

156 FERC ¶ 61,168  
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 No. ER15-2145-001

ORDER ACCEPTING COMPLIANCE FILING

(Issued September 9, 2016)

1. On June 2, 2016, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and Part 35 of the Commission's regulations,<sup>2</sup> Midcontinent Independent System Operator, Inc. (MISO) submitted a compliance filing with revisions to Rate Schedule 43H (Allocation of System Support Resource (SSR) Costs Associated with White Pine Unit No. 1) of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)<sup>3</sup> in response to the 2015 White Pine 1 SSR Orders,<sup>4</sup> in order to adhere to the directives from the Commission regarding the cost allocation for SSR costs associated

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. pt. 35 (2016).

<sup>3</sup> 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).

<sup>4</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,244 (2015) (June 2015 White Pine 1 SSR Order) and *Midcontinent Indep. Sys. Operator, Inc.*, 152 FERC ¶ 61,179 (2015) (September 2015 White Pine 1 SSR Order, collectively with the June 2015 White Pine 1 SSR Order, 2015 White Pine 1 SSR Orders).

with White Pine Unit No. 1.<sup>5</sup> In this order, we accept MISO's compliance filing, effective April 16, 2015, as requested, as discussed below.

## **I. Background**

2. 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 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.<sup>6</sup>

3. 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.<sup>7</sup> On July 22, 2014, the Commission accepted MISO's compliance filing, subject to condition.<sup>8</sup> On December 17, 2015, the Commission issued an order on rehearing and accepted MISO's further compliance filing, subject to condition.<sup>9</sup> On June 16, 2016, the Commission

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<sup>5</sup> White Pine Unit No. 1 is a generator turbine located in White Pine, Michigan, within the footprint of the American Transmission Company (ATC) with a nameplate capacity of 20 MW.

<sup>6</sup> See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *order on reh'g*, 109 FERC ¶ 61,157 (2004).

<sup>7</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012).

<sup>8</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 148 FERC ¶ 61,056 (2014).

<sup>9</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 153 FERC ¶ 61,313 (2015).

issued an order accepting in part, and rejecting in part, MISO's further compliance filing, subject to the outcome of Docket No. ER16-521.<sup>10</sup>

## **II. History of White Pine Unit No. 1's SSR Status and Cost Allocation**

4. On April 15, 2014, in Docket No. ER14-1724-000, MISO submitted the first SSR agreement between White Pine Electric Power, LLC (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.<sup>11</sup> On August 21, 2014, the Commission issued a further order addressing issues related to the White Pine 1 SSR Agreement and Rate Schedule 43H.<sup>12</sup>

5. On February 19, 2015, in an order on rehearing of the Commission's order on a complaint filed by the Public Service Commission of Wisconsin in Docket No. EL14-34-000,<sup>13</sup> the Commission required MISO to file a new methodology to allocate the costs associated with the Presque Isle, White Pine Unit No. 1, and Escanaba SSR Units, each of which are located in ATC's service territory, directly to benefitting LSEs.<sup>14</sup> The February 2015 Order also affirmed effective dates that would allow for refunds of the difference between costs collected under the prior *pro rata* cost allocation methodology and the new methodology.<sup>15</sup>

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<sup>10</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 155 FERC ¶ 61,274 (2016).

<sup>11</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,199 (2014).

<sup>12</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,136 (2014).

<sup>13</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,071 (2014) (Wisconsin Commission Complaint Order) (determining that the ATC *pro rata* SSR cost allocation provision in MISO's Tariff was unjust, unreasonable, unduly discriminatory or preferential because it did not follow cost causation principles).

<sup>14</sup> *See Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,104, at P 132 (2015) (February 2015 Order).

<sup>15</sup> *Id.* PP 90-93.

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.<sup>16</sup> 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 the proceeding in Docket Nos. ER14-2952, *et al.* addressing the cost allocation for three SSRs located in the ATC service territory in response to the February 2015 Order.<sup>17</sup>

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,<sup>18</sup> 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.<sup>19</sup>

8. On September 3, 2015, in Docket No. ER15-2145-000, the Commission conditionally accepted a corrected 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 the SSR cost allocation proceeding in Docket Nos. ER14-2952, *et al.* and a compliance filing. The Commission further ordered that within 30 days of a Commission order approving a new cost allocation methodology, MISO must submit a new Rate Schedule 43H that identifies the load-serving entities (LSEs) which require the operation of White Pine Unit No. 1 for reliability purposes and Tariff revisions adjusting the SSR cost allocation under corrected Revised Rate Schedule 43H such that White Pine Unit

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<sup>16</sup> June 2015 White Pine 1 SSR Order, 151 FERC ¶ 61,244 at P 32.

<sup>17</sup> *Id.* P 43.

<sup>18</sup> MISO Amended White Pine SSR Agreement Filing, Docket No. ER15-1876-000 (filed June 5, 2015 and supplemented June 8, 2015).

<sup>19</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 152 FERC ¶ 61,108 (2015).

