

139 FERC ¶ 61,253
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 Nos. ER12-309-001
ER12-309-002

ORDER ON REHEARING AND COMPLIANCE FILING

(Issued June 27, 2012)

1. On April 30, 2012, the Midwest Independent Transmission System Operator, Inc. (MISO) submitted revisions (April 30 Filing) to comply with the Commission's order¹ conditionally accepting revisions to Attachment X, "Generator Interconnection Procedures" (GIP) of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). On the same day, several parties requested rehearing and clarification of the March 30 Order. In this order, we deny requests for rehearing and grant in part and deny in part requests for clarification, as discussed below. Additionally, we conditionally accept MISO's compliance filing as discussed below.

I. Background

2. In Order No. 2003,² the Commission issued standardized large generator interconnection procedures (LGIP) and a standardized large generator interconnection agreement (LGIA). The Commission's goal was to minimize opportunities for undue

¹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,233 (2012) (March 30 Order).

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

discrimination and expedite the development of new generation, while protecting reliability and ensuring that rates are just and reasonable.

3. In its compliance filing to Order No. 2003 and 2003-A sought changes to the *pro forma* LGIP and LGIA that would permit MISO to study individual interconnection requests out-of-queue order based upon: (1) the electrical remoteness of the generating facility; or (2) the request of the interconnection customer, when MISO concurs with the request and has the resources to perform the study, and if the interconnection customer accepts the financial risk of restudy and reassignment of upgrades when the Interconnection Request become the next in the queue.³ The Commission accepted MISO's proposal to process interconnection requests in groups and out-of-queue order, as proposed.⁴

4. In 2008, the Commission held a technical conference regarding interconnection queuing practices and queue related issues that emerged after the issuance of Order No. 2003 and issued an order directing Regional Transmission Organizations (RTO) and Independent System Operators (ISO) to develop and propose their own solutions to issues related to delays and backlogs in processing queues.⁵

5. To remedy this situation, MISO along with its stakeholders, created the Interconnection Practices Task Force to identify and correct the parts of its queue management procedures that were not functioning well. As a result of this stakeholder process, MISO proposed, and the Commission largely accepted, revisions to Attachment X of the Tariff in order to reform MISO's interconnection queue.⁶ Those revisions modified MISO's GIP to limit delays caused by inactive projects in the queue. Among other things, MISO revised its procedure for processing interconnection applications from a "first-come, first-served" approach to an approach based on the progress that the generation project makes towards commercial operation, essentially a "first-ready, first-served" approach. Under these procedures, an interconnection customer entered the Pre-Queue Phase, during which MISO performs a Feasibility Study to determine whether the

³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027, at PP 122-123, *order on reh'g*, 109 FERC ¶ 61,085, at PP 25-28 (2004).

⁴ *Id.*

⁵ *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at PP 8-9 (2008) (Conference Order).

⁶ *Midwest Indep. Transmission Sys. Operator, Inc.*, 124 FERC ¶ 61,183 (2008) (Queue Reform Order), *order on reh'g*, 127 FERC ¶ 61,294 (2009)

transmission system can accommodate the interconnection request and whether the project could move directly to the second phase of the queue – the Definitive Planning Phase – or whether it should proceed to the first phase of the queue – the System Planning and Analysis phase – for additional study. If a project was not eligible to proceed to the Definitive Planning Phase, the customer then entered the System Planning and Analysis phase and underwent a System Impact Study. After receiving its study results, the customer would then have to decide whether to fulfill the M2 milestone⁷ in order to enter the Definitive Planning Phase. In the Definitive Planning Phase, the customer would receive a System Impact Study Review that would give it an approximation of the type and cost of upgrades that would have to be funded in order to facilitate its interconnection request. After receiving this information, the customer would then have to decide whether to fulfill the M3 milestones⁸ in order to undergo a Facilities Study. Upon completion of the Facilities Study Review, the interconnection customer would then have the opportunity to negotiate an interconnection agreement. Projects that had not yet started a Facilities Study as of the effective date of the new GIP were subject to all provisions of the new GIP; projects that had started a Facilities Study were only subject to revisions relating to suspension.

6. In 2009, MISO proposed, and the Commission accepted, additional revisions to its GIP that it characterized as its second phase of its interconnection queue reform.⁹ MISO stated that its revisions were intended to address physical constraints that were delaying the interconnection of new generation in many areas of MISO’s footprint and streamline the processing of interconnection requests. To address these concerns, MISO put in place two new *pro forma* agreements in the GIP: a facilities construction agreement for a single interconnection customer and a facilities construction agreement for multiple interconnection customers.

7. On November 1, 2011, as supplemented on January 30, 2012 and February 9, 2012, MISO proposed, and the Commission conditionally accepted, subject to further compliance, additional revisions to MISO’s GIP. The reforms in this proceeding were intended to extend the idea of “first-ready, first-served” in the queuing process by

⁷ The M2 milestone refers to a set of requirements that an interconnection customer must meet before entering the Definitive Planning Phase. These requirements included a study deposit based upon the historical study cost data and a series of specific accomplishments the customer must fulfill.

⁸ The M3 milestone refers to the requirements that an interconnection customer must meet in order to obtain a Facilities Study.

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 129 FERC ¶ 61,301 (2009).

removing timelines for interconnection customers in order to allow them to proceed at their own pace. Under MISO's proposal, an interconnection customer would be permitted to remain in the System Planning and Analysis phase indefinitely, so long as the interconnection customer refreshed its study once every 18 months. MISO also explained that an interconnection customer could request to be studied under a variety of assumptions during the System Planning and Analysis phase by utilizing different options on its interconnection model study review form.¹⁰

8. At a time of its choosing, the customer may move to the Definitive Planning Phase by providing a study deposit, providing necessary information, and making a new M2 "cash-at-risk" payment (M2 milestone payment). As in the System Planning and Analysis phase, an interconnection customer is required to complete and execute an interconnection study review form. Once in the Definitive Planning Phase, most modifications by the interconnection customer would be deemed to be Material Modifications. Additionally, an interconnection customer is required to make an "initial payment" (Initial Payment) toward its network upgrade costs within a prescribed time period following the execution of its GIA or the filing of an unexecuted GIA with the Commission. In particular, the interconnection customer is required to either pay a certain percentage of the total cost of its network upgrades or to provide security equal to 100 percent of the cost of network upgrades.

9. MISO proposed to apply its queue reform to certain existing interconnection requests. In particular, the revised GIP, including the M2 milestone payment, would apply to an interconnection customer that has an executed GIA but must be restudied due to, for example, a higher-queued interconnection customer withdrawing. The revised GIP would also apply where the interconnection customer is being studied for the first time and does not have an interconnection agreement. Under MISO's proposal, such customers were required to transition to the revised GIP within 90 days of the effective date of the revised GIP.¹¹ Those projects that are unable to make the new M2 milestone payment would be placed in the System Planning and Analysis phase.¹² MISO also indicated projects with existing GIAs would be required to amend their GIAs following restudy to conform to the new *pro forma* GIA. The proposal indicated that only interconnection requests for projects that are in commercial operation and have an executed GIA as of the effective date of the revised GIP will be exempt from the revised GIP; however, MISO clarified in its answer that it does *not* intend to apply the M2

¹⁰ March 30 Order, 138 FERC ¶ 61,233 at P 109.

¹¹ MISO November 1 Filing, Attachment X §§ 5.1.1.2, 5.1.2, 8.2.

¹² *Id.* § 5.1.1.

milestone payment to a customer with a signed GIA, that has not reached commercial operation (and is being restudied), where such customer has satisfied the milestones in its GIA.

10. Finally, MISO proposed a new sub-class of Energy Resource Interconnection Service called Net Zero Interconnection Service. This new service would allow an existing interconnection customer to increase the gross generating capability at the point of interconnection of an existing generating facility without increasing the net generation output at the point of interconnection above the existing generating facility's capacity, thereby permitting a new generating facility to interconnect at that point.¹³ MISO stated that the existing generator and a new generator would work out a means of controlling the output of the combined units. According to MISO, with the output controlled, the net effect on output seen by the system is unchanged, thus the name "net zero."

11. In the March 30 Order, we conditionally accepted MISO's proposed revisions to the GIP. We found that MISO's proposed revisions were just and reasonable in light of the ongoing issues that MISO has been experiencing in its interconnection queue. As further discussed below, the Commission accepted MISO's proposals to eliminate the timelines for exiting the System Planning and Analysis phase and to limit the modifications that can be made after an interconnection customer enters the Definitive Planning Phase. The Commission also accepted MISO's proposal to implement the M2 milestone payment and the Initial Payment, subject to MISO revising its Tariff to address certain issues identified by the Commission. The Commission found that MISO's proposed transition provisions were reasonable in light of the issues that MISO was experiencing in the queue; however, we found that the transition provisions did not give MISO authority to unilaterally amend GIAs without prior Commission approval. Finally, the Commission accepted Net Zero Interconnection Service subject to MISO making a compliance filing, within 180 days, revising the Tariff to ensure that Net Zero Interconnection Service is offered in a manner consistent with section 205 of the FPA, generators operate in a manner that respects the rights of all market participants and service is available on a fair, transparent, and non-discriminatory basis.

¹³ According to MISO, the terms and conditions of Net Zero Interconnection Service will be governed by an Energy Displacement Agreement and a Monitoring and Consent Agreement. Under MISO's proposal, an interconnection customer seeking Net Zero Interconnection Service will be required to enter into an Energy Displacement Agreement with the owner of the existing generating facility prior to submitting a request for net zero service if the customer is not the owner or subsidiary of the existing generator.

12. E.ON Climate & Renewables North America LLC (E.ON); Iberdrola Renewables, LLC (Iberdrola); American Municipal Power, Inc. (AMP), on behalf of itself and its members; Juhl Wind, Inc. (Juhl); Calpine Corporation (Calpine); Detroit Edison Company (Detroit Edison); and, jointly, the American Wind Energy Association (AWEA) and Wind on the Wires (WOW) requested rehearing or clarification of the March 30 Order. MISO filed an answer to the requests for rehearing. E.ON and Juhl filed answers to MISO's answer.

II. Notice and Responsive Filings

13. Notice of the April 30 Filing was published in the *Federal Register*, 77 Fed. Reg. 27,046 (2012), with interventions and protests due on or before May 21, 2012. AWEA and WOW, Flat Hill Windpark I, LLC (Flat Hill), the Joint Protestors,¹⁴ and E.ON filed timely protests. On June 5, 2012, MISO filed an answer to the protests. On June 15, 2012, AWEA and WOW filed an answer to MISO's answer. On June 20, 2012, E.ON filed an answer to MISO's answer.

III. Discussion

A. Procedural Matters

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO's, E.ON's and AWEA and WOW's answers because they have provided information that assisted us in our decision-making process.

15. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2011), prohibits answers to rehearing requests. We will therefore reject the answers to the rehearing requests.

B. Substantive Matters

16. In the sections below, we address the various arguments that have been raised on rehearing and in response to MISO's April 30 Filing. To the extent that the revisions that MISO has proposed in its April 30 Filing are not addressed below, we note that we have examined these revisions and find that they are consistent with the March 30 Order and will accept them.

¹⁴ The Joint Protestors consist of Shetek Wind Inc. (Shetek), Jeffers South LLC (Jeffers South), and Allco Renewable Energy Limited.

1. Implementation

a. MISO's Proposal

17. In the original filing, MISO proposed to apply the revised GIP to nearly all projects in the queue. Under MISO's proposal, all "outstanding interconnection requests" would be required to transition to the revised GIP within a reasonable amount of time not to exceed 90 days from MISO's proposed effective date, January 1, 2012. MISO proposed to exempt the following categories of projects from the new requirement to make a non-refundable capital contribution prior to entering the Definitive Planning Phase (M2 milestone payment): (1) projects that had an executed GIA and that had reached commercial operation as of the effective date of the revised GIP; (2) projects that had an executed GIA prior to the effective date of the revised GIP and that were not subject to restudy; (3) projects that were subject to restudy but had been meeting milestones under an existing GIA; and (4) projects subject to restudy that had reached the point under a GIA where the M2 milestone payment would have been refunded. MISO also indicated that it planned to require a project with an existing GIA that is subject to restudy to revise the body of its GIA to conform to the revised *pro forma* GIA. MISO explained that such a project would be required to comply with a new requirement to make an initial payment towards the cost of its network upgrades following the completion of the GIA.¹⁵

b. March 30 Order

18. In the March 30 Order, the Commission found that MISO's proposal was reasonable in light of the issues that MISO was experiencing in administering its queue.¹⁶ While the Commission acknowledged that MISO was proposing to apply the revised GIP to a broader array of projects than it had in the past, the Commission explained that "MISO has submitted evidence indicating that there is a backlog in its queue and that a substantial number of terminations in the queue are at or beyond the point of entering the Definitive Planning Phase."¹⁷ Thus, the Commission concluded that "limiting MISO's proposed revisions to projects that are before or after some pre-determined point in the queue . . . would create bifurcation in the queue and would not address the problems identified by MISO."¹⁸ At the same time, however, the Commission rejected MISO's

¹⁵ March 30 Order, 138 FERC ¶ 61,233 at PP 93, 101-102.

¹⁶ *Id.* PP 100, 106.

¹⁷ *Id.* P 106.

¹⁸ *Id.*

proposal to require, on a generic basis, interconnection customers with existing GIAs that are subject to restudy to revise their GIAs to conform to the revised *pro forma* GIA. The Commission determined that if MISO wishes to revise such an agreement, it must file the agreement with the Commission and demonstrate that its proposed changes are just and reasonable.¹⁹ Finally, the Commission found that requiring interconnection customers to transition to the revised GIP within 90 days of MISO's requested effective date (i.e., by March 31, 2012) was unjust and unreasonable. Accordingly, the Commission directed MISO to revise its tariff so that interconnection customers are required to transition to the revised GIP within 90 days of the issuance of the March 30 Order.²⁰

c. Requests for Rehearing

19. AWEA and WOW request clarification of the transition period for existing interconnection customers. AWEA and WOW note that a number of aspects of MISO's reform, including the formula for calculating the M2 milestone payment, must be revised on compliance and, as a result, there are aspects of the Commission's order that must be understood before an interconnection customer can make an informed decision about the transition process. AWEA and WOW further note that MISO is only beginning to provide details about how it plans to move from the previous GIP to the revised GIP. Accordingly, AWEA and WOW request clarification that existing interconnection customers will have 90 days from the date of a future Commission order approving MISO's compliance filing.²¹

20. Detroit Edison argues that the Commission did not attach sufficient weight to the disruption to late-stage interconnections that will result from subjecting these customers to the revised GIP, especially those projects with long lead times.²² Detroit Edison states that projects with long lead times face competing or contradictory regulatory requirements and deadlines from relevant regulatory agencies and financiers. Thus, Detroit Edison maintains, such projects may not be in a position to make an absolute decision whether to proceed or not. Detroit Edison argues that the Commission did not

¹⁹ *Id.* P 105.

²⁰ *Id.* P 100.

²¹ AWEA and WOW Request for Rehearing at 6-7.

