

155 FERC ¶ 61,286
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. ER16-1480-000
ER16-1481-000

ORDER ACCEPTING AND SUSPENDING SERVICE AGREEMENT,
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES, AND
ACCEPTING RATE SCHEDULE

(Issued June 20, 2016)

1. On April 21, 2016, in Docket No. ER16-1480-000, 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) submitted a proposed System Support Resource (SSR) Agreement between White Pine Electric Power, LLC (White Pine) and MISO, designated as Fourth Revised Service Agreement No. 6507 (Second Revised White Pine SSR Agreement) under its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff),³ in order to ensure the continued operation of White Pine Unit No. 1 as an SSR.⁴ Also on April 21, 2016, in Docket No. ER16-1481-000, pursuant

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2015).

³ The Tariff defines SSRs as “[g]eneration Resources or Synchronous Condenser Units [(SCUs)] that have been identified in Attachment Y – Notification to this Tariff and are required by the Transmission Provider for reliability purposes, to be operated in accordance with the procedures described in Section 38.2.7 of this Tariff.” MISO, FERC Electric Tariff, Module A, § 1.S, Definitions - S (42.0.0).

⁴ White Pine Unit No. 1 is a generator turbine located in White Pine, Michigan, within the footprint of the American Transmission Company, LLC (ATC) with a nameplate capacity of 20 MW. *See* Second Revised White Pine SSR Agreement Filing, Docket No. ER16-1480-000, Transmittal Letter at 2 (filed Apr. 21, 2016).

to section 205 of the FPA and Part 35 of the Commission's regulations, MISO submitted proposed Rate Schedule 43H (Allocation of SSR Costs Associated with White Pine Unit No. 1) under its Tariff (Second Revised Rate Schedule 43H).

2. As discussed below in this order, we accept the Second Revised White Pine SSR Agreement, suspend it for a nominal period, to be effective April 16, 2016, as requested, subject to refund, and set the proposed rates in the Second Revised White Pine SSR Agreement for hearing and settlement procedures. We also accept the Second Revised Rate Schedule 43H and make it effective April 16, 2016.

I. Background

3. Under MISO's Tariff, market participants that have decided to retire or suspend a generation resource or SCU must submit a notice (Attachment Y Notice), pursuant to Attachment Y (Notification of Potential Resource/SCU Change of Status) of the Tariff, at least 26 weeks prior to the resource's retirement or suspension effective date. During this 26-week notice period, MISO will conduct a study (Attachment Y Study) to determine whether all or a portion of the resource's capacity is necessary to maintain system reliability, such that SSR status is justified. If so, and if MISO cannot identify an SSR alternative that can be implemented prior to the retirement or suspension effective date, then MISO and the market participant shall enter into an agreement, as provided in Attachment Y-1 (Standard Form SSR Agreement) of the Tariff, to ensure that the resource continues to operate, as needed.⁵

4. On July 25, 2012, in Docket No. ER12-2302-000, MISO submitted proposed Tariff revisions regarding the treatment of resources that submit Attachment Y Notices. On September 21, 2012, the Commission accepted subject to condition MISO's proposed Tariff revisions effective September 24, 2012, subject to two compliance filings due within 90 days and 180 days of the date of the order.⁶ On July 22, 2014, the Commission accepted, subject to condition, MISO's compliance filing made in response to the 2012 SSR Order, subject to further compliance.⁷ On December 17, 2015, the Commission issued an order on rehearing and accepted MISO's further compliance filing, subject to

⁵ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *order on reh'g*, 109 FERC ¶ 61,157 (2004).

⁶ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012) (2012 SSR Order), *order on compliance*, 148 FERC ¶ 61,056 (2014) (SSR Compliance Order).

⁷ SSR Compliance Order, 148 FERC ¶ 61,056.

condition.⁸ On June 16, 2016, the Commission issued an order accepting in part, and rejecting in part, MISO's further compliance filing, subject to the outcome of Docket No. ER16-521.⁹

II. History of White Pine Unit No. 1 SSR Status

5. On April 15, 2014, in Docket No. ER14-1724-000, MISO submitted the first SSR agreement between White Pine and MISO to ensure the continued availability of White Pine Unit No. 1 as an SSR Unit (White Pine 1 SSR Agreement), along with the first associated Rate Schedule 43H in Docket No. ER14-1725-000. On June 13, 2014, the Commission accepted the White Pine 1 SSR Agreement and Rate Schedule 43H, and suspended them for a nominal period, to be effective April 16, 2014 for a one-year period as requested, subject to refund and further Commission order.¹⁰ On August 21, 2014, the Commission issued a further order addressing issues related to the White Pine 1 SSR Agreement and Rate Schedule 43H.¹¹

6. On April 20, 2015, in Docket No. ER15-1535-000, MISO submitted a proposed Revised White Pine SSR Agreement to ensure the continued availability of White Pine Unit No. 1 as an SSR Unit for an additional one-year term, beginning April 16, 2015, along with a Revised Rate Schedule 43H in Docket No. ER15-1536-000. In an order issued June 19, 2015, the Commission accepted and suspended the Revised White Pine SSR Agreement, to be effective April 16, 2015, subject to refund, and set all SSR cost-related issues in the Revised White Pine SSR Agreement for hearing and settlement judge procedures.¹² The Commission also accepted subject to condition Revised Rate Schedule 43H, suspended it for a nominal period, to be effective April 16, 2015, subject to refund, and subject to the outcome of a proceeding addressing the cost allocation for three SSRs located in the ATC service territory in Docket No. ER14-2952.¹³

⁸ *Midwest Indep. Transmission Sys. Operator, Inc.*, 153 FERC ¶ 61,313 (2015) (Second SSR Compliance Order).

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 155 FERC ¶ 61,274 (2016).

¹⁰ *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,199 (2014).

¹¹ *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,136 (2014).

¹² *Midcontinent Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,244, at P 32 (2015) (June 2015 White Pine SSR Order).

¹³ *Id.* P 43.

