

141 FERC ¶ 61,050
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. ER12-1835-000

ORDER CONDITIONALLY ACCEPTING AMENDED GENERATOR
INTERCONNECTION AGREEMENT

(Issued October 19, 2012)

1. On May 23, 2012, the Midwest Independent Transmission System Operator, Inc. (MISO) filed an unexecuted Amended and Restated Generator Interconnection Agreement (Amended GIA) between and among Oak Glen Wind Farm, LLC (Oak Glen) as Interconnection Customer, ITC Midwest LLC (ITC Midwest) as Transmission Owner, and MISO as Transmission Provider.¹ MISO requests (1) acceptance of the Amended GIA and (2) waiver of the Commission's 60-day prior notice requirement.

2. In this order, we conditionally accept the Amended GIA to become effective May 24, 2012, as requested. We direct MISO to make a compliance filing further amending the Amended GIA, as discussed below.

I. Background and Filing

3. The Minnesota Municipal Power Agency (MMPA), through its subsidiary Oak Glen, has developed and owns the Oak Glen Wind Farm (Oak Glen Project), a 44 megawatt (MW) wind generation facility in southeast Minnesota.² The Oak Glen Project achieved commercial operation in November 2011 pursuant to the terms of its existing generator interconnection agreement, which was executed on June 18, 2009, and subsequently amended on November 18, 2010 (Original GIA).

¹ Midwest Independent Transmission System Operator, Inc., FERC FPA Electric Tariff, Midwest ISO Agreements, [SA 2079, ITC Midwest-Oak Glen Wind Farm GIA, 0.0.0.](#)

² The Oak Glen Project is designated as Project G604 in the MISO interconnection queue.

4. As discussed below, MISO seeks to further amend the Original GIA to incorporate the results of MISO's recently-completed restudy of Group 5, a collection of interconnection customers (of which Oak Glen is a member) in southwest Minnesota, northwest Iowa, and eastern South Dakota that, pursuant to MISO's generator interconnection procedures (GIP), was studied as a group for the purpose of conducting interconnection studies.

5. The study, and restudy, of Group 5 has a lengthy history. Originally consisting of 32 projects totaling more than 2,000 MWs, Group 5 was initially studied by MISO beginning in 2006, with the group's original system impact study completed in 2007. Facilities studies that refined the cost responsibility for individual group members were then completed over the course of the next two years. Some members of Group 5 executed GIAs based upon these study results, and a subset of those members, including Oak Glen, proceeded to commercial operation.

6. However, in the fall of 2009 another member of Group 5, Community Wind North LLC (Community Wind), successfully challenged its unexecuted GIA that included the results of MISO's original Group 5 studies, arguing to the Commission that MISO had failed to determine the correct "but for" costs required for its project's interconnection.³ Soon thereafter, MISO informed the Commission that restudy of the Group 5 projects was necessary due to the withdrawal of higher-queued generators, including some members of Group 5.⁴ MISO subsequently performed its restudy of the Group 5 projects

³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 129 FERC ¶ 61,019 (2009) (*Community Wind I*), *order on reh'g*, 131 FERC ¶ 61,165 (*Community Wind II*), *order on reh'g*, 133 FERC ¶ 61,011 (2010). Community Wind challenged MISO's proposal to assign to it and certain other members of Group 5 all of the costs of the Brookings County-Twin Cities project (the Brookings Line), a new 345 kV transmission line that MISO had previously evaluated as being needed for system reliability. MISO has since designated the Brookings Line as a Multi-Value Project (MVP). Under Section 1.429A of MISO's Open Access Transmission, Energy and Operating Reserves Markets Tariff (Tariff) an MVP is one or more Network Upgrades that address a common set of Transmission Issues and satisfy the conditions listed in Sections II.C.1, II.C.2, and II.C.3 of Attachment FF. Thus, MISO no longer proposes to assign the costs of the Brookings Line to Group 5 but instead has sought and received approval from its Board of Directors to identify the Brookings Line as an MVP and allocate the costs of that line to transmission delivery service customers pursuant to the MVP-related terms of the MISO Tariff.

