

154 FERC ¶ 61,227
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 Nos..	ER13-1923-003 ER13-1923-004
Duke Energy Carolinas, LLC		ER13-1928-008
Duke Energy Progress, Inc.		ER13-1928-009
Louisville Gas and Electric Company		ER13-1930-007 ER13-1930-008
Ohio Valley Electric Corporation		ER13-1940-008 ER13-1940-009
Alabama Power Company		ER13-1941-007 ER13-1941-008
Midcontinent Independent System Operator, Inc.		ER13-1945-003
Entergy Services, Inc.		ER13-1955-002
Cleco Power LLC		ER13-1956-002 (not consolidated)

ORDER ON REHEARING AND COMPLIANCE

(Issued March 22, 2016)

1. On November 25, 2015, the Commission issued an order¹ conditionally accepting, subject to additional compliance filings, the filings made by Duke Energy Carolinas, LLC and Duke Energy Progress, Inc. (together, Duke Carolinas); Louisville Gas and Electric

¹ *Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,247 (2015) (Second Compliance Order).

Company and Kentucky Utilities Company (LG&E/KU); Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (collectively, Southern Companies); Ohio Valley Electric Corporation (OVEC) (collectively, SERTP Filing Parties);² and Midcontinent Independent System Operator, Inc. (MISO) to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000³ and the First Compliance Order (Second Compliance Filings).⁴

2. On December 17, 2015, SERTP Filing Parties submitted revisions to the interregional transmission coordination and cost allocation procedures of their Open Access Transmission Tariffs (OATTs) to comply with the Second Compliance Order.⁵

3. On December 23, 2015, MISO submitted revisions to the interregional transmission coordination and cost allocation procedures of its OATT to comply with the

² For purposes of this order, SERTP Filing Parties refers to the public utility transmission providers that sponsor the Southeastern Regional Transmission Planning Process (SERTP). SERTP Filing Parties state that the following non-public utility transmission providers also support the SERTP: Associated Electric Cooperative Inc., Dalton Utilities, Georgia Transmission Corporation, the Municipal Electric Authority of Georgia, PowerSouth Energy Cooperative, the South Mississippi Electric Power Association, and the Tennessee Valley Authority. The public utility transmission providers and non-public utility transmission providers that support the SERTP are collectively referred to as the SERTP Sponsors.

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, *order on reh'g and clarification*, 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 *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,045 (2015) (First Compliance Order).

⁵ Duke Energy Carolinas, LLC, [Tariffs, Rate Schedules and Service Agreements, Attachment N-1 - MISO, Transmission Planning Process \(SERTP-MISO Seam\), 3.0.0](#); Louisville Gas and Electric Company, [Transmission, Appendix 7, Appendix 7 Attach K, 12.0.0](#); Ohio Valley Electric Corporation, [OVEC OATT, Attachment M-2, ITC Between SERTP and MISO, 2.0.0](#), Alabama Power Company, [OATT and Associated Service Agreements, Exhibit K-5, Interregional Transmission Coordination - SERTP/MISO, 2.0.0](#). For ease of reference, we refer to all the open access transmission tariffs at issue in this proceeding as OATTs.

Second Compliance Order (together with the SERTP Filing Parties' December 17, 2015 filing, Third Compliance Filings).⁶ SERTP Filing Parties and MISO request an effective date of January 1, 2015 for their Third Compliance Filings, which they state is consistent with the effective date the Commission granted in the Second Compliance Order.

4. In its December 23, 2015 filing, MISO also submitted a second version of Attachment FF that it states includes all pending Tariff language effective through February 2, 2016, including language filed in Docket Nos. ER16-469-000 and ER15-2657-001.⁷ MISO requests that the Commission treat such language as subject to the outcome of those pending proceedings and commits to file any revisions to the pending language as necessary to comply with any Commission orders in those proceedings.⁸ MISO requests an effective date of February 2, 2016 for this second version of Attachment FF.