²² Detroit Edison notes that it currently has an interconnection request related to its proposed future development of a 1,520 MW addition to its Enrico Fermi Nuclear Generating Facility. According to Detroit Edison, it has completed the Definitive Planning Phase and executed a GIA. Detroit Edison Request for Rehearing at 5.

take any actions to protect such customers and simply found that excluding such customers would create bifurcation in the queue and would not address the problems identified by MISO. Detroit Edison contends that the Commission overvalued MISO's interest in improving the efficiency of its interconnection queue process, undervalued the interests of late-stage interconnection customers, and failed to recognize or discuss alternatives to the blanket queue reform proposal. Detroit Edison also argues that the Commission failed to explain why a temporary bifurcation in the queue would be a fatal flaw, particularly when the bifurcation would be limited to a small number of interconnection customers that were justified in relying on the previous version of the GIP. Accordingly, Detroit Edison requests that the Commission grant rehearing and excuse existing late-stage interconnection customers from complying with the revised GIP.²³ In the alternative, Detroit Edison requests that the Commission permit late-stage interconnection customers to seek waiver from the revised GIP, which should be granted if the interconnection customer demonstrates that the disruption caused by complying with the revised GIP outweighs the incremental benefits to the backlog in MISO's interconnection queue.²⁴

21. Similarly, AWEA and WOW maintain that the Commission should grant rehearing of its decision to subject existing interconnection customers with signed GIAs to the revised GIP, as the Commission failed to explain why the issues MISO is experiencing in its queue are significant enough to justify departing from the Commission's policy that revisions to the GIP should not apply to late-stage projects on a generic basis. AWEA and WOW maintain that the Commission should find that any attempt by MISO to unilaterally modify an existing GIA to reflect the revised terms of the *pro forma* GIA must meet the "public interest standard" under the Mobile-Sierra doctrine.²⁵ AWEA and WOW state that just as the Commission has recognized that contracts that can be modified under a just and reasonable standard should not be revised lightly due to the importance of stability and predictability to the market, developers make large financial commitments relying on their understanding of the current GIP and

²³ *Id.* at 4-8; *see also* AWEA and WOW Request for Rehearing at 20 (asking that the Commission clarify that projects that are unable to meet milestones in an existing GIA due to the long lead times for certain upgrades should not be required to meet the M2 milestone if they are subject to restudy and that such an event should be treated as a *force majeure*).

²⁴ Detroit Edison Request for Rehearing at 8-9.

²⁵ AWEA and WOW Request for Rehearing at 10-12 (citing *United Gas Pipeline Co. v. Mobile Gas Serv. Co.*, 350 U.S. 332 (1956); *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956)).

cannot afford to have projects that are well into the development phases suddenly be deemed uneconomic based on new procedures.²⁶

22. Calpine requests clarification that the revised GIP does not apply to Calpine's subsidiary, Mankato Energy Center LLC (Mankato). Calpine explains that Mankato does not meet the definition of "outstanding request" and, therefore, should be exempt from the revised GIP. Calpine states, however, that the Commission's directive to MISO to clarify the extent to which it is proposing to apply the revised GIP to projects that have reached partial commercial operation may result in confusion about whether Mankato is exempt. Moreover, Calpine emphasizes that Mankato should not be viewed as only in partial commercial operation because it has an interconnection and operating agreement with MISO and Northern States Power for the full output of the facility, MISO studied the project for its full output, and almost all of the upgrades required for the interconnection of the full output of both phases have already been installed and paid for under its interconnection agreement.²⁷

23. AWEA and WOW also ask the Commission to clarify the meaning of "subject to restudy," as a number of requirements may or may not apply to an existing customer depending on whether the customer is "subject to restudy." Thus, AWEA and WOW argue that the Commission should clarify the objective bounds or metrics that would determine when a restudy is required, as well as what additional required study work constitutes a restudy. Similarly, AWEA and WOW state that the Commission should clearly define the circumstances under which a restudy would be required so that MISO cannot require restudy for inconsistent or arbitrary reasons. Moreover, AWEA and WOW point out that there may be reasons for additional study work to be done on a particular interconnection request that does not constitute a complete restudy for that customer or the study group of which it is part.²⁸ With respect to customers with signed GIAs, AWEA and WOW ask that the Commission clarify that these customers must comply with the new reforms only if they are required to participate in a restudy due to the "predetermined" contingencies identified in their GIAs.²⁹ AWEA and WOW also

²⁶ *Id.* at 19.

²⁷ Calpine Request for Clarification at 4-6.

²⁸ AWEA and WOW Request for Rehearing at 8.

²⁹ *Id.* at 9.

express concern that “subject to restudy” may be misinterpreted as encompassing any party with an agreement containing identified contingencies.³⁰

24. Finally, AWEA and WOW request expedited consideration of their requests for clarification and rehearing to address the uncertainty that continues to persist in MISO’s GIP as a result of the March 30 Order. AWEA and WOW argue that business uncertainty will persist and hamper the development of projects by AWEA’s members until the Commission addresses the significant questions about transitioning to the revised GIP that remain.³¹

d. April 30 Filing

25. MISO proposes numerous revisions to section 5.1 to address issues identified by the Commission in the March 30 Order. First, MISO proposes to revise section 5.1.2 to clarify that an interconnection customer with an outstanding request as of March 30, 2012 shall be required to transition to the revised GIP within 90 calendar days. MISO explains that it has also revised section 5.1.2 to explain the impact on future interconnection customers who may enter MISO’s footprint if a new entity joins MISO as a transmission owning member.³² MISO states that the language it originally proposed in this proceeding would have covered this situation, but that further revisions were necessary both to accommodate the Commission’s directives in the March 30 Order and ensure the uniform applicability envisioned in Order No. 2003 and the instant docket.³³

26. Second, MISO proposes to clarify the application of section 8.2, including the M2 milestone payment, to projects that have reached partial Commercial Operation (i.e., only part of the megawatt capacity requested in Appendix A of its GIA is in operation) or that

³⁰ *Id.* at 8-9.

³¹ *Id.* at 22.

³² Specifically, MISO proposes to revise its Tariff such that an interconnection customer of a new transmission owning member of MISO shall be required to transition to the revised GIP within a reasonable period of time not to exceed 90 days from the date that the GIP becomes applicable to that transmission owning member. Proposed revised section 5.1.2.

³³ April 30 Filing at 2

are operating under provisional GIAs.³⁴ Under MISO's proposal, projects with provisional GIAs will be required to meet the requirements of section 8.2 by the end of the transition period unless the generating facility has commenced Commercial Operation for the full amount of output specified in Appendix A of its provisional GIA. On the other hand, projects with non-provisional GIAs for a partial amount of their capacity will not be required to meet the requirements of section 8.2. MISO argues that this distinction is consistent with the purpose of the M2 milestone, as projects that have only connected part of their generation capacity under a provisional GIA have demonstrated less readiness to proceed with their entire project than a project that has executed a non-provisional GIA.³⁵

27. Third, MISO explains that it has revised section 5.1.1.2 to clarify that projects that are subject to restudy but have been meeting milestones under an existing GIA and projects that are subject to restudy but that have reached the point under a GIA where the M2 milestone payment would have been refunded will not be required to meet the M2 milestone, including the M2 milestone payment.³⁶

e. **Comments**

28. Flat Hill argues that the 90-day transition period should not begin until the Commission issues an order accepting MISO's revised M2 milestone payment formula.³⁷ Flat Hill argues that MISO's proposed revisions are not consistent with the March 30 Order, which directed MISO to submit a compliance filing that ensures that the transition period begins upon the issuance of an order approving the revised GIP; that is, 90 days from an order approving a formula for calculating MISO's M2 milestone payment. Flat Hill also argues that MISO's proposed transition provisions would force interconnection customers to make an M2 milestone payment pursuant to a methodology that has not been approved by the Commission in violation of the filed rate doctrine.³⁸ Similarly, AWEA and WOW argue that the Commission should give interconnection customers

³⁴ Under the Tariff, an interconnection customer may request a provisional GIA for limited operation of its generating facility prior to completion of the requisite network upgrades. MISO, FERC Electric Tariff, Attachment X, § 11.5.

³⁵ April 30 Filing, Transmittal Letter at 2.

³⁶ April 30 Filing at 2; proposed revised section 5.1.1.2.

³⁷ Flat Hill Protest at 3-4.

³⁸ *Id.* at 2-3.

90 days from the date of an order approving MISO's compliance filing to transition to the revised GIP.³⁹

29. The Joint Protestors argue that MISO's proposed revisions are a *de facto* attempt to amend the terms of the existing GIAs of Shetek and Jeffers South. Specifically, the Joint Protestors argue that the proposed changes to section 5.1.1.2 of the GIP are intended to unilaterally amend the existing GIAs by adding additional requirements in the event of a restudy. The Joint Protesters assert that it is unjust and unreasonable for MISO to be able to do so. Furthermore, they state that MISO should amend the new Tariff to clearly exclude projects that have existing GIAs, whether or not those projects are subject to restudy.⁴⁰

f. Answer

30. MISO argues that the Commission unambiguously directed MISO to revise its Tariff so that customers will have 90 days after the March 30 Order to comply with the revised GIP. Therefore, the transition date is, and should remain, June 28, 2012.⁴¹

31. With respect to the argument that MISO is proposing to amend the existing GIAs of Shetek and Jeffers South, MISO argues that section 8.2 must apply broadly in order for the new M2 milestone to have the intended effect. Further, MISO explains that Jeffers South's project is subject to restudy, is not in suspension, and that MISO has been directed by the Commission to take action under the GIA and the Tariff if it believes that the project has failed to meet its existing milestone payments. According to MISO, if this project returns to suspension, MISO would not modify its existing GIA, but would apply the revised GIP for a restudy of the project. As far as Shetek's project is concerned, MISO notes that no payment milestones are due until 2013 and the restudy has been completed. MISO states that these projects have had interconnection agreements in place for five years and, as a result, are emblematic of the need for section 8.2. According to MISO, projects that made the decision to suspend under the previously-effective rules and did not move forward assumed a certain amount of risk that costs may increase and circumstances may change.⁴²

³⁹ AWEA and WOW Protest at 4-6.

⁴⁰ Joint Protestors Protest at 2.

⁴¹ MISO June 5 Answer at 3-4.

⁴² *Id.* at 20-21.

g. Commission Determination

i. Requests for Rehearing

32. As an initial matter, we will deny requests to clarify the March 30 Order regarding transitioning to the revised GIP. In the March 30 Order, we conditionally accepted MISO's revisions to the revised GIP and found that customers should have 90 days from issuance of the March 30 Order to transition to the revised GIP (i.e, 90 days from March 30, 2012). Although we required MISO to revise its Tariff on compliance, we are not persuaded that this is a sufficient reason to further extend the time to transition to the revised GIP. MISO submitted its compliance filing on April 30, 2012, as required, and, as detailed further below, MISO's revisions, including its revisions to the formula for calculating the M2 milestone payment, comply with the March 30 Order.⁴³ Thus, parties have had sufficient notice of the terms of the revised GIP, and we are not persuaded to revisit the transition period here. We believe that delaying the transition period will only serve to undermine the overall goal of queue reform – getting interconnection projects to commercial operation in the most time efficient manner possible.

33. We will also deny rehearing regarding arguments that we failed to attach sufficient weight to the interests of late-stage interconnection customers or that the March 30 Order represents an unexplained departure from Commission precedent. These arguments overlook several aspects of the Commission's decision in the March 30 Order. First, the Commission found that MISO's implementation provisions were reasonable in that they address the existing problems in MISO's interconnection queue and the Commission's conditional acceptance relied upon the fact that certain groups of customers would not be required to transition to the revised GIP. Under MISO's proposal, only those interconnection requests that meet the definition of "outstanding" are required to transition to the revised GIP within the prescribed transition period.⁴⁴ Additionally, those

⁴³ Further, we note that the formula for calculating the M2 milestone payment, which was conditionally accepted in the March 30 Order, includes a floor and ceiling. This allows an interconnection customer to ascertain its minimum and maximum exposure and determine whether it wishes to continue in the interconnection process.

⁴⁴ As explained in the March 30 Order, "outstanding request" was defined to include any interconnection request that has been submitted but not yet accepted by MISO, any interconnection request that has an interconnection agreement that has not yet been submitted to the Commission for approval, any interconnection request that has an interconnection study agreement that has not yet been executed, or any interconnection request that is in the process of being studied (including restudies). March 30 Order, 138 FERC ¶ 61,233 at P 101.

customers that have been meeting milestones under an existing GIA or that have reached a point under their GIAs where the M2 milestone payment would have been refunded will not be required to meet the M2 milestone.⁴⁵ Second, the Commission further took into account the interests of late-stage interconnection customers by rejecting MISO's assertion that it had authority to require, on a generic basis, projects with existing GIAs that are subject to restudy to revise the body of their GIAs to conform to the body of the revised *pro forma* GIA. The Commission found that MISO is required to file each agreement that it wishes to modify with the Commission and to demonstrate that its proposed revisions are just and reasonable under the circumstances.⁴⁶ Finally, we note that customers that are required to meet the M2 milestone payment but are unable to do so are not removed from the interconnection queue, but rather, are returned to the System Planning and Analysis Phase until the time that those customers determine that they are ready to proceed.⁴⁷ Thus, we specifically took into account the interests of late-stage interconnection customers in the March 30 Order.

34. Moreover, these arguments overlook the fact that the Commission has previously recognized that it may be necessary to apply reforms to late-stage interconnection requests to address backlogs in the queue.⁴⁸ MISO provided evidence that there is a backlog in the queue and that there has been a substantial number of terminations of interconnection requests with executed GIAs.⁴⁹ In other words, MISO submitted evidence demonstrating that simply having an executed GIA was not sufficient to demonstrate a commitment to achieve commercial operation. Thus, the Commission agreed with MISO that limiting the application of the revised GIP to projects that are before or after some pre-determined point in the queue would create bifurcation in the queue and would not address the problems identified by MISO. Accordingly, we will deny the requests for rehearing.

35. Likewise, we will decline to grant Detroit Edison's request that the Commission clarify that it will grant waivers from the revised GIP if an interconnection customer can demonstrate that the disruption caused by complying with the revised GIP outweighs the incremental benefits to the backlog in MISO's interconnection queue. MISO's proposal

⁴⁵ *Id.* PP 101-102.

⁴⁶ *Id.* P 105.

⁴⁷ *Id.* P 99.

⁴⁸ *Id.* P 106 (citing Conference Order, 122 FERC ¶ 61,252 at P 19).

⁴⁹ *Id.* PP 63-64, 68, 100, 106.

is designed to address the problems that it has been experiencing in its queue as a whole, and we are concerned that granting a blanket waiver from the revised GIP may undermine MISO's efforts at reform. We note, however, that parties retain the right to file a complaint under section 206 of the FPA.

36. With respect to Calpine's request regarding Mankato, we see no basis in the record to grant rehearing. We note, however, that if Mankato's GIA has been submitted to the Commission and if necessary interconnection studies have been completed,⁵⁰ then Mankato would not meet the definition of an "outstanding request" and, as a result, would not be required to transition to the revised GIP at this time. We note, however, that section 8.7 of the GIP provides that a restudy shall be performed subject to the GIP in effect at the time that an interconnection customer receives notice of a restudy from MISO.⁵¹

37. With respect to AWEA and WOW's request that we provide additional clarity regarding the objective bounds or metrics that would determine when a restudy is required and what additional work constitutes a restudy, we find that the Tariff already provides this information. Article 11.3 of the *pro forma* GIA addresses the specific bounds of when a restudy is required. Together, articles 11.3.1 and 11.3.2 of the *pro forma* GIA specify contingencies that may require modification to the network upgrades that the interconnection customer must fund and obligate the interconnection customer to enter into a restudy if a contingency occurs.⁵² Additionally, based upon the Tariff and MISO's explanation when filing its proposed revisions to the GIP, an interconnection is subject to restudy when the interconnection customer receives notice from MISO that a restudy is required.⁵³

38. We will deny AWEA and WOW's request that we clarify the standard of review that will apply in the event that MISO seeks to revise the terms of an existing GIA. We find that the standard that would apply in those circumstances is beyond the scope of the current proceeding and is appropriately addressed in the event that MISO seeks to modify such an agreement.