7. On August 4, 2015, in Docket No. ER15-1876-000, the Commission accepted MISO's filing of an executed, amended, and restated SSR Agreement between White Pine and MISO containing additional compensation for unanticipated repairs to White Pine Unit No. 1,¹⁴ suspended it for a nominal period, to become effective June 1, 2015, subject to refund, and set the proposed rate for hearing and settlement judge procedures, and consolidated the proceeding with the ongoing hearing and settlement procedures established by the Commission in Docket No. ER15-1535-000.¹⁵

III. MISO's Filings

8. On April 21, 2016, in Docket No. ER16-1480-000, MISO submitted the Second Revised White Pine SSR Agreement to ensure the continued availability of White Pine Unit No. 1 as an SSR Unit between April 16, 2016, and April 15, 2017. MISO states that it notified White Pine that the SSR designation for White Pine Unit No. 1 would continue following the expiration of the Revised White Pine SSR Agreement, subject to a review of feasible alternatives to the continued SSR designation.¹⁶ MISO states that White Pine has agreed to continue operating White Pine Unit No. 1 on and after April 16, 2016.¹⁷ MISO requests waiver of the prior notice requirement to allow the Second Revised White Pine SSR Agreement to go into effect on April 16, 2016.¹⁸

9. In Docket No. ER16-1481-000, MISO submitted the Second Revised Rate Schedule 43H under its Tariff, which specifies the allocation of the costs associated with the continued operation of White Pine Unit No. 1 as an SSR Unit.¹⁹ MISO states that the cost allocation in the Second Revised Rate Schedule 43H is the same as that submitted for allocating costs in compliance with Commission directives stated in orders issued on February 19, 2015 and September 17, 2015 in Docket No. ER14-2952 concerning cost

¹⁴ MISO Amended White Pine SSR Agreement Filing, Docket No. ER15-1876-000 (filed June 5, 2015 and supplemented June 8, 2015).

¹⁵ *Midcontinent Indep. Sys. Operator, Inc.*, 152 FERC ¶ 61,108 (2015).

¹⁶ Second Revised White Pine SSR Agreement Filing, Docket No. ER16-1480-000, Transmittal Letter at 2-3.

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 7.

¹⁹ Second Revised White Pine Rate Schedule 43H Filing, Docket No. ER16-1481-000 (filed Apr. 21, 2016).

allocation for three SSRs located in the ATC service territory.²⁰ MISO requests waiver of the prior notice requirement to allow the Second Revised Rate Schedule 43H to go into effect on April 16, 2016, to correspond with the effective date of the Second Revised White Pine SSR Agreement.²¹

10. MISO requests that the Second Revised Rate Schedule 43H Filing and Second Revised White Pine SSR Agreement Filing be consolidated, consistent with the Commission's practice to consolidate matters where there are common issues of law or fact and consolidation will ultimately result in greater administrative efficiency.²²

IV. Notice and Responsive Pleadings

11. Notice of MISO's filings in Docket Nos. ER16-1480-000 and ER16-1481-000 was published in the *Federal Register*, 81 Fed. Reg. 24,810 (2016), with interventions and protests due on or before May 12, 2016.

12. Timely motions to intervene were filed in both dockets by: ATC; White Pine; Wisconsin Power and Light Company; and Wisconsin Public Service Corporation. Upper Peninsula Power Company (Upper Peninsula) filed a timely motion to intervene and protest in both dockets. The Michigan Public Service Commission (Michigan Commission) filed a notice of intervention and protest in both dockets. Verso Corporation filed an out-of-time motion to intervene in Docket No. ER16-1480. WPPI Energy filed an out-of-time motion to intervene in both dockets.

²⁰ Second Revised White Pine Rate Schedule 43H Filing, Transmittal Letter at 3 (citing *Public Serv. Commission of Wisconsin v. Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,104, at PP 73-79 (2015) (February 2015 Order) and *Midcontinent Indep. Sys. Operator, Inc.*, 152 FERC ¶ 61,216 (2015) (SSR Cost Allocation Compliance Order)). MISO notes that the proposed Second Revised Rate Schedule 43H contains language that at the time of its filing was pending before the Commission in Docket No. ER14-2952-005. MISO requests that the Commission treat the identified language as subject to the outcome of that proceeding. The Commission approved this language in an order issued on May 3, 2016. See *Midcontinent Indep. Sys. Operator, Inc.*, 155 FERC ¶ 61,134, at P 53 (2016) (May 2016 Compliance Order).

²¹ Second Revised White Pine Rate Schedule 43H Filing, Transmittal Letter at 5.

²² *Id.* at 3 (citing *Sw. Power Pool, Inc.*, 125 FERC ¶ 61,001, at P 26 (2008); *Startrans IO L.L.C.*, 122 FERC ¶ 61,306, at P 64 (2008); *PP&L Resources, Inc.*, 90 FERC ¶ 61,203, at 61,653 (2000)).

13. On May 25, 2016, MISO and White Pine filed a motion for leave to answer and answer. On June 6, 2016, Upper Peninsula filed a motion for leave to answer and answer.

V. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,²³ the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will grant Verso Corporation and WPPI Energy's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

15. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to protests unless otherwise ordered by the decisional authority. We accept the answers filed by the parties because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Second Revised White Pine SSR Agreement

16. As discussed further below, we accept the Second Revised White Pine SSR Agreement, suspend it for a nominal period, to be effective April 16, 2016, as requested, subject to refund, and set the proposed rates in the Second Revised White Pine SSR Agreement for hearing and settlement procedures.

a. Need for Renewal and Assessment of Feasible Alternatives

i. Filing

17. MISO states that, as part of its annual review of the continuing need for a White Pine SSR agreement, it conducted updated analyses and prepared an additional Attachment Y Study Report that assesses the impact of the White Pine Unit No. 1 retirement.²⁴ MISO states that on February 8, 2016, it held a West Technical Study Task

²³ 18 C.F.R. § 385.214 (2015).

²⁴ Second Revised White Pine SSR Agreement Filing, Transmittal Letter at 4-5. MISO's Attachment Y Study Report, included in the filing, provides further details on the evaluation of available alternatives.