No. 1 SSR costs are allocated in accordance with the new cost allocation methodology, with such revised cost allocation to be effective as of April 16, 2015.<sup>20</sup>

9. On September 17, 2015, the Commission accepted MISO's proposed SSR cost allocation methodology in Docket Nos. ER14-2952, *et al.* filed in compliance with the February 2015 Order, subject to condition and subject to MISO submitting a further compliance filing, finding that the methodology generally complied with the directives of the February 2015 Order.<sup>21</sup> On May 3, 2016, the Commission accepted the revisions to the SSR cost allocation methodology for the three SSRs filed in compliance with the September 2015 Order.<sup>22</sup>

### **III. MISO's Compliance Filing**

10. MISO states that it submits the instant revisions to Rate Schedule 43H so that it will contain the same basic elements as the schedules previously submitted that were accepted in the May 2016 Compliance Order.<sup>23</sup> MISO requests an effective date of April 16, 2015, in compliance with the Commission's directive in the 2015 White Pine 1 SSR Orders.<sup>24</sup>

### **IV. Notice of Compliance Filing and Responsive Pleadings**

11. Notice of MISO's compliance filing was published in the *Federal Register*, 81 Fed. Reg. 36,905 (2016), with interventions and protests due on or before June 23, 2016. The Michigan Public Service Commission (Michigan Commission) filed a timely protest.

12. The Michigan Commission states that it has sought federal court review of the February 2015 Order. The Michigan Commission protests the revised Rate Schedule

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<sup>20</sup> September 2015 White Pine 1 SSR Order, 152 FERC ¶ 61,179 at PP 11-12.

<sup>21</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 152 FERC ¶ 61,216 (2015) (September 2015 Order).

<sup>22</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 155 FERC ¶ 61,134, at P 53 (2016) (May 2016 Compliance Order).

<sup>23</sup> Transmittal Letter at 3.

<sup>24</sup> *Id.* (citing June 2015 White Pine 1 SSR Order, 151 FERC ¶ 61,244 at P 45; September 2015 White Pine 1 SSR Order, 152 FERC ¶ 61,179 at P 11).

43H to the extent it contains the same basic SSR cost allocation methodology that is currently subject to its pending petition for review of the February 2015 Order.<sup>25</sup> Further, the Michigan Commission argues that the new allocation methodology is unjust and unreasonable, and should be accepted subject to the outcome of any further petitions for review of the Commission's recent final approval of the rate design.<sup>26</sup> The Michigan Commission requests that the revised Rate Schedule 43H be accepted effective April 16, 2015, subject to refund and subject to the outcome of the pending petitions for court review, any further petitions for review, and subsequent orders approving the new SSR cost allocation methodology.<sup>27</sup>

## V. Discussion

13. We find that MISO's revised Rate Schedule 43H filed herein complies with the Commission's directives in the 2015 White Pine 1 SSR Orders, and therefore, we will accept the revised Rate Schedule 43H and make it effective April 16, 2015, as requested, as ordered below. We find that MISO's proposed cost allocation in the 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 September 2015 Order and that the Commission accepted in the May 2016 Compliance Order as just and reasonable.<sup>28</sup>

14. We have already addressed similar arguments raised by the Michigan Commission related to the cost allocation methodology for the three ATC SSRs at issue in the Wisconsin Commission Complaint Order,<sup>29</sup> the February 2015 Order,<sup>30</sup> and the September 2015 Order.<sup>31</sup> Accordingly, we do not separately address them again here.

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<sup>25</sup> Michigan Commission Protest at 5 (citing *Michigan Public Service Commission v. FERC*, No. 15-1049 (D.C. Cir.)).

<sup>26</sup> *Id.* at 5-6 (citing May 2016 Compliance Order).

<sup>27</sup> *Id.* at 6.

<sup>28</sup> See May 2016 Compliance Order, 155 FERC ¶ 61,134 at P 53.

<sup>29</sup> Wisconsin Commission Complaint Order, 148 FERC ¶ 61,071 at PP 59-61.

<sup>30</sup> February 2015 Order, 150 FERC ¶ 61,104 at PP 73-79.

<sup>31</sup> September 2015 Order, 152 FERC ¶ 61,216 at P 74.

15. We deny the Michigan Commission's request to make our acceptance of the revised Rate Schedule 43H subject to pending petitions for court review, as well as that such acceptance be subject to any further petitions for review of the Commission's recent final approval of the rate design. However, we note that determinations in those proceedings may affect the cost allocation accepted by us today in the revised Rate Schedule 43H.<sup>32</sup>

The Commission orders:

MISO's compliance filing is hereby accepted, effective April 16, 2015, as requested, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>32</sup> See *Midcontinent Indep. Sys. Operator, Inc.*, 155 FERC ¶ 61,286, at P 62 (2016) (the Commission, in accepting MISO's Second Revised Rate Schedule 43H in Docket Nos. ER16-1480-000 and ER16-1481-001, effective April 16, 2016, similarly denied a request by the Michigan Commission to make the Commission's acceptance of revisions to Rate Schedule 43H subject to pending petitions for court review while also noting that determinations in those proceedings may affect the cost allocation accepted by the Commission in the Second Revised Rate Schedule 43H).