⁵⁰ Calpine Request for Rehearing at 5.

⁵¹ MISO, FERC Electric Tariff, Attachment X, § 8.7.

⁵² MISO, FERC Electric Tariff, Attachment X, GIA, art. 11.3.1-11.3.2; *see also* *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027 at P 149.

⁵³ *See* MISO November 1 Filing at 10; MISO, FERC Electric Tariff, Attachment X, § 8.7; *see also* discussion *infra* P 101.

39. Further, we will deny AWEA and WOW's request that we clarify that projects that are unable to meet milestones in an existing GIA due to the long lead times for certain upgrades should not be required to meet the M2 milestone if they are subject to restudy and that such a situation should be treated as a *force majeure* event. We believe that MISO's proposal to exempt projects that have been meeting milestones under an existing GIA represents a reasonable approach and draws a principled distinction between projects that are moving towards commercial operation and those that are not. We believe that exempting projects that have been unable to meet milestones and that confront long lead times may undermine MISO's efforts to reform the queue by exempting projects that are not ready to proceed through the Definitive Planning Phase. In other words, we find that the facts that a project is unable to meet milestones and that it faces long lead times are not sufficient to distinguish projects that are ready to proceed from those that are not. We note, however, that interconnection customers that are unable to meet milestones under their GIA due to long lead times may work with the parties to the GIA to revise their agreement as appropriate.⁵⁴

ii. Compliance Filing

40. We find that MISO's proposed revisions comply with the Commission's directives in the March 30 Order and will accept them.

41. We disagree with Flat Hill's assertion that MISO's revisions to section 5.1.2 do not comply with the directives in the March 30 Order. The Commission directed MISO to revise its Tariff so that the transition period began as of the date of the March 30 Order, and MISO has done so. Likewise, we disagree with Flat Hill's argument that MISO's proposal will require interconnection customers to make an M2 milestone payment contrary to the filed rate doctrine. Notably, the orders that Flat Hill cites in support of its assertion all involve instances where a public utility has charged a rate that was not on file with the Commission.⁵⁵ Here, in contrast, MISO filed revisions to its Tariff to implement the M2 milestone payment, and the Commission accepted those revisions on the condition that MISO revise the formula for calculating the M2

⁵⁴ MISO, FERC Electric Tariff, Attachment X, GIA, art. 30.10 ("The Parties may by mutual agreement amend the Appendices to this GIA by a written instrument duly executed by all of the Parties.").

⁵⁵ See, e.g., *Williams v. Cal. Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,231, at P 23 (2005) (granting Williams' complaint against CAISO because CAISO had been rescinding minimum load cost payments to must-offer units when the tariff did not allow rescission in those circumstances).

milestone.⁵⁶ MISO has filed revisions as directed and, as further detailed below, we find that those revisions comply with the March 30 Order.

42. With respect to the Joint Protestors' argument that the language MISO proposed on compliance amounts to a *de facto* attempt to revise Shetek's and Jeffers South's GIAs, we disagree. As noted above, in the March 30 Order, we explicitly rejected MISO's argument that the transition provisions permit MISO to unilaterally revise existing GIAs. To the extent that MISO proposes to revise the terms of an existing GIA to reflect the revised *pro forma* GIA, MISO is required to make a filing with the Commission before doing so.

2. Cash-at-Risk Milestones

a. M2 Milestone Payment

i. MISO Proposal

43. In the original filing, MISO proposed to replace previously accepted indicia of readiness⁵⁷ to proceed to the Definitive Planning Phase with a requirement that an interconnection customer demonstrate readiness by making the M2 milestone payment, a non-refundable capital contribution in the form of cash or irrevocable letter of credit. MISO explained it had determined that a capital contribution provides a better indicator of a project's readiness to proceed. MISO also explained that the amount of the capital contribution required was based upon a formula that considered the interconnecting zone's schedule 7 \$/MW year long-term firm point-to-point transmission service rate, the MW size of the facility, and the number and cost of constraints.⁵⁸ Under MISO's proposal, an interconnection customer would forfeit the M2 milestone payment upon withdrawing from the queue except in a limited set of circumstances.⁵⁹ MISO explained that it planned to use forfeited funds to offset MISO's administration costs, but that it would continue to examine its schedules to find a way to offset study costs with forfeited

⁵⁶ March 30 Order, 138 FERC ¶ 61,233 at P 153.

⁵⁷ Previously, interconnection customers were required to demonstrate readiness to proceed to the Definitive Planning Phase by providing two of six possible demonstrations of readiness, only one of which involved a capital contribution. An interconnection customer also had the option of providing additional security in lieu of certain other non-cash options. *See Id.* at n.157.

⁵⁸ *Id.* PP 119-120, 122.

⁵⁹ *Id.* P 121.

funds.⁶⁰ MISO stated that, in the event that it developed a workable method to do so, MISO could move the forfeited funds to offset engineering study costs at that time.⁶¹

ii. **March 30 Order**

44. In the March 30 Order, the Commission found that MISO's proposal to adopt the M2 milestone payment was consistent with previous Commission guidance regarding methods to streamline and speed the processing of interconnection requests while remaining faithful to the goals of Order No. 2003.⁶² However, the Commission found that the use of the pricing zone specific schedule 7 rate may result in disparate treatment of similarly sized projects without justification. Accordingly, the Commission directed MISO to submit a compliance filing revising the formula for calculating the M2 milestone payment in a manner that addresses these concerns and proposing a justifiable alternative.⁶³

45. Additionally, the Commission expressed two concerns relating to the forfeiture of the M2 milestone payment. First, the Commission stated that it agreed with protesters that forfeited funds should be used to offset the costs to interconnection customers that are affected by another interconnection customer's withdrawal. With respect to MISO's commitment to examine its Tariff to find a way to use forfeited funds to offset costs, the Commission required MISO to revise its Tariff to ensure that forfeited funds are used in a manner consistent with the Commission's cost causation policy – that costs are borne by those who cause them. Second, in instances where the M2 milestone payment is not fully refundable, the Commission found that it was not just and reasonable for MISO to retain M2 milestone payments beyond that which are necessary to offset the costs resulting from an interconnection customer's withdrawal. Accordingly, the Commission directed MISO to revise its Tariff so that forfeited funds are used to offset costs to those interconnection customers that are affected by another interconnection's withdraw. The Commission also directed MISO to revise its Tariff so that any portion of the M2 milestone payment above the costs resulting from an interconnection customer's withdrawal will be refunded to the withdrawing customer.⁶⁴

⁶⁰ *Id.* P 137.

⁶¹ MISO December 15 Answer at 14.

⁶² March 30 Order, 138 FERC ¶ 61,233 at P 147.

⁶³ *Id.* P 153.

⁶⁴ *Id.* PP 155-156.

iii. Requests for Rehearing

46. AWEA and WOW ask the Commission to clarify that the Commission intends that forfeited M2 milestone payments can only be used to cover any restudy costs resulting from the withdrawal of an interconnection customer whose funds are not forfeited. AWEA and WOW state that once an interconnection customer withdraws from the queue, it is no longer causing the need for any required upgrades and no longer will benefit from such upgrades. Thus, AWEA and WOW maintain that, consistent with cost causation principles, forfeited M2 milestone payments should only go to the support the costs of needed restudies and not to support activities that the withdrawing customer did not cause, such as the funding of upgrades. AWEA and WOW state that applying funds to the cost of network upgrades would be contrary to cost causation principles because a withdrawing project will no longer be causing any upgrades, and there are a number of scenarios where a withdrawing interconnection customer would not impact the need for required transmission upgrades that fall into MISO's categories of Shared Network Upgrades or Common Use Upgrades.⁶⁵ AWEA and WOW further ask that, if the Commission decides that forfeited M2 milestone payments can be applied to the cost of shared upgrades, the Commission clarify that the withdrawing interconnection customer should receive Financial Transmission Rights commensurate with their contribution to the costs of those upgrades, as is the current practice for interconnection customers who fund network upgrades.⁶⁶

47. AWEA and WOW state that forfeited funds should only be applied to cover restudy costs: (i) when a restudy is required as a direct result of the withdrawal of the interconnection customer from the queue; (ii) where there is at least one remaining lower-queued customer; and, (iii) when prior to any withdrawal, each remaining lower-queued customer has been made aware through the GIP process that the withdrawing interconnection customer was a known contingency for the lower-queued project. AWEA and WOW argue that the Commission should find that, if these conditions are met, MISO may use the withdrawing interconnection customer's funds for only one restudy and only if MISO provides accurate study results from the very beginning.⁶⁷

48. Finally, AWEA and WOW ask that the Commission clarify that the amount of the M2 milestone payment cannot increase after an interconnection customer has already met

⁶⁵ AWEA and WOW Request for Rehearing 17.

⁶⁶ *Id.* at 18.

⁶⁷ *Id.* at 16-17.

these milestones, unless the interconnection customer withdraws from the queue and submits another interconnection request.⁶⁸

49. AWEA and WOW seek clarification that M2 milestone funds can be transferred directly to cover all or part of the post-GIA initial financial milestones (i.e., the Initial Payment). AWEA and WOW explain that MISO currently states that M2 milestone funds will be refunded once the Initial Payment is met. AWEA and WOW maintain that requiring an interconnection customer to meet both milestones until MISO can refund the M2 milestone payment constitutes an unjust and unreasonable barrier for interconnection customers.⁶⁹ Accordingly, AWEA and WOW ask that MISO minimize this burden by developing a process by which M2 milestone funds can be transferred to the appropriate Transmission Owner to cover part or all of the required post-GIA milestone requirements.⁷⁰

50. AWEA and WOW also seek rehearing on the basis that the Commission erred by accepting MISO's proposed M2 milestone payment without requiring MISO to provide interconnection customers with reliable cost and timing estimates for any required network upgrades.⁷¹ AWEA and WOW claim that the Commission's reliance on the order addressing CAISO's queue reform proposal is misplaced. AWEA and WOW argue that the Commission failed to address the stark differences between CAISO's and MISO's proposals related to an interconnection customer's access to cost data prior to submitting security. According to AWEA and WOW, MISO's proposal, unlike CAISO's, did not contain provisions providing the data necessary for independent developers to evaluate their actual risk or the balanced security of a limit on costs. AWEA and WOW contend that the Commission must balance the needs of developers with proposed administrative reforms to the interconnection process. Accordingly, AWEA and WOW ask that the Commission direct MISO to revise its Tariff so that an interconnection customer is guaranteed that its final costs will not exceed more than 125 percent of initial cost estimates from the Feasibility Study or the System Planning and Analysis phase study estimates.⁷²

⁶⁸ *Id.* at 20-21.

⁶⁹ *Id.* at 9-10.

⁷⁰ *Id.*

⁷¹ *Id.* at 12-13 (citing *California Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,233, at P 75 (2010); *MidAmerican Energy Co.*, 137 FERC ¶ 61,250, at P 53 (2011)).

⁷² *Id.* at 14-15.

51. Juhl argues that the Commission erred in determining that the proposed M2 milestone payment will not unduly discriminate against smaller projects. Juhl claims that the primary reason MISO offered in support of its proposal to abandon non-cash milestones in favor of the new M2 milestone payment was that a cash payment would be easier for MISO to evaluate. Juhl argues that the Commission's decision to accept the M2 milestone payment, which the Commission acknowledges will impose a higher per MW cost on smaller projects, represents an unexplained departure from Commission precedent and is inconsistent with the FPA.⁷³

52. Juhl argues that the Commission's attempt to justify this disparity by reference to the other respects by which larger projects may benefit from economies of scale is flawed and is not supported by record evidence. Juhl states that the economic principle of economies of scale is based on the concept that as a company begins to grow in size, its average costs may decrease based on its technology and the supply costs it naturally faces, so that the minimum efficient scale of a company for a particular industry may be found when that decrease in costs has leveled out. Juhl asserts that the M2 milestone payment, in contrast, is an arbitrary cost that allows MISO to favor larger developers and projects by creating artificial economies of scale completely unrelated to the natural technology and supply costs of a wind generator. Juhl further asserts that MISO has not shown that the cost of an interconnection study is solely or even largely tied to the size of a project.⁷⁴

53. Juhl also maintains that the Commission erred in determining that MISO's proposed reforms will ensure that only commercially viable and properly funded projects will advance in the interconnection queue regardless of their size or association with vertically integrated utilities, as the Commission simply presumed that MISO's new payment requirements correspond to these concepts without analysis. Juhl claims that many projects that are commercially viable and properly funded in light of their development stage would be unduly burdened by MISO's new payment requirements. Juhl states that (1) the Commission's rationale is unsupported and contrary to comments demonstrating that MISO's reforms favor incumbent utilities and other large corporate energy conglomerates and (2) smaller, independent developers will be incapable of entering the Definitive Planning Phase without incurring severe and unwarranted financial risk even when their projects are clearly ready to proceed.⁷⁵ Juhl also claims that the fact that NYISO does not require its interconnection customers to make a cash-at-

⁷³ Juhl Request for Rehearing at 7-9.

⁷⁴ *Id.* at 10-11.

⁷⁵ *Id.* at 11-12.

risk payment like the M2 milestone payment and has not experienced the problems that MISO has experienced in processing its queue demonstrates that MISO's new financial milestones far exceed what is needed to deter speculative or underfunded projects from entering the queue.⁷⁶

54. Juhl further argues that there is no record evidence demonstrating that the new financial milestones will address the lack of demand for renewable energy, which MISO claims is driving the backup in the queue. Juhl maintains that MISO's proposal will decrease the supply competing to serve existing demand and further exacerbate the existing imbalance between supply and demand. Juhl states that MISO's position incorrectly assumes that the market for renewable energy is based completely upon renewable portfolio standards (RPS), which is inconsistent with the Commission's creation of "Dispatchable Intermittent Resources" and fails to recognize the other ways in which wind developers are planning projects that are not based on RPSs.⁷⁷

55. Juhl further maintains that the evidence in the record indicates that the actual reason for the queue backups experienced by MISO stems from the delays in completing the study of Group 5, which, as MISO concedes, may have resulted from mistakes by MISO staff. Juhl states there is no evidence showing how imposing the cash-at-risk milestones will solve this problem.⁷⁸ Instead, according to Juhl, the problem faced by projects in Group 5 and other study groups is that the relevant transmission system base case model needed to perform the analysis continues to shift. Juhl states that MISO's reforms already are exacerbating the problems with the queue. In particular, Juhl notes that MISO announced that it would stop work on the DPP Cycle 1 Restudy Group analysis in light of the Commission's decision in the March 30 Order. Juhl asserts that interconnection customers like Juhl, which has four projects in the DPP Cycle 1, should not have to incur the costs of yet another unnecessary restudy. Juhl explains that projects that make the M2 milestone payment by the end of the transition period will be placed in yet another group restudy by MISO and that these projects will be subject to the possibility of additional restudies as projects withdraw from the queue.⁷⁹

⁷⁶ *Id.* at 12-13.

⁷⁷ *Id.* at 14 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,141 (2011)).

⁷⁸ *Id.* at 15.

⁷⁹ *Id.* at 15-16.