Force stakeholder meeting and asked stakeholders to provide input regarding feasible alternatives that could address the reliability issues pertaining to the retirement of White Pine Unit No. 1. MISO contends that, during that meeting, the review of generation dispatch, system reconfiguration, special protection schemes, and/or operating guides provided no solution to fully address the reliability issues identified, and that the end result of the meeting and later feedback was the absence of any alternatives that are available at this time to avoid the need for renewal of the SSR agreement.²⁵ MISO states that demand response alternatives were also discussed, without any feasible alternative being offered. MISO states that in response to questions about where, specifically, load curtailment would be needed and how a prospective customer would offer load curtailment services, it explained that the impacted area is effectively bounded by the constrained and contingent facilities identified in the study, and that interested parties would need to work directly with MISO to evaluate and implement a suitable load curtailment arrangement.²⁶

18. MISO states that, in response to stakeholder questions, it confirmed that the annual assessments involve a review of the outage plans of the transmission owner and updated estimates and requirements for facility maintenance, including consideration of outage deferrals and rescheduling to avoid conditions that require SSR designation for White Pine Unit No. 1. MISO contends that no outage rescheduling options exist that would eliminate the need for the Second Revised White Pine SSR Agreement because the remaining outage plans are required to be completed within a limited timeframe in advance of the proposed transmission upgrades.²⁷

19. MISO states that, unless an alternative is identified, White Pine Unit No. 1 will be required for reliability purposes until the rebuilding of the 69kV transmission path from Lakota Road to Mass to Winona and conversion of the line to 138kV operation (Project 8089) that is expected to be completed by December 31, 2021.²⁸ The Attachment Y Study submitted with the instant filing indicates that Project J543, a 19MW biomass powered unit, has been proposed that may be a suitable alternative to White Pine Unit No. 1 in the future. Project J543 has an expected in service date of March 1, 2018.²⁹

²⁵ *Id.* at 5.

²⁶ *Id.*

²⁷ *Id.* at 6.

²⁸ *Id.*

²⁹ *Id.*, Ex. B (Attachment Y Study Report) at 10.

ii. Commission Determination

20. We find that MISO has supported the continued designation of White Pine Unit No. 1 as an SSR Unit. We find that MISO has justified the need for the unit and has provided sufficient evidence demonstrating that the reliability issues that necessitated original designation of White Pine Unit No. 1 as an SSR Unit persist in the area. We also accept MISO's explanation of its alternatives assessment. We find that MISO and its stakeholders reviewed the potential for alternatives to continued SSR designation, but were unable to identify any feasible alternatives. As such, MISO has supported continued SSR designation for White Pine Unit No. 1 as a last resort measure to ensure reliability.³⁰

b. Modification of Attachment Y-1 Form Agreement

i. Filing

21. MISO contends that the terms of the Revised White Pine SSR Agreement, accepted by the Commission in the June 2015 White Pine SSR Order, formed the starting point for negotiation of the terms and conditions for the Second Revised White Pine SSR Agreement.³¹ MISO states that there are novel legal issues or other unique factors that justify departure from the *pro forma* SSR agreement. MISO states that the Second Revised White Pine SSR Agreement contains modifications to the Revised White Pine SSR Agreement to recognize revisions necessitated by the new period to which the Second Revised White Pine SSR Agreement applies. MISO states that other changes include the utilization of the "Full Term" defined term, provided in Section 3.A(4), in Sections 4.A(11) and 4.A(9), and a correction of an errant reference to "Section 9 E" of the SSR agreement, which should instead refer to "Section 9 D." MISO states that Exhibit 2 (Description of SSR Unit Compensation) contains substantial changes which include: (1) new terms for compensation; (2) the removal of provisions for the testing of the condenser unit; (3) the deletion of provisions regarding the Control Energy Management System; (4) the recognition of the possible availability of a second boiler, although no additional compensation needs to be provided for the dry lay up to maintain its operability; and (5) organizational changes to the paragraphs. MISO states that Exhibit 4 lists the projects that will be undertaken by White Pine to repair/replace/update facilities due to the age and condition of the plant and the expected need for White Pine Unit No. 1 for a number of years. MISO states that these projects are different than those included in the Revised White Pine SSR Agreement.³² MISO contends that the

³⁰ See 2012 SSR Order, 140 FERC ¶ 61,237 at PP 134-139.

³¹ Second Revised White Pine SSR Agreement Filing, Transmittal Letter at 3.

³² *Id.* at 4.

deviations from the *pro forma* SSR agreement reflect current needs. Finally, MISO notes that the proposed modifications from the *pro forma* SSR agreement are generally consistent with the enhancements conditionally approved by the Commission in the 2012 SSR Order, and are just and reasonable given the subject SSR Units.³³

ii. Commission Determination

22. We find the proposed modifications for the Attachment Y-1 form agreement to be just and reasonable. The Commission previously has accepted modifications to *pro forma* interconnection agreements where the transmission provider demonstrates that the changes are necessary to resolve “reliability concerns, novel legal issues, or other unique factors.”³⁴ As relevant to MISO’s proposed modifications to the Attachment Y-1 form agreement, the Commission previously has accepted similar provisions on cooperation and compensation associated with testing in the June 2015 White Pine SSR Order, the Presque Isle SSR agreement in Docket No. ER14-2860-000, and the Edwards Unit 1 SSR agreement in Docket No. ER15-943-000.³⁵

c. SSR Cost Determination

i. Filing

23. MISO states that, consistent with the 2012 SSR Order, it negotiated in good faith with White Pine to develop just and reasonable rates to compensate White Pine for operating the White Pine Unit No. 1 as an SSR Unit.³⁶ Under Exhibit 2 of the Second Revised White Pine SSR Agreement, MISO will pay White Pine a fixed monthly payment of \$548,270 to compensate White Pine for maintaining the availability of the SSR Unit.³⁷ This monthly amount covers the total anticipated annual fixed costs of

³³ *Id.*

³⁴ See, e.g., *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,163, at P 10 (2005); *Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC 61,421, at P 11 (2005).

