

168 FERC ¶ 61,086
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Midcontinent Independent System Operator, Inc.

Docket No. ER19-2149-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued August 13, 2019)

1. On June 14, 2019, Midcontinent Independent System Operator, Inc. (MISO), pursuant to section 205 of the Federal Power Act (FPA)¹ and section 35.12 of the Commission's regulations,² filed proposed revisions to its Generator Interconnection Procedures (GIP) in Attachment X of its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) to establish a mechanism for interconnection customers to share interconnection facilities among their generating projects, where all parties are amenable to such arrangement. In this order, we accept MISO's proposed Tariff revisions, to be effective August 14, 2019, as requested, as discussed below.

I. Filing Summary

A. Background

2. MISO studies requests to interconnect generating facilities to its transmission system pursuant to the GIP in its Tariff. As part of the interconnection process, MISO requires each interconnection customer to designate a point of interconnection where that interconnection customer's generating facility will connect to the MISO transmission system.³ Interconnection customers must identify their proposed point of interconnection in their initial interconnection request. Both the point of interconnection and

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.12 (2018).

³ The Tariff defines the point of interconnection as "the point, as set forth in Appendix A of the [Generator Interconnection Agreement], where the Interconnection Facilities connect to the Transmission System." MISO Tariff, Attachment X, Section 1 (Definitions).

interconnection facilities are later memorialized in the Generator Interconnection Agreement (GIA) for the generating facility.⁴

3. Interconnection facilities—comprised of interconnection customer’s interconnection facilities and transmission owner’s interconnection facilities⁵—connect the generating facility to the point of interconnection on the MISO transmission system. MISO states that, historically, it did not allow the sharing of interconnection facilities between different projects because the interconnection customer that owned the interconnection customer’s interconnection facilities would have to file an Open Access Transmission Tariff (OATT) with the Commission, as well as meet Open Access Same-time Information System (OASIS) and Standards of Conduct requirements, pursuant to Order Nos. 888⁶ and 889,⁷ or seek waiver of those requirements. MISO states that such an outcome would present practical and administrative challenges for all parties involved.⁸

4. MISO states that in the past several years, changes in Commission regulations and the evolving needs of MISO’s interconnection customers have prompted MISO to

⁴ Filing, Transmittal Letter at 2.

⁵ Interconnection customer’s interconnection facilities comprise the interconnection facilities between the generating facility and the point of change of ownership. Transmission owner’s interconnection facilities comprise the interconnection facilities from the point of change of ownership to the point of interconnection. MISO Tariff, Attachment X, Section 1 (Definitions).

⁶ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996) (cross-referenced at 77 FERC ¶ 61,080), *order on reh’g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *order on reh’g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh’g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁷ *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996) (cross-referenced at 75 FERC ¶ 61,078), *order on reh’g*, Order No. 889-A, FERC Stats & Regs. ¶ 31,049 (cross-referenced at 78 FERC ¶ 61,221), *reh’g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

⁸ Filing, Transmittal Letter at 3.

reevaluate the issue of shared interconnection facilities.⁹ MISO states that Order No. 807¹⁰ created a blanket waiver from the requirements to file an OATT and meet OASIS and Standards of Conduct requirements, for entities that are subject to such requirements solely because they own, control, or operate interconnection customer's interconnection facilities over which a third party may seek connection to a transmission system. The Commission, in Order No. 807, recognized the limited and discrete nature of interconnection customer's interconnection facilities and the lower potential for discriminatory use of those facilities.

5. MISO states that, concurrent with the Commission's development of the blanket waiver pursuant to Order No. 807, MISO observed a steady increase in interest among interconnection customers in exploring new project configurations and options to decrease development costs and/or expedite construction.¹¹ MISO states that, as a result of this stakeholder interest and the Commission's guidance in Order No. 807, MISO initiated a stakeholder process to develop and review the processes proposed in the instant filing.

B. Proposed Tariff Provisions

6. MISO proposes to revise its GIP to allow an interconnection customer to submit an interconnection request that proposes to share interconnection facilities with one or more existing projects or pending interconnection requests, which request shall include an executed consent agreement.¹² MISO also proposes to revise its GIP to provide for an evaluation process for interconnection requests in which the interconnection customer has specified an intention to share interconnection facilities. Further, MISO proposes to revise its standard interconnection request form to provide an option for an interconnection customer to specify its intention to share interconnection facilities.¹³ MISO also proposes revisions to its GIA to specify metering requirements for shared interconnection facilities.¹⁴ Finally, MISO proposes a transition mechanism under which

⁹ *Id.* at 4.

¹⁰ *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211 (2015).

¹¹ Filing, Transmittal Letter at 5.

¹² *Id.* at 6-11.

¹³ *Id.* at 15.

