140 FERC ¶ 61,142
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission System Operator, Inc. — Docket No. ER12-2129-000

ORDER CONDITIONALLY ACCEPTING PROPOSED TARIFF REVISIONS

(Issued August 27, 2012)

1. On June 28, 2012, Midwest Independent Transmission System Operator, Inc. (MISO) [1] and certain Midwest ISO Transmission Owners (MISO Transmission Owners)[2] (collectively, Filing Parties) filed proposed revisions to Schedule 1 (Scheduling, System Control and Dispatch Service) of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) (June 28 Filing). In this order, we accept the proposed revisions, subject to a compliance filing, to be effective on August 28, 2012.

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[1] MISO is filing the proposed revisions in its capacity as Administrator of its Tariff. MISO indicates that it takes no position on the substance of this filing, and reserves the right to file comments.

[2] The MISO Transmission Owners for the purpose of this filing are: Ameren Services Company, as agent for Union Electric Company d/b/a Ameren Missouri, Ameren Illinois Company d/b/a Ameren Illinois and Ameren Transmission Company of Illinois; Big Rivers Electric Corporation; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Otter Tail Power Company; Southern Illinois Power Cooperative; and Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana).

I. Background

2. Schedule 1 of the MISO Tariff is an ancillary service schedule that sets forth the rate that recovers the MISO transmission owners' expenses to manage the reliability coordination function and to monitor, assess and operate the transmission system in real time to maintain safe and reliable operation. Unlike most other ancillary services, this scheduling of transmission transactions cannot be self-supplied and must be purchased from the transmission provider, in part because the transmission provider or the Local Balancing Authority area must determine whether a specific transaction can be scheduled. The expenses associated with Schedule 1 service relate primarily to managing the reliability coordination function and monitoring, assessing, and operating the transmission system in real time to maintain safe and reliable operation, which are typically control-center related functions for each Local Balancing Authority area.

3. The current Schedule 1 was accepted by the Commission on January 14, 2011.[3] As accepted, the current Schedule 1 is a single system-wide "postage stamp" rate design based on the total revenue requirement and load of all transmission owners providing the service. Schedule 1 service is provided, and Schedule 1 revenue is generated, when a transmission customer purchases the following services: Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service under Schedule 7 of the Tariff; Non-Firm Point-to-Point Transmission Service under Schedule 8 of the Tariff; and Network Integration Transmission Service under Schedule 9 of the Tariff. The charge is assessed to all transmission customers who take transmission service under Schedules 7, 8, or 9 of the MISO Tariff. However, pursuant to section 37.3 of the MISO Tariff, transmission owners taking network service to serve their bundled load do not pay charges under Schedules 1, 3 through 6, and Schedule 9. Therefore, to account for the bundled load, MISO imputes the charges that would be payable by the transmission owners to serve their bundled load in the total Schedule 1 revenues that are distributed to transmission owners providing Schedule 1 service. MISO then distributes those total Schedule 1 revenues in proportion to the transmission owners' Schedule 1 revenue requirements, deducting the revenues imputed for each transmission owner from the share of total revenues that are due to that transmission owner. The Filing Parties argue that an unintended consequence of this current methodology is that some vertically-integrated transmission owners have imputed revenues that exceed the amounts they receive, pursuant to the Schedule 1 pro rata revenue distribution. As a result, these transmission owners are assessed a charge by MISO equal to the difference between these two amounts.

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[3] *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,028 (2011).

II. Proposed Revisions to Schedule 1

4. In the June 28 Filing, the Filing Parties state that they are seeking to remedy an imputed revenue issue created by Schedule 1's current rate design and revenue distribution method by changing the Schedule 1 rate design for delivery within MISO from a postage stamp approach to a license plate zonal method, with such charges based on the Schedule 1 costs and loads for the zone in which a transaction under the Tariff sinks. The resultant revenues for transactions sinking in each zone would be distributed to the transmission owner providing Schedule 1 service in that zone, and there would be no imputation of revenues for service to transmission owners' bundled retail load.