³⁵ See June 2015 White Pine SSR Order, 151 FERC ¶ 61,244 at P 23; *Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,114, at P 58 (2014); *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,238, at P 55 (2015).

³⁶ Second Revised White Pine SSR Agreement Filing, Transmittal Letter at 8 (citing 2012 SSR Order, 140 FERC ¶ 61,237 at P 140).

³⁷ *Id.*, Ex. D (Second Revised White Pine SSR Agreement) at Ex. 2 (Description of SSR Unit Compensation).

\$6,579,245 during the Second Revised White Pine SSR Agreement term,³⁸ and includes non-capital costs as well as several anticipated capital repairs and related projects, the latter of which are listed in Exhibit 4 of the Second Revised White Pine SSR Agreement. MISO states that the affidavit of Steven L. Walsh (Walsh affidavit) supports the proposed rates as being just and reasonable and no more than necessary to maintain the availability of White Pine Unit No. 1 for such time as needed to maintain reliability.³⁹ According to the Walsh affidavit, the proposed cost compensation is based on historical data for the last three years covering the direct costs of operating and maintaining White Pine Unit No. 1.⁴⁰ The Walsh affidavit also estimates the additional capital expenditures for maintaining operability of White Pine Unit No. 1 at \$874,810, which, the affidavit indicates, is less than 50 percent of the costs of the capital expenses originally anticipated under the Revised White Pine SSR Agreement.⁴¹ The Walsh affidavit provides a description of each anticipated capital cost component.⁴²

24. MISO states that the Second Revised White Pine SSR Agreement provides for variable generation costs when MISO dispatches the SSR Unit to maintain system reliability.⁴³ MISO states that the Second Revised White Pine SSR Agreement contains equitable mechanisms to ensure that when White Pine Unit No. 1 is dispatched for reliability purposes, White Pine will not receive market revenues above variable generation costs.⁴⁴

ii. Protests

25. The Michigan Commission protests the \$6.6 million total anticipated annual level of fixed SSR costs reflected in the Second Revised White Pine SSR Agreement, which it states has increased from \$5.95 million fixed via an order approving settlement in Docket No. ER15-1535; and as a threshold matter, the Michigan Commission also disputes the inclusion of fixed costs such as depreciation expense, taxes, and return on equity in SSR

³⁸ *Id.*, Ex. E (Walsh Aff.) at 7.

³⁹ *Id.*, Transmittal Letter at 8.

⁴⁰ *Id.*, Ex. E (Walsh Aff.) at 4.

⁴¹ *Id.* at 5.

⁴² *Id.* at 5-7.

⁴³ *Id.*, Transmittal Letter at 8.

⁴⁴ *Id.*

agreements.⁴⁵ The Michigan Commission contends that there is a lack of sufficient information to determine the reasonableness of the proposed level of SSR costs. Furthermore, the Michigan Commission protests the cost projections for operations and maintenance based on three-year averages incurred during past periods as lacking support for the assumption that past history will be reflective of future use of White Pine Unit No. 1.⁴⁶ The Michigan Commission also opposes the inclusion of proposed SSR costs based on estimates of capital expenditure that may not actually be incurred. The Michigan Commission requests that the Commission require MISO to file detailed workpapers supporting its claimed levels of SSR costs and an explanation supporting the allocation of common costs to White Pine Unit No. 1.⁴⁷

26. The Michigan Commission also protests the inclusion of projected costs without a true-up mechanism, maintaining that such a mechanism is necessary to keep SSR costs at just and reasonable levels and to avoid repetitive litigation. The Michigan Commission notes that the Commission has approved a true-up mechanism for SSR costs involving the Presque Isle generation units, and should do so here.⁴⁸

27. Upper Peninsula also contends that neither MISO nor White Pine provided sufficient support to determine whether the rates set forth in the Second Revised White Pine SSR Agreement for White Pine Unit No. 1 are just and reasonable under section 205 of the FPA.⁴⁹ According to Upper Peninsula, White Pine's representations on costs related to the Second Revised White Pine SSR Agreement among other things: (1) overstated and used inconsistent measures for certain non-capital costs; (2) included historical costs that did not match the same costs in the last version of the SSR agreement; (3) failed to explain allocation of certain non-capital costs and return on capital; (4) failed to provide any supporting documentation to justify certain capital costs; and (5) added a 10-50 percent contingency that unjustifiably increases the capital costs by approximately \$125,000, when no similar contingency was added to prior versions of the agreement.⁵⁰ Upper Peninsula, therefore, asks the Commission to suspend the Second

⁴⁵ Michigan Commission Motion to Intervene and Protest at 4 (Michigan Commission Protest).

⁴⁶ *Id.* at 4-5.

⁴⁷ *Id.* at 5.

⁴⁸ *Id.* at 5-6.

⁴⁹ Upper Peninsula Motion to Intervene and Protest at 4-5 (Upper Peninsula Protest).

⁵⁰ *Id.* at 5-9.

Revised White Pine SSR Agreement for White Pine Unit No. 1, subject to refund, and set all cost-related issues for hearing and settlement judge procedures.

iii. MISO and White Pine's Answer

28. MISO and White Pine contend that the cost calculations used in the Second Revised White Pine SSR Agreement comply with the Commission's applicable precedent and are consistent with those utilized in the recently accepted Uncontested Settlement in Docket No. ER15-1535.⁵¹ MISO and White Pine submit that they considered costs for the twelve month period beginning on April 16, 2016, and did not arrive at the same number as in prior years. MISO and White Pine argue that increased costs for the Second Revised White Pine SSR Agreement are appropriate and are explained in the Walsh affidavit.⁵²

29. MISO and White Pine dispute Upper Peninsula and the Michigan Commission's protest of the use of a three-year average to calculate certain non-capital costs. MISO and White Pine argue that ratepayers benefit from the use of the three-year average compared with the historical cost of service while White Pine Unit No. 1 was operating under previous SSR agreements, because the highest level of costs for White Pine Unit No. 1 occurred in 2015, when White Pine Unit No. 1 was operating under the Revised White Pine SSR Agreement. MISO and White Pine contend that basing compensation negotiation on the lower of the three-year average would be non-compensatory by design and would violate the Commission's orders.⁵³