¹⁴ *Id.* at 15-16.

its new shared interconnection facilities mechanism will be available to interconnection customers whose interconnection requests have already entered MISO's three-phase Definitive Planning Phase (DPP) as of the effective date of the filing, but have not yet begun GIA negotiations.¹⁵

1. Requirements for Interconnection Requests Proposing to Share Interconnection Facilities

7. To address informational requirements for interconnection customers seeking to share interconnection facilities, MISO proposes to add new section 3.3.1.3 to its GIP.¹⁶ Proposed section 3.3.1.3 provides that an interconnection customer seeking to share interconnection facilities with one or more existing projects or pending interconnection requests should indicate this arrangement in its interconnection request and attach a consent agreement, executed by the applicable transmission owner and interconnection customers, to the interconnection request.¹⁷ MISO's proposal requires the consent agreement to provide relevant information, such as a description of the proposed configuration of the projects, the proposed ownership of the interconnection facilities, the division of rights and responsibilities among the parties with respect to operations, maintenance, and repair of the interconnection facilities, and any other information regarding the operation of the generating facilities as may be specified in the Business Practices Manuals.¹⁸ MISO states that this information is necessary to enable MISO to evaluate the projects effectively, model the generating facilities during DPP studies, populate GIA appendices, and delineate which facilities will be reflected as interconnection customer's interconnection facilities in each GIA. MISO notes that, while each interconnection customer would have ultimate responsibility for the facilities listed as that interconnection customer's interconnection facilities in their respective GIAs, requiring the consent agreement to state how the parties intend to divide and enforce responsibilities over interconnection facilities that multiple projects will enable MISO to confirm that that responsibilities are accounted for and promote coordination between the parties. MISO also proposes to revise section 3.1 of its GIP, which lists the

¹⁵ *Id.* at 14. The DPP is the final phase of MISO's generator interconnection study process, during which MISO conducts reliability and deliverability studies that determine whether there is available transmission capacity to accommodate the interconnection of a new, proposed generating facility or whether network upgrades are needed.

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 10.

required information to be included in an interconnection request, by adding a new subsection (v) referencing the requirements of section 3.3.1.3.¹⁹

8. MISO states that, after extensive discussions with its stakeholders, it determined that these requirements were reasonable to accomplish several critical goals.²⁰ First, MISO contends that the requirement that all parties that would share interconnection facilities consent to such arrangement is necessary to ensure that no party is made an involuntary participant. MISO asserts that this is consistent with the voluntary nature of the contractual arrangements contemplated by Order No. 807 and existing *pro forma* GIA provisions, contained in Article 9.9, governing the use of interconnection facilities. MISO states that the voluntary nature of the arrangement also does not diminish an interconnection customer's ability to seek relief from the Commission under sections 210, 211, and 212 of the FPA.²¹ In addition, MISO states that nothing in the instant proposal is intended to alter or excuse compliance from any requirements imposed by 18 C.F.R. § 35.28(d) or any other applicable Commission regulations, including safe harbor registration provisions, FPA filing requirements, or other applicable laws and regulations.²²

9. Further, MISO states that the requirement to submit a consent agreement concurrently with an interconnection request is necessary to put MISO on notice of the sharing arrangement at the outset, thus enabling MISO to review the interconnection request(s) and address any concerns or deficiencies early enough to enable the parties to make adjustments.²³ MISO states that, without such agreement, any interconnection customer intending to rely on another interconnection customer's project would be speculative and far more likely to be withdrawn. MISO contends that requiring interconnection customers whose projects intend to rely on jointly developed interconnection facilities, or interconnection facilities developed by a third party, to memorialize the configuration and division of ownership and responsibilities in a consent agreement helps ensure that those parties who would be impacted by the sharing arrangement have, in fact, considered and agreed upon the details of the arrangement.²⁴

¹⁹ *Id.* at 7.

²⁰ *Id.*

²¹ *Id.* at 8 (citing 16 U.S.C. §§ 824i, 824j, and 824k (2012)).

²² *Id.* at 8 n.31.

²³ *Id.* at 8.

²⁴ *Id.* at 9.

MISO notes that it has observed numerous instances in which parties have entered the DPP in its interconnection study process with only an agreement in principle, or with different understandings of what each party's responsibilities will be, only to later discover irreconcilable disagreements during the DPP or in GIA negotiations. According to MISO, where this happens, one or more of the projects may withdraw from the queue, causing the need for restudies, queue delays, and unexpected cost shifts. MISO asserts that such outcomes negatively impact other interconnection customers in a study cycle, with potential impacts magnified by the fact that failures of such arrangements directly impact multiple projects.