5. The Filing Parties state that because the expenses associated with Schedule 1 service relate primarily to typical control center-related functions for each Local Balancing Authority area, the proposed changes would reflect the local nature of Schedule 1 services. The Filing Parties also argue that Schedule 1 providers generally provide this service for the benefit of customers located in their zone and transmission customers in one zone do not benefit from the performance of these services by transmission owners located in another zone. Additionally, the Filing Parties state that, with the implementation of Day 2 energy and ancillary service markets in MISO, the transmission owners' scheduling and dispatch costs related to market operations are recovered regionally under Schedule 24 (Local Balancing Authority Cost Recovery), leaving only local scheduling and dispatch operations covered under Schedule 1. Therefore, because the Schedule 1 charges will be based on Schedule 1 revenue requirements for each zone, the use of a zonal Schedule 1 rate design will enable each transmission owner providing Schedule 1 service to collect their revenue requirements for this service without any shifting of costs from one zone to another. Filing Parties state that this change will allow all transmission owners who provide Schedule 1 service the opportunity to recover their Schedule 1 revenue requirement and continue the alignment of the rate design and revenue distribution. For those Schedule 1 charges for MISO's drive-through and drive-out transactions, the Filing Parties propose to retain the use of a single system average.

6. In addition to revising the rate design, the Filing Parties propose procedures for calculating a true-up of Schedule 1 costs and revenues for those transmission owners that use a forward-looking Attachment O formula rate. Further, to account for the existence of joint pricing zones, where there may be an agreement between the "host" zone transmission owner and another transmission owner that Schedule 1 service is being self-provided by the non-host transmission owner, a procedure will be used which will not charge the non-host for Schedule 1 service for those loads.

7. To the extent necessary, the Filing Parties request waiver of the requirement to provide full information required by section 35.13, arguing that this filing does not change the overall level of costs recovered under the Tariff but simply changes the

method in which Schedule 1 costs are allocated.[4] The Filing Parties also request waiver of the Commission's 60-day prior notice requirement to allow for a July 1, 2012 effective date.

III. Notice of Filing and Responsive Pleadings

8. Notice of the June 28 Filing was published in the *Federal Register*, 77 Fed. Reg. 40,352 (2012), with interventions or protests due on or before July 19, 2012.

9. American Transmission Company, LLC; Consumers Energy Company; American Municipal Power, Inc.; International Transmission Company d/b/a ITCTransmission, Michigan Electric Transmission Company, LLC, and ITC Midwest LLC (collectively, ITC Companies); and Xcel Energy Services, Inc. filed timely motions to intervene. Detroit Edison Company (Detroit Edison); MISO; and Great River Energy (Great River) filed timely motions to intervene and comments. Alliant Energy Corporate Services, Inc. (Alliant) and Wisconsin Electric Power Company (Wisconsin Electric) filed timely motions to intervene and protests. On July 20, 2012 and July 24, 2012, respectively, Exelon Corporation and Madison Gas and Electric Company filed motions to intervene out-of-time.

10. On August 3, 2012, MISO Transmission Owners filed an answer to the comments and protests.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), the Commission will grant Exelon Corporation's and Madison Gas and Electric Company's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding and the absence of undue prejudice or delay.

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[4] June 28 Filing at 10 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 133 FERC ¶ 61,221, at P 504 n.590 (2010) (MISO MVP Order), *order on reh'g*, 137 FERC ¶ 61,074 (2011)).

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO Transmission Owners' answer because it has provided information that has assisted us in our decision-making process.

B. Substantive Matters

1. Comments

14. Detroit Edison filed comments in support of the June 28 Filing. Detroit Edison argues that the revisions to Schedule 1 ensure that MISO customers are no longer charged a socialized rate, and instead impose a much more precise zonal rate design that results in a more equitable and appropriate rate for Schedule 1 services. According to Detroit Edison, the current rate design over-charges some Tariff customers in comparison to the Schedule 1 services they receive.

15. Great River expresses concern that the June 28 Filing does not fully account for the transition period that will be required for transmission owners who have load located in transmission owner pricing zones hosted by a different transmission owner. Great River points out that the default rate design applies until there is an agreement allocating the provision of Schedule 1 services, and the cost of such services, between the host and non-host transmission owners. According to Great River, until an agreement is reached between the parties, the non-host transmission owner will supply Schedule 1 service to some or all of its load in the host zone, and will also be required to pay the host transmission owner for the same Schedule 1 service. Great River states that it is concerned that such agreements could be delayed by lengthy negotiations. Thus, Great River requests that the Commission provide guidance to MISO Transmission Owners related to the timeline, content and filing requirements of the agreements that allocate the provision of Schedule 1 service between host and non-host transmission owners, to ensure that the non-host transmission owners will not be subject to duplicative Schedule 1 charges for unreasonable periods of time.