56. Juhl maintains that the Commission erred by failing to recognize that MISO's proposed reforms will increase market concentration of renewable energy development and represent an unexplained departure from the Commission's pro-competitive policies. Juhl states that the Commission's decision to allow MISO to switch to a cash payment that is higher per MW for smaller projects effectively discourages independent power producers and others from developing smaller wind energy projects. Juhl contends that this is inconsistent with the very reason that the Commission encouraged the formation of, and participation in, independent system operators.⁸⁰

57. Juhl states that the discriminatory impact of MISO's reforms would be alleviated if a separate process for projects under 20 MW, such as the process approved and defined in Order No. 2006, were implemented. Accordingly, Juhl states that the Commission should consider reinstating the process that was approved in Order No. 2006 or adopting a similar process. Juhl states that a technical conference would be the appropriate venue for Commission staff, MISO, and the stakeholders to address the scope and adoption of such a process.⁸¹

iv. April 30 Filing

58. In response to the Commission's rejection of MISO's inclusion of a pricing zone specific schedule 7 rate, MISO proposes to revise the formula for calculating the M2 milestone payment to read:

(Schedule 7 \$/MW MISO Drive-Through and Drive-Out yearly rate for interconnecting Zone multiplied by the gross MW capacity increase to the Generating Facility) + (Constant \$ amount per table below for each voltage level multiplied by the number of constraints shown in Feasibility Study, for that voltage level)

In support of this change, MISO states that MISO Drive-Through and Drive-Out rate is based on an average revenue requirement of all zones and that the use of this rate addresses the Commission's concern that the formula would result in disparate treatment of similarly sized projects without justification.⁸²

59. Additionally, MISO has revised section 8.2 to provide for the crediting of forfeited M2 milestone payments to interconnection customers affected by the withdrawal of a

⁸⁰ *Id.* at 17-18.

⁸¹ *Id.* at 19.

⁸² April 30 Filing, Transmittal Letter at 4.

project. Specifically, MISO states that the amount of a withdrawing customer's M2 milestone payment refund will be reduced by the cost of the upgrades that are shifted to other projects that were (i) co-participants in Common Use Upgrade(s) or (ii) concurrent or later queued projects, if concurrent projects or later queued projects with a Definitive Planning Phase Queue Position are financially impacted by the withdrawal. MISO states that the reduction in the refund will be credited to those categories of interconnection customers.⁸³

v. **Comments**

60. Several protesters argue that MISO's compliance filing is contrary to the cost causation principles that drove the Commission's decision in the March 30 Order and that forfeited M2 milestone payments should not be used to offset the cost of network upgrades. E.ON argues that MISO's proposed revisions fail to comply with MISO's prior representation regarding its intended use of forfeited funds to offset administrative costs and the Commission's directive in the March 30 Order, which did not suggest that the costs the Commission sought to address were network upgrade costs.⁸⁴ Likewise, E.ON argues that MISO's proposal to apply forfeited payments to the cost of remaining projects' network upgrades amounts to an unjust and unreasonable penalty, as (1) there has not been any showing that such a penalty is needed, and (2) a withdrawing project has not violated any rule or tariff provision that would warrant a penalty.⁸⁵ AWEA and WOW similarly argue that MISO's proposal is contrary to cost causation because a project that withdraws from the grid is no longer causing the need for any required upgrades. AWEA and WOW maintain that forfeited M2 funds should only be used to support the costs of needed restudies⁸⁶ and not to support activities that the withdrawing customers did not cause.⁸⁷ AWEA and WOW submit that the Commission should clarify

⁸³ *Id.* at 4.

⁸⁴ E.ON Protest at 2-5; E.ON June 20 Answer at 2-4.

⁸⁵ *Id.* at 5-6.

⁸⁶ AWEA and WOW suggest that forfeited funds should only be applied to cover restudy costs: (1) when such a restudy is required as a direct result of the withdrawal of the interconnection customer from the queue; (2) where there is at least one remaining lower-queued customer; and (3) when prior to any withdrawal, each remaining lower-queued customer has been made aware through the GIP process that the withdrawing interconnection customer was a higher-queued customer and a known contingency for each lower-queued project.

⁸⁷ AWEA and WOW Protest at 9.

that MISO may only use the withdrawing interconnection customer's funds for only one restudy and only if MISO provides accurate study results from the very beginning.⁸⁸ In the event that the Commission decides that forfeited M2 funds can be applied to the cost of shared upgrades, AWEA and WOW request that the Commission require MISO to clarify in its Tariff that the withdrawing interconnection customer should receive Financial Transmission Rights commensurate with their contribution to the costs of those upgrades.⁸⁹

61. AWEA and WOW question whether MISO is following its Tariff in its implementation of its revised GIP. For instance, AWEA and WOW state that they do not believe that MISO intends to permit a decrease in the size of a project prior to entering the Definitive Planning Phase. AWEA and WOW explain that they believe that MISO will calculate the M2 milestone payment only once, after the completion of the Feasibility Study, and that MISO will not allow for any changes if the interconnection customer reduces the MW size of its project prior to entering the Definitive Planning Phase despite there being no language in the Tariff to support such a position. AWEA and WOW suggest that the Commission should initiate its own investigation, under section 206 of the FPA, to determine whether MISO is following its tariff.⁹⁰

62. AWEA and WOW argue that MISO's use of the schedule 7 Drive-Through and Drive-Out yearly rate in place of the schedule 7 zonal rate essentially creates a higher minimum for the M2 milestone. AWEA and WOW note that the current Drive-Through and Drive-Out yearly rate is \$31,024.⁹¹ At this rate, the M2 calculation will always result in an M2 payment amount of at least \$3,100 per gross MW. AWEA and WOW state that the Commission may wish to require MISO to revise its formula for calculating the M2 milestone amount such that the \$2,000/MW minimum is achievable. Furthermore, AWEA and WOW state that using one-half of the Drive-Through and Drive-Out yearly rate would accomplish this outcome.

⁸⁸ *Id.*

⁸⁹ *Id.* at 10-11.

⁹⁰ *Id.* at 6-7.

⁹¹ See MISO Point to Point Transmission Rates *available at*: http://oasis.midwestiso.org/documents/miso/pricing_new.html.

vi. Answers

63. With respect to AWEA and WOW's assertion that MISO is not following its Tariff because MISO does not intend to recalculate the M2 when an interconnection customer chooses to decrease the size of the project prior to entering the Definitive Planning Phase, MISO argues that their allegations lack specificity and are speculative. MISO asserts that the fact that AWEA and WOW do not believe that MISO intends to follow its Tariff after being told by MISO staff that the Tariff does not permit the action that AWEA and WOW request is not grounds for a section 206 investigation. MISO notes that the language of section 8.2 does not contemplate calculating the formula multiple times.⁹²

64. MISO contends that the use of the Drive-Through and Drive-Out rate responds to the concerns expressed in the March 30 Order. MISO argues that AWEA and WOW have failed to provide any basis or technical justification for using half the Drive-Through and Drive-Out rate and that there is no basis for modifying the formula simply because a particular minimum level is met.⁹³

65. Additionally, MISO claims that its proposed use of the M2 milestone funds complies with the March 30 Order and is not contrary to cost causation. MISO argues that the Commission's discussion in the March 30 Order was not limited to study costs.⁹⁴ MISO asserts that its revisions clearly follow the Commission's directive as they ensure that forfeited payments are used to reduce the cost of upgrades to customers that are financially impacted by a customer's withdrawal.⁹⁵

66. In their answer, AWEA and WOW argue that an investigation under section 206 is warranted because there is no language in the Tariff that indicates that the M2 milestone payment should only be calculated once. AWEA and WOW believe that if the gross MW capacity of the generating facility is reduced, then the result of the calculation of the M2 milestone should change. While they acknowledge that the portion of the M2 Milestone payment formula based on the results of the Feasibility Study would not change unless the Feasibility Results are re-evaluated, AWEA and WOW maintain that it is not just or reasonable to penalize an interconnection customer with a wholly inaccurate M2

⁹² MISO June 5 Answer at 4-6.

⁹³ *Id.* at 10.

⁹⁴ *Id.* at 10-12.

⁹⁵ *Id.* at 13-14.

calculation when a portion of this formula can easily be recalculated. Given that MISO does not intend to follow the formula, AWEA and WOW urge the Commission to institute an investigation.⁹⁶

67. With respect to the use of the Drive-Through and Drive-Out rate, AWEA and WOW explain that their proposal reflects the fact that half the Drive-Through and Drive-Out rate is a single amount that addresses the concerns raised by the Commission and also results in a payment amount that can be affected by the \$2,000 per MW minimum.⁹⁷ AWEA and WOW further argue that MISO's answer fails to provide any evidence that the Commission intended forfeited M2 milestone payments to be applied to upgrade costs.⁹⁸

vii. Commission Determination

68. We disagree with those parties that argue that MISO's proposal in its compliance filing to use forfeited M2 milestone payments to offset the cost of network upgrades to affected customers is contrary to the March 30 Order. In the March 30 Order, after agreeing with protesters that MISO's proposal to apply forfeited M2 milestone payments to offset administrative costs under schedule 10 was contrary to cost causation, we directed MISO to revise its Tariff "such that forfeited funds are used to offset costs to those interconnection customers that are affected by another interconnection customer's withdrawal" and "such that any portion of the M2 milestone payment above the costs resulting from an interconnection customer's withdrawal will be refunded to the withdrawing customer."⁹⁹ While E.ON points to the fact that we cited the Commission's discussion of restudy costs in the Queue Reform Rehearing Order, these citations were not meant to limit the scope of our directive to MISO.

69. Further, we disagree that the cost causation principle requires that forfeited M2 milestone payments be applied to offset only the costs of restudies resulting from a project's withdrawal. As explained in the March 30 Order, the Commission's cost

⁹⁶ AWEA and WOW Answer at 3-5.

⁹⁷ *Id.* at 5-6.

⁹⁸ *Id.* at 6-7.

⁹⁹ March 30 Order, 138 FERC ¶ 61,233 at PP 155-156.

causation policy requires that costs are borne by those who cause them.¹⁰⁰ While AWEA and WOW argue that applying forfeited M2 milestone payments to the cost of network upgrades is contrary to cost causation because the withdrawing project will no longer be causing any upgrades upon withdrawal, we believe that this argument fails to address the need for an “at risk” payment in order to recognize the impact of withdrawal on lower-queued customers at the Definitive Planning Phase. Thus, we find that it is consistent with cost causation principles to use the forfeited M2 milestone payments to offset the cost of upgrades that are shifted to other customers due to a project’s withdrawal.¹⁰¹

70. In the March 30 Order, the Commission found that MISO continues to experience substantial backlog in the Definitive Planning Phase of its queue, i.e., that “queue churn” continues to be a significant problem in MISO.¹⁰² The Commission noted that late stage terminations comprise 15 percent of the total projects that met the M2 Milestone between 2009 and present day, and that late stage terminations increased from 12 during 2009 and 2010 to an additional 28 that dropped out in 2011.¹⁰³ The Commission observed that such late stage terminations can give rise to cascading iterative restudies and that commenters do not suggest that that problem will lessen or disappear any time soon.¹⁰⁴ From the record evidence, the Commission concluded that the existing M2 milestones are not sufficient to distinguish between projects that are likely to achieve commercial operation and those that are not. The Commission agreed that interconnection customers putting money at risk, earlier in the interconnection process, will help ensure that projects

¹⁰⁰ *Id.* P 155. See also *Ill. Commerce Comm’n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009) (“[a]ll approved rates must reflect to some degree the costs actually caused by the customer who must pay them”).

¹⁰¹ In addition to the M2 milestone payment, section 8.2 requires an interconnection customer to pay a study deposit before entering the Definitive Planning Phase. Section 13.3 provides that, in the event that an interconnection customer’s project is withdrawn, terminated, or suspended, MISO is not required to refund any unused portion of the study deposit paid to enter the Definitive Planning Phase that is necessary to account for study costs associated with the project or restudy costs associated with any affected lower-queued projects, any other project with which interconnection customer’s project shares responsibility for funding a common use upgrade, or, in the event that the project is included in a group study, any other affected project in the group study.

¹⁰² March 30 Order, 138 FERC ¶ 61,233 at PP 63-64.

¹⁰³ *Id.* P 64.

¹⁰⁴ *Id.* P 68.

that do advance through the Definitive Planning Phase will be more likely to reach commercial operation.¹⁰⁵

71. AWEA and WOW do not explain how an “at risk” payment that only defrays study costs could be sufficiently robust to give effect to the queue reform that the Commission has found to be necessary. In this regard, we note that section 8.2 already requires interconnection customers to pay a study deposit, which can be used to offset the cost of restudies resulting from an interconnection customer’s withdrawal, but that this requirement has not proven sufficient to discourage projects from entering the queue that are not likely to reach commercial operation. Moreover, we find that AWEA and WOW’s argument would require the Commission to ignore the documented harm of shifts in network upgrade costs to a lower queued customer when a late-stage higher queued interconnection customer exits the queue. It would also require us to ignore the impact of an interconnection customer’s withdrawal on other projects where the interconnection customer is responsible for funding a Common Use Upgrade. The *pro forma* Multi-Party Facilities Construction Agreement specifically recognizes the possibility that, to the extent that a withdrawing customer shared cost responsibility for a Common Use Upgrade, the costs that were previously borne by the withdrawing customer may shift to those interconnection customers that retain cost responsibility for the upgrade and, therefore, requires that each interconnection customer that enters into a Multi-Party Facilities Construction Agreement to post irrevocable security when entering into the agreement.¹⁰⁶ AWEA and WOW’s argument would also require the Commission to ignore the general harm to MISO’s administration of its interconnection queue when such actions occur in aggregate.

72. Additionally, the language that MISO has proposed on compliance belies the notion that MISO will allocate forfeited M2 milestone payments in a manner that does not comport with cost causation principles. As proposed, section 8.2 states that “[i]f the Interconnection Customer withdraws its Interconnection Request then the [M2 milestone payment] refund will be reduced by the cost of upgrades that are *shifted to other projects* that were i) co-participants in Common Use Upgrade(s) or ii) concurrent or later queued projects, if concurrent projects or later queued projects with a Definitive Planning Phase Queue Position are *financially impacted* by the withdrawal.”¹⁰⁷ Thus, MISO’s compliance language requires that there be a causal connection between the withdrawing

¹⁰⁵ *Id.* P 64.

¹⁰⁶ MISO, FERC Electric Tariff, Attachment X, Multi-Party Facilities Construction Agreement, art. 6.1.

¹⁰⁷ April 30 Filing, Attachment X, § 8.2 (emphasis added).

interconnection customer and the costs borne by the remaining interconnection customer whose upgrade costs are offset by the forfeited amount. If there is no such connection, the amount of the M2 milestone payment will be refunded to the withdrawing interconnection. We find that this language is consistent with cost causation and the directives of the March 30 Order.

73. We also disagree with E.ON's argument that the revisions proposed by MISO on compliance would punish a project for withdrawing. MISO's proposed revisions are not a penalty for a withdrawal, but rather only relate to how a M2 milestone payment will be allocated in those circumstances where the M2 milestone payment is not fully refundable. In the March 30 Order, we found that MISO had provided evidence that existing indicia of readiness were no longer sufficient to distinguish those projects that are ready to proceed to commercial operation from those that are not and that the M2 milestone payment was necessary to ensure that projects that enter the Definitive Planning Phase are commercially viable.¹⁰⁸ We also found that MISO's proposal to limit the circumstances where the M2 milestone payment would be fully refundable was essential for accomplishing the purpose of the M2 milestone.¹⁰⁹ MISO's proposed revisions ensure that forfeited M2 milestone payments are allocated in a manner that is consistent with cost causation in those circumstances where the M2 milestone payment is not fully refundable.

74. As to AWEA and WOW's request that we clarify that a withdrawing interconnection customer will receive Financial Transmission Rights in the event that its M2 milestone payment is used to offset the cost of a network upgrade, we find that MISO's Tariff already contains language wherein Market Participants¹¹⁰ are eligible to

¹⁰⁸ March 30 Order, 138 FERC ¶ 61,233 at PP 147-148.