10. With regard to the form of the consent agreement, MISO states that it determined not to establish a *pro forma* consent agreement after considering Commission precedent, the goals of the consent agreement, and MISO's informational needs.²⁵ MISO asserts that its approach will provide interconnection customers with greater flexibility to address unique circumstances.²⁶ For example, MISO states that some interconnection customers may find it convenient to submit, as a consent agreement, a service agreement that they plan to file with the Commission for use of the interconnection facilities, while others may prefer to develop their own forms and include commercial terms negotiated between the parties for the arrangement. MISO states that it would generally be indifferent to the form of agreement selected by the parties and any commercial arrangements negotiated between interconnection customers, provided that the agreement submitted with an interconnection request contains the information set forth in proposed section 3.3.1.3 of the GIP. MISO states that its approach retains this flexibility for the parties and mitigates the need for redundant agreements while ensuring that MISO receives the information required to process the interconnection request.

2. Evaluation Process for Interconnection Requests Proposing to Share Interconnection Facilities

11. MISO proposes to add new section 3.3.1.4 to its GIP to establish a mechanism for processing interconnection requests that propose to share interconnection facilities.²⁷ Proposed section 3.3.1.4 provides that the transmission provider must consent to an interconnection request proposing shared interconnection facilities, with such consent not to be unreasonably withheld, conditioned, or delayed. The transmission provider will review the interconnection request to confirm compliance with the informational and consent requirements in proposed section 3.3.1.3. Proposed section 3.3.1.4 further provides that the transmission provider will complete its review and notify the parties

²⁵ *Id.* at 11.

²⁶ *Id.* (citing Order No. 807, 150 FERC ¶ 61,211 at PP 36, 113).

²⁷ *Id.* at 12.

whether it consents to the proposed arrangement no later than five days prior to the start of the scoping meeting. In the event that the transmission provider withholds its consent, the transmission provider will provide a written statement of the reasons for its decision. Additionally, proposed section 3.3.1.4 provides that interconnection requests that do not receive the transmission provider's consent for the sharing of interconnection facilities may be revised and resubmitted for inclusion in the applicable cycle prior to the commencement of DPP Phase I.

12. MISO states that it designed the submission and evaluation process for shared interconnection facilities to facilitate early coordination between the affected interconnection customers and transmission owner.²⁸ MISO states that the proposed evaluation process also permits it to review the proposed arrangement early enough in the interconnection process to afford parties an opportunity to resubmit their interconnection requests without loss of queue position or adverse impact to interconnection studies, should the proposed arrangement prove untenable.

13. MISO asserts that requiring the transmission provider's consent for sharing arrangements is necessary to enable it to ensure that the parties agree on the details of the sharing arrangement and that the proposed configuration and division of responsibilities does not create reliability or operational risks to the transmission system.²⁹ In addition, MISO contends that, while it is not practical to list in the Tariff all of the reasons why MISO may be unable to consent to a specific arrangement given the fact-specific nature of such proposals, the requirement that MISO's consent not be unreasonably withheld provides a clear limit to MISO's discretion and is consistent with accepted Tariff provisions applicable to other instances in which MISO's consent is required for a transaction.³⁰ To provide further protection for interconnection customers, MISO also proposes that it be required to provide a written statement outlining its reasons should consent be withheld.

14. MISO also proposes to include, in section 3.3.1.4, a transitional mechanism for processing requests to share interconnection facilities by interconnection customers whose interconnection requests have already entered the DPP as of the proposed effective date of MISO's filing.³¹ MISO's proposed transitional mechanism provides that interconnection customers with pending interconnection requests shall satisfy the terms of sections 3.3.1.3 and 3.3.1.4 of the GIP prior to the start of GIA negotiations for any

²⁸ *Id.*

²⁹ *Id.* at 12-13.

³⁰ *Id.* at 13.

³¹ *Id.* at 14.

pending interconnection request in the DPP that will participate in the sharing arrangement. MISO states that it proposes this transitional provision to accommodate several interconnection customers that have expressed interest in utilizing MISO's proposed mechanism for sharing interconnection facilities but whose projects were submitted into the queue prior to MISO making the instant filing. MISO contends that the start date of negotiations is an appropriate transitional deadline because, once negotiations have begun, attempts to revise interconnection requests and obtain consent for such arrangements would carry a higher risk of delaying the finalization of negotiation and execution periods and could increase the chances that projects are delayed or cancelled.

3. Revisions to the Interconnection Request Form

15. MISO proposes to revise the standard interconnection request form contained in Appendix 1 of Attachment X in its Tariff by adding a checkbox for the interconnection customer to indicate its intention to share interconnection facilities with another party or parties.³² MISO also proposes language referencing the fully executed consent agreement between the applicable transmission owner and interconnection customers, pursuant to proposed section 3.3.1.3 of the GIP.

16. MISO states that the checkbox and proposed language provide a mechanism for MISO to easily determine whether an interconnection request will involve shared interconnection facilities. MISO notes that the proposed language also serves to inform the interconnection customer of the required consent agreement and the applicable GIP provision in section 3.3.1.3. Further, MISO states that this approach avoids burdening interconnection customers that do not intend to share interconnection facilities by allowing them to simply leave the box unchecked.

