to Answers of Michigan Electric Transmission Company, LLC and Wolverine Power Supply Cooperative, Inc. (Consumers Answer to Answers) at 3 (citing Order No. 2003-A, 106 FERC ¶ 61,220 at P 700).

⁶⁷ *Id.* at 4.

⁶⁸ *Id.*

⁶⁹ *Id.* at 7.

because MISO's MTEP modeling, which includes Wolverine's transmission system, would have revealed whether any system upgrades were required on Wolverine's transmission system. Consumers reiterates that MISO has included Lake Winds in the MTEP models since at least 2012, and that Wolverine has expressly admitted that it is not aware of any system impacts after three years of commercial operation.⁷⁰

6. Wolverine Answer to Consumers Answer

51. Wolverine explains that the studies performed under MTEP differ from those performed under MISO's GIP. In particular, while MTEP will model violations of voltage, thermal, and stability criteria, it does not determine whether any of those violations are associated with a generating plant. Wolverine adds that, while the MTEP model looks to summer peaking when considering the deliverability of a generator, the GIP considers a full system analysis.⁷¹

III. Discussion

A. Procedural Matters

52. 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.

53. 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 or answer unless otherwise ordered by the decisional authority. We will accept the various answers filed by the parties because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

54. We will accept the proposed Interconnection Agreement effective January 1, 2016. The basic facts here are not in dispute. That is, upon reclassification of certain distribution facilities to transmission, an existing generator, Lake Winds, will find itself interconnected to assets on the grid over which this Commission has jurisdiction. Lake Winds will not be increasing its output or otherwise making a material change to its operating characteristics.

⁷⁰ *Id.*

⁷¹ Motion for Leave to Answer and Answer of Wolverine to Consumers' Answer at 1-2.

55. Because this interconnection involves an existing generator, we agree with Consumers and MISO that MISO's GIP was not triggered at section 2.1(a) "Application of Generation Interconnection Procedures."⁷² However, consistent with Order No. 2003, that generator shall enter an interconnection agreement with the owner of the transmission facilities in order to receive generator interconnection service. And because MISO will exercise control over these facilities, the generator should enter into MISO's *pro forma* GIA. Since the owner of Lake Winds has executed the Interconnection Agreement in conformance with the *pro forma* GIA, we will accept that agreement for filing.

56. Beyond these basic facts, METC and Wolverine attempt to link earlier events to the question of whether and how the Commission should accept the Interconnection Agreement. As discussed below, after consideration of all the evidence in the record, we find that the Interconnection Agreement should be accepted, as requested.

C. "Loophole" Arguments

57. Because Consumers owns both Lake Winds and its distribution grid, METC is concerned that owners of distribution assets could start interconnecting affiliated power plants under state law, evading federal jurisdiction. METC then suggests that after this "free pass" or "loophole" is exploited, the owner of the distribution grid could seek permission from the state and this Commission for a reclassification of the interconnecting assets so that they are jurisdictional to this Commission.

58. As suggested by Consumers, the flaw to this "loophole" argument is that any generator, whether an independent power producer or traditional public utility generator, has the option to interconnect under state law with local distribution facilities. Moreover, METC fails to provide any reason to suggest that reclassification is an element of the alleged "loophole." That is, the reclassification of assets is not required for any utility to exploit differences in state/federal interconnection procedures. For this reason, claims of loopholes created under state law are outside the scope of this proceeding.

⁷² The triggers for procedures under MISO's GIP include: (i) a new Generating Facility at a new Point of Interconnection that does not meet the criteria set forth in Sections 2.1 (b) or (c), (ii) additional generation at an existing Point of Interconnection, (iii) an increase in the capacity of an existing Generating Facility, (iv) a substantive modification to the operating characteristics on an existing Generating Facility, or (v) evaluations of the replacement of equipment failures at an existing Generating Facility that constitute a Material Modification to the operating characteristics. *See* MISO Tariff, Attachment X, Generation Interconnection Procedures, § 2.1(a) "Application of Generation Interconnection Procedures."

D. Application of the MISO GIP to Events in 2010-2012

59. METC also argues that MISO and Consumers should have followed the MISO GIP before Lake Winds entered commercial service in 2012. In fact, the protests filed in this proceeding largely relate to actions taken (or not taken) by MISO and Consumers during 2010-2012, and whether the parties should have taken different actions at that time. Such speculation on what might have happened differently in the past concerns a distribution-level interconnection, and whether such an interconnection must participate in the GIP.