16. Alliant argues that the Commission should reject the revisions on the grounds that the proposed changes have not been adequately described, or should at least require MISO Transmission Owners to provide more information. Alliant is specifically concerned that there is not enough information available for stakeholders to evaluate the impact of the proposed changes on load-serving entities and their customers. Alliant also does not believe that the requested July 1, 2012 effective date is reasonable to evaluate the impact of such proposed changes. Alliant argues that the Commission should require each transmission owner in MISO to provide access to the zonal rate, including all data inputs used to derive the rate, prior to the implementation of the new methodology and to provide access to any future zonal rate information 60 days prior to the effective date. Alliant also contends that transmission owners that use a forward-looking year for rate

making purposes should also be required to provide their future year Schedule 1 rate at the same time Schedule 9 rates for the future year are provided. Alliant also suggests that it would be beneficial for transmission owners to provide a Schedule 1 forecast for the next five years.

17. Wisconsin Electric states that it does not oppose the general concept of the proposed changes. However, Wisconsin Electric does argue that there is insufficient detail in the filing for individual transmission customers to determine the financial effects of the proposed change in rate design or revenue allocation. Wisconsin Electric requests that the Commission reject the June 28 Filing as deficient, or at the very least deny as unjustified, the requested waiver of the 60-day prior notice requirement and require MISO and MISO Transmission Owners to provide more information regarding the change from regional to zonal rates and the calculations to show the impact of its proposed changes on the rates to be paid in 2012, instead of hypothetical examples.

18. MISO filed comments providing additional information and seeking clarification on the June 28 Filing. First, MISO notes that MISO Transmission Owners request an effective date of July 1, 2012, but do not explain what time period they intend the initial Schedule 1 true-up to apply. MISO suggests adding a clarifying footnote to section II.D to Schedule 1 that states when the initial Schedule 1 true-up calculation will commence. Second, MISO suggests modifying section II.D to specify that the Schedule 1 true-up is to be calculated using the same true-up procedure required by each of the applicable Attachment O true-up procedures. Third, MISO asks that MISO Transmission Owners confirm that the projected divisor used in forward-looking Attachment O formula rates is the same projected divisor that will be used to calculate the Schedule 1 rate. Fourth, MISO suggests minor revisions to section III of Schedule 1 to clarify that it is the non-host transmission owner that is self-supplying Schedule 1 service and that there could be more than one non-host transmission owner in a zone. Fifth, if the transmission owners in a zone reach agreement that the non-host transmission owner(s) is self-providing Schedule 1 service, MISO requests that MISO Transmission Owners clarify how the load(s) of the non-host transmission owner(s) will be adjusted for rate calculation purposes and billed.

2. <u>MISO Transmission Owners' Answer</u>

19. In their answer, MISO Transmission Owners agree to make all of the clarifying changes to Schedule 1 requested by MISO. MISO Transmission Owners also confirm that that a transmission owner who receives Schedule 1 revenues using a forward-looking Attachment O formula rate will continue to use a projected rate divisor, and also that this is the same projected rate divisor as used for the same time period under the transmission owner's forward-looking Attachment O rate formula. Regarding rate calculation and billing for zones with host and non-host transmission owners, MISO Transmission Owners state that the intention is that the non-host transmission owner will have its load

removed from the host zone and no longer be billed the host transmission owner rate. Instead, MISO Transmission Owners explain, the load(s) of the non-host Transmission Owner will be billed at the non-host Transmission Owner's zonal rate for Schedule 1 service.

20. MISO Transmission Owners contend that the June 28 Filing provides the information required and supports the requested July 1, 2012 effective date. According to MISO Transmission Owners, the June 28 Filing, including the requested effective date, meets the requirements for rate design and cost allocation filings and provides sufficient information for the Commission and affected parties to determine that the proposal is just and reasonable. MISO Transmission Owners reiterate that the proposed revisions to Schedule 1 will not increase the Schedule 1 revenue requirement or change the overall level of revenues collected, but will change the rate design and the allocation of costs to each zone to be more consistent with the local nature of the services and cost causation principles. According to MISO Transmission Owners, the Commission has found filings sufficient and granted waiver of the requirement to provide the full range of information set forth in section 35.13 when a filing changes the way cost are allocated, but does not result in a revenue requirement increase.[5] MISO Transmission Owners argue that, since the June 28 Filing is a rate design and cost allocation filing, and does not increase the overall level of Schedule 1 costs or revenues recovered, the Commission should reject Alliant's and Wisconsin Electric's requests to reject the June 28 Filing as deficient and accept the filing effective on July 1, 2012.