4. Revisions to the *Pro Forma* GIA

17. MISO proposes to revise Article 7 of its *pro forma* GIA, which is contained in Appendix 6 of Attachment X of its Tariff, to address metering requirements in instances where interconnection customers intend to share interconnection facilities.³³ Specifically, MISO proposes that, in addition to the metering equipment installed at the point of interconnection, the interconnection customer should install metering equipment, either on its own generating facility or on its own non-shared facilities, sufficient to measure the output of its generating facility separate from any generating facilities with

³² *Id.* at 15.

³³ *Id.*

which it will share interconnection facilities.³⁴ MISO states that this metering requirement will enable MISO and the transmission owner to monitor the output of each generating facility, in order to ascertain compliance with GIA requirements and interconnection service levels, as well as to facilitate market participation by different generating facilities.³⁵

II. Notice of Filing and Responsive Pleadings

18. Notice of MISO's filing was published in the *Federal Register*, 84 Fed. Reg. 29,198 (2019), with interventions and protests due on or before July 5, 2019. Timely motions to intervene were filed by: EDF Renewables, Inc. (EDF); EDP Renewables North America LLC (EDP); E.ON Climate & Renewables North America, LLC (E.ON); Enel Green Power North America, Inc. (Enel); American Transmission Company LLC; NextEra Energy Resources, LLC; Cooperative Energy; MidAmerican Energy Company; Ameren Services Company; American Municipal Power, Inc.; Alliant Energy Corporate Services, Inc.; WEC Energy Group, Inc.; and Consumers Energy Company.

19. On July 5, 2019, EDF, EDP, E.ON, and Enel (collectively, MISO Generation Developers) filed comments. On July 24, 2019 MISO filed an answer to the comments.

A. Comments

20. MISO Generation Developers are supportive of the concept behind MISO's proposal, but they request several clarifications. MISO Generation Developers note that, in Order No. 807, the Commission established a five-year safe harbor from the commercial operation date of a generating facility during which the owner and/or operator of the interconnection customer's interconnection facilities has priority rights to use the available capacity on those facilities.³⁶ MISO Generation Developers contend that the proposed shared facilities construct should not be used by a third party to connect to the interconnection customer's interconnection facilities during this safe harbor period. Further, MISO Generation Developers assert that MISO's GIP should provide that an interconnection customer that will be or is developing its generating facility should be able to confirm that it intends to develop its generating facility in phases, which will ensure that the excess capacity on planned interconnection customer's interconnection

³⁴ *Id.* at 15-16.

³⁵ *Id.* at 16.

³⁶ MISO Generation Developers Comments at 3 (citing Order No. 807, 150 FERC ¶ 61,211 at P 1).

facilities is designated for the interconnection customer's sole use, subject to the safe harbor once the initial generating facility achieves commercial operation.

21. MISO Generation Developers state that, as they understand it, if the interconnection customer of an existing or proposed project does not consent to share the use of interconnection facilities, the entity seeking to interconnect via shared facilities must pursue the process the Commission provided for in Order No. 807, pursuant to section 2.20 of the Commission's regulations³⁷ and sections 210-212 of the FPA.³⁸ They request that MISO clarify that, in such cases, the process it proposes here will not be available for use until the issue is resolved. MISO Generation Developers state that, as they understand it, the interconnection customer seeking to interconnect via shared interconnection facilities would ask the Commission to resolve the matter pursuant to sections 210-212 of the FPA, as applicable, and that, while the Commission is considering the issue, the interconnection customer would submit a standard interconnection request and proceed through MISO's queue.³⁹ MISO Generation Developers contend that this raises several process questions if the Commission rules favorably for the entity seeking to use the shared interconnection facilities, such as: (1) whether MISO will allow the interconnection customer to switch to connecting its project via shared interconnection facilities; (2) whether it matters if the interconnection request for the entity that sought use of shared interconnection facilities is still being studied in Phases 1-3 of MISO's DPP process; and (3) what process MISO will employ if the entity that sought use of shared interconnection facilities has already executed a GIA, based on not using shared interconnection facilities.

22. MISO Generation Developers also seek clarification of the process MISO will employ if an entity seeks to share interconnection facilities of another project in the MISO queue (for which the DPP has not started, DPP studies have started, or there is an effective GIA but the interconnection facilities are not yet developed), and the applicable interconnection customer or transmission owner does not consent to the shared use.⁴⁰ MISO Generation Developers assert that, if these interconnection facilities do not yet exist, there is a question of whether Commission jurisdiction attaches.

³⁷ 18 C.F.R. § 2.20 (2018).

³⁸ MISO Generation Developers Comments at 4.

³⁹ *Id.* at 5.

