

163 FERC ¶ 61,021  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Kevin J. McIntyre, Chairman;  
Cheryl A. LaFleur, Neil Chatterjee,  
Robert F. Powelson, and Richard Glick.

Midcontinent Independent System Operator, Inc.

Docket No. ER18-835-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued April 10, 2018)

1. On February 9, 2018, Midcontinent Independent System Operator, Inc. (MISO) filed, pursuant to section 205 of the Federal Power Act<sup>1</sup> and section 35.12 of the Commission's regulations,<sup>2</sup> proposed revisions to Attachment X of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). MISO proposes to require an interconnection customer that wishes to modify its selected level of Network Resource Interconnection Service (NRIS)<sup>3</sup> to do so at an earlier point in the interconnection process. As discussed below, we accept MISO's proposed Tariff revisions effective April 11, 2018, sixty-one days from the date of filing.<sup>4</sup>

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<sup>1</sup> 16 U.S.C. § 824(d) (2012).

<sup>2</sup> 18 C.F.R. § 35.12 (2017).

<sup>3</sup> NRIS allows an interconnection customer to connect its generating facility to the transmission system or distribution system, as applicable, and integrate its facility with the transmission system in the same manner as for any generating facility being designated as a network resource. *See* MISO, FERC Electric Tariff, Attachment X (76.0.0), § 3.

<sup>4</sup> 18 C.F.R. § 35.3 (2017).

## I. Background

### A. Queue Reform

2. On October 21, 2016, MISO proposed interconnection queue reforms after the Commission rejected with guidance MISO's previously proposed queue reforms.<sup>5</sup> Specifically, MISO proposed revisions to its Generator Interconnection Process (GIP) and its *pro forma* Generator Interconnection Agreement (GIA) that divided its existing Definitive Planning Phase (DPP)<sup>6</sup> into three sequential phases (DPP I, DPP II, and DPP III) where System Impact Studies would be completed at three distinct points. Each phase required a milestone payment from the interconnection customer (i.e., the M2 milestone payment is required to enter DPP I, the M3 milestone payment is required to enter DPP II, and the M4 milestone payment is required to enter DPP III). The new structure included a Decision Point before each of the second and third phases (Decision Point I and Decision Point II), wherein an interconnection customer could review the updated System Impact Study results and decide to (1) move on to the next phase by making the appropriate milestone payment or (2) withdraw and receive a refund of its previous milestone payment.

3. On January 3, 2017, the Commission accepted, subject to condition, MISO's October 2016 Queue Reform Filing.<sup>7</sup> The Commission found that MISO's Tariff revisions, with certain modifications, were just and reasonable and not unduly discriminatory methods of improving the GIP by restructuring and streamlining MISO's interconnection process and providing additional information and flexibilities to interconnection customers.<sup>8</sup> The Commission found that MISO's proposal to build restudies into the process through sequential System Impact Studies throughout the DPPs

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<sup>5</sup> MISO Queue Reform Filing, Docket No. ER17-156-000 (filed Oct. 21, 2016) (October 2016 Queue Reform Filing), made after the order rejecting MISO's original proposal with guidance, *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,247 (2016).

<sup>6</sup> The DPP is the final phase of MISO's generator interconnection process, during which MISO conducts reliability and deliverability studies that determine whether there is available transmission capacity to accommodate the interconnection of new proposed generation facilities or whether network upgrades are needed.

<sup>7</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,003 (2017) (January 3 Order).

<sup>8</sup> *Id.* P 22.

should allow MISO to evaluate the impact of queue withdrawals on a more structured basis and minimize delays in processing new interconnection requests.<sup>9</sup>

4. On May 31, 2017, in Docket No. ER17-1728-000, MISO filed proposed revisions to its GIP and *pro forma* GIA to improve and clarify the language implementing its recently-approved interconnection queue reforms.<sup>10</sup> MISO proposed to revise sections 11.2 and 11.3 of Attachment X and Appendix B of the *pro forma* GIA to reduce the number of days allocated for GIA negotiation and execution from 150 to 90 days. MISO also proposed to adjust the deadline for an interconnection customer to modify the level of NRIS associated with an interconnection project and to make several non-substantive corrections. The Commission rejected the filing on September 9, 2017, finding that MISO had not provided sufficient support for its proposed Tariff revisions, specifically for the reduction in the number of days for GIA negotiation and execution.<sup>11</sup>