¹⁰⁹ *Id.* P 154.

¹¹⁰ Section 1.384 of the MISO Tariff defines a Market Participant as “[a]n entity that (i) has successfully completed the registration process with the Transmission Provider and is qualified by the Transmission Provider as a Market Participant, (ii) is financially responsible to the Transmission Provider for all of its Market Activities and obligations, and (iii) has demonstrated the capability to participate in its relevant Market Activities.”

Section 1.378 of the MISO Tariff defines Market Activities as “Transactions and actions taken by Market Participants in the Energy and Operating Reserve Markets, such as purchases and/or sale of Energy and Operating Reserve. Market Activities include holding, selling and/or purchasing FTRs, Bids, Offers, as well as Financial Schedules and

receive Long Term Transmission Rights for the incremental transmission capacity created by the network upgrade that they fund, subject to certain conditions.¹¹¹ We have made no finding here that would preclude a withdrawing interconnection customer from making such a request to MISO.

75. Based on the foregoing, we will deny requests for rehearing and clarification to the extent that parties argue that using forfeited M2 milestone payments to offset the costs of upgrades violates cost causation. We will also accept MISO's proposed revisions to section 8.2 that relate to the allocation of forfeited M2 milestone payments.

76. We disagree with AWEA and WOW's argument that the Commission erred by accepting the M2 milestone payment without requiring MISO to adopt additional cost and timing estimates for any required network upgrades. While we acknowledge that an interconnection customer has more responsibility in the System Planning and Analysis phase than it did previously, in the March 30 Order the Commission found that an interconnection customer should be able to get sufficient information at the Feasibility Study stage and in the System Planning and Analysis phase to make an informed decision about whether to make the M2 milestone payment and proceed to the Definitive Planning Phase. We also find that it would be inappropriate to require MISO to revise its Tariff so that an interconnection customer is guaranteed that its final costs will not exceed more than 125 percent of initial cost estimates from the Feasibility Study or the System Planning and Analysis phase, given the fact that the interconnection customer has the ability to customize its study in the System Planning and Analysis phase.

77. We disagree with Juhl's contention that the only justification offered for implementing the M2 milestone payment was to reduce the administrative burden to MISO. On the contrary, the evidence provided by MISO demonstrated that a significant number of interconnection customers had terminated their GIAs after meeting the existing M2 milestones and that, in MISO's experience, the amount of capital available to

Interchange Schedules. Additionally, Market Activities include services and goods furnished under Module E.

¹¹¹ See, e.g., MISO, FERC Electric Tariff, § 46 ("Market Participants that fund (pay for construction of) Network Upgrades and elect not to receive credits, if eligible, under Attachment FF of this Tariff shall be deemed eligible by the Transmission Provider to receive FTRs and LTTRs. Entities eligible to receive FTRs and LTTRs pursuant to the provisions of this Section shall be permitted to elect any set of ARR Receipt Points and Delivery Point, provided that the combination of such FTRs issued satisfy the . . . conditions set forth in Section 46.1 of this Tariff.").

a project is the best indicator of whether the project will proceed to commercial operation.¹¹² In addition, MISO explained – and the Commission agreed – that its proposal was consistent with previous Commission guidance regarding methods to streamline and speed the processing of interconnection requests while remaining faithful to Order No. 2003.¹¹³

78. Moreover, we disagree with Juhl’s contention that the Commission erred in finding that the M2 milestone will not unduly discriminate against smaller projects or favor utility-favored generators. As we previously explained, while increasing financial contributions might make it more difficult for underfunded projects to enter the interconnection process and a portion of underfunded projects may not be utility-affiliated, we believe that all appropriately funded projects – regardless of affiliation or lack thereof – will benefit from the increased efficiencies of the revised GIP.¹¹⁴ Also, we reaffirm our conclusion that MISO’s formula appropriately takes into account the impact on smaller projects by directly incorporating the size of the project into the formula for calculating the M2 milestone payments¹¹⁵ and by indirectly accounting for the size of a facility by estimating the cost to alleviate constraints which arise because of the facility’s interconnection. While it may be argued that the existence of a minimum payment impacts smaller projects to a greater degree than it impacts larger projects, we clarify that we find that a substantial M2 payment has been supported in the face of significant backlog in the Definitive Planning Phase, significant numbers of late stage terminations, and in order for MISO to efficiently administer its queue.

79. We also reject Juhl’s request for rehearing or clarification to the extent that it argues that the Commission erred because the financial milestones will not address the lack of demand for renewable energy and that the actual reason for the backlog in the queue stems from the delays in completing the study of the Group 5 projects. While we agree that MISO’s proposed revisions to the GIP, including the M2 milestone, will not eliminate the supply-demand imbalance within MISO’s footprint – the Commission acknowledged as much in the March 30 Order¹¹⁶ – Juhl has not shown that this makes

¹¹² March 30 Order, 138 FERC ¶ 61,233 at P 147.

¹¹³ *Id.* PP 123, 147.

¹¹⁴ *Id.* PP 150-51.

¹¹⁵ *Id.* P 152; *see also* Supplemental Filing at 16 (“Under MISO’s proposal, all else being equal with respect to upgrades, smaller generators will pay commensurately smaller deposits than larger generators.”).

¹¹⁶ March 30 Order, 138 FERC ¶ 61,233 at P 66.

MISO's proposal unjust and unreasonable. As transmission provider, it is MISO's role to seek to revise its Tariff when necessary to accommodate the issues that it faces in administering its queue and the fact that MISO may not be able to change underlying market forces is irrelevant. In this regard, we note that the fact that NYISO has not decided to adopt a requirement similar to the M2 milestone payment does not mean that the M2 milestone payment is excessive or that the Commission erred in accepting it. The Commission has acknowledged that ISOs and RTOs should have flexibility to customize their interconnection procedures to fit regional needs.¹¹⁷ Here, MISO proposed revisions to its GIP to address the existing backlog in its queue and the problems associated with late-stage terminations. While Juhl wants to argue that there are various factors that have contributed to the backlog in the queue, we have already addressed these arguments.¹¹⁸ The key point here is that MISO filed a proposal under section 205, as it has a right to do, to address problems that it has been experiencing in the queue and we found that MISO's proposal was just and reasonable and consistent with the overall goals of queue reform. We did, however, direct MISO to file informational reports and we would expect that MISO would propose further revisions in the future to the extent necessary.

80. We will decline to require MISO to develop a process by which the M2 milestone payment can be used to cover the Initial Payment. Although we acknowledge that making the Initial Payment before a customer receives a refund of its M2 milestone may be more burdensome than AWEA and WOW's proposal, this does not render MISO's proposal unjust and unreasonable. We further decline to order MISO to reinstate the process that was approved in Order No. 2006 or to convene a technical conference to consider Juhl's proposal. While Juhl may prefer a process similar to the one adopted in Order No. 2006, that is not a sufficient reason to require MISO to adopt such a proposal or to require further proceedings.

81. Turning to MISO's proposal to use the Drive-Through and Drive-Out rate in place of the schedule 7 zonal rate, we find that MISO's revisions comply with the March 30 Order, and, accordingly, we will accept MISO's proposed revisions. Even assuming that AWEA and WOW are correct in stating that the use of the Drive-Through and Drive-Out rate will result in an M2 milestone payment that is higher than the floor included in section 8.2 of the Tariff, we are not persuaded that this is a reason to reject MISO's proposal. Assuming that AWEA and WOW are correct, we fail to see how the fact that the M2 milestone payment will fall between the floor and the cap that MISO has adopted to ensure that the M2 milestone payment remains in a reasonable range renders the use of the Drive-Through and Drive-Out rate unjust and unreasonable. If MISO believes that

¹¹⁷ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 827.

¹¹⁸ March 30 Order, 138 FERC ¶ 61,233 at PP 62-73.

the floor and cap contained in the formula for calculating the M2 milestone should be adjusted to reflect the use of the Drive-Through and Drive-Out rate, MISO is free to propose such changes under section 205 of the FPA.

82. We clarify that, based on the language of the Tariff, it does not appear that the amount of the M2 milestone can change after an interconnection customer has already met this milestone. Section 8.2 states that an interconnection request shall be eligible to enter the Definitive Planning Phase after meeting the requirements outlined in the section, including the M2 milestone payment. We find that once an interconnection customer meets the M2 milestone payment and enters the Definitive Planning Phase, it cannot be required to meet this requirement again unless it submits another interconnection request or it subsequently returns to the System Planning and Analysis phase and re-enters the Definitive Planning Phase. However, we decline to institute a section 206 investigation as requested by AWEA and WOW. We agree with MISO that the formula for calculating the M2 milestone payment does not contemplate recalculation of the M2 milestone payment.¹¹⁹

b. Initial Payment

i. March 30 Order

83. In its original filing, MISO proposed to create a new Article 11.5 of the GIA to require an interconnection customer to make an Initial Payment in cash or security for the cost of certain network upgrades within 30 days of executing its GIA. The Commission conditionally accepted MISO's proposal because we agreed that the customer's ability to build long lead times into its milestones while taking no action towards achieving commercial operation has significantly contributed to the problem of late-stage terminations and the potential for cascading and iterative restudies.¹²⁰

84. However, the Commission found that MISO failed to demonstrate that it is just and reasonable to permit the Transmission Owner to elect the type of security an interconnection customer must provide. Accordingly, the Commission required MISO to make a compliance filing giving the interconnection customer the right to elect the type of security that it must provide.

¹¹⁹ MISO June 5 Answer at 5.

¹²⁰ March 30 Order, 138 FERC ¶ 61,223 at P 178.

ii. Requests for Rehearing

85. Iberdrola claims that the Commission erred by accepting MISO's proposed addition of article 11.5 to the GIA without directing MISO to update the requirements of section 11.3 of the GIP.¹²¹ Iberdrola notes that the Commission dismissed Iberdrola's concern that there was a conflict between the new Initial Payment and the obligations under section 11.3 of the GIP on the basis that it appears that MISO intends to require interconnection customers to make the Initial Payment in addition to meeting the non-financial milestones articulated in section 11.3. The problem, according to Iberdrola, is that the milestones contained in section 11.3 are outdated and may not be achievable for renewable project developers given the timeline of major system upgrades and the realities of project developing and financing. According to Iberdrola, the outdated elements of section 11.3 of the GIP and article 11.5 of the revised GIA result in a situation where a renewable project developer is disproportionately at risk of breaching the GIA and losing its interconnection arrangement along with the Initial Payment under article 11.5. Accordingly, Iberdrola argues that the Commission should direct MISO to update and revise section 11.3 to reflect current project development realities within MISO.¹²²

86. AWEA and WOW ask that the Commission clarify that the amount of the Initial Payment cannot increase after an interconnection customer has already met this milestone.¹²³

¹²¹ Section 11.3 of the GIP requires an interconnection customer to provide, within 180 days after the customer receives the final GIA, reasonable evidence that one or more of the following milestones have been achieved: (i) the execution of a contract for the supply or transportation of fuel to the generating facility; (ii) the execution of a contract for the supply of cooling water to the generating facility; (iii) execution of a contract for the engineering for, procurement of major equipment for, or construction of, the generating facility; (iv) execution of a contract for the sale of electric energy or capacity from the generating facility or a statement by an authorized officer or agent of the interconnection customer attesting that the interconnection customer owns the generating facility and that it is required to serve load; or (v) documentation of application for state and local air, water, land or federal nuclear permits and that the application is proceeding per regulations. MISO, FERC Electric Tariff, Attachment X, § 11.3.

¹²² Iberdrola Request for Rehearing at 7-10.

¹²³ AWEA and WOW Request for Rehearing at 20-21.

iii. April 30 Filing

87. MISO proposes to revise Article 11.5 of the GIA to provide that the interconnection customer, rather than the Transmission Owner will select the form of security for the Initial Payment. MISO states that because the interconnection customer will now select the form of security, MISO has also added a five day window from the beginning of negotiation of the GIA for the interconnection customer to make this selection. In support of this addition, MISO states that Transmission Owner and Transmission Provider need to know the timing of the security payment by the interconnection customer within five days of the beginning of the negotiation period in order to prepare a milestone payment schedule to include in the GIA for negotiation.¹²⁴

iv. Comments

88. Relating to the revisions proposed by MISO in Article 11.5 of the GIA, AWEA and WOW state that the five day window for the interconnection customer to select and inform MISO of the form of security is insufficient for interconnection customers to work through various processes within their companies, and make business decisions regarding how to post this security. Additionally, AWEA and WOW state that stakeholders were not given any opportunity to respond to this addition prior to filing.¹²⁵

v. Answers

89. MISO disagrees with the assertion that the proposed five-day window in article 11.5 does not provide sufficient time to work through various processes within an interconnection business. MISO notes that article 11.5 merely requires the interconnection customer to select the form of security within 5 days of the beginning of negotiation. MISO further notes that, since the five-day window would be built into the negotiation process, there is no reason why interconnection customers cannot begin contemplating their selection prior to the commencement of the GIA negotiation period. MISO argues that the five-day deadline is necessary to ensure that the negotiation period is not delayed and is consistent with the underlying purpose of this round of queue reform – streamlining the interconnection process.¹²⁶

¹²⁴ April 30 Filing, Transmittal Letter at 5.

¹²⁵ AWEA and WOW Protest at 11.

¹²⁶ MISO June 5 Answer at 6-7.

vi. Commission Determination**(a) Requests for Rehearing**

90. We find that Iberdrola's request that MISO be required to revise section 11.3 is beyond the scope of this proceeding. Iberdrola essentially argues that the Commission erred by accepting article 11.5 without requiring MISO to revise section 11.3 because interconnection customers now have more to lose if they are unable to meet the requirements of section 11.3. We note, however, that Iberdrola's primary concern appears to be that the requirements of section 11.3 are outdated and do not reflect the realities of project development. But the issue of the continued relevance of the requirements of section 11.3 is entirely separate from the merits of requiring interconnection customers to make the Initial Payment. We find that if Iberdrola wishes to challenge the requirements of section 11.3, the proper vehicle for raising that claim is through a complaint under section 206 of the FPA.

91. We will also deny AWEA and WOW's request for clarification to the extent that they ask that we clarify that the amount of the Initial Payment cannot change. Based on our reading of the Tariff, the amount of the Initial Payment may change in some circumstances. Article 11.5 requires an interconnection customer to make an initial payment towards the cost of required network upgrades. Where restudy is not required, we would not expect the amount of network upgrades to change and, as a result, would not expect the Initial Payment to change either. On the other hand, however, where restudy is required due to one of the contingencies listed in the GIA, article 11.3.2 states that the parties will amend Appendix A to the GIA to reflect the results (i.e., in the event the interconnection customer's responsibility for network upgrades has changed).¹²⁷ Where the amount of required network upgrades changes, we would expect that the interconnection customer would be required to pay the difference between its Initial Payment towards the cost of the network upgrades that were initially identified and the Initial Payment required following restudy.

(b) Compliance Filing

92. We accept MISO's revisions to article 11.5 giving the interconnection customer the right to elect the form of security that it will provide for the Initial Payment and requiring the interconnection customer to inform MISO of its election within five days of beginning the negotiations for a GIA. We find that it would be unreasonable to have no timetable at all or to permit the election of the security payment to delay negotiation of the GIA. Additionally, we agree with MISO that an interconnection customer does not

¹²⁷ MISO, FERC Electric Tariff, Attachment X, GIA, art. 11.3.2.

need to wait until the start of negotiations to make the determination on how it will provide security since the customer knows the choice has to be made well in advance.¹²⁸ We view this language as a necessary conforming edit to bring effect to the Commission's compliance directive and, as a result, will accept MISO's proposed revisions.