⁴⁰ *Id.*

23. MISO Generation Developers state that they support MISO's right to decide whether to consent to the shared interconnection facilities request. However, they request that MISO propose a more defined and transparent standard for how it will make that decision.⁴¹

24. Further, MISO Generation Developers argue that MISO's proposal to inform the interconnection customer of the denial of its shared interconnection facilities request five days before the scoping meeting does not provide a sufficient cure period.⁴² MISO Generation Developers note that a scoping meeting can be held anywhere between 45 to five days before the start of the DPP. They allege that, depending on the timing, this could leave inadequate time prior to the start of the DPP to challenge MISO's rejection of a shared interconnection facilities request or to cure any deficiencies and resubmit the request. MISO Generation Developers believe that MISO should make a determination of whether it will accept a shared interconnection facilities request within five or 10 days after the DPP cluster window closes so that there is sufficient time to cure or resubmit the request.

25. MISO Generation Developers request clarification as to how a GIA could be used as a substitute for a consent agreement in a request to share transmission owner's interconnection facilities. Specifically, MISO Generation Developers note that a shared interconnection facilities request must include the consent agreement at the time that the request is submitted to MISO but a GIA is not achieved until the end of the DPP.⁴³

26. Additionally, MISO Generation Developers note that, at some point, a service agreement or shared facilities agreement will need to be filed with the Commission for acceptance.⁴⁴ They contend that the consent agreement submitted to MISO with the interconnection request might state that the effectiveness of that consent agreement is subject to Commission acceptance of an eventual service agreement or shared facilities agreement. MISO Generation Developers ask that MISO confirm that such a condition in the consent agreement will not cause MISO to reject a shared interconnection facilities request.

⁴¹ *Id.* at 4.

⁴² *Id.* at 6.

⁴³ *Id.* (citing Filing, Transmittal Letter at n.31).

⁴⁴ *Id.* at 7.

27. Finally, MISO Generation Developers ask that MISO clarify what it would do in the event that: (1) two interconnection requests in the same DPP cluster seek to share interconnection customer's interconnection facilities, but then one withdraws from the queue; or (2) an interconnection request enters the DPP intending to share interconnection customer's interconnection facilities with a project that has a GIA, but then the project with the GIA is terminated.⁴⁵ MISO Generation Developers suspect that MISO would simply assign the cost and development responsibility to the remaining interconnection customer and make any necessary revisions to studies or existing GIAs.

B. Answer

28. MISO asserts that its proposal does not jeopardize an interconnection customer's safe harbor under Order No. 807.⁴⁶ MISO explains that Order No. 807 adopted regulations that grant generation developers a five-year safe harbor from the commercial operation dates of their generating facilities, during which the owner and/or operator of any interconnection customer's interconnection facilities has priority rights to use any available capacity on such facilities. MISO contends that the concerns raised by MISO Generation Developers—namely, that an interconnection customer could be forced into a sharing arrangement—is misplaced. MISO states that its proposal is applicable only to voluntary sharing arrangements.⁴⁷

29. MISO also contends that involuntary sharing arrangements are outside the scope of MISO's filing and that nothing in its proposal alters the Commission's application of Order No. 807 or sections 210-212 of the FPA.⁴⁸ MISO states that its proposed shared interconnection facilities construct is only available if all parties consent, and that nothing in the proposal prevents interconnection customers from seeking relief from the Commission. MISO confirms that, if a party is unable to obtain an executed consent agreement from all other parties, an entity seeking to develop a project would either make a request for authorization to use another party's interconnection facilities under sections 210-212 of the FPA and await an order from the Commission, or submit a standard interconnection request (i.e., one that does not propose shared interconnection facilities).⁴⁹ Further, in response to MISO Generation Developers' contention that the

⁴⁵ *Id.*

⁴⁶ MISO Answer at 3.

⁴⁷ *Id.* at 3-4.

⁴⁸ *Id.* at 5.

⁴⁹ *Id.* at 6.

GIP should provide a mechanism for an interconnection customer to confirm that it intends to develop generating facilities in phases, MISO states that, given that the instant filing does not provide any mechanism to compel involuntary sharing arrangements and leaves both the rights and recourse of parties before the Commission undisturbed, it is unclear why a mechanism in MISO's GIP to document an interconnection customer's intent to use such facilities for phased development would be needed.⁵⁰ However, MISO notes that its GIP contains no prohibition against noting, in the one-line diagram included with an interconnection request, an intention to later connect other generating facilities through the same interconnection facilities.