60. Yet the question before us now has nothing to do with resolving the manner in which a distribution-level generator must interconnect, as we are considering the proposed *pro forma* GIA for an existing generator, Lake Winds. For example, the question of whether METC, Consumers, and MISO should have entered an agreement in conformance with the *pro forma* GIA around 2011-2012 is not before us. The question of this Commission's jurisdiction over distribution-level interconnections has been properly before this Commission on several occasions, but that topic is also outside the scope of this proceeding.⁷³

61. METC observes that other generators followed the MISO GIP even though they interconnected at voltages as low as 69 kV.⁷⁴ Yet, as explained by MISO, such 69 kV facilities were under the functional control of MISO at the time. Had the relevant facilities in this matter been under the functional control of MISO in 2010-2012, and thus jurisdictional to this Commission, then the Commission's order earlier this year on reclassification would not have been necessary.

⁷³ See, e.g., *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, at P 490, *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order granting clarification*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006) (“In response to [MISO's] desire to process all interconnections (whether to Commission-jurisdictional or non-Commission-jurisdictional facilities) under its tariff, we note that the Commission does not have the authority to order states to use [MISO's] tariff to process interconnections with state or other nonjurisdictional facilities. However, we encourage the states and others to use the Commission's interconnection rule or the NARUC Model as a starting point for developing their own interconnection rules.”)

⁷⁴ METC Protest at 10.

E. The Sufficiency of Existing Studies in Comparison to the Studies Required Under an Interconnection to FERC-Jurisdictional Assets

62. METC and Wolverine argue that the studies conducted on this interconnection are not as useful as the studies that would have been required had Lake Winds interconnected to FERC-jurisdictional assets back in 2012. However, the interconnection standards imposed by the State of Michigan, pursuant to its jurisdiction, are outside the scope of this proceeding, as explained above.

63. METC also contends that different reliability studies might indicate a need to upgrade the transmission network at some indeterminate point in the future. Yet, METC had information regarding this interconnection for years but does not raise specific reliability concerns regarding the interconnection. Moreover, it is un rebutted that Lake Winds has been operational for three years without any negative impacts to METC's system. Given that MISO is not required to process Lake Winds through its GIP, it follows that MISO does not have any study obligations to fulfill.

F. Wolverine's Request to be held Harmless

64. According to Wolverine, because of inadequacy in the studies resulting from the state interconnection process, Wolverine might someday need to upgrade its network, where those upgrades would not have been needed if Lake Winds did not exist. Because these upgrades would have already been identified as contingencies had Lake Winds decided to originally interconnect with FERC-jurisdictional assets, Wolverine seeks to be held harmless from any additional costs of such upgrades. Concerning the risk of additional upgrades, the Commission believes that these concerns are mitigated by the lack of reliability issues over the past three years, and the willingness of Consumers to share information (subject to appropriate protections).

65. Given this record of operation without reliability issues and the fact that Wolverine may access information regarding the interconnection,⁷⁵ we find no reason to deviate from MISO's Tariff that in turn does not require study in this situation. With the information made available by Consumers, and to the extent that Wolverine is convinced that it may need to undertake additional upgrades, it may file a complaint before this Commission. At that time, we will consider the merits of such a complaint. Until that time, such concerns are speculative and premature.

⁷⁵ Consumers indicates that it has no objection to MISO or METC providing the results of their respective studies to METC and/or Wolverine, as appropriate, to the extent they have not already, subject to an acceptable agreement for confidentiality and appropriate CEII protections. Consumers Answer at n.68.

G. Relationship of Earlier Agreements Between METC and Consumers

66. According to METC, Consumers will have breached the terms of agreements it entered with METC in 2001-2002 unless Consumers transfers the reclassified transmission assets to METC. METC argues that section 3.4 of the Distribution-Transmission Interconnection Agreement provides that distribution facilities must be transferred to METC upon reclassification, and that the Operating Agreement further describes why Consumers must transfer the assets if they are reclassified.⁷⁶ METC thus asks the Commission to resolve these issues of contract interpretation prior to issuing an order accepting or rejecting the Interconnection Agreement.

67. The Commission finds that these matters of contract interpretation are beyond the scope of this proceeding.⁷⁷ Moreover, because the parties have not yet completed the dispute resolution procedures contained in the Distribution-Transmission Interconnection Agreement and Operating Agreement, the claim by METC here is premature.⁷⁸

The Commission orders:

The Interconnection Agreement is hereby accepted to become effective January 1, 2016, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷⁶ METC Protest at 5-6, 16.

⁷⁷ While this result is not required by the Reclassification Order, it is consistent with the Commission's approach in that order: "We emphasize, as the parties have noted, that the dispute about the Distribution-Transmission Interconnection Agreement between Consumers and METC is outside of the scope of this proceeding and therefore we do not address its merits." Reclassification Order, 151 FERC ¶ 61,033 at P 19.

⁷⁸ See Consumers Answer at 25.