#### **B. MISO's Filing**

5. On February 9, 2018, MISO submitted proposed revisions to Attachment X of its Tariff to require an interconnection customer that wishes to modify its selected level of NRIS to do so at an earlier point in the interconnection process. MISO maintains that the current process allows an interconnection customer to revise its elected level of NRIS up to the point when the Facilities Study for network upgrades commences. The Facilities Study occurs after the Final DPP System Impact Study in DPP III. MISO states that changes to NRIS values after the Final DPP System Impact Study greatly increase the likelihood that MISO and/or an affected system would need to perform a restudy. MISO argues that moving the deadline to Decision Point II, which occurs at the end of DPP II, allows any change to be evaluated in the Final DPP System Impact Study and prevents unnecessary restudies.<sup>12</sup>

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<sup>9</sup> *Id.* P 32.

<sup>10</sup> MISO Attachment X Clean-Up Tariff Revisions, Docket No. ER17-1728-000, Transmittal Letter (filed May 31, 2017).

<sup>11</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 160 FERC ¶ 61,059 (2017). MISO states that the Commission rejected the entire proposal without prejudice despite not receiving any protests on the proposed modifications to the timing of when an interconnection customer may modify its selected level of NRIS or the non-substantive changes. Transmittal at 2-3.

<sup>12</sup> Transmittal at 3-4.

6. MISO notes that it ran these revisions through its stakeholder process in September and November of 2017, after the Commission rejected its filing in Docket No. ER17-1728-000, and did not receive feedback in opposition to this proposal.<sup>13</sup>

7. MISO requests that the Commission waive its sixty-day notice requirement and make the Tariff changes effective as of March 1, 2018.<sup>14</sup>

## **II. Notice and Responsive Pleadings**

8. Notice of MISO's filing was published in the *Federal Register*, 83 Fed. Reg. 7175 (2018), with interventions and protests due on or before March 2, 2018.<sup>15</sup>

9. Avangrid Renewables, LLC, NextEra Energy Resources, LLC, Capital Power Corporation, Ameren Services Company, American Municipal Power, Inc., Consumers Energy Company, Renewable Energy Systems Americas, Inc., and NRG Power Marketing LLC and GenOn Energy Management, LLC (collectively, NRG Companies) each filed a timely motion to intervene. Otter Tail Power Company filed an out-of-time motion to intervene.

10. EDF Renewable Energy, Inc. (EDF) filed a timely motion to intervene and comments. MidAmerican Energy Company (MidAmerican) filed a timely motion to intervene and protest. MISO filed a motion for leave to answer and answer to MidAmerican's protest. MidAmerican filed a motion for leave to answer and answer to MISO's answer.

11. EDF states that this filing is an example of a pro-active move by MISO to tighten and manage its queue study process and agrees with MISO's rationale for the proposed Tariff revisions.<sup>16</sup>

12. MidAmerican asks the Commission to reject the proposal because interconnection customers do not have adequate data to make informed NRIS decisions at Decision Point II, highlighting issues with affected systems studies. MidAmerican protests MISO's

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<sup>13</sup> *Id.* at 1-3.

<sup>14</sup> *Id.* at 4.

<sup>15</sup> Due to the weather-related closure of federal offices in Washington, DC on March 2, 2018, interventions and protests received on or before March 5, 2018 were considered timely. *See* 18 C.F.R. § 385.2007 (2017).

<sup>16</sup> EDF Comments at 1-2.

filing “because it disturbs the balance of issues that were carefully weighed in the queue reform proceeding.”<sup>17</sup> MidAmerican maintains that there exists an inherent *quid pro quo* in MISO’s interconnection process accepted in the January 3 Order, whereby an interconnection customer must make important financial decisions earlier in the process but MISO is required to reveal information that makes reasoned decisions possible. MidAmerican asserts that customers face increasing risk in the form of non-refundable financial deposits as they progress through the two Decision Points, but also receive increasing amounts of information as a result of the DPP I and DPP II analyses. MidAmerican argues that MISO’s proposal does not retain this balance because the customer does not receive more accurate data to allow for a more informed decision in exchange for an earlier decision on the final level of NRIS requested or a decision to select Energy Resource Interconnection Service (ERIS).<sup>18</sup>

