

154 FERC ¶ 61,278
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

March 31, 2016

In Reply Refer To:
Midcontinent Independent System
Operator, Inc.
Consumers Energy Company
Docket No. ER16-844-000

Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

Attention: James D. W. Roush

Dear Mr. Roush:

1. On February 1, 2016, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Midcontinent Independent System Operator, Inc. (MISO) and Consumers Energy Company (Consumers Energy) filed two revised agreements governing the Michigan Joint Pricing Zone – Pricing Zone No. 13 (Joint Zone)³: (1) Second Revised Michigan Joint Zone Revenue Allocation Agreement; and (2) Second Amended and Restated Settlement Agreement (together, Agreements). As discussed below, we accept the Agreements, effective April 1, 2016, as requested.
2. Consumers Energy states that it recently received approval from the Commission to reclassify a small set of distribution assets to transmission assets.⁴ Consumers Energy

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2015).

³ Currently, Joint Zone members include Michigan Electric Transmission Company, LLC (METC), Wolverine Power Supply Cooperative, Inc. (Wolverine), and Michigan Public Power Agency (MPPA).

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

states that these reclassified assets are in the Joint Zone and that the proposed revisions to the agreements add Consumers Energy as a party to the Joint Zone. Additionally, Consumers Energy states, the revisions reflect changes to the Joint Zone that have occurred since the agreements were last filed with the Commission.

3. According to Consumers Energy, MPPA and Wolverine both agree on the changes reflected in the Agreements. Consumers Energy notes that, while METC participated in the negotiations for the Agreements, it requested that they be filed unexecuted.⁵

4. Notice of this filing was published in the *Federal Register*, 81 Fed. Reg. 6256 (2016), with interventions and protests due on or before February 22, 2016. MPPA, Wolverine, and Midcontinent MCN LLC filed timely motions to intervene. METC submitted a timely motion to intervene and conditional protest. On March 4, 2016, Consumers Energy filed an answer to METC's protest.

5. 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 who filed them parties to this proceeding.

6. 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 Consumers Energy's answer because it has provided information that assisted us in our decision-making process.

7. METC contends that the ownership of Consumers Energy's reclassified facilities is under a contract dispute between METC and Consumers Energy. Specifically, METC asserts that the dispute centers on language in a distribution transmission interconnection agreement between METC and Consumers Energy, which METC claims requires the transfer of the facilities in question to METC.⁶ METC explains that it is pursuing contractual remedies in other fora to ensure Consumers Energy meets its obligations with regard to conveying any such facilities to METC.⁷ Thus, METC states that it will withdraw its protest on the condition that any order issued in this docket accepting the Agreements clearly states that any such acceptance has no bearing on the merits of the underlying contract dispute.⁸ Particularly, METC requests that the Commission note that

⁵ Consumers Energy Filing at 4.

⁶ METC Protest at 4.

⁷ *Id.* at 4-5.

⁸ *Id.* at 5.

the merits of the underlying asset ownership dispute are not before the Commission, and that any order in the instant docket will not prejudice the positions of either METC or Consumers Energy regarding this contract issue before any other forum.⁹ METC points out that the Commission has previously noted the pending dispute between these two parties.¹⁰

8. Consumers Energy responds that METC does not indicate that it opposes the proposed amendments to the Agreements. As such, Consumers Energy asserts that the Commission should accept the filing as requested. Additionally, Consumers Energy contends that this proceeding is limited to whether the proposed amendments to the Agreements are just and reasonable under section 205 of the FPA. Thus, Consumers Energy argues that METC's asset ownership claims under the distribution transmission interconnection agreement are outside the scope of this proceeding, and thus, that the Commission should only state in its order, if it addresses METC's conditional protest at all, that any contract-based claims are outside the scope of this proceeding. Consumers Energy states that the Commission has made similar findings regarding METC's claims in prior dockets.¹¹

9. We accept the revised Agreements, to be effective April 1, 2016, as requested. We note that the dispute about the distribution transmission interconnection agreement between METC and Consumers Energy is outside of the scope of this proceeding and therefore we do not address its merits.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁹ *Id.* at 7.

¹⁰ *Id.* at 6 (citing Reclassification Order, 151 FERC ¶ 61,033 at P 19; *Midcontinent Independent System Operator, Inc.*, 153 FERC ¶ 61,380, at P 67 (2015)).

¹¹ Consumers Energy Answer at 2 (citing Reclassification Order, 151 FERC ¶ 61,033 at P 19; *Midcontinent Independent System Operator, Inc.*, 153 FERC ¶ 61,380 at P 67).