5. Also on December 23, 2015, MISO and MISO Transmission Owners⁹ filed a request for rehearing of the Second Compliance Order.

⁶ Midcontinent Independent System Operator, Inc., [FERC Electric Tariff, ATTACHMENT FF, Transmission Expansion Planning Protocol, 46.0.0.](#)

⁷ Midcontinent Independent System Operator, Inc., [FERC Electric Tariff, ATTACHMENT FF, Transmission Expansion Planning Protocol, 47.0.0.](#) See MISO Transmittal at 7, n.26.

⁸ MISO Transmittal, Docket No. ER13-1923-003, at 7, n.26.

⁹ MISO Transmission Owners, for purposes of this filing, consist of: Ameren Services Company, as agent for Union Electric Company, Ameren Illinois Company and Ameren Transmission Company of Illinois; American Transmission Company LLC; Arkansas Electric Cooperative Corporation; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Cleco Power, LLC; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, Inc.; East Texas Electric Cooperative; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; 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.; Otter Tail Power Company; Prairie Power Inc.; South Mississippi Electric Power Association; Southern Illinois Power Cooperative; (continued ...)

6. For the reasons discussed below, we deny the request for rehearing, and we accept Duke Carolinas, LG&E/KU, Southern Companies and MISO's compliance filings.

7. However, as discussed below, we conditionally accept OVEC's compliance filing, subject to OVEC submitting an additional compliance filing within 15 days of the date of issuance of this order.

I. Notice of Filings and Responsive Pleadings

8. Notice of SERTP Filing Parties' December 17, 2015 compliance filing was published in the *Federal Register*, 80 Fed. Reg. 80,351 (2015), with interventions and protests due on or before January 7, 2016. No interventions or protests were filed.

9. Notice of MISO's December 23, 2015 compliance filing was published in the *Federal Register*, 80 Fed. Reg. 81,538 (2015), with interventions and protests due on or before January 13, 2016. NRG Power Marketing LLC and GenOn Energy Management, LLC (NRG Companies) filed a timely motion to intervene.

II. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motion to intervene serves to make NRG Companies a party to this proceeding.

B. Substantive Matters

11. As discussed below, we deny the request for rehearing and affirm the findings in the Second Compliance Order.

12. Additionally, as discussed below, we find that Duke Carolinas, LG&E/KU, Southern Companies and MISO's Third Compliance Filings comply with the directives in the Second Compliance Order. We find that OVEC's filing partially complies with the directives in the Second Compliance Order. Accordingly, we accept Duke Carolinas, LG&E/KU, Southern Companies, and MISO's Third Compliance Filings to be effective January 1, 2015. We conditionally accept OVEC's filing, subject to a further compliance filing, as discussed below.

Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

1. **Interregional Transmission Coordination Requirements – General Requirements**

a. **Second Compliance Order**

13. In the Second Compliance Order, the Commission found that MISO and SERTP Filing Parties' common proposed definition of an interregional transmission project that is eligible for interregional cost allocation complied with the directives of the First Compliance Order.¹⁰ However, the Commission rejected in its entirety MISO's proposed new section II.E in Attachment FF of its OATT that established a new transmission project type entitled "Interregional Transmission Project" for several reasons. The Commission found that, first, MISO's proposed new section was not needed to comply with the directives of the First Compliance Order. Second, the Commission found that MISO's proposed definition of Interregional Transmission Project was not included in any of the SERTP Filing Parties' OATTs and was therefore inconsistent with the requirement in Order No. 1000 that public utility transmission providers in each pair of transmission planning regions develop the same language to be included in each public utility transmission provider's OATT that describes the procedures that a particular pair of transmission planning regions will use to satisfy the interregional requirements of Order No. 1000.¹¹ Third, the Commission found that MISO's proposal would have created essentially two different definitions of an interregional transmission project within MISO's OATT. Fourth, the Commission found that MISO's proposed language in the new section stated that Interregional Transmission Projects are more cost-effective *and* efficient compared to regional transmission projects, but Order No. 1000 requires that interregional transmission projects be more efficient *or* cost-effective solutions to regional needs.¹² Fifth, the Commission found that the proposed references in the new section to MISO's Joint Operating Agreements with PJM and SPP duplicated the same references already included elsewhere in the MISO OATT.¹³ Finally, the Commission found that the language in the proposed new section was unnecessary and potentially confusing because it stated that the terms Baseline Reliability Projects, Market Efficiency Projects, and Multi-Value Projects already include Interregional Transmission Projects.¹⁴ For these reasons, the Commission rejected MISO's proposed section II.E in Attachment