⁴ *Community Wind II*, 131 FERC ¶ 61,165 at P 28.

and has sought to amend the existing Group 5 GIAs to incorporate the results of that restudy.⁵

7. MISO states that the Amended GIA was filed unexecuted because Oak Glen and MMPA object to MISO's proposed amendments.⁶ As MISO explains, it seeks to amend the Appendices to the Original GIA to include references to new system upgrades that are needed for the Oak Glen Project to obtain unconditional interconnection service.⁷ MISO also proposes to allocate to the Oak Glen Project partial cost responsibility for certain of these newly-identified network upgrades.⁸ Although MISO proposes to add as contingent facilities in the Amended GIA three MVPs – (1) the Brookings Line; (2) the North Lacrosse-Cardinal project; and (3) the Pleasant Prairie to Zion Energy Center project (collectively, the Contingent MVPs) – MISO explains that the Amended GIA does not assign any MVP costs to the Oak Glen Project.⁹

8. MISO also seeks waiver of the Commission's 60-day notice requirement and states that MISO, Oak Glen, and ITC Midwest support an effective date of May 24, 2012 for the GIA.¹⁰

II. Notice of Filing and Responsive Pleadings

9. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 33,208 (2012), with interventions and protests due on or before June 13, 2012. ITC Midwest, NextEra Energy Resources, LLC, Wisconsin Public Service Corporation, and Alliant Energy Corporate Services filed timely motions to intervene, and MMPA and Oak Glen (collectively, the Protesters) filed a timely motion to intervene and protest. On June 28, 16, 2012, MISO filed an answer to the protest.

⁵ See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, Docket No. ER12-1748-000 (June 15, 2012) (delegated letter order); *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,192 (2012).

⁶ MISO Transmittal Letter at 10.

⁷ *Id.* at 6, 8.

⁸ *Id.* at 7 (noting the Oak Glen Project's proposed allocation of \$70,518 and \$56,407.69 for its respective shares of the following Common Use Upgrades: Hazleton to Mitchell County 345 kilovolt (kV) line and the ATC 75 MVAR Cap Bank upgrades).

⁹ *Id.* at 9.

¹⁰ *Id.* at 13.

10. On July 20, 2012, and as supplemented by an errata on August 6, 2012, staff issued a letter informing MISO that its May 23 Filing was deficient and requesting additional information. MISO submitted a response to this letter on August 20, 2012 (Supplemental Filing). On August 21, 2012, MISO also filed a motion for leave to submit the Supplemental Filing one day out of time because the Supplemental Filing was filed with the Commission a few minutes after the Commission's 5:00 p.m. deadline. Notice of MISO's Supplemental Filing was published in the *Federal Register*, 77 Fed. Reg. 51,991 (2012), with interventions or protests due on or before September 11, 2012. No additional interventions or protests were filed.

A. Protest

11. The Protesters object to MISO's proposed revisions to the Original GIA based on the results of the Group 5 restudy. They recount the history of the original Group 5 studies, noting that MMPA decided, based upon those original studies, to reduce the Oak Glen Project's size from 50 MW to 44 MW to eliminate its cost responsibility for network upgrades beyond the point of interconnection (with the limited potential exception of six capacitor banks).¹¹ The Protesters state that, in October 2008, the facilities study for the Oak Glen Project showed a cost of \$2.1 million for required system upgrades, plus the cost of the Oak Glen Project's share of the six capacitor bank upgrades, the total cost of which had not yet been determined.¹² The Protesters state that based on the results of those studies, and following an email from MISO confirming that the Oak Glen Project would not be allocated any costs for the Brookings Line, MMPA executed the Original GIA on June 18, 2009 and proceeded to project construction, with the Oak Glen Project achieving commercial operation in November 2011.¹³ The Protesters note that the Original GIA failed to provide estimates for additional network upgrades that might be required as a result of any subsequent restudy.¹⁴

12. However, the Protesters state that on June 1, 2010 MISO informed MMPA that MISO was commencing a restudy of Group 5 in the wake of the Commission's *Community Wind I* decision, following which MISO stated that restudy of Group 5 was required due to the withdrawal of higher queued projects.¹⁵ The Protesters explain that

¹¹ Oak Glen Protest at 5.

¹² *Id.*

¹³ *Id.* at 6.