30. MISO responds to MISO Generation Developers' questions based on a scenario in which the parties do not consent to the sharing of interconnection facilities, but the Commission later directs, pursuant to FPA sections 210-212, that such facilities be made available.⁵¹ MISO first reiterates that its filing is limited to voluntary arrangements. In response to MISO Generation Developers' question about whether, if the interconnection customer submitted a standard interconnection request while waiting for a Commission order pursuant to sections 210-212 of the FPA, MISO would allow the project to switch from the interconnection facilities proposed in its request to the shared interconnection facilities, MISO states that this situation would be more appropriately addressed by the Commission in an order. However, to the extent that a Commission order authorizes an interconnection customer to use another interconnection customer's interconnection facilities on a non-voluntary basis, MISO states that it would not interpret its Tariff in such a way as to frustrate the Commission order.⁵² In response to MISO Generation Developers' question about whether it will matter if the interconnection request for the entity that sought use of shared interconnection facilities is still being studied in DPP Phases 1-3 as of the date that the Commission issues an FPA section 210-212 order that requires the sharing of interconnection facilities, MISO states that it would respect the terms of that order and adjust interconnection requests and studies in accordance with its terms. MISO further states that, if the parties had already executed GIAs as of the date that the Commission issues an FPA section 210-212 order that requires the sharing of interconnection facilities, any order allowing the shared usage likely would address revisions to such agreements. To the extent that a Commission order does not address the GIAs, MISO asserts that the interconnection customer would be able to request that MISO file an amendment to the GIAs to implement the order.

⁵⁰ *Id.* at 4-5.

⁵¹ *Id.* at 6.

⁵² *Id.* at 7.

31. MISO explains that neither Order No. 807 nor Order No. 807-A required transmission providers to amend their tariffs to include procedures for addressing any Commission order that may be issued under FPA section 210 or 211.⁵³ MISO argues that nothing in its shared interconnection facilities proposal changes this or creates a new need for such an amendment. MISO does, however, state that it is willing to add language to the Tariff that states that the requirements applicable to voluntary sharing of interconnection facilities do not prejudice an interconnection customer's right to seek relief from the Commission under FPA section 210 or 211, if the Commission directs it. MISO adds that it would be inappropriate for MISO to opine on the reach of Commission jurisdiction, as MISO Generation Developers request.⁵⁴

32. Further, MISO argues that its proposal provides a transparent standard and process for MISO to approve or disapprove proposals to share interconnection facilities.⁵⁵ MISO states that it does not oppose transparency or accountability; however, MISO contends that attempting to reduce the myriad range of factors that could lead to disapproval into a simple statement is not necessary to achieve these goals. MISO argues that its proposed Tariff language clearly lays out what is required for an interconnection customer to share interconnection facilities. MISO cites to proposed section 3.3.1.3 of its GIP, which states that these requirements are: (1) a disclosure of the proposed arrangement in an interconnection request; (2) a consent agreement executed by the applicable transmission owner and all interconnection customers with projects that propose to connect, or are connected, to the shared interconnection facilities, showing that the parties agree to the arrangement; (3) a description of the proposed configuration of the projects, ownership of the interconnection facilities, and division of rights and responsibilities among the parties with respect to operations, maintenance, and repair of the interconnection facilities; and (4) other operational information that may be specified in MISO's Business Practices Manuals.⁵⁶

33. MISO contends that the above requirements clearly articulate the type of information that MISO considers upon approving or disapproving a shared interconnection facilities request.⁵⁷ MISO concedes that while some technical information about operations may be required through its Business Practices Manuals,

⁵³ *Id.*

⁵⁴ *Id.* at 8.

⁵⁵ *Id.*

⁵⁶ *Id.* at 9 (citing MISO Proposed Tariff, Attachment X, Section 3.1.3.3).

⁵⁷ *Id.*

this information would be posted and known by interconnection customers preparing their interconnection requests. MISO further clarifies that proposed section 3.3.1.4 of the GIP specifies what MISO considers during the evaluation process; namely, that the interconnection customer has complied with the requirements of section 3.3.1.3 of the GIP, that all interconnection customers have been appropriately accounted for, and that all parties have consented to the proposed arrangement. MISO notes that proposed section 3.3.1.4 also provides that its approval shall not be unreasonably withheld, conditioned, or delayed and that MISO is required to provide a written explanation of the reasons for any decision to disapprove of a shared interconnection facilities arrangement.⁵⁸

34. MISO argues that its proposed cure period provides sufficient opportunity for cure and is properly based on the date of the scoping meeting.⁵⁹ MISO explains that it must provide its decision regarding a shared interconnection facilities proposal five days prior to the scoping meeting. MISO explains that the latest a scoping meeting can occur is five calendar days before the start of the DPP, but it can be scheduled as early as 45 days prior to the start of the DPP.⁶⁰ MISO explains that interconnection customers can request as early a date within the possible window for scoping meetings as they desire, which could result in MISO making a determination on a shared interconnection facilities request between 45 and 50 days prior to the commencement of the DPP. MISO contends that this provides plenty of time for cure if the proposal to share interconnection facilities is not approved. MISO notes that this compares favorably to current Tariff rules that provide interconnection customers with five business days from the date of the scoping meeting to modify their point of interconnection, if necessary. MISO also states that, to the extent that an interconnection customer has concerns or wants to verify that its proposed sharing arrangement would be acceptable well in advance of the scoping meeting, MISO encourages such an interconnection customer to discuss the arrangement with MISO prior to the 45-day scoping meeting window and, if it is able, prior to submission of its interconnection request.⁶¹

⁵⁸ *Id.* at 10.