30. In response to Upper Peninsula's protest regarding the allocation of non-capital costs to White Pine Unit No. 1, MISO and White Pine note that the Walsh affidavit explains that, due to economies of scale, the costs associated with the continued operation of White Pine Unit No. 1 are more than half of the costs associated with operating both White Pine Units No. 1 and 2. MISO and White Pine contend that these allocations are clearly explained in the Walsh affidavit.⁵⁴

⁵¹ MISO and White Pine Answer at 6 (citing Offer of Settlement of White Pine Electric Power, L.L.C. under ER15-1535, *et al.* (Jan. 29, 2016); Letter Order Approving White Pine Electric Power, L.L.C.'s Offer of Settlement under ER15-1535, *et al.* (May 6, 2016) (Uncontested Settlement)).

⁵² *Id.*

⁵³ *Id.* at 7.

⁵⁴ *Id.* at 7-8 (citing Second Revised White Pine SSR Agreement Filing, Ex. E (Walsh Aff.) at 13).

31. MISO and White Pine explain that the proposed eight percent return on capital was calculated by applying an eight percent return to the net book value of White Pine's plant as of October 2015, which is the same methodology used in the prior White Pine SSR agreements.⁵⁵

32. MISO and White Pine dispute Upper Peninsula's argument that capital costs should not be collected immediately but rather be included in White Pine's plant investment as they are completed, and then depreciated over the life of White Pine Unit No. 1. MISO and White Pine argue that the Commission has emphasized that SSR agreements are subject to review regarding their continued need on no more than an annual basis, and that sometimes SSR agreements are terminated early (e.g., the Presque Isle SSR Agreement). MISO and White Pine contend that the compensation for the recovery of capital costs in the Second Revised White Pine SSR Agreement is therefore appropriate.⁵⁶

33. In response to Upper Peninsula's questioning the need to replace the heating boiler and the air compressor, MISO and White Pine assert that these projects are deferred for this year and not included in the Second Revised White Pine SSR Agreement. MISO and White Pine state that White Pine appropriately determined the necessity of these capital projects from a safety and reliability standpoint, and both MISO and the MISO Independent Market Monitor accepted this determination. MISO and White Pine state that the decision not to include the two deferred projects supports MISO and White Pine's conclusion that the remaining capital projects have been scrutinized and are necessary.⁵⁷

34. MISO and White Pine disagree with the Michigan Commission's argument that precedent supports the use of a true-up mechanism, and point out that the Commission has not accepted the true-up provisions associated with Presque Isle that the Michigan Commission uses to support this argument.⁵⁸ MISO and White Pine argue that direct

⁵⁵ *Id.* at 9.

⁵⁶ *Id.* at 10.

⁵⁷ *Id.* at 11-12.

⁵⁸ *Id.* at 12 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,114 at P 58). MISO and White Pine state that the Michigan Commission is an active participant in that on-going proceeding.

precedent involving the Commission's acceptance of the first White Pine SSR agreement involves an SSR agreement that does not include a true-up provision.⁵⁹

35. MISO and White Pine dispute Upper Peninsula's protest against the inclusion of a 10-50 percent contingency to each capital project. MISO and White Pine state that standard engineering and project estimating practice is to build in appropriate contingency costs based on the circumstances of each project, and doing so provides a more accurate projection of costs because it captures the possibility of unforeseeable events relating to the continued operation of White Pine Unit No. 1.⁶⁰ MISO and White Pine respond to Upper Peninsula's allegation that the 2014 historical costs for the Second Revised White Pine SSR Agreement do not match those used in the Revised White Pine SSR Agreement by noting that the discrepancy is due to an update to the actual 2014 costs, and the revised 2014 figures provide a more accurate, and lower, reflection of costs that was used in the calculation of the Second Revised White Pine SSR Agreement.⁶¹

iv. Upper Peninsula's Answer

36. Upper Peninsula disputes MISO and White Pine's explanation that the Walsh affidavit adequately explains costs, and claims that it explicitly objected to the Walsh affidavit's lack of details on costs. Upper Peninsula reiterates that the Walsh affidavit provides insufficient information to determine the justness and reasonableness of the costs under the Second Revised White Pine SSR Agreement.⁶²

37. In response to MISO and White Pine's arguments regarding the use of a three-year average of costs under the Second Revised White Pine SSR Agreement, Upper Peninsula contends that it did not suggest that costs should be based on the lower of the three-year average or the latest year for each category of non-capital costs. Upper Peninsula argues that it objected to MISO and White Pine's selective use of a three-year average during a period when costs decreased significantly over time and their failure to use a three-year average during a period when costs were increasing.⁶³

⁵⁹ *Id.*

⁶⁰ *Id.* at 12-13.

⁶¹ *Id.* at 13.

⁶² Upper Peninsula Answer at 3-4.

⁶³ *Id.* at 4.

38. Upper Peninsula maintains that MISO and White Pine offer no support for their argument that the increased allocation of non-capital costs to White Pine Unit No. 1 is due to the fact that White Pine Unit No. 2 is no longer in service and has not been in service since April 15, 2015. Upper Peninsula notes that it objected to increased cost allocations for White Pine Unit No. 1 between the Revised White Pine SSR Agreement and the Second Revised White Pine SSR Agreement, and that the terms for both of those agreements began after White Pine Unit No. 2 was removed from service and thus cannot explain the increase in the allocation of non-capital costs to White Pine Unit No. 1.⁶⁴

39. Upper Peninsula also argues that White Pine and MISO provide no basis on which to judge the proposed 8 percent return on capital calculation because they provide insufficient information regarding White Pine's cost of debt and equity, actual capital structure, or the book value of assets.⁶⁵

