

155 FERC ¶ 61,010
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System
Operator, Inc.

Docket No. ER16-33-001

ORDER DENYING REHEARING

(Issued April 6, 2016)

I. Background

1. In a December 30, 2015 Order, the Commission accepted an executed Generator Interconnection Agreement (Interconnection Agreement) among Midcontinent Independent System Operator, Inc. (MISO) (as Transmission Provider), Consumers Energy Company (Consumers), on behalf of its Generation Business Unit (as Interconnection Customer), 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 commercial service in 2012. At that time, Lake Winds was interconnected to power lines that were classified as state-jurisdictional distribution facilities. In April 2015, the Commission approved Consumer's request to reclassify those lines from state-jurisdictional distribution to Commission-jurisdictional transmission facilities.²

2. On January 29, 2016, Michigan Electric Transmission Company, LLC (METC) sought rehearing of the December 30 Order. On rehearing, METC argues that the Commission acted arbitrarily and capriciously when it determined that the Lake Winds interconnection was not subject to Commission jurisdiction and the provisions of

¹ *Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,380 (2015) (December 30 Order).

² *Consumers Energy Co.*, 151 FERC ¶ 61,033, at PP 2-6 (2015).

Order No. 2003 when the generation facility entered service in 2012.³ METC also asserts that the December 30 Order creates a jurisdictional loophole in the Commission's interconnection rules by permitting a generator that sells at wholesale to follow state interconnection procedures. Finally, METC argues that the Commission's acceptance of the Interconnection Agreement is arbitrary and capricious because MISO and Consumers did not follow the MISO tariff and Order No. 2003 procedures, as METC asserts they were required to do. As discussed below, we deny rehearing.

II. Procedural Matter

3. We reject Consumers' February 9, 2016 answer to the request for rehearing. Such answers are prohibited by Rule 713(d)(1) of the Commission's Rules of Practice and Procedure.⁴

III. Commission Determination

4. METC claims that the Commission "erred in finding that the Lake Winds interconnection was not subject to its jurisdiction since energization" in 2012.⁵ In support, METC contends that under Order No. 2003, if a distribution system is used to transmit electricity in interstate commerce or to make wholesale sales, then the interconnection is subject to the interconnection requirements of Order No. 2003. However, in the December 30 Order the Commission did not rule upon Lake Winds' jurisdictional status as of 2012. Rather, the Commission found that question to be outside the scope of this proceeding, which concerns "the proposed *pro forma* GIA for an existing generator."⁶ Moreover, METC overlooks a key caveat of Order No. 2003. Order No. 2003 only applies to interconnections with distribution systems that provide transmission service "pursuant to a Commission-filed [Open Access Transmission Tariff

³ *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).

⁴ 18 C.F.R. § 385.713(d)(1) (2015).

⁵ METC Request for Rehearing at 9.

⁶ December 30 Order, 153 FERC ¶ 61,380 at P 60.

(OATT)].”⁷ When Lake Winds was interconnected to Consumers’ distribution facilities over three years ago, those facilities were not subject to a “Commission-filed OATT.” Nor were those facilities functionally under the control of MISO.⁸ Instead, Lake Winds was interconnecting with power lines and facilities subject to state jurisdiction and state interconnection rules.

5. METC’s contention that the December 30 Order is arbitrary and capricious because it creates a “jurisdictional loophole” is also without merit.⁹ METC suggests that the alleged loophole will allow entities to sidestep Commission interconnection rules. However, what METC argues is a “loophole” is a description of the jurisdictional boundary between federal and state interconnection rules, including Order No. 2003.

6. Finally, we reject METC’s argument that the Commission erred by accepting the Interconnection Agreement, notwithstanding that MISO and Consumers did not process the Lake Winds facility pursuant to MISO’s queue procedures or Order No. 2003 procedures. As explained above, Order No. 2003 did not govern the interconnection of the Lake Winds facility in 2012, and therefore MISO’s queue procedures implementing Order No. 2003 similarly did not govern the project’s interconnection at that time.

The Commission orders:

METC’s request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 804. *See also* Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 700 (“With 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”).

⁸ December 30 Order, 153 FERC ¶ 61,380 at PP 22-23.

⁹ METC Request for Rehearing at 10.