⁵⁹ *Id.* at 11.

⁶⁰ *Id.* at 11-12 (citing MISO Tariff, Attachment X, Section 3.3.4).

⁶¹ *Id.* at 12-13.

35. Further, MISO explains that MISO Generation Developers' request that MISO review and render a determination on the proposed shared use of interconnection facilities within days of the queue window closing is administratively impractical.⁶² As an example, MISO states that over 300 projects entered the MISO queue in the 2019 cycle, most of which MISO received near or on the day that the submission window closed. MISO asserts that requiring MISO to perform its Tariff-mandated deficiency review in addition to review of any shared interconnection facilities requests would be burdensome and unnecessary, given the volume of projects.

36. With regard to MISO Generation Developers' concerns that it is unclear how a GIA would be used as a consent agreement, MISO clarifies that it did not intend to indicate that it is possible to use a GIA as a form of consent agreement.⁶³ MISO clarifies that a GIA would not constitute a consent agreement executed by all of the parties, as required by proposed section 3.3.1.3 of the GIP, because interconnection customers are not parties to the GIAs of other interconnection customers. Instead, MISO clarifies that, as GIAs usually describe the transmission owner's interconnection facilities, the way in which service would be provided to multiple interconnection customers over those facilities could be described in each interconnection customer's GIA. Depending on when the interconnection customer(s) seeks Commission acceptance of a service agreement, such GIAs may be referenced in the service agreement. Similarly, MISO clarifies that it only intended its statement—that, for transmission owner's interconnection facilities sharing arrangements, the GIA would provide the applicable commercial terms, thus allowing for a shorter consent agreement—to indicate that many of the standard commercial terms contained in the *pro forma* GIA could be adapted for use in a consent agreement.⁶⁴

37. Additionally, MISO clarifies that it would not view a clause in the consent agreement, stating that the agreement is subject to Commission acceptance of an eventual service or shared facilities agreement, as a reason for disapproving a shared interconnection facilities request.⁶⁵ MISO explains that to the extent that such arrangements must be filed with the Commission, MISO agrees that any consent agreement would be conditioned on the receipt of the required Commission

⁶² *Id.* at 13.

⁶³ *Id.* at 14.

⁶⁴ *Id.* (citing Filing, Transmittal Letter at n.41).

⁶⁵ *Id.* at 15.

authorizations. MISO affirms that nothing in its filing is intended to alter such requirements.

38. Finally, with regard to MISO Generation Developers' question regarding how MISO will process situations where one or more parties to a shared interconnection facilities arrangement withdraw, MISO confirms that, to the extent that the parties agree to a shared interconnection facilities arrangement, responsibility to construct the facilities shown in the remaining (unwithdrawn) GIA would remain with the surviving interconnection customer(s), and MISO would make any needed revisions to account for the withdrawal in studies or GIAs under MISO's existing GIP processes.⁶⁶ MISO notes that these types of arrangements are not without risk, and this is why it requires the consent of all parties involved in the arrangement, as well as early coordination among the parties. Through these preventive measures, MISO asserts that it can keep ill-planned or unrealistic sharing arrangements from entering the queue and subjecting other interconnection customers in the same study cycle to any negative impacts from a project's withdrawal.

III. Discussion

A. Procedural Matters

39. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

40. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2018), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

41. We accept MISO's filing, to be effective August 14, 2019, as requested. We find MISO's proposal to allow interconnection customers to request the shared use of interconnection facilities to be just, reasonable, and not unduly discriminatory or preferential. Further, we find that MISO's proposed transition mechanism is a just and reasonable approach to allow interested interconnection customers that have already entered MISO's DPP as of the effective date of this filing to utilize MISO's mechanism for sharing interconnection facilities, while ensuring that these interconnection customers satisfy the requirements proposed in this filing.

⁶⁶ *Id.* at 16.