13. MidAmerican argues that interconnection customers cannot make informed NRIS decisions at Decision Point II given the differing procedures between MISO and neighboring affected systems. MidAmerican argues that the information regarding network upgrades in the affected systems analysis, which is performed on neighboring systems, is less clear than MISO’s analysis and may not provide information about network upgrades in the same way that MISO does for upgrades on its own system. MidAmerican contends that the uncertainty about required network upgrades on neighboring systems can result in significant and unquantifiable risk for MISO interconnection customers. Specifically, MidAmerican states that MISO uses an aggregate deliverability study process to determine eligibility for NRIS, which has historically resulted in manageable cost risk when customers choose between NRIS and ERIS because such studies incorporate a reasonable level of generation redispatch to mitigate transmission constraints. MidAmerican asserts that neighboring affected systems may use a single fixed assumption about how other generation will be dispatched in analyzing MISO interconnection requests.<sup>19</sup>

14. MidAmerican argues that the timing and quality of the affected system information is delaying the ability of interconnection customers to obtain the relevant

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<sup>17</sup> MidAmerican Protest at 5.

<sup>18</sup> *Id.* ERIS allows an interconnection customer to connect its facility to the transmission system or distribution system, as applicable, and to deliver the generating facility’s electric output using the existing firm or non-firm capacity of the transmission system on an as available basis. *See* MISO, FERC Electric Tariff, Attachment X (70.0.0), § 1.

<sup>19</sup> MidAmerican Protest at 5-6.

information that enables reasoned decisions on the level of NRIS service requested prior to the end of DPP III.<sup>20</sup> MidAmerican states that the Commission is addressing the differences in study processes between MISO and its neighbors in related proceedings, and argues that until those issues are resolved, interconnection customers are not able to make reasoned decisions about NRIS service at Decision Point II.<sup>21</sup> MidAmerican asserts that, for these reasons, MISO's proposal here should be rejected. MidAmerican notes that MISO does limit the need for late restudies by providing information early in the interconnection process about which potential network upgrades are necessitated by electing NRIS or ERIS. MidAmerican states that if any affected systems would provide this information as well, then a change in the customer's level of NRIS later in the study process (e.g., DPP III) should not result in the need for a restudy since the network upgrades associated with the election of NRIS would have already been identified.<sup>22</sup>

15. MidAmerican contends that MISO's proposed effective date creates confusion and uncertainty for the FEB-2016-DPP-WEST study group. MidAmerican argues that granting MISO's requested waiver and allowing a March 1, 2018 effective date would create a retroactive need to declare the level of NRIS service. Specifically, MidAmerican argues that, by the time an order is issued in this proceeding, projects in the FEB-2016-DPP-WEST study group will already have passed the Decision Point II. MidAmerican argues that MISO's request for waiver should not be granted since MISO has offered no explanation of why a waiver is required, how it comports with the Commission's precedent for granting such waivers, and why it would produce a just and reasonable result for projects in the FEB-2016-DPP-WEST study group. MidAmerican requests that the NRIS deadline for that group remain at the end of DPP III, at the start of the Facilities Study analysis.<sup>23</sup>

16. In its answer, MISO states that its filing reduces the risk of delays through unscheduled restudies and provides benefits to all interconnection customers. MISO

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<sup>20</sup> MidAmerican's argument appears to refer to the current NRIS election deadline in the Tariff, which is after the Final DPP System Impact Study, but before the network upgrade facility study in DPP III, not the end of DPP III.

<sup>21</sup> MidAmerican Protest at 7 (citing *Reform of Affected System Coordination in the Generator Interconnection Process*, Docket No. AD18-8; *EDF Renewable Energy Inc. v. Midcontinent Independent System Operator, Inc., Southwest Power Pool Inc. and PJM Interconnection, L.L.C.*, Docket No. EL18-26; *Review of Generator Interconnection Agreements and Procedures*, Docket No. RM17-8).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 8-9.

explains that the information provided at Decision Point II is sufficient for an interconnection customer to make a well-reasoned decision with respect to its elected NRIS value, as the customer will receive the revised System Impact Study analysis and revised affected system analysis, including estimated upgrades and costs as applicable. MISO argues that allowing interconnection customers to change their elected NRIS value after the Final DPP System Impact Study has been completed, however, could shift costs of system upgrades to other interconnection customers in the same study group, which in turn could trigger withdrawals from the queue leading to cascading restudies.<sup>24</sup>