¹⁰ Second Compliance Order, 153 FERC ¶ 61,247 at P 18.

¹¹ *Id.* P 19 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 346).

¹² *Id.* (citing, *e.g.*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 396).

¹³ MISO, Tariff, Attachment FF, § I.E (40.0.0).

¹⁴ Second Compliance Order, 153 FERC ¶ 61,247 at P 19.

FF of its OATT in its entirety and directed MISO to submit a further compliance filing “to delete this section from its OATT and to delete the term ‘Interregional Transmission Project’ in those places where MISO proposes to add it.”¹⁵

14. In the Second Compliance Order, the Commission also rejected for several reasons the language that MISO proposed in section III.A.2.i in Attachment FF that explained how the portion of costs of Interregional Transmission Projects that are allocated to MISO will be further allocated within MISO. The Commission found that, first, the proposed language was not needed to comply with the directives in the First Compliance Order. Second, the Commission noted that, because it was rejecting MISO’s proposal to create a new Interregional Transmission Project category, the new language to explain how MISO will allocate the cost of an Interregional Transmission Project was unnecessary. Third, the Commission found that the proposed language merely duplicates, in part, the cost allocation methods that are described in more detail elsewhere in MISO’s OATT. Finally, the Commission found that the proposed new section was potentially confusing because it appeared to create new methods to allocate the portion of the cost of interregional transmission projects allocated to MISO when, in fact, MISO will use its existing regional cost allocation methods. Therefore, the Commission directed MISO to submit a further compliance filing “to delete in its entirety proposed section III.A.2.i in Attachment FF of MISO’s OATT.”¹⁶

b. Request for Rehearing

i. Summary

15. MISO and MISO Transmission Owners seek rehearing of the Commission’s rejection of MISO’s proposed new sections II.E, III.A.2.i, and the references to “Interregional Transmission Project” that MISO proposed to add in its Second Compliance Filing. MISO and MISO Transmission Owners contend that without those sections, MISO has no mechanism in its Tariff that allows it to consider or allocate the cost of interregional transmission projects, rendering itself out of compliance with the requirements of Order No. 1000.¹⁷

16. MISO and MISO Transmission Owners argue that absent the language in section II.E, the proponent of an interregional transmission project could meet the eligibility criteria for a Market Efficiency Project, Multi-Value Project, or Baseline Reliability

¹⁵ *Id.*

¹⁶ *Id.* P 45.

¹⁷ Request for Rehearing at 2.

Project, demonstrate that its transmission project is superior to an approved regional transmission project on an avoided cost basis, and still be told that its transmission project cannot be approved for want of any language authorizing MISO's Board of Directors (MISO Board) to approve it. MISO and MISO Transmission Owners contend that the MISO Board would then have the choice of approving the transmission project without any Tariff-based authorization to do so or refusing to approve the transmission project for this same reason. MISO and MISO Transmission Owners argue that either result would cause confusion and litigation.¹⁸