¹⁴ *Id.*

¹⁵ *Id.*

MISO ran two scenarios in its Group 5 restudy: one, the MVP scenario,¹⁶ which studied Group 5 on the assumption that the Contingent MVPs would be in place, and the second, the “but for” scenario, which studied Group 5 without those projects in place.¹⁷ The Protesters state that the Oak Glen Project’s new cost responsibility beyond that in the original Group 5 studies would be \$96,000 under the Candidate MVP scenario and \$26.5 million under the “but for” scenario. The Protesters assert that MISO’s restudy was not merely a restudy but an entirely new study, based on a different model employing different topology and generation dispatch, which resulted in dramatic changes in the cost allocation of network upgrades within Group 5.¹⁸ For example, the Protesters state that the original Group 5 studies found that the Oak Glen Project had no impact on the Brookings Line, while the Group 5 restudy finds that the Oak Glen Project might be responsible for a portion of the Brookings Line and other transmission line upgrades in the “but-for” scenario.¹⁹ The Protesters explain that the financial risk they face stems from the possibility that the MVP cost allocation methodology will be struck down by the Seventh Circuit Court of Appeals, before which an appeal of the Commission orders approving the MVP cost allocation methodology is pending, thereby exposing the Oak Glen Project to the higher-cost “but for” scenario.²⁰

13. The Protesters raise four primary objections to MISO’s filing. First, the Protesters assert that MISO’s filing of the Amended GIA is an unlawful unilateral change to the Original GIA that is contrary to the public interest. The Protesters explain that they reasonably relied upon the Original GIA, but that MISO’s proposed unilateral changes to the Original GIA could render the constructed Oak Glen Project financially infeasible.²¹

14. Second, the Protesters assert that the Group 5 restudy produces an unjust and unreasonable result, and reiterate their reliance upon the results of the original Group 5 studies. They note in particular that the Group 5 restudy’s suggestion of possible cost responsibility of roughly \$26.5 million in new upgrade costs under the “but for” scenario would be unjust and unreasonable, given (1) MMPA’s decision to reduce the size of the

¹⁶ MISO refers to this scenario as the Candidate MVP, or CMVP, scenario. For the sake of consistency, the Commission will use Candidate MVP scenario in this order.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 7.

²¹ *Id.*

Oak Glen Project to eliminate network upgrades that otherwise would have been required under the original Group 5 studies, and (2) MISO's June 2009 representation that the Oak Glen Project would not be allocated costs for the Brookings Line.²²

15. Third, they argue that the Group 5 restudy process went beyond the scope of article 11.3.1 of the Original GIA, which governs MISO's authority to conduct restudies. The Protesters maintain, as already noted, that the Group 5 "restudy" was not a restudy at all, but in fact a new study that relied upon a completely different model with different topology and generation dispatch. The Protesters argue that the Group 5 restudy should only have involved the removal of the Brookings Line in order to perform the "but for" analysis and updates to the status of higher queued projects.²³

16. Finally, the Protesters state that MISO did not follow FERC Order No. 2003-A when the original June 2009 GIA was offered to MMPA because MISO failed to provide estimates of the Oak Glen Project's maximum possible funding exposure should higher queued projects withdraw.²⁴ The Protesters state that MMPA viewed the lack of such estimates to mean that there were no funding exposures beyond those expressly estimated in the GIA. The Protesters state that they relied on the GIA that was offered to MMPA by MISO and on the information disclosed to MMPA at the time, and as such they should not be required to accept an obligation to fund unjust and unreasonable network upgrades not estimated in the Original GIA.²⁵

B. MISO's Answer

17. MISO asserts that the Protesters' argument that MISO went beyond the scope of article 11.3.1 of the Original GIA is without merit. MISO asserts that the restudy was performed pursuant to the Commission's *Community Wind I* and *II* orders, which MISO asserts directed the restudy based, in part, on the withdrawal of higher-queued generators, as contemplated by article 11.3.1 of the Original GIA.²⁶ MISO states that an updated study model was used in the restudy to reflect the current conditions of the system, which

²² *Id.* at 7-8.

²³ *Id.* at 8-9.

²⁴ *Id.*

²⁵ *Id.* at 11.

²⁶ MISO Answer at 7.