40. In response to MISO and White Pine's argument that capital costs should not be included in White Pine's plant investment and depreciated over the useful life of White Pine Unit No. 1 because SSR agreements can be short-lived, Upper Peninsula notes that the Second Revised White Pine SSR Agreement is the third SSR agreement for White Pine Unit No. 1, and MISO states that it expects that an SSR agreement will be needed for another four years until a transmission upgrade is completed in December 31, 2021.⁶⁶

41. Upper Peninsula contends that it is aware that White Pine and MISO do not include capital projects to replace the heating boiler and air compressor in the Second Revised White Pine SSR Agreement, and that it simply notes White Pine's inconsistent statements regarding these capital projects and the lack of support White Pine provides for the necessity of the capital projects identified in the Second Revised White Pine SSR Agreement.⁶⁷

42. Upper Peninsula argues that MISO and White Pine do not justify the request for the inclusion of a 10-50 percent contingency to each capital project for the Second Revised White Pine SSR Agreement when one was not included in the Original White Pine SSR Agreement or the Revised White Pine SSR Agreement. Upper Peninsula contends that the use of a contingency by White Pine and the lack of supporting quotes from vendors for these capital projects raises further questions regarding White Pine's

⁶⁴ *Id.* at 4-5.

⁶⁵ *Id.* at 5.

⁶⁶ *Id.* at 5-6.

⁶⁷ *Id.* at 6.

ability to complete these capital projects during the term of the Second Revised White Pine SSR Agreement.⁶⁸

43. Finally, Upper Peninsula contends that MISO and White Pine's explanation regarding discrepancies in 2014 historical costs between the Revised White Pine SSR Agreement and the Second Revised White Pine SSR Agreement raises similar doubts about 2015 historical costs. Upper Peninsula argues that if 2014 historical costs were not final when reported by White Pine in April 2015 for the Revised White Pine SSR Agreement, then 2015 historic costs similarly might not be final costs when reported to White Pine in April 2016 for the Second Revised White Pine SSR Agreement.⁶⁹

v. Commission Determination

44. Based upon a review of the filing and the comments, we find that the SSR compensation proposed under the Second Revised White Pine SSR Agreement presents issues of material fact that cannot be resolved based on the record before us and are more appropriately addressed in the hearing and settlement judge procedures ordered below. Our preliminary analysis indicates that the SSR compensation under the Second Revised White Pine SSR Agreement has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we accept the Second Revised White Pine SSR Agreement for filing, suspend it for a nominal period, to become effective April 16, 2016, subject to refund, and set all cost-related issues for hearing and settlement judge procedures.

45. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures commence. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁷⁰ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding.⁷¹

⁶⁸ *Id.* at 6-7.

⁶⁹ *Id.* at 7.

⁷⁰ 18 C.F.R. § 385.603 (2015).

⁷¹ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability. The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

d. Effective Date and Waiver

i. Filing

46. MISO requests that the Commission waive the prior notice requirement and grant an effective date of April 16, 2016 for the Second Revised White Pine SSR Agreement.⁷² MISO states that the Second Revised White Pine SSR Agreement was submitted as soon as possible following the complex process of notification, evaluation, decision-making, and negotiation, including assessing the feasibility of possible alternatives to the designation of White Pine Unit No. 1 as an SSR Unit. MISO states that negotiation of the Second Revised White Pine SSR Agreement could not be completed by earlier than the proposed effective date. According to MISO, good cause exists to grant the waiver because, if the April 16, 2016 effective date is not granted, White Pine will have provided SSR service on an uncompensated basis while the required Tariff process took its course. Alternatively, MISO requests an effective date of April 16, 2016, consistent with the Commission's rule that service agreements must be filed within 30 days of commencing service. MISO states that the Second Revised White Pine SSR Agreement is a *pro forma* agreement included in the Tariff, the executed version of which is therefore a service agreement.⁷³

ii. Commission Determination

47. We grant waiver of the prior notice requirement and allow the Second Revised White Pine SSR Agreement to be effective April 16, 2016, as requested, for a term of 12 months. First, we note that while certain parties protest various aspects of the agreement, no parties oppose the requested waiver. Furthermore, as the Commission has

⁷² Second Revised White Pine SSR Agreement Filing, Transmittal Letter at 7.

⁷³ MISO notes that 18 C.F.R. § 35.10(a) allows public utilities to adopt standard form of service agreements as part of the utility's tariff on file with the Commission. MISO further states that, under 18 C.F.R. § 35.3(a)(2), service agreements (defined at 18 C.F.R. § 35.2 as "an agreement that authorizes a customer to electric service under the terms of the Tariff") need only be filed within 30 days after service has commenced.

previously explained, “all SSR Units should be fully compensated for any costs incurred because of their extended service” and “nothing in the SSR program would require a generator to absorb any uncompensated going-forward costs.”⁷⁴ Here, the record indicates that White Pine Unit No. 1 has been providing reliability service pursuant to the Second Revised White Pine SSR Agreement since April 16, 2016. Thus, it is appropriate that White Pine be made whole for the costs it incurred while providing SSR service.

e. **Amount and Applicability of Refunds for Repairs Under Section 38.2.7.e**

i. **Protest**

48. Upper Peninsula states that the Second Revised White Pine SSR Agreement does not separately identify repairs of White Pine Unit No. 1 that could be subject to refund as required by Section 38.2.7.e of the Tariff if it returns to service, and requests that the Commission order MISO or White Pine to identify any repairs that are potentially subject to refund.⁷⁵ Furthermore, Upper Peninsula states that if White Pine decides to return White Pine Unit No. 1 to service in the future, it is likely to return it to “behind the meter” service (i.e., service directly to itself or an affiliate) and not participate in MISO’s wholesale markets.⁷⁶ Upper Peninsula asks the Commission to require MISO or White Pine to add language to the Second Revised White Pine SSR Agreement to clarify that Section 38.2.7.e applies to a return of White Pine Unit No. 1 to behind-the-meter service as well as a return to commercial service with sales into MISO.⁷⁷ Upper Peninsula represents that White Pine’s owner, Prairie Plant Systems, has stated its intent to secure a consistent supply of power for its plant-based pharmaceutical operations, and argues that customers under the Second Revised White Pine SSR Agreement should not pay for capital projects to support Prairie Plant System’s operations after the conclusion of any SSR agreement for White Pine Unit No. 1.⁷⁸

⁷⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,170, at P 84 (2013).