17. MISO and MISO Transmission Owners continue that the Commission's requirement that MISO delete proposed section III.A.2.i presents a similar problem to that posed by the deletion of section II.E. MISO and MISO Transmission Owners explain that approved Attachment FF requires that "costs allocated to each region shall be further allocated within each region pursuant to the cost allocation methodology contained in its regional transmission planning process."¹⁹ They state that MISO has separate methods for Market Efficiency Projects, Multi-Value Projects and Baseline Reliability Projects, an "Other Project" category, and a Default Cost Allocation.²⁰ MISO and MISO Transmission Owners contend that without this language, applying Attachment FF would result either in the application of the Default Cost Allocation or the "Other Project" cost allocation.²¹

18. MISO and MISO Transmission Owners further state that MISO's "Interregional Transmission Project" category and inclusion of references to this project category in other parts of the Tariff answered the question of how MISO would analyze and approve interregional transmission projects using the rules applicable to Market Efficiency Projects, Multi-Value Projects, and Baseline Reliability Projects absent any language in those sections authorizing MISO to do so. They state that, as proposed, an "Interregional Transmission Project" simply provided that a project that was intended to qualify as a Market Efficiency Project, Multi-Value Project, or Baseline Reliability Project could be evaluated and approved as such.²²

¹⁸ *Id.* at 9.

¹⁹ *Id.* at 10 (citing Tariff, Attachment FF, § X.D.5.b).

²⁰ *Id.* (citing Tariff, Attachment FF, § III.A).

²¹ *Id.* at 11.

²² Request for Rehearing at 9.

19. MISO and MISO Transmission Owners state that, for these reasons, the Commission should grant rehearing and either: (1) reverse the prior finding and permit MISO to reinstate the language implementing Interregional Transmission Projects; or (2) provide guidance as to how MISO may otherwise revise its OATT to comply with the requirements of Order No. 1000 without being out of compliance with the Second Compliance Order.

ii. Commission Determination

20. We deny MISO and MISO Transmission Owners' request for rehearing. For the reasons the Commission outlined in the Second Compliance Order, we continue to find that MISO must strike sections II.E, III.A.2.i, and the references to "Interregional Transmission Project" throughout Attachment FF of its OATT.²³

21. Furthermore, we disagree with MISO and MISO Transmission Owners' claim that MISO does not have a mechanism to approve and allocate the costs of interregional transmission projects without the language creating an "Interregional Transmission Project" category that the Commission directed MISO to delete. As MISO and MISO Transmission Owners acknowledge in their request for rehearing, the Commission accepted MISO's proposal to require interregional transmission projects to meet the eligibility criteria for a regionally cost allocated project in MISO.²⁴ MISO and MISO Transmission Owners further explain that:

As proposed, an "Interregional Transmission Project" was not a substantively new project category within MISO; it did not impose any new requirements on the proponents of interregional projects or require any special analyses. It simply provided that a project that was intended to qualify as an [Multi-Value Project], [Market Efficiency Project] or [Baseline Reliability Project] could be evaluated and approved as such.²⁵

²³ Second Compliance Order, 153 FERC ¶ 61,247 at PP 19, 45.

²⁴ Request for Rehearing at 8. *See also* MISO OATT, Attachment FF, § X.D.1.A.iii (stating that an interregional transmission project must meet the threshold and qualification criteria for transmission projects potentially eligible to be included in the respective regional transmission plans for purposes of cost allocation in MISO and SERTP, pursuant to their respective regional transmission planning processes).

²⁵ Request for Rehearing at 9.

22. Thus, as MISO and MISO Transmission Owners themselves apparently understand, MISO must evaluate an interregional transmission project that qualifies as a Multi-Value Project, Market Efficiency Project or Baseline Reliability Project under the same provisions and using the same analyses that its OATT already outlines for any transmission project that qualifies as a Multi-Value Project, Market Efficiency Project, or Baseline Reliability Project. Similarly, the MISO Board could approve an interregional transmission project using its existing authority under the MISO OATT to approve any Multi-Value Project, Market Efficiency Project, or Baseline Reliability Project, and the costs of such projects would be allocated within MISO pursuant to the relevant cost allocation provisions already included in MISO's OATT. A separate "Interregional Transmission Project" category is thus unnecessary.

