

154 FERC ¶ 61,091
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Acciona Wind Energy USA LLC

Docket No. EL15-69-001

v.

Midcontinent Independent System Operator, Inc.

ORDER DENYING REHEARING

(Issued February 10, 2016)

1. On September 2, 2015, the Commission denied a complaint filed by Acciona Wind Energy USA LLC (Acciona Wind) against Midcontinent Independent System Operator, Inc. (MISO), which alleged that MISO: (1) denied or delayed transmission service requests for long-term firm point-to-point transmission service, (2) improperly applied the provisions of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) by restricting transmission service available to Acciona Wind, and (3) improperly limited Acciona Wind's ability to access markets administered by PJM Interconnection, L.L.C. (PJM).¹ Acciona Wind seeks rehearing of the Complaint Order, alleging that the Commission did not sufficiently consider an argument raised in the complaint (Rehearing Request). In this order, the Commission denies rehearing, reaffirming that Acciona Wind did not raise the specific argument in the complaint.

I. Background

2. Acciona Wind states that it is an indirect owner and operator of a 180 MW wind generation facility (Tatanka Project) located in South Dakota. The direct owner of the Tatanka Project is Tatanka Wind Power, LLC (Tatanka Wind), which is indirectly owned

¹ *Acciona Wind Energy USA LLC v. Midcontinent Independent System Operator, Inc.*, 152 FERC ¶ 61,177 (2015) (Complaint Order).

by Acciona Wind. Tatanka Wind, MISO and Montana-Dakota Utilities Co. are parties to a generator interconnection agreement on file with the Commission.²

3. In its request for rehearing, Acciona Wind alleges that the Complaint Order is arbitrary and capricious and not based on substantial evidence or reasoned decision-making.³ More specifically, Acciona Wind alleges that the Commission “erred in failing to direct MISO to grant deferred transmission service to [Acciona Wind’s] Tatanka Project, conditioned upon the completion of the identified transmission upgrades,” and that the Commission “further erred in determining that the Complaint failed to explicitly request such deferred transmission service and that the Commission was precluded from ruling on the matter.”⁴

4. Acciona Wind argues that it did, in fact, request that the Commission require MISO to study the impact of the completion of the Multi-Value Project (MVP) and to provide deferred transmission service conditioned on the completion of the MVP.⁵ In support, Acciona Wind points to its request in the complaint that the Commission direct MISO to approve 108 MW of firm transmission service as soon as possible and to study the impact of the MVP on Tatanka Wind’s transmission service request.⁶ Acciona Wind states that Tatanka Wind submitted to MISO a transmission service request for 180 MW of long-term firm point-to-point transmission service commencing January 1, 2019 and conditioned upon the final identified transmission contingency (i.e., the MVP entering into service).⁷ Acciona Wind acknowledges that it “associated the conditional service with its argument that the full 180 MW of the Tatanka Project should be studied under the Pre-Certified Path Study Process.”⁸

² *Id.* PP 2-3.

³ Rehearing Request at 2.

⁴ *Id.* (citing Complaint Order, 152 FERC ¶ 61,177 at P 44).

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.* (citing Complaint at 22-23).

⁸ *Id.*

5. Specifically, Acciona Wind asserts the following:

While Acciona [Wind] associated the conditional service with its argument that the full 180 MW of the Tatanka Project should be studied under the Pre-Certified Path Study Process, Acciona [Wind] explicitly requested that MISO be required to consider the impact of the completion of the MVP on the transmission service request. Acciona [Wind] further requested service conditioned on completion of the MVP and that MISO be required to provide additional transmission service above the 36 MW initially approved “as soon as possible[.]”

Acciona [Wind] described MISO Tariff provisions allowing MISO to defer service “until construction is completed of new transmission facilities or upgrades needed to provide Firm Point-to-Point Transmission Service. . . .” Importantly, Acciona [Wind’s] discussion of the possibility to defer service under the Tariff centers on MISO’s own System Impact Study, which ignored the planned increase in NRIS, “resulting in a worthless study identifying redundant upgrades no one believes are necessary. . . .” The deferral of service Acciona [Wind] requests in the Complaint relates to the System Impact Study, attached to the Complaint as Exhibit D, not the Pre-Certified Path Study, which does not identify system upgrades. Thus, while Acciona [Wind] objected to the Tatanka Project’s exclusion from the Pre-Certified Path Study Process, it also challenged the System Impact Study generated by MISO, because that study ignored the planned completion of the MVP and therefore identified redundant upgrades. Acciona [Wind] requested full service, conditioned on the completion of the MVP, either via the Pre-Certified Path Study Process or pursuant to MISO’s general process for evaluating transmission service requests, based on the System Impact Study MISO generated. Therefore, the Complaint did include a request to direct MISO to offer firm point-to-point service upon completion of the MVP, and the Commission erred in finding that it could not rule on the matter.⁹

⁹ *Id.* at 3-5 (citations omitted).

II. Discussion

6. We will deny rehearing. Acciona Wind contends that the Commission must synthesize an argument in the complaint from the arguments that Acciona Wind actually raised. We disagree. Commission regulations require that complaints state the specific relief or remedy requested.¹⁰ The complaint in this proceeding failed to specifically request that the Commission direct MISO to offer firm point-to-point transmission service upon completion of the MVP. Therefore, we find that the Commission appropriately declined to pre-judge whether MISO should have alternatively considered offering the 144 MW of transmission service on a delayed basis contingent upon completion of the MVP in the transmission service request system impact study process consistent with section 15.5 of the MISO Tariff.

The Commission orders:

Acciona Wind's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁰ 18 C.F.R. § 385.206(b)(7) (2015).