3. Studies

a. Section 8.7

i. March 30 Order

93. MISO proposed to revise section 8.7 of the GIP to clarify that a restudy will be needed if a project recommences following a suspension. Additionally, MISO proposed language to clarify that a restudy will be performed in accordance with the GIP in effect at the time notice of such restudy is provided to the interconnection customer.

94. In the March 30 Order, the Commission accepted MISO's proposed revisions to section 8.7 finding it just and reasonable that a project will be subject to restudy, under the GIP in effect at the time of the restudy, if such a restudy is determined to be necessary when it comes out of suspension. However, the Commission agreed with protesters that argued MISO should be required to provide a notice of restudy when it determines that restudy is necessary and directed MISO to further revise section 8.7 to restore the preexisting language regarding notices of restudy.

95. The Commission also directed MISO to revise article 11.3.1 of the GIA addressing contingencies to clarify that the network upgrades required to accommodate a generating facility may be modified if the Commercial Operation Date for a higher queued interconnection request is delayed, or the project itself is delayed (including due to suspension) such that the facilities required to accommodate lower queued projects or the project itself may be altered.¹²⁹

ii. Requests for Rehearing

96. E.ON argues that the Commission erred in rejecting E.ON's assertion respecting section 8.7 of the GIP. E.ON explains that it argued that section 8.7 of the GIP must be revised to clarify that, if MISO determines that it must conduct a restudy for a project that comes out of suspension, unless that project was expressly identified as a higher-queued

¹²⁸ MISO June 5 Answer at 6.

¹²⁹ March 30 Order, 138 FERC ¶ 61,223 at PP 189-193.

contingency in the studies and GIA of another interconnection customer, such other interconnection customer cannot be subject to the costs or impacts of the restudy needed for the project that went into and then came out of suspension. E.ON states that the Commission declined to require MISO to revise section 8.7 as requested because an interconnection customer that is restudied after coming out of suspension assumes a certain amount of risk and will be required to decide whether to fund the additional costs or to withdraw its interconnection request. E.ON explains that it agrees with the Commission's statement but that it meant that section 8.7 should be revised to make clear that a restudy for a project that comes out of suspension cannot impact another interconnection customer unless the project coming out of suspension was expressly identified as a higher-queued contingency in the studies and GIA of another interconnection customer.¹³⁰ Such a requirement would allow an interconnection customer to know the potential maximum cost of network upgrades.

iii. April 30 Filing

97. With respect to issues raised about Interconnection Study restudy, MISO proposes to revise section 8.7 such that MISO "shall" provide a notice of restudy, rather than just having the option to do so. Also, MISO states that it revised article 11.3.1 to conform to the March 30 Order.¹³¹

iv. Comments

98. E.ON argues that MISO did not comply with the Commission's directive to restore section 8.7 to its previous form. Specifically, E.ON argues that the "previous form" as accepted by the Commission required MISO to provide a notice and required MISO to include in that notice an explanation of the reasons for the restudy, a summary of the preliminary analysis supporting the need for a restudy and a good faith estimate of the cost to perform the restudy. In addition, E.ON states that MISO failed to restore vital parts of section 8.7 to its "previous form." E.ON requests that Commission direct MISO to revise section 8.7 to read:

Transmission Provider ~~may~~shall provide notice of restudy. The Transmission Provider's notice ~~may~~ shall include a summary of a preliminary analysis supporting the need for an Interconnection Study restudy, an explanation of why

¹³⁰ E.ON Request for Rehearing at 17-20.

¹³¹ April 30 Filing, Transmittal Letter at 5 (citing March 30 Order, 138 FERC ¶ 61,223 at P 191).

an Interconnection Study restudy is required and a good faith estimate of the cost to perform the Interconnection Study restudy.¹³²

v. Answers

99. MISO explains that it is open to limited modification of section 8.7. Specifically, MISO states that it would be amendable to providing a relatively short, high-level, good faith review written by the project manager explaining the need for the restudy as an “explanation” at the same time MISO provides notice of the restudy. Beyond that, however, MISO sees no need for a more burdensome requirement. Thus, MISO proposes to make the following revision if so directed by the Commission:

The Transmission Provider’s notice may include, if requested, an explanation of why an Interconnection Study restudy is required and a good faith estimate of the cost to perform the Interconnection Study restudy.¹³³

vi. Commission Determination

(a) Requests for Rehearing

100. We will deny E.ON’s request for rehearing. The Commission did not intend to insulate a lower-queued interconnection customer from the costs or impacts associated with restudy for a project that comes out of suspension unless that higher-queued project was specifically identified as a contingency in the lower-queued customer’s studies or GIA. Article 11.3.1 of the *pro forma* GIA specifies contingencies that may affect an interconnection customer’s cost responsibility for network upgrades. As MISO explained when proposing this language, article 11.3.1 is intended to “provide the [i]nterconnection [c]ustomer with more certainty regarding the possibility that an interconnection request will be restudied . . . and to delineate the circumstances giving rise to a restudy”¹³⁴ In other words, article 11.3.1 is intended to reduce uncertainty for interconnection customers. However, E.ON asks us to go one step further and insulate an interconnection customer from any risk in the event that the suspending project was not listed as a contingency. This we will not do. There may be unusual circumstances that require MISO to restudy a project outside of the contingencies listed in the GIA. We do note, however, that article 11.3.2 only obligates an interconnection customer to enter into a

¹³² E.ON Protest at 7; *see also* E.ON June 20 Answer at 4-6.

¹³³ MISO June 5 Answer at 16-17.

¹³⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027 at PP 145, 148.

restudy agreement with MISO if MISO determines that a restudy is required due the occurrence of a contingency listed in the GIA.¹³⁵ Further, if such circumstances were to arise, we find that MISO would be required to seek permission to conduct such a restudy through a filing with the Commission.

(b) Compliance Filing

101. We will conditionally accept MISO's proposed revisions to section 8.7 of the GIP. We agree with E.ON that MISO's revisions fail to adequately respond to the Commission's direction that it shall include a summary of a preliminary analysis supporting the need for an Interconnection Study restudy. Therefore, we direct MISO to revise section 8.7, in a compliance filing to be made within 30 days of this order, to include the language provided by E.ON as shown above. Additionally, we will accept MISO's proposed revisions to article 11.3.1, as they are consistent with the Commission's directive in the March 30 Order.¹³⁶

b. Model Sign-Off

i. March 30 Order

102. The Commission conditionally accepted MISO's proposal to revise its Tariff to require an interconnection customer to review and sign off on a study model prior to the System Impact Study in both the System Planning and Analysis phase and the Definitive Planning Phase by completing an Interconnection Study Model Review Form (Model Review Form). Under MISO's proposal, failure to complete the form within 30 days is grounds for withdrawal. MISO maintained that requiring an interconnection customer to sign off on the study model would make the interconnection process more efficient by requiring the interconnection customer to raise issues earlier in the interconnection process.¹³⁷

103. While the Commission accepted MISO's proposal, the Commission found that MISO had not adequately explained why the interconnection customer should be required to return the Model Review Form within 30 days in the System Planning and Analysis phase given MISO's proposal to allow an interconnection customer to remain in that phase indefinitely. Therefore, the Commission directed MISO to submit a compliance filing revising its Tariff to propose a timeframe that is in line with the fact that the

¹³⁵ MISO, FERC Electric Tariff, Attachment X, GIA, art. 11.3.2.

¹³⁶ March 30 Order, 138 FERC ¶ 61,233 at P 191.

¹³⁷ *Id.* PP 200, 206.

interconnection customer may remain in the System Planning and Analysis phase indefinitely.¹³⁸

ii. Requests for Rehearing

104. E.ON asserts that the Commission should grant rehearing of its decision to accept MISO's new Model Review Form. E.ON claims that neither an interconnection customer nor any third-party consultant has access to the information needed to address all of the specific items listed in the form. More specifically, E.ON argues that many of the terms used in the line items listed in the Model Review Form are undefined or ambiguous. Moreover, E.ON maintains that interconnection customers do not have access to the information necessary to assess and review many of the items on the form. E.ON explains, for example, that while interconnection customers are required to review and assess MISO's "Starting Power Flow Model," interconnection customers have no means to address whether various elements of MISO's power flow model, such as existing generation and line impedance, are correct.¹³⁹

105. E.ON states that even if a consultant could address some of these items, it is unjust and unreasonable to require an interconnection customer to hire a consultant when an interconnection customer is required to pay MISO to perform accurate studies – an argument that E.ON claims the Commission failed to address in the March 30 Order.¹⁴⁰ E.ON also argues that the Commission failed to respond to arguments concerning the practical effect of an interconnection customer stating that it has reviewed a particular line item.¹⁴¹

iii. April 30 Filing

106. MISO proposes to delete the 30 day deadline for an interconnection customer to review the study model in the System Planning and Analysis Phase. MISO states that these revisions do not relieve the customer from having to provide the study model review form to MISO but rather recognize that the customer may do so at the time of its choice.¹⁴²

¹³⁸ *Id.* P 211.

¹³⁹ E.ON Request for Rehearing at 12-15.

¹⁴⁰ *Id.* at 15.

¹⁴¹ *Id.* at 16.

¹⁴² April 30 Filing, Transmittal Letter at 6.

iv. **Commission Determination**

Request for Rehearing

107. We deny E.ON's request for rehearing of our decision to accept the Model Review Form. We disagree with E.ON's assertion that interconnection customers will not have access to the information necessary to assess and revise the Model Review Form, or that the requirement obviates MISO's responsibility to perform accurate studies. E.ON fails to appreciate the purpose of the Model Review Form requirement. The purpose of the requirement is to ensure that interconnection customers engage in the study process earlier and in a meaningful manner.¹⁴³ To the extent that an interconnection customer has questions regarding the specific information on the Model Review Form or about the model itself, we expect that the interconnection customer will work with MISO to obtain answers to those questions. Further, we note that, as MISO has acknowledged,¹⁴⁴ the Model Review Form requirement does not strip interconnection customers of the ability to protest the ultimate results of the interconnection studies. Likewise, the fact that an interconnection customer is required to review and sign off on a study model does not impact or eliminate MISO's obligation to conduct accurate studies. The point of this requirement is not to limit MISO's responsibilities but to ensure that the interconnection customer engages in the study process at an early stage.

108. We find that MISO's proposed revisions are consistent with the March 30 Order and will accept them.

4. Modifications

a. March 30 Order

109. MISO proposed to revise section 4.4 of the GIP to limit the number of permissible modifications once an interconnection customer enters the Definitive Planning Phase. Most relevant here, MISO explained that it was revising its Tariff so that the only changes that would be permitted once an interconnection customer entered this phase would be (1) changes to the technical parameters associated with the Generating Facility technology (i.e., wind turbines); and (2) changes to the point of interconnection prior to the completion of the interconnection studies that would improve the costs and benefits of the interconnection and that are acceptable to the Transmission Owner, Transmission

¹⁴³ See MISO November 1 Filing, Lavery Testimony at 28-31; see also March 30 Order, 138 FERC ¶ 61,233 at P 206.

¹⁴⁴ March 30 Order, 138 FERC ¶ 61,233 at P 206.

Provider, and interconnection customer.¹⁴⁵ Additionally, MISO proposed to add language to section 4.4.4 of its Tariff providing that extensions to the In-Service Date or Commercial Operation Date of the Generating Facility shall be deemed a Material Modification.¹⁴⁶

110. In the March 30 Order, the Commission conditionally accepted MISO's proposed revisions to section 4.4. The Commission explained that MISO's proposal was consistent with the need to ensure that a project that enters the Definitive Planning Phase is definitive. At the same time, however, the Commission found that MISO should not unreasonably withhold approval of an interconnection customer's request to change its Commercial Operation Date and In-Service Date where the interconnection customer's change results from another party to the GIA changing its own milestones or from changes to a higher-queued interconnection request. In either case, the Commission added, these changes should not exceed three years beyond the original Commercial Operation Date or In-Service Date. Accordingly, the Commission directed MISO to revise its Tariff consistent with the Commission's discussion.¹⁴⁷

b. Requests for Rehearing

111. While recognizing that the Commission took a step in the right direction by requiring MISO to modify section 4.4 to allow changes to an interconnection customer's In-Service and Commercial Operation Dates in certain specified situations, AMP argues that the Commission failed to address the many other circumstances that may require a reasonable adjustment to these dates as described in AMP's protest to MISO's Filing. AMP emphasizes that an interconnection customer may be faced with circumstances completely beyond its control that necessitate a delay in these dates.¹⁴⁸ AMP argues that the Commission's decision indicates that the Commission failed to consider that it is illogical – in light of the fact that MISO is attempting to discourage abuse of the queue process – to impair the rights of all interconnection customers by accepting tariff provisions that would limit interconnection customers affected by unforeseen circumstances beyond their control and subject them to a potential change in queue position.¹⁴⁹ At a minimum, AMP requests that the Commission grant rehearing for the

¹⁴⁵ *Id.* P 213.

¹⁴⁶ *Id.* P 214.

¹⁴⁷ *Id.* P 225.

¹⁴⁸ AMP Request for Rehearing at 2-3.

¹⁴⁹ *Id.* at 4.

purpose of requiring MISO to file a compliance filing to include a provision expressly confirming a party's right to request a waiver of the new milestone requirements where a delay is caused by unforeseen circumstances that are beyond the control of the customer.¹⁵⁰

112. E.ON contends that the Commission failed to articulate a rational basis for accepting MISO's proposal that a change to the Commercial Operation Date or In-Service Date by the interconnection customer will trigger the Material Modification provision in section 4.4 of MISO's GIP. E.ON states that, as it explained in its protest, changes in the In-Service Date and the Commercial Operation Date do not impact the queue or lower-queued projects. E.ON argues that there is neither evidence in the record nor any discussion in the March 30 Order that explains why this was not sufficient to avert MISO's proposal.¹⁵¹

113. E.ON also seeks clarification of the Commission's statement that "where a party to the GIA other than the interconnection customer changes its milestones thereby resulting in the interconnection customer needing to revise its own Commercial Operation Date and In-Service Date, we believe that MISO's approval of such revision should not be unreasonably withheld" and that such "changes should not exceed three years beyond the original Commercial Operation Date or In-Service Date."¹⁵² E.ON states that it interprets the Commission's statement regarding the "three-year cap" to mean that, regardless of the change in milestone that either MISO or a Transmission Owner needs, MISO or the Transmission Owner must still meet the milestone that has been changed and any other affected milestones within three years of the Commercial Operation Date and In-Service Date listed in the GIA. However, E.ON is concerned that the Commission's statement may be construed as allowing MISO or a Transmission Owner to decide on changed milestone completion dates that are up to this three-year cap without using best and reasonable efforts to complete these milestones sooner. Thus, E.ON requests that the Commission direct MISO to amend section 4.4 to include the following language:

Where a party to the GIA other than the interconnection customer changes its milestones which thereby necessitates a revision in the Commercial Operation Date and In-Service Date, such change in the Commercial Operation Date and In-Service Date shall not be unreasonably withheld by

¹⁵⁰ *Id.* at 5 n.3.

¹⁵¹ E.ON Request for Rehearing at 21-22.

¹⁵² *Id.* at 22 (citing March 30 Order, 138 FERC ¶ 61,233 at P 225).

