

139 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Midwest Independent Transmission System Operator, Inc. Docket No. ER12-56-001

ORDER ACCEPTING COMPLIANCE FILING

(Issued June 8, 2012)

1. On January 9, 2012, Midwest Independent Transmission System Operator, Inc. (MISO) submitted proposed revisions to the Generator Interconnection Procedures (GIP) in Attachment X of MISO's Open Access Transmission Energy and Operating Reserve Markets Tariff (Tariff) in response to a Commission order issued on December 9, 2011.¹ In this order, we accept MISO's proposed revisions, effective December 11, 2011, as requested.

I. Background

2. On October 11, 2011, MISO submitted revisions to its Tariff, which, MISO explained, were intended to clarify and correct the language of Attachment X. Among other things, MISO proposed to revise article 2.3.1 of its *pro forma* Generator Interconnection Agreement (GIA) to permit MISO to terminate a GIA, subject to certain notification requirements, if a Generating Facility or a portion of a Generating Facility fails to achieve Commercial Operation for three consecutive years after the Commercial Operation Date.

3. In the December 9 Order, the Commission conditionally accepted in part and rejected in part MISO's proposed revisions. As relevant here, the Commission accepted MISO's revisions to article 2.3.1 of the *pro forma* GIA, but directed MISO to submit further revisions clarifying that MISO would only seek to terminate that portion of a

¹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,188 (2011) (December 9 Order).

facility that fails to achieve Commercial Operation within three years of the Commercial Operation Date agreed to and specified in the GIA. The Commission also directed MISO to correct the placement of the word “fail,” as suggested by the MISO Transmission Owners.

II. Filing

4. As regards the Commission’s directives for article 2.3.1 of the *pro forma* GIA, MISO notes that its language clarifies that, “[w]here only a portion of the Generating Facility fails to achieve Commercial Operation for three (3) consecutive years following the Commercial Operation Date, [MISO] may only terminate that portion of the GIA.”² MISO states that it corrected the placement of the word “fail” as required by the Commission.

III. Notice and Responsive Pleadings

5. Notice of MISO’s compliance filing was published in the *Federal Register*, 77 Fed. Reg. 2518 (2012), with protests and interventions due on or before January 30, 2012. Exelon Corporation (Exelon) filed a timely motion to intervene, and Wisconsin Electric Power Company (Wisconsin Electric), already a party to the proceeding, filed comments.

6. While acknowledging that MISO has complied with the directives contained in the December 9 Order, Wisconsin Electric argues that further clarifying revisions to article 2.3.1 of the *pro forma* GIA are necessary. Wisconsin Electric maintains that it is unclear how MISO would determine the amount of capacity to remove from the GIA in the event that a portion of a generating facility fails to achieve Commercial Operation. More specifically, Wisconsin Electric states that it is not clear whether the amount of capacity would be established by nameplate capacity or by actual operation. Accordingly, Wisconsin Electric argues that article 2.3.1 should be revised as follows:

Where only a portion of the Generating Facility fails to achieve Commercial Operation for three (3) consecutive years following the Commercial Operation Date, Transmission Provider shall modify Appendix A, Section 1 ‘Description of Generating Facility’ of this Generator Interconnection Agreement to reduce the capacity to no less than the greater of the name plate capacity or actual historical operation ~~may only terminate that portion of the GIA.~~

² Filing at 2.

IV. Discussion**A. Procedural Matters**

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), Exelon's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

8. We find that MISO's proposed Tariff revisions comply with the December 9 Order and are just and reasonable and not unduly discriminatory or preferential. Therefore, we accept MISO's proposed revisions to its Tariff, effective December 11, 2011, as requested.

9. We will not require MISO to revise article 2.3.1 as requested by Wisconsin Electric. We find that Wisconsin Electric's request is beyond the scope of the current proceeding. The only issue in a compliance filing is whether the applicant has complied with the directives of the Commission's prior order.³ As Wisconsin Electric itself acknowledges, MISO's revisions to article 2.3.1 comply with the directives contained in the December 9 Order. If Wisconsin Electric believes that article 2.3.1 requires additional clarification, it is free to seek such Tariff revision through MISO's stakeholder process.

The Commission orders:

MISO's compliance filing is hereby accepted, effective December 11, 2011, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³ *Xcel Energy Servs.*, 117 FERC ¶ 61,180, at P 37 (2006).