17. MISO states that MidAmerican's arguments surrounding affected systems' study procedures are beyond the scope of this proceeding. MISO argues that its filing merely revises the NRIS election deadline in order to reduce the risk of restudy and is not intended to address any issues with respect to differing procedures between MISO and neighboring affected systems, which are being addressed through other proceedings.<sup>25</sup>

18. MISO finally argues that MidAmerican has subverted the stakeholder process and that MidAmerican did not raise any of the issues from its protest in the stakeholder process, where this proposal was thoroughly discussed. MISO states that the Commission has a policy of discouraging participants in the stakeholder process from circumventing that process and should follow that policy here.<sup>26</sup>

19. Regarding MISO's request for waiver of the sixty-day prior notice requirement, MISO argues that, in practice, the Commission has granted waiver when MISO proposes modifications to its Tariff that provide significant benefits and when MISO has conducted a stakeholder process that would result in MISO making a new filing and the stakeholders were put on notice of such filing.<sup>27</sup> MISO explains that, should the Commission grant the requested effective date, the Tariff revisions would apply to those interconnection customers that had not concluded the Decision Point II process as of March 1, 2018. Consequently, such interconnection customers would be required to finalize their NRIS value upon the Commission's acceptance of the filing. MISO argues

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<sup>24</sup> MISO Answer at 6-7.

<sup>25</sup> *Id.* at 7 (citing MidAmerican Protest at 7 (citing *Reform of Affected System Coordination in the Generator Interconnection Process*, Docket No. AD18-8; *EDF Renewable Energy Inc. v. Midcontinent Indep. Sys. Operator, Inc. et al.*, Docket No. EL18-26; *Review of Generator Interconnection Agreements and Procedures*, Docket No. RM17-8)).

<sup>26</sup> *Id.* at 7.

<sup>27</sup> *Id.* at 8.

that MidAmerican and other stakeholders had notice of the filing through MISO's stakeholder process and can mitigate any risk that results from MISO's Tariff changes. Finally, MISO argues that there should be no uncertainty resulting from the application of the earlier effective date, as those interconnection customers that have not concluded the Decision Point II process as of the effective date of the Tariff revisions will be required to finalize their NRIS election during Decision Point II.<sup>28</sup>

20. In its answer, MidAmerican clarifies that its concerns generally are not with the quantity of information available in MISO's DPP analyses, and instead are focused on the quantity and quality of information available from affected system studies that have not contained the same level of sensitivity analyses nor consistency in study approach. MidAmerican also disagrees with MISO that these concerns are outside the scope of the proceeding. MidAmerican contends that the MISO Tariff must be just and reasonable based on the process for affected system studies that now exists, not on a process that may or may not be altered by other proceedings. MidAmerican also disagrees with MISO's characterization that MidAmerican circumvented the stakeholder process with its protest because MidAmerican did not recognize the potential impact of affected system studies on network upgrades until it received a draft affected systems study for the FEB-2016-DPP-WEST study group released the week prior to MISO's filing. Additionally, MidAmerican argues that it initially objected to MISO's proposed effective date due to the uncertainty it would create with respect to interconnection projects in the FEB-2016-DPP-WEST study group, but those specific issues are resolved and it no longer opposes the requested March 1, 2018 effective date.<sup>29</sup>

### **III. Discussion**

#### **A. Procedural Matters**

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

22. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2017), we grant Otter Tail Power Company's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest and/or answer unless otherwise

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<sup>28</sup> *Id.* at 9.

<sup>29</sup> MidAmerican Answer at 3-6.

ordered by the decisional authority. We accept MISO's and MidAmerican's answers because they have provided information that assisted us in our decision-making process.

**B. Substantive Matters**

24. We accept MISO's proposed revisions to Attachment X of its Tariff that require an interconnection customer that wishes to modify its selected level of NRIS to do so at an earlier point in the interconnection process, effective April 11, 2018. In the January 3 Order, responding to protests that the overall timeline for the study process under MISO's proposal was excessive, the Commission stated that it accepted the revised three-phase structure of the DPP on the basis that it was a just and reasonable way to streamline MISO's interconnection process, provide additional information and flexibilities to interconnection customers, and prevent unscheduled, *ad hoc* restudies.<sup>30</sup> MISO's current proposal is a modification to further streamline its interconnection process and to prevent unscheduled, *ad hoc* restudies late in the interconnection process. We agree with MISO that unscheduled restudies will be less likely under the timeline established by MISO's proposal.