MISO nor deemed a Material Modification. In such cases, MISO or the TO, as applicable, shall revise its milestones such that all are completed in the shortest time reasonably possible beyond the dates previously agreed to in the GIA and in no case completed beyond three years after the initial Commercial Operation Date or In-Service Date listed in the GIA.^{153]}

114. E.ON explains that it seeks rehearing to the extent that this clarification is not consistent with the Commission's intent. E.ON argues that it is unjust and unreasonable to subject an interconnection customer to unbounded delay for completion of MISO or Transmission Owner milestones that were studied by MISO and the Transmission Owner, determined by MISO or the Transmission Owner to be appropriate to meet its schedule, and memorialized in a GIA.

115. Additionally, E.ON notes that the Commission's statement regarding the three-year cap intersects with the Commission's recent decision in Docket No. ER12-56-000 that MISO has the right to terminate an executed GIA to the extent that an interconnection customer has not placed any portion of its generating project in commercial operation within three years of the Commercial Operation Date in the executed GIA.¹⁵⁴ E.ON maintains that, to the extent that MISO or a Transmission Owner changes milestones that will not be completed until after the Commercial Operation Date listed in the executed GIA, then such additional time, including any cascading impacts to any interconnection customer milestones, should be added to the time before which MISO would be allowed to exercise any termination right. Accordingly, E.ON requests that the Commission direct MISO to revise its Tariff to provide as follows:

To the extent MISO or a Transmission Owner changes its milestones after the GIA is executed or after the date the GIA is accepted by the Commission if filed unexecuted, and completion of those and all parties' cascading milestones will not occur until after the Commercial Operation Date listed in the GIA ("Additional Time"), then MISO's termination right under Article 2.3.1 shall not be available until three years after the initial Commercial Operation Date plus the Additional Time.¹⁵⁵

¹⁵³ *Id.* at 22-23.

¹⁵⁴ *Id.* at 24 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,188 (2011)).

¹⁵⁵ *Id.* at 25.

116. To the extent that the Commission is not inclined to direct this change, E.ON requests rehearing because the Commission has not articulated any rationale based on substantial evidence in the record to justify reducing the three-year period that an interconnection customer has to bring all or a portion of its project to commercial operation when either MISO or a Transmission Owner changes milestones agreed to in the executed GIA.¹⁵⁶

c. April 30 Filing

117. In response to the Commission's direction in the March 30 Order, MISO proposes to revise section 4.4.4 such that an interconnection customer may change the Commercial Operation Date or In-Service Date of its generating facility if that change is necessitated by either a change in milestones by another party to the GIA or a change in a higher-queued interconnection request provided that, in either case, these changes do not exceed three years beyond the original Commercial Operation Date or In-Service Date. A change to either of these dates that exceeds three years from the date in the original Interconnection Request will be considered a Material Modification.¹⁵⁷

d. Comments

118. The Joint Protestors argue that the Commission should reject MISO's proposal to deem any change to the In-Service Date or the Commercial Operation Date a Material Modification if it exceeds three years. They maintain that any determination of a Material Modification should be based on the overall facts and circumstances related to the specific interconnection rather than a blanket rule. They state that it would be unjust and unreasonable for MISO to be able to use this rule to eliminate projects that have been complying with, or otherwise exercising, the rights and obligations under the GIAs, the Tariff, and the Commission's rules and regulations.¹⁵⁸

119. E.ON argues that MISO's proposed revisions that provide if the change in Commercial Operation Date or In-Service Date must be moved beyond three years from the original dates, that such a change would be considered a Material Modification is unjust and unreasonable. E.ON avers that it would be unfair for an interconnection customer to be penalized if MISO or a transmission owner changed milestone dates

¹⁵⁶ *Id.* at 25.

¹⁵⁷ April 30 Filing, Transmittal Letter at 6.

¹⁵⁸ Joint Protestors Protest at 3.

which then caused the interconnection customer to have to move its dates when the interconnection customer is not the cause of such changes.¹⁵⁹

e. **Commission Determination**

120. We deny rehearing of our decision to accept MISO's proposed revisions to section 4.4 on the condition that MISO permit change to an interconnection customer's In-Service and Commercial Operation Dates in certain specified situations. The Tariff already provides sufficient protections for interconnection customers in the event of unforeseen circumstances. We agree with AMP that there are many circumstances that could require an interconnection customer to alter its Commercial Operation Date or its In-Service Date that are beyond its control. It was for this reason that we directed MISO to revise its Tariff to allow an interconnection customer to modify its Commercial Operation Date or In-Service Date by up to three years under certain circumstances without such change being considered a Material Modification. We expect that this language will encompass many of the possible legitimate reasons why an interconnection customer may want to change its Commercial Operation Date or In-Service Date. Additionally, article 5.16 of the *pro forma* GIA allows a party to suspend in case of *force majeure*. We are concerned that requiring MISO to allow an interconnection customer to change its Commercial Operation Date and In-Service Date whenever the interconnection customer alleges that an event beyond its control requires revision to these dates would allow an interconnection customer to suspend at no cost (i.e., without meeting the requirements of article 5.16.1, including the requirement to post security).¹⁶⁰ Additionally, we note that article 4.3 of the *pro forma* GIA provides the interconnection customer protection against unforeseen and uncontrollable events for issues that arise that do not fall under the parameters of *force majeure*.¹⁶¹

¹⁵⁹ E.ON Protest at 8.

¹⁶⁰ MISO, FERC Electric Tariff, Attachment X, GIA, art. 5.16.1.

¹⁶¹ Article 4.3 of the *pro forma* GIA states:

Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice. To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, or if the obligations of any Party may become limited by a change in Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice after the execution of this LGIA, that Party shall not be deemed to be in Breach of this LGIA for its compliance therewith. The

(continued...)

121. We also disagree with E.ON's argument that we failed to articulate a rational basis for accepting MISO's proposal limiting changes to an interconnection customer's Commercial Operation Date and In-Service Date. E.ON seems to suggest that MISO is required to demonstrate that changes to an interconnection customer's Commercial Operation Date and In-Service Date are unjust and unreasonable before revising its Tariff to limit such changes in the Definitive Planning Phase. This is not the case. In Order No. 2003, the Commission established *pro forma* GIP which defined material modification and among other things determined that "[e]xtensions of less than three (3) cumulative years in the Commercial Operation Date of the Large Generator Facility to which the Interconnection Request relates are not material and should be handled through construction sequencing.¹⁶² We acknowledge that since issuance of Order No. 2003, there have been circumstances in which the Commission required a Transmission Provider to prove, among other things, harm to lower-queued customer, for a change in the Commercial Operation Date and In-Service Date beyond three years to be a material modification.¹⁶³ However, here MISO seeks to change its *pro forma* GIP and GIA in order to effect queue reform and requests that the Commission review its filing under an independent entity standard.¹⁶⁴ In this case, the Commission determined that MISO's proposal was just and reasonable because it was consistent with the need to ensure that a project that enters the Definitive Planning Phase is definitive. As detailed in the March 30 Order, MISO has seen an increase in the number of projects reaching the Definitive Planning Phase only to remain there without moving forward while the developers of these projects attempt to resolve uncertainties or to obtain financing.¹⁶⁵ Under the circumstances, we believe that MISO's proposal is just and reasonable, and we affirm that conclusion here.

122. With respect to the Commission's statement concerning the "three-year cap," we clarify that MISO's revisions are consistent with our intention in the March 30 Order. In other words, the Commission found that, even in those circumstances where an interconnection customer is permitted to change its Commercial Operation Date and In-

Party so limited shall notify the other Parties whereupon Transmission Provider shall amend this LGIA in concurrence with the other Parties and submit the amendment to the Commission for approval.

¹⁶² Order No. 2003, FERC Stats. & Regs. ¶ 31,146, *pro forma* GIP, § 4.4.5.

¹⁶³ See, e.g., *Ill. Power Co.*, 120 FERC ¶ 61,237 (2007).

¹⁶⁴ March 30 Order, 138 FERC ¶ 61,233 at PP 28-30.

¹⁶⁵ MISO December 15, 2011 Answer at 5.

Service Date, the Commercial Operation Date and In-Service Date should not exceed three years beyond the date originally specified in the GIA. A change of up to three years is the amount of time which the Commission deemed in Order No. 2003 to not be deemed a material modification. We see no basis to revisit that finding here. Accordingly, we will deny rehearing of our decision regarding the three-year limit and we find that MISO's proposed language complies with the March 30 Order.

123. We decline to require MISO to adopt the language proposed by E.ON. We believe that E.ON's proposed language is unnecessary. Section 4.4.4 states that MISO will not unreasonably withhold approval of an interconnection customer's proposed change in the Commercial Operation Date of the Generating Facility if that change is the result of either a change in milestones by another party to the GIA or a change in a higher-queued interconnection request. In those situations, we would expect that the parties to the GIA would, in accordance with article 30.10 of the GIA, modify the Commercial Operation Date in the appendices of the GIA. Article 2.3.1 of the GIA states that MISO may terminate the GIA in the event that the generating facility fails to achieve Commercial Operation for three consecutive years following the Commercial Operation Date, which is defined as the date that the generating facility commences Commercial Operation as agreed to by the Parties pursuant to Appendix E of the GIA. In short, under the GIA, the three year time period provided for in article 2.3.1 will begin anew where the parties amend the GIA and revise the Commercial Operation Date. Accordingly, we will reject E.ON's request.

5. Miscellaneous

a. Article 5.9 "Limited Operation"

i. March 30 Order

124. In the March 30 Order, the Commission accepted MISO's proposal to revise article 5.9 of the *pro forma* GIA to require the maximum permissible output of a generating facility to be updated on a quarterly basis if the network upgrades necessary for the facility's interconnection are not in service within six months of the facility's Commercial Operation Date. In response to protesters who argued that MISO's proposal would unnecessarily restrict generators on a quarterly basis, the Commission noted that it had previously accepted a proposal by MISO to calculate quarterly operating limits for provisional interconnections because it would be impractical to calculate operating limits under real-time conditions as the number of provisional interconnections increased. The Commission found that the burden associated with calculating real-time limits for

provisional interconnection was analogous to the burden at issue here and, therefore, accepted MISO's proposal.¹⁶⁶

ii. Requests for Rehearing

125. Iberdrola argues that the Commission erred in accepting MISO's revisions to article 5.9. Iberdrola argues that the Commission's finding that the basis of quarterly limits was analogous to the previously approved process for temporary (or provisional) interconnection agreements is unsupported by the record in the proceeding. According to Iberdrola, MISO did not provide any support for its proposed revision to article 5.9 in its original filing. Likewise, Iberdrola claims that MISO failed to address protesters' concerns about MISO's revisions and did not provide any additional information in the supplemental filing.¹⁶⁷

126. Iberdrola further maintains that while the Commission attempted to justify its decision by analogizing to temporary interconnections, that analogy is flawed because the Commission's decision approving quarterly limits was specifically tied to the nature of the service: temporary interconnection service for non-firm transmission service. Iberdrola argues that while non-firm transmission service may be consistent with *Energy Resource Interconnection Service* of a final GIA, the Commission failed to address the distinction between the temporary or provisional GIA and the limited operation under article 5.9.¹⁶⁸

¹⁶⁶ March 30 Order, 138 FERC ¶ 61,233 at PP 227-230 (citing Queue Reform Order, 124 FERC ¶ 61,183 at P 131).

¹⁶⁷ Iberdrola Request for Rehearing at 4 (citing *e.g.*, NextEra November 30 2011 Protest at 8-9). In its protest, NextEra stated that under the existing article 5.9, MISO performs operating studies to determine to what extent a project without all the required Network Upgrades in place may operate. Based on the results of these operating studies, MISO develops an operating procedure (i.e., an operating guide) that describes the system conditions under which the project's output may be limited. Under these operating guides, a project has the potential to operate at full output most of the time, but under restricted system conditions, output may be limited. NextEra stated that MISO's proposal would produce a single limit which will be applied across all hours in a given quarter, regardless of the dynamic nature of the system or the output of a wind energy generator. NextEra claimed that the proposed provision severely limits generators with executed GIAs to an inflexible operating cap which unnecessarily restricts these facilities' operations.

¹⁶⁸ *Id.* at 3-5.

127. Iberdrola further argues that MISO failed to address the potential impact of other operating practices, such as Dispatchable Intermittent Resources, on its ability to adjust operating limits. Iberdrola maintains that Dispatchable Intermittent Resources give MISO a more effective way of managing real-time congestion and constraints and, consequently, may offset the presumed ease of quarterly limits by giving MISO operational control of generation facilities.¹⁶⁹

128. Iberdrola states that if the Commission does not grant rehearing, it should clarify that MISO's operating limits must: (1) be based solely on constraints arising due to lack of completion of the specific network upgrades identified in the GIA; and (2) not be based on worst case scenarios or otherwise set artificially low limits. Iberdrola explains that the Commission has previously stated that setting operating limits based on worst case scenarios may set an artificially low value.¹⁷⁰ Iberdrola further explains that MISO should not be allowed to use article 5.9 to make an interconnection customer bear the burden of subsequent system deficiencies having no relation to the identified network upgrades in the GIA.¹⁷¹

iii. Commission Determination

129. We will deny rehearing but grant clarification of our decision in the March 30 Order. We continue to find that MISO's proposal to extend its practice of providing quarterly updates for provisional GIAs to all GIAs that may have limited operation until all upgrades are in place is just and reasonable. As we noted in the March 30 Order, the Commission has previously found that providing quarterly limits for generators taking interconnection service under provisional GIAs while required network upgrades are being built is just and reasonable. We find that MISO is proposing to extend this practice to a class of interconnection customers that is factually similar to interconnection customers with provisional GIAs – all generators that are taking interconnection service while required network upgrades are being built. Given these factual similarities, we believe that MISO's proposal is just and reasonable. While Iberdrola makes much of the fact that the transmission service available in these situations may differ, we believe that this is not determinative. In both situations, MISO's ability to manage injections of energy by interconnection customers while required network upgrades are being built is implicated and, therefore, similar treatment is justified.

¹⁶⁹ *Id.* at 6.

¹⁷⁰ *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,141, at P 42 (2011)).

¹⁷¹ *Id.* at 6-7.

130. Iberdrola posits that Dispatchable Intermittent Resources may give MISO a more effective way of managing real-time congestion and constraints than quarterly limits. However, this does not render MISO's proposal to implement quarterly operating limits unjust and unreasonable.¹⁷² While Order No. 2003 requires a Transmission Provider to allow a generator to operate at less than maximum output,¹⁷³ we believe that the Transmission Provider should be given some latitude in determining the best way to implement this provision. In this case, MISO needs to balance the need to provide reasonable operating limits versus the need to not have the process become administratively overwhelming so long as that balance is achieved and applied in a non-discriminatory manner. The fact that Iberdrola has identified an alternative that it would prefer does not mean that MISO's proposal is unjust or unreasonable. Accordingly, we deny Iberdrola's request for rehearing and clarification.

131. We further reject Iberdrola's request that we clarify that MISO's operating limits must (1) be based solely on constraints arising due to lack of completion of the specific network upgrades identified in the GIA and (2) not be based on the worst case scenario or otherwise set artificially low limits. MISO has a responsibility to ensure system reliability in accordance with the Tariff and Good Utility Practice and we believe that imposing the limits described by Iberdrola may limit MISO's ability to meet its obligations. Further, we note that MISO's revised language in article 5.9 already states that the quarterly studies will be performed using the same methodology set forth in section 11.5 of the GIP. Section 11.5, in turn, requires that the study be performed assuming the system topology represented by the base cases used to calculate Available Flowgate Capability as described in Attachment C of this Tariff with dispatch and optimization algorithms posted on the Midwest ISO internet site. This tariff language was the result of a directive to ensure that the operational limit would not be based on the worst case scenario.¹⁷⁴ Additionally, we find that MISO's proposal will not result in artificially low operating limits because limits are being set to address seasonal system conditions.