21. MISO Transmission Owners dispute Alliant's claim that the proposed changes to Schedule 1 lack transparency. MISO Transmission Owners point out that the customer protection and true-up procedures applicable to Schedule 1 costs will be the same as used under the Attachment O formula rates, which, as Alliant notes, are pending before the Commission in Docket No. EL12-35-000.[6] MISO Transmission Owners also argue that Alliant's request to require transmission owners to provide a five-year forecast of Schedule 1 rates should be rejected as unsupported.

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[5] MISO Transmission Owners Answer at 5 (citing *Southwest Power Pool, Inc.*, 131 FERC ¶ 61,252, at P 108 (2010), *order on reh'g*, 137 FERC ¶ 61,075 (2011); *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,174, at P 143 (2010); MISO MVP Order, 133 FERC ¶ 61,221 at P 504 n.590).

[6] *See Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127 (2012) (order sua sponte instituting an investigation pursuant to section 206 of the Federal Power Act to determine whether the formula rate protocols under the MISO Tariff are sufficient to ensure just and reasonable rates).

22. Finally, MISO Transmission Owners argue that Great River's concerns are speculative at this point and the MISO Transmission Owners anticipate that host and non-host Transmission Owners will negotiate in good faith with one another to develop the appropriate agreements. MISO Transmission Owners point out that if the parties cannot reach a resolution, they may seek recourse through MISO's dispute resolution procedures under Attachment HH of the Tariff. Thus, MISO Transmission Owners conclude that there is no need for the Commission to provide further guidance.

3. Commission Determination

23. As discussed below, we will accept the proposed revisions to Schedule 1, to be effective on August 28, 2012. The Filing Parties state, and no party disputes, that with the advent of the energy and ancillary services markets and the creation of Schedule 24, the nature of Schedule 1 services under the Tariff have changed, leaving local scheduling and dispatch operations covered under Schedule 1. We find that in this situation, the Filing Parties' proposed revision to Schedule 1 is just and reasonable to adopt. Moreover, we note that the Filing Parties' proposed rate design and revenue distribution are consistent with the manner in which costs are allocated and revenues are distributed for Schedule 1 services under both the Southwest Power Pool, Inc. (SPP) and PJM Interconnection, L.L.C. (PJM) tariffs.[7]

24. We also accept MISO Transmission Owners' commitment to make the Tariff changes requested by MISO, as they agreed to in their answer. We will require the changes to be submitted in a compliance filing due 30 days from the date of this order.

25. With regard to the concerns expressed by Alliant and Wisconsin Electric regarding transparency of information, we agree with MISO Transmission Owners that the June 28 Filing meets the requirements for rate design and cost allocation filings and provides sufficient information for the Commission and affected parties to evaluate whether the proposal is just and reasonable. We will not, however, grant waiver of the 60-day prior notice requirement. Although Filing Parties' proposal would not increase the overall level of Schedule 1 costs or revenues recovered, by changing the allocation of those costs, the rates for some customers will increase. Per *Central Hudson*, the Commission does not permit waiver of the notice requirement for rate increases absent a strong

[7] *See* PJM Interconnection L.L.C., FERC Electric Tariff, Intra-PJM Tariffs, SCHEDULE 1A, OATT SCHEDULE 1A, 4.0.0; Southwest Power Pool, Inc., FERC Electric Tariff, Open Access Transmission Tariff, Sixth Revised Volume No. 1, Schedule 1, Schedule 1 Scheduling, System Control And Dispatch Service, 5.0.0.

showing of good cause,[8] which the Filing Parties have failed to provide. Accordingly, we will deny the Filing Parties' request for waiver of notice. Therefore, the proposed revisions will become effective on August 28, 2012 (after 60 days' notice).

26. We agree with MISO Transmission Owners that Great River's concerns about accounting for the transition period are speculative. We stress that we expect the host and non-host transmission owners to negotiate in good faith to develop the appropriate agreements to accommodate the new rate design and revenue distribution in a timely fashion.

The Commission orders:

(A) The proposed Tariff revisions are hereby conditionally accepted for filing, subject to the compliance filing ordered below, to become effective on August 28, 2012, as discussed in the body of this order.

(B) Filing Parties are hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[8] *See Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, at 61,399, *reh'g denied*, 61 FERC ¶ 61,089 (1992).