42. Regarding MISO's evaluation of requests to use shared interconnection facilities, we agree with MISO that its evaluation process, as proposed, should ensure that MISO's approval or rejection of a shared interconnection facilities request is applied in a not unduly discriminatory or preferential manner. MISO's proposed Tariff language explicitly articulates the types of information that MISO considers in its evaluation, which includes the information required by section 3.3.1.3 of the GIP, confirmation of parties' responsibilities under the arrangement, and consent from all parties to the arrangement. We agree with MISO that it would be impractical to include a detailed statement in its Tariff of all possible reasons that it might disapprove a request to share interconnection facilities. Further, the proposed Tariff language provides that MISO's consent shall not be unreasonably withheld, conditioned, or delayed, and the Tariff requires MISO to provide a written explanation of the reasons for any decision to disapprove of the arrangement. We find that this language provides appropriate accountability while according MISO the necessary flexibility to address the specific circumstances of each shared interconnection facilities request. We note that, as MISO points out in its filing, the proposed Tariff language is consistent with existing Tariff provisions applicable to other instances in which MISO's approval is required.⁶⁷

43. We also find that MISO's proposal to provide its determination regarding its approval or disapproval of a shared interconnection facilities request at least five days prior to the scoping meeting provides parties to the arrangement sufficient opportunity to address concerns and revise and resubmit the interconnection request, if necessary. We note MISO's explanation in its answer that, while its proposed Tariff language requires MISO to provide a determination five days prior to the scoping meeting, an interconnection customer can ask for as early a date within the possible window for scoping meetings as it desires, which could result in a determination on a shared

⁶⁷ See Filing at 13 n.45 (citing MISO Tariff, Attachment X, Section 4.4.4 ("Transmission Provider will not unreasonably withhold approval of an Interconnection Customer's or [Merchant High Voltage Direct Current] Connection Customer's proposed change in the In-Service Date or Commercial Operation Date of the Generating Facility..."); MISO Tariff, Attachment X, Section 14.1.1 ("[I]f the maximum capacity that the Small Generating Facility is capable of injecting into the Transmission Provider's electric system is limited ...then the Interconnection Customer must obtain the Transmission Provider's agreement, with such agreement not to be unreasonably withheld, that the manner in which the Interconnection Customer proposes to implement such a limit will not adversely affect the safety and reliability of the Transmission Provider's system."); and MISO Tariff, Attachment X, Appendix 6, Article 19.1 ("This GIA may be assigned by any Party only with the written consent of the other Parties... Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.")).

interconnection facilities request between 45 and 50 days prior to the commencement of the DPP.⁶⁸ Therefore, we disagree with MISO Generation Developers' suggestion to require MISO to make a determination of whether it will accept a shared interconnection facilities request within five to 10 days after the DPP cluster window closes, as we find that such a requirement would be impractical, given the other tasks MISO must accomplish during this time period.⁶⁹

44. In addition, given MISO's clarifications regarding several additional questions raised by MISO Generation Developers, we find that MISO's proposed Tariff language provides a sufficiently clear process for interconnection customers to share interconnection facilities. In particular, we note MISO's clarification that: (1) under its proposed process, MISO would not view a clause in a consent agreement stating that agreement is subject to Commission acceptance of an eventual service or shared facilities agreement as a reason for disapproving a request to share interconnection facilities;⁷⁰ (2) a GIA does not constitute a consent agreement executed by all of the parties necessary for a shared interconnection request;⁷¹ and (3) in situations where one or more parties to a shared interconnection facilities arrangement withdraw, responsibility to construct the facilities memorialized in the remaining GIA would be the obligation of the surviving interconnection customer(s), and MISO would make any needed revisions to account for the withdrawal in studies or GIAs under its existing GIP processes.⁷²

45. MISO Generation Developers raise questions related to the application of Order No. 807 and sections 210-212 of the FPA. MISO clarifies in its answer that nothing in its proposal affects any protections afforded by Order No. 807 or the Commission's authority under sections 210-212 of the FPA. We agree with MISO's clarification that any requests to share interconnection facilities pursuant to MISO's shared interconnection facilities construct must be voluntarily agreed to by all parties and, therefore, do not interfere with the Commission's jurisdiction to direct the sharing of such facilities under sections 210-212 of the FPA, or impact the five-year safe harbor provision in Order No. 807. Further, any process questions of MISO Generation Developers based on a scenario where there is a lack of voluntary agreement by parties to

⁶⁸ MISO Answer at 12-13.

⁶⁹ As explained by MISO, during this time period, it generally reviews a high volume of interconnection requests to determine whether those requests contain any deficiencies. *Id.* at 13.

⁷⁰ *Id.* at 15.

⁷¹ *Id.* at 14.

⁷² *Id.* at 16.

share interconnection facilities, and an interconnection customer seeks to interconnect pursuant to sections 210-212 of the FPA or by making an interconnection request, are beyond the scope of this proceeding, which concerns only MISO's proposal to accommodate voluntary shared interconnection facilities arrangements under its Tariff. For this same reason, MISO Generation Developers' question as to whether Commission jurisdiction attaches to certain interconnection facilities where there is not a voluntary agreement to share those facilities is likewise beyond the scope of this proceeding.

The Commission orders:

MISO's filing is hereby accepted, to be effective August 14, 2019, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.