25. MISO proposes to require an interconnection customer to finalize its requested level of NRIS during Decision Point II, which is followed by a Final DPP System Impact Study. The Final DPP System Impact Study therefore would include the final levels of NRIS elected by interconnection customers. On the other hand, in the currently effective process, an interconnection customer may revise its requested level of NRIS after the Final DPP System Impact Study. As MISO points out in its answer, if a customer alters its NRIS election at this late stage, a restudy could be necessary to incorporate the newly requested level of NRIS. MISO's proposal to require an interconnection customer to finalize its requested level of NRIS earlier, prior to the expiration of Decision Point II, will streamline the process by reducing the likelihood of restudies that cause queue delays. It will also increase certainty for other interconnection customers regarding network upgrade cost responsibility.

26. We are not persuaded by MidAmerican's argument that an earlier deadline to elect NRIS will result in significantly more risk or unquantifiable risk for an interconnection customer. MidAmerican argues that the timing and quality of necessary affected system information reduces the ability of an interconnection customer to make reasoned decisions on the level of NRIS requested prior to the deadline that is currently allowed under the Tariff. MidAmerican, however, does not explain what information is lacking from the first two DPP System Impact Studies, but is gained in the Final DPP System

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<sup>30</sup> January 3 Order, 158 FERC ¶ 61,003 at P 32.

Impact Study, allowing the interconnection customer to make a reasoned decision regarding NRIS.<sup>31</sup>

27. MidAmerican states that affected systems may use a single fixed assumption for dispatch to analyze interconnection requests. MidAmerican asserts that this method provides less information for interconnection customers to manage their cost risk compared to the aggregate deliverability study process that MISO uses which incorporates a reasonable level of generation redispatch to mitigate transmission constraints. However, MidAmerican does not explain how a later deadline would alleviate its concern. MidAmerican does not distinguish whether later affected systems studies incorporate better modeling than studies performed before MISO's proposed deadline.

28. Therefore, we reject MidAmerican's protest related to the NRIS deadline change and accept MISO's proposed Tariff revisions, effective April 11, 2018. We find that, on balance, the benefits of reducing the potential for restudies and keeping the queue process on schedule outweigh MidAmerican's concerns about potentially having less information at the earlier decision point. We further find that requiring an interconnection customer in MISO to finalize its level of NRIS prior to the expiration of Decision Point II will prevent changes to NRIS levels late in the interconnection process, which will prevent unscheduled restudies related to NRIS level changes and provide more certainty to other interconnection customers remaining in the queue for the Final DPP System Impact Study. We further reject MidAmerican's request that affected systems provide information on upgrades for both NRIS and ERIS, similar to MISO's practices, as outside the scope of this proceeding.

29. With respect to MISO's requested waiver of the sixty day prior notice requirement to make the proposed Tariff revisions effective March 1, 2018, we deny the request for failure to show good cause because MISO has not provided an explanation of why the waiver is necessary. Absent waiver, public utilities must provide the Commission at least sixty days prior notice before any proposed rate, term, or condition is to become

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<sup>31</sup> We note that MISO's Tariff does not allow it to finalize a System Impact Study and provide it to the customer without the required affected systems data. *See* MISO, FERC Electric Tariff, Attachment X (76.0.0), §§ 7.3.1.3 and 7.3.2.3. Therefore, any concerns that MidAmerican may have about being required to make a decision about its level of NRIS before MISO receives affected system data is unfounded, as an interconnection customer will not be required under MISO's proposed Tariff revisions to select its level of NRIS until after the customer receives the second DPP System Impact Study (which necessarily includes affected system data).

effective.<sup>32</sup> In light of this, any study group that has completed Decision Point II prior to the effective date of April 11, 2018, would be subject to the Tariff conditions that were in effect at that time (i.e., the proposed Tariff revisions here would not apply to them).

The Commission orders:

MISO's proposed revisions to Attachment X of its Tariff are hereby accepted, effective April 11, 2018, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>32</sup> 16 U.S.C. § 824d(d) (2012); 18 C.F.R. § 35.15 (2017).