c. Third Compliance Filing

i. Summary

23. MISO proposes to delete sections II.E and III.A.2.i from Attachment FF of the MISO OATT and delete references to "Interregional Transmission Projects" in all instances where MISO had proposed to add them.

ii. Commission Determination

24. We find that MISO's proposed revisions comply with the directives of the Second Compliance Order.

2. Cost Allocation – Consideration of All Benefits in Cost Allocation Calculation

a. Second Compliance Order

25. In their Second Compliance Filings, SERTP Filing Parties and MISO did not submit any OATT changes to address the Commission's rejection in the First Compliance Order of MISO's proposal to not consider a regional transmission project for potential displacement by an interregional transmission project if the regional transmission project has already been approved in the MISO regional transmission plan.²⁶ Therefore, in the Second Compliance Order, the Commission directed SERTP Filing Parties and MISO "to submit changes to their respective OATTs to state that MISO will quantify benefits of an interregional transmission project based upon the total avoided costs of projects included

²⁶ Second Compliance Order, 153 FERC ¶ 61,247 at P 35.

in the then-current regional transmission plan that would be displaced if the proposed interregional transmission project was included.²⁷

b. Third Compliance Filing

26. SERTP Filing Parties and MISO propose the following revisions to their OATTs explaining that that MISO will quantify benefits of an interregional transmission project based upon:

the total avoided costs of projects included ~~identified, but not approved~~ in the then-current regional transmission plan that would be displaced if the proposed interregional transmission project was included.²⁸

c. Commission Determination

27. We find that SERTP Filing Parties' and MISO's proposed revisions comply with the directive in the Second Compliance Order.

3. Miscellaneous

a. Second Compliance Order

28. In the Second Compliance Order, the Commission found that MISO revised the sequence of heading numbers in section X.D of Attachment FF of its OATT, which resulted in a number of inconsistent OATT references to sections X.D.1 and X.D.2 of Attachment FF. Therefore, the Commission directed MISO to submit a further compliance filing to update the tariff references throughout Attachment FF of its OATT.²⁹

29. The Commission also noted that OVEC submitted its eTariff record in a redline version. Accordingly, the Commission stated that OVEC should ensure that the tariff record it submits in the Third Compliance Filing is the clean version rather than the redline version.³⁰

²⁷ *Id.* P 43.

²⁸ MISO, Tariff, Attachment FF, § X.D.2.b.ii (46.0.0); *e.g.*, Alabama Power Company, OATT, Ex. K-5 § 4.2.B.ii (2.0.0).

²⁹ Second Compliance Order, 153 FERC ¶ 61,247 at P 52.

³⁰ *Id.* n.79.

b. Third Compliance Filing

30. MISO states that it proposes revisions to update the tariff references throughout Attachment FF of its OATT in order to comply with the Commission's directive to correct inconsistent references.³¹

31. In its Third Compliance Filing, OVEC again submitted its eTariff record in a redline version and not a clean version.

c. Commission Determination

32. We find that MISO complied with the Commission's directive in the Second Compliance Order.

33. However, we find that, notwithstanding the Commission's statement, OVEC again submitted a redline eTariff record in its Third Compliance Filing instead of a clean version. Accordingly, we direct OVEC to submit, within 15 days of the date of the issuance of this order, a further compliance filing to remove the redline from the eTariff record it submitted in its Third Compliance Filing.

The Commission orders:

(A) The request for rehearing is hereby denied, as discussed in the body of this order.

(B) The compliance filings of Duke Carolinas, LG&E/KU, Southern Companies, and MISO are accepted, effective January 1, 2015.

(C) OVEC's compliance filing is hereby accepted, subject to condition, effective January 1, 2015, and OVEC must make a further compliance filing, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³¹ MISO Transmittal, Docket No. ER13-1923-003, at 6.