⁷⁵ Upper Peninsula Protest at 10.

⁷⁶ *Id.*

⁷⁷ *Id.* at 10-11.

⁷⁸ *Id.*

ii. MISO and White Pine's Answer

49. MISO and White Pine contend that, to the extent that Upper Peninsula's effort to clarify Section 38.2.7.e of MISO's Tariff is actually intended to change Section 38.2.7.e, it constitutes an improper collateral attack on approved Tariff language and thus should be rejected. MISO and White Pine argue that White Pine has not rescinded its decision to retire White Pine Unit No. 1, and as such, Upper Peninsula's protest is speculative, irrelevant, and beyond the scope of this proceeding.⁷⁹

50. MISO and White Pine submit that Upper Peninsula's proposed new language in the Second Revised White Pine SSR Agreement violates "at least the spirit, if not the letter" of Section 3.6 of the Uncontested Settlement, which, according to MISO and White Pine, memorializes the parties agreement to defer on this policy issue unless and until White Pine returns the SSR Units to service, whether for behind-the-meter self-supply or supply to an affiliate.⁸⁰ MISO and White Pine note the following language from the Uncontested Settlement:

If, after the conclusion of the final White Pine Unit 1 SSR agreement, White Pine uses Unit No.1 or Unit No. 2 for self-supply or supply to an affiliate for emergency back-up purposes, then within 30 days of such use, White Pine will provide notice of such use to the parties through an informational filing at the Commission in the captioned dockets and service of such filing to the service lists maintained by the Commission in the captioned dockets.⁸¹

51. MISO and White Pine argue that any potential policy issues under Section 3.6 of the Uncontested Settlement are hypothetical and Upper Peninsula should not be allowed to "end-run" this element of the Uncontested Settlement.⁸²

iii. Upper Peninsula's Answer

52. Upper Peninsula states that it does not request that the Commission alter Section 38.2.7.e of the Tariff, but merely requests that the Commission clarify that Section 38.2.7.e applies in the event that White Pine Unit No. 1 returns to service to

⁷⁹ MISO and White Pine Answer at 14.

⁸⁰ *Id.* at 14-15.

⁸¹ *Id.* at 15 (citing Uncontested Settlement § 3.6).

⁸² *Id.*

either behind-the-meter or to wholesale markets.⁸³ Further, Upper Peninsula states that the possibility of White Pine using White Pine Unit No. 1 for behind-the-meter service is neither hypothetical, irrelevant, nor beyond the scope of this proceeding, given the public statements made by Prairie Plant System's CEO when it acquired White Pine regarding the need for a consistent power supply. Accordingly, Upper Peninsula argues that its requested clarification is necessary to protect customers under the Second Revised White Pine SSR Agreement from paying for capital projects that end up supporting Prairie Plant System's plant-based pharmaceutical operations after the conclusion of any SSR agreement for White Pine Unit No. 1.⁸⁴

53. Finally, Upper Peninsula disagrees with MISO and White Pine's contention that "[Upper Peninsula's] proposal violates at least the spirit if not the letter of Section 3.6 of the accepted Uncontested Settlement" for the Revised White Pine SSR Agreement.⁸⁵ Upper Peninsula argues that its proposed clarification is consistent with Section 3.6 of the Uncontested Settlement, which provides that White Pine will notify the parties through an informational filing with the Commission if it uses White Pine Unit Nos. 1 or 2 for self-supply or supply to an affiliate for emergency back-up purposes. Upper Peninsula contends that Section 3.6 of the Uncontested Settlement was intended to provide notice to the parties of White Pine's use of White Pine Unit No. 1 for behind-the-meter service so the parties could seek relief from the Commission under the Tariff. Upper Peninsula asserts that it chose to raise this policy issue in the context of the Second Revised White Pine SSR Agreement and requests that the Commission clarify Section 38.2.7.e of the MISO Tariff now.⁸⁶

iv. Commission Determination

54. We reject as beyond the scope of this proceeding Upper Peninsula's request that the Second Revised White Pine SSR Agreement include language clarifying that refunds are required if an SSR Unit returns to service as a behind-the-meter generator. We agree with MISO and White Pine that, at this time, Upper Peninsula's protest is speculative in nature because White Pine Unit No. 1 remains an SSR Unit, has not rescinded its retirement, and will not be able to rescind its retirement to commence behind-the-meter service, should it in fact desire to do so, until the reliability issues caused by the removal of White Pine Unit No. 1 from the transmission system are alleviated.

⁸³ Upper Peninsula Answer at 7-8.

⁸⁴ *Id.* at 8.

⁸⁵ *Id.* (citing MISO and White Pine Answer at 14).

⁸⁶ *Id.* at 8-9.

55. We also reject as unnecessary Upper Peninsula's request that the Commission require MISO or White Pine to specify the cost of repairs for White Pine Unit No. 1 included in the Second Revised White Pine SSR Agreement that are subject to refund under Section 38.2.7.e. Section 38.2.7.e states that "all costs, less depreciation, for repairs and capital expenditures that were needed to continue operation of the Generation Resource" are subject to refund. These costs are included in Exhibit 4 of the Second Revised White Pine SSR Agreement as well as explained in detail in the Walsh affidavit.⁸⁷

2. Revised Rate Schedule 43H

a. Filing

56. MISO states that the cost allocation in the Second Revised Rate Schedule 43H is the same as that submitted for allocating costs in compliance with Commission directives stated in the February 2015 Order and the SSR Cost Allocation Compliance Order, in which the Commission addressed the cost allocation for three SSRs located in ATC's service territory.⁸⁸ MISO states that the February 2015 Order directed MISO to "submit a study methodology that identifies the LSEs that require the operation of the SSR Units for reliability purposes under conditions that are more representative of actual manual and/or automatic responses taken during reliability events..."⁸⁹ MISO states that it complied by filing a revised cost allocation methodology that is based on the impact of load on constraints that are identified in a SSR study. According to MISO, the method recognizes the physical location of the loads in relation to the issues that are caused by the unit subject to SSR designation. MISO contends that loads that would contribute to the thermal or voltage violations in the absence of the SSR Unit benefit by keeping the unit available as an SSR to avoid the reliability issues.⁹⁰

57. MISO requests waiver of the prior notice requirement to allow Second Revised Rate Schedule 43H to go into effect on April 16, 2016, to correspond with the effective

⁸⁷ See Second Revised White Pine SSR Agreement Filing, Ex. D (Second Revised White Pine SSR Agreement) at Ex. 4, Ex. E (Walsh Aff.) at 5-7.