¹⁷² Moreover, we note that the ability of a generator to be dispatched in a reliable manner is governed by the operational limits that MISO sets in accordance with NERC reliability rules. Thus, the real-time dispatch instructions that a resource receives will be bounded by the operational limits set by MISO.

¹⁷³ Order No. 2003, FERC Stats. & Regs. ¶ 31,146; *pro forma* GIA, art 5.9.

¹⁷⁴ Queue Reform Order, 124 FERC ¶ 61,183 at P 130.

b. GIP, Appendix 1**i. MISO Proposal**

132. MISO proposed to revise Attachment A to Appendix 1 of the GIP to require interconnection customers to provide additional information regarding the reactive capability for wind turbines and other details, including specific MVAR data for the turbines and the MVAR data for the collector cables between the generator turbines and the point of interconnection, prior to entering the Definitive Planning Phase. Several protesters argued that MISO's proposal was inconsistent with Order Nos. 661 and 661-A¹⁷⁵ because those orders do not impose a power factor requirement on wind facilities unless the System Impact Study demonstrates that it is necessary for the safety or reliability of the Transmission Provider's system. Protesters also argued that MISO's proposal failed to recognize that an interconnection customer could only provide estimates of some of the information required under MISO's proposal and expressed concern about the possibility that they would be withdrawn from the queue for failing to provide this information.¹⁷⁶

ii. March 30 Order

133. In the March 30 Order, the Commission rejected MISO's proposal to require interconnection customers to provide detail related to reactive power capability for wind turbines prior to entering the Definitive Planning Phase on the basis that such a requirement was inconsistent with Order Nos. 661 and 661-A. Accordingly, the Commission directed MISO to revise its Tariff to remove the requirement to provide reactive power information prior to entering the Definitive Planning Phase. The Commission also acknowledged the protesters' concerns regarding the inability to provide all the information called for under MISO's revisions and directed MISO to accommodate the fact that customers may only be able to provide estimates of some of the information listed in Attachment A and ensuring that an interconnection customer will not be removed from the queue if adjustments are needed.¹⁷⁷

¹⁷⁵ *Interconnection for Wind Energy*, Order No. 661, FERC Stats. & Regs. ¶ 31,186, *order on reh'g*, Order No. 661-A, FERC Stats. & Regs. ¶ 31,198 (2005).

¹⁷⁶ March 30 Order, 138 FERC ¶ 61,233 at PP 239-240.

¹⁷⁷ *Id.* PP 242-243.

iii. April 30 Filing

134. MISO proposes to revise the text of section 8.2 of the GIP, which sets out the requirements that an interconnection customer must meet before entering the Definitive Planning Phase, to recognize that the interconnection customer may only be able to provide estimates for the details described on pages 4 through 6 of Attachment A to Appendix 1 and to ensure that an interconnection customer will not be removed from the queue if adjustments are needed. Specifically, the proposed revisions would permit estimates for the data requested on those pages, provided that actual data is provided within six months of the application. Additionally, MISO proposes to revise Attachment A to Appendix 1 to delete the requirement to provide reactive power information prior to entering the Definitive Planning Phase.¹⁷⁸

iv. Comments

135. AWEA and WOW state that there is nothing in section 8.2 or in Attachment A that ensures that an interconnection customer will not be removed from the interconnection queue if it submit changes to the data in Attachment A.¹⁷⁹ Specifically, AWEA and WOW state that it is not clear that interconnection customers will not be withdrawn from the queue under the Material Modification protocol because they make modifications to their project details via Attachment A to Appendix 1. Additionally, AWEA and WOW argue that because refinements in project data may continue beyond six months following the initial study application, the Commission should require MISO to remove the six month requirement for accurate information from its proposal.

v. Answer

136. MISO maintains that its revisions to Attachment A and section 8.2 comply with the March 30 Order. MISO argues that within the six-month window it is obvious that interconnection customers will not be removed from the queue for modifying this data nor will customers be removed if the actual details differ from the estimates initially provided unless the actual details differ so substantially that they constitute a Material Modification. MISO also maintains that it is untenable to suggest that an interconnection customer may continuously modify and tweak their data at any time prior to its System Impact Study. According to MISO, a discrete time frame must be established within which interconnection customers must provide actual details in order to allow the Transmission Provider to conduct the System Impact Study, and the Order No. 661-A

¹⁷⁸ April 30 Filing, Transmittal Letter at 6.

¹⁷⁹ AWEA and WOW Protest at 12.

compliant period is sufficient to allow interconnection customers to provide these details.¹⁸⁰

vi. Commission Determination

137. We will accept MISO's proposed revisions. While we acknowledge that the March 30 Order did not direct MISO to limit the time period for providing the information contained in Attachment A to Appendix 1, we agree with MISO that a discrete timeline is needed in order to allow MISO to conduct the System Impact Study accurately and in a timely fashion. We also find that it is clear that a customer will not be removed if the actual details differ from the estimates during this six month period. Accordingly, we will accept MISO's proposed revisions.

c. Section 7.5

i. March 30 Order

138. The Commission conditionally accepted MISO's proposal to change the meeting between the interconnection customer, Transmission Owner, and MISO following the receipt of the Interconnection System Impact Study report from a mandatory meeting to an optional meeting. The Commission stated that it recognized that a meeting may not be necessary in all cases. At the same time, however, the Commission found that all parties should have an opportunity to discuss the outcome of the System Impact Study to raise issues with the outcome of the study and that other parties should participate in good faith. Accordingly, the Commission directed MISO to revise section 7.5 to state that the interconnection customer, Transmission Owner and/or the Transmission Provider may request such a meeting and that all parties must participate in such meetings in good faith.¹⁸¹

ii. April 30 Filing

139. MISO proposes to revise section 7.5 to permit any party to request a meeting to discuss the outcome of the System Impact Study and to require other parties to discuss these issues in good faith and that agreement to such a meeting should not be unreasonably withheld.¹⁸²

¹⁸⁰ MISO June 5 Answer at 7-9.

¹⁸¹ March 30 Order, 138 FERC ¶ 61,233 at PP 247, 249.

¹⁸² April 30 Filing, Transmittal Letter at 7.

iii. Comments

140. E.ON claims that further revisions are required to comply with the March 30 Order. Thus, E.ON proposes the following alternative to the revisions proposed by MISO:

Within ten (10) Business Days of providing an Interconnection System Impact Study report to Interconnection Customer, if the Interconnection Customer, Transmission Provider, or Transmission Owner requests to meet to discuss the results of the Interconnection System Impact Study, all parties shall participate in good faith.¹⁸³

iv. Answers

141. In its answer, MISO argues that the differences between the language proposed by MISO and E.ON are minimal and unnecessary.¹⁸⁴

v. Commission Determination

142. Although we acknowledge that the revisions proposed by MISO and E.ON are similar, MISO's proposal does not expressly include the language of the March 30 Order. Therefore, we will require MISO to make an additional compliance filing, within 30 days of the date of this order, to adopt the language proposed by E.ON as shown above.

d. Net Zero Interconnection Service**i. March 30 Order**

143. In the March 30 Order, the Commission conditionally accepted MISO's proposal to revise its Tariff to permit a new class of Energy Resource Interconnection Service called Net Zero Interconnection Service. Net Zero Interconnection Service allows an interconnection customer to use interconnection capacity at an existing point of interconnection when that capacity is not being fully utilized by an existing generator. The Commission found that the provision of Net Zero Interconnection Service is consistent with prior Commission precedent in that it will promote the more efficient utilization of existing interconnection capacity. However, the Commission expressed concern with several aspects of MISO's proposal, including the operational and competitive implications of Net Zero Interconnection Service. Accordingly, the

¹⁸³ E.ON Protest at 6.

¹⁸⁴ MISO June 5 Answer at 15-16.

Commission directed MISO to file a compliance filing within 180 days ensuring that Net Zero Interconnection Service is offered in a manner that is consistent with section 205 of the FPA, that generators operate in a manner that respects the rights of all market participants, and that service is available on a fair, transparent, and non-discriminatory basis.¹⁸⁵

ii. Requests for Rehearing

144. E.ON asks the Commission to direct MISO to make certain revisions to provisions related to Net Zero Interconnection Service that E.ON requested in its protest to the original filing. In particular, E.ON argues that the definition of Net Zero Interconnection Service should be amended to focus on the interconnection customer that desires Net Zero Interconnection Service and not the existing entity that already has interconnection service for its existing generating facility, and acknowledge that a portion of the existing generator's interconnection capacity may not yet be fully utilized by the existing interconnection customer. Additionally, E.ON states that MISO should be required to address three problems that E.ON identified in its protest: (1) MISO had not explained why the net zero generator must be curtailed to zero MW when the violation of coordinated output limits is due to the actions of the existing generating customer and not the net zero generator; (2) MISO had not explained how long any curtailment will be imposed and the basis for that duration; and (3) MISO had failed to explain the basis for allowing a Transmission Owner to initial curtailment rather than MISO as the Transmission Provider.¹⁸⁶

iii. Commission Determination

145. We will not direct MISO to make the changes relating to Net Zero Interconnection Service identified by E.ON at this time. In the March 30 Order, the Commission identified numerous concerns regarding MISO's proposed implementation of Net Zero Interconnection Service and directed MISO to make a comprehensive compliance filing within 180 days of the March 30 Order. MISO has not yet made that filing. Because the scope of the compliance filing will be large and that MISO's revisions will have implications for every aspect of Net Zero Interconnection Service, we will not consider E.ON's requests here but rather, will allow E.ON and other parties to raise such concerns at the time the Net Zero Interconnection Service compliance filing is made with the Commission.

¹⁸⁵ March 30 Order, 138 FERC ¶ 61,233 at PP 302, 306.

¹⁸⁶ E.ON Request for Rehearing at 25-26.

e. **Informational Filings**

i. **March 30 Order**

146. In the March 30 Order, the Commission directed MISO to submit informational filings in April 2013, April 2014, and April 2015 detailing the progress in the queue, suggesting tariff revisions necessary to address inefficiencies in the GIP, and detailing MISO's ability to meet the timing requirements in its GIP. While the Commission rejected requests by some protesters to require MISO to adopt additional timelines and requirements for itself in processing the queue at this time, the Commission emphasized that it expects MISO to make every reasonable effort, consistent with good utility practice, to process its queue in a fair and expeditious manner.¹⁸⁷

ii. **Requests for Rehearing**

147. E.ON argues that the Commission should take steps to correct all of the identified problems needed to improve the efficiency of the interconnection queue. In particular, E.ON states that the record clearly indicates that errors on the part of MISO and the MISO Transmission Owners have contributed to the problems MISO is experiencing in administering its queue. E.ON argues that the Commission failed to articulate the reasons for its decision not to correct these issues at this time. While the Commission directed MISO to submit an annual informational filing detailing its ability to meet the timing requirements in the GIP, E.ON maintains that this is inadequate for a number of reasons. Specifically, E.ON argues that this requirement is deficient for the following reasons: it does nothing to remedy the backlog immediately; MISO will be reporting on its own performance; the report will not be subject to interconnection customer comments; and there is no requirement to provide any data about the number and specific types of study errors MISO or its Transmission Owners commit, when the error was found, who found the error, or the resulting delays and costs.¹⁸⁸

148. Accordingly, E.ON asks the Commission to reconsider and to direct MISO to revise its Tariff to include the items that E.ON previously raised in this proceeding concerning completeness, accuracy, and timeliness of study results.¹⁸⁹

149. Additionally, E.ON argues that the Commission should order MISO to submit these reports as a compliance filing so that interested parties will have an opportunity to

¹⁸⁷ March 30 Order, 138 FERC ¶ 61,233 at PP 72-73.

¹⁸⁸ E.ON Request for Rehearing at 4-8.

¹⁸⁹ *Id.* at 9.

comment followed by a determination by the Commission. E.ON argues that a compliance filing is appropriate because the reforms accepted by the Commission in the March 30 Order are new and untested, and there are many causes of the queue backlog. E.ON states that, if the Commission does not require MISO to amend its Tariff to include an obligation to provide timely, complete and accurate study results, then interested parties must be provided with an opportunity to comment on the details MISO provides about the efficacy of its management of the queue because the current GIP does not contain hard dates by which studies must begin or be completed and no accuracy requirements. E.ON notes that the Commission has ordered the submission of a compliance filing where new or incomplete processes are at issue and should do so here as well.¹⁹⁰

150. E.ON also contends that the Commission should order MISO to provide the following data regarding the system impact studies and facility studies that MISO performs in its annual filing: (1) the number of individual studies performed by cluster or individually over the time period; (2) the date each such study began and the date the results of each final study were provided to the interconnection customer; (3) the number of study errors that were found; (4) the specific type of study errors found; (5) which party found each error; (6) the date when the error was found; (7) which party committed the error; (8) whether a GIA had been executed or accepted by the Commission before the error was found; and (9) if MISO re-did its study, by what date MISO provided a corrected study to the interconnection customer. E.ON argues that this data is required to further Commission's goal of promoting transparency and consistency.¹⁹¹

151. AWEA and WOW requests clarification about the specific information that should be included in the annual informational filings the Commission has ordered. AWEA and WOW state that they believe the following information should be included in the informational filing:

- (1) Numbers and percentages of interconnection customers who achieve signed GIAs before and after the implementation of the queue process changes accepted in this proceeding;
- (2) Numbers and percentages of interconnection customers who meet the new M2 milestone to enter the Definitive Planning Phase as well as the new post-GIA milestones to continue moving towards a full interconnection; and

¹⁹⁰ *Id.* at 10-11 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,141, at PP 14, 16 (2011)).

¹⁹¹ *Id.* at 11.

- (3) Tracking accuracy of study results – MISO should track the costs and timing estimates for required upgrades for interconnection customers at different stages in the interconnection process and how these estimates change between the results of the Feasibility Study, the SPA study, and the Definitive Planning Phase System Impact Study and Facilities Study.

AWEA and WOW state that the results for each item should include breakdowns by merchant generation projects, utility generation projects, fuel type, size, and geographic location. Moreover, AWEA and WOW argue that the Commission should institute a proceeding under section 206 if the proposed reforms are put in place and do not succeed in reducing the amount of time interconnection customers spend in the queue and the amount of restudies that are required to determine a final GIA.¹⁹²

iii. Commission Determination

152. We deny the requests for rehearing and clarification regarding the submittal of annual informational reports with the Commission. Our direction here is consistent with prior Commission precedent¹⁹³ and we do not find a persuasive reason to depart from that practice. We deny E.ON's request that we revisit our decision not to require MISO to adopt additional requirements concerning the completeness, accuracy, and timeliness of study results. In the March 30 Order, we conditionally accepted MISO's proposed revisions and found that they were just and reasonable in light of the problem MISO is experiencing in the queue. We reaffirm that conclusion here. If E.ON believes that additional timelines and requirements are required, it is free to work to achieve this goal through the stakeholder process or to file a complaint under section 206. Further, as far the requests by E.ON and AWEA and WOW that we require MISO to identify specific pieces of information in the informational filing, we believe that the March 30 Order already provides sufficient direction to MISO about what the informational filing should address.

The Commission orders:

(A) The requests for rehearing are hereby denied and the requests for clarification are hereby denied in part and granted in part, as discussed in the body of this order.

¹⁹² AWEA and WOW Request for Rehearing at 4-5.

¹⁹³ See Queue Reform Order, 124 FERC ¶ 61,183 at P 164.

(B) MISO's compliance filing is hereby conditionally accepted, as discussed in the body of this order, effective January 1, 2012, as discussed in the body of this order.

(C) MISO is hereby directed to make a compliance filing within 30 days of the date of issuance of this order modifying its Tariff, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.