⁸⁸ Second Revised White Pine Rate Schedule 43H Filing, Transmittal Letter at 3.

⁸⁹ February 2015 Order, 150 FERC ¶ 61,104 at P 86.

⁹⁰ Second Revised White Pine Rate Schedule 43H Filing, Transmittal Letter at 3.

date of the Second Revised White Pine SSR Agreement.⁹¹ MISO states that good cause exists to grant the waiver for the same reasons given in Docket No. ER16-1480-000.

b. Protests

58. The Michigan Commission notes that MISO proposes to allocate costs of the Second Revised White Pine SSR Agreement according to the methodology recently approved by the Commission in the May 2016 Compliance Order.⁹² The Michigan Commission protests any change from the pre-existing ATC-wide *pro rata* methodology in the absence of a showing of changed circumstances or new evidence demonstrating that the existing method has become unjust and unreasonable. The Michigan Commission argues that the ATC-wide *pro rata* methodology follows cost causation principles and is administratively efficient.⁹³ The Michigan Commission contends that the new methodology for allocating SSR costs accepted in the February 2015 Order increases the allocation of SSR costs to the Upper Peninsula in excess of that of the ATC-wide *pro rata* methodology, and thus the transmission project delay will disproportionately harm Upper Peninsula customers. The Michigan Commission states that it has sought federal court review of the Commission's February 2015 Order and of the imposition of a new allocation methodology with a retroactive effective date.⁹⁴ The Michigan Commission requests that Second Revised Rate Schedule 43H be accepted effective April 16, 2016, subject to refund and subject to the outcome of pending petitions for court review.⁹⁵

59. Upper Peninsula also asks the Commission to suspend the Second Revised Rate Schedule 43H, subject to refund and compliance filing, pending the outcome of the requests for rehearing of the Commission's February 2015 Order and the refund reports regarding MISO's new SSR cost allocation methodology.⁹⁶

⁹¹ *Id.* at 5.

⁹² Michigan Commission Protest at 6 (citing May 2016 Compliance Order, 155 FERC ¶ 61,134).

⁹³ *Id.* (citing *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,164, at P 20 (2014)).

⁹⁴ *Id.* at 7 (citing United States Court of Appeals for the District of Columbia Circuit, Docket Nos. 15-1049, 15-1053 (consolidated)).

⁹⁵ *Id.* at 7.

⁹⁶ Upper Peninsula Protest at 11-13.

c. MISO and White Pine's Answer

60. MISO and White Pine argue that MISO's filing of the Second Revised Rate Schedule 43H complies with the Commission's directives in the February 2015 Order and the SSR Cost Allocation Compliance Order and notes that Upper Peninsula and the Michigan Commission both admit that the cost allocation filed by MISO was accepted by the Commission in the May 2016 Compliance Order for use in the allocation of costs for White Pine Unit No. 1. MISO and White Pine contend that the Commission should reject the Michigan Commission and Upper Peninsula's argument relating to Second Revised Rate Schedule 43H.⁹⁷

d. Commission Determination

61. We accept the Second Revised Rate Schedule 43H and make it effective April 16, 2016, as requested.⁹⁸ We find that White Pine's proposed cost allocation in the Second Revised Rate Schedule 43H is the same as that submitted for allocating costs in compliance with Commission directives stated in the February 2015 Order and the SSR Cost Allocation Compliance Order and accepted by the Commission in the May 2016 Compliance Order as just and reasonable.⁹⁹

62. We note that we have already addressed similar arguments raised by the Michigan Commission related to the ATC-wide *pro rata* cost allocation methodology in the Wisconsin Commission Complaint Order,¹⁰⁰ the February 2015 Order,¹⁰¹ and the SSR Cost Allocation Compliance Order.¹⁰² Last, we deny the Michigan Commission's request to make our acceptance of the Second Revised Rate Schedule 43H subject to pending petitions for court review, as well as Upper Peninsula's request that such acceptance be subject to the outcome of certain pending requests for rehearing.

⁹⁷ MISO and White Pine Answer at 15-16.

⁹⁸ We decline to consolidate Docket No. ER16-1481-000 with ER16-1480-000, because we are not setting for hearing any issues concerning the Second Revised Rate Schedule 43H filed in Docket No. ER16-1481-000.

⁹⁹ See May 2016 Compliance Order, 155 FERC ¶ 61,134 at P 53.

¹⁰⁰ *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,071 at PP 59-61 (2014) (Wisconsin Commission Complaint Order).

¹⁰¹ February 2015 Order, 150 FERC ¶ 61,104 at PP 73-79.

¹⁰² SSR Cost Allocation Compliance Order, 152 FERC ¶ 61,216 at P 74.

However, we note that determinations in those proceedings may affect the cost allocation accepted by us today in the Second Revised Rate Schedule 43H.

The Commission orders:

(A) The Second Revised White Pine SSR Agreement is hereby accepted for filing, suspended for a nominal period, to be effective April 16, 2016, as requested, subject to refund, as discussed in the body of this order.

(B) The Second Revised Rate Schedule 43H is hereby accepted for filing to be effective April 16, 2016, as requested, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of MISO's proposed costs under the Second Revised White Pine SSR Agreement, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 15 days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within 30 days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within 15 days of the date of the presiding judge's designation, convene a prehearing conference in this proceeding in a hearing room of the Commission, 888 First Street, NE, Washington, DC

20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided by the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.