MISO asserts is appropriate because ignoring the changes to the system would render the restudy a meaningless exercise.²⁷

18. MISO responds to the Protesters' assertion that the Amended GIA is an unlawful unilateral change by reiterating that Article 30.11 of the Original GIA grants to MISO the authority to make a unilateral filing to the Commission to modify the GIA with respect to rates, terms and conditions.²⁸ MISO states that it cannot account for all contingencies and that the Commission has previously directed parties to revisit the negotiated terms of GIAs when contingencies occur.²⁹ MISO states that the completion of the Group 5 restudy triggered the need to amend the Original GIA to include network upgrades and other contingent facilities which are required for the Oak Glen Project to receive unconditional service.³⁰

19. In response to the Protesters' argument that the Group 5 restudy produces an unjust and unreasonable result, MISO states that it did not, and could not, guarantee interconnection customers that their cost responsibility would not change or that they would not be potentially responsible for MVP costs.³¹ Furthermore, MISO states that the Oak Glen Project is not being assigned any costs of the MVPs, but rather the MVPs are being included in the Amended GIA as contingent facilities because the Oak Glen Project's reliable interconnection is contingent on the MVPs being constructed.³² MISO also responds to the Protesters' assertion that the Oak Glen Project could be responsible for \$26.5 million in network upgrades by noting that the Group 5 restudy actually showed an estimated \$22.61 million in network upgrade responsibility under the "but for" scenario, but that the "but for" scenario would apply only if the Contingent MVPs had not been approved.³³ MISO notes that because the Contingent MVPs were approved by

²⁷ *Id.* at 8.

²⁸ *Id.* at 3.

²⁹ *Id.*

³⁰ *Id.* at 4.

³¹ *Id.*

³² *Id.* at 5.

³³ *Id.* As clarified in MISO's Supplemental Filing, the Oak Glen Project's actual cost responsibility under the "but for" scenario would be \$12.07 million. MISO Supplemental Filing at 14.

MISO, the Oak Glen Project's cost responsibility is in fact only \$2.89 million.³⁴ MISO defends its Group 5 restudy process, arguing that MISO must conduct restudies based on the system as it exists to ensure the reliable interconnection of projects.³⁵

20. Finally, in response to the Protesters' assertion that the Original GIA does not comply with Order No. 2003-A, MISO explains that it provides estimates of known contingencies in GIAs. However, MISO continues, given the complexity of group studies it is difficult for MISO to account for all potential contingencies and the number of possible scenarios within a group study, thus making it difficult to provide precise maximum funding exposure estimates.³⁶

C. MISO Supplemental Filing

21. MISO states that the Group 5 restudy was necessary to assess the cumulative impact of (1) the withdrawal of five projects (Project Nos. G438, G584, G589, G613, and G630) from Group 5, (2) the withdrawal of Project No. G392, a higher-queued project that was responsible for significant transmission upgrades assumed to be in place for the interconnection of the Group 5 projects, and (3) the removal of the Brookings Line as a Baseline Reliability Project.³⁷ MISO further explains that it concluded a restudy was necessary due to the Commission's directives in the *Community Wind* orders with respect to the Brookings Line, and notes its prior representation to the Commission in the *Community Wind* proceeding that it could not simply remove the Brookings Line from the original Group 5 studies without a restudy to develop an alternative.³⁸ MISO explains that it did not perform any localized studies in the areas in which the withdrawn Group 5 projects were located because, in MISO's engineering judgment, restudy of all of Group 5 was needed to cumulatively assess the impact of the factors described above.³⁹ MISO

³⁴ MISO Answer at 5, n.11.

³⁵ *Id.* at 6-7.

³⁶ *Id.*

³⁷ MISO Supplemental Filing at 2-3.

³⁸ *Id.* at 4, n.6.

³⁹ *Id.* at 2-3.

also notes that the five Group 5 projects that withdrew were not located in one centralized location, but instead shared constraints with many of the remaining members of Group 5.⁴⁰

22. MISO explains that the guideline it used to determine whether a restudy was necessary was the availability of the cost allocation impacts of the changes to the base set of assumptions used for the original Group 5 studies.⁴¹ MISO states that it concluded a restudy of Group 5 was necessary because the discreet impact of the Brookings Line and Project G392 on Group 5 was not available, and that in addition to the significant withdrawals from Group 5 itself, MISO needed to determine an alternate mitigation option based on the Commission's *Community Wind* orders.⁴² By comparison, MISO notes that it did not declare an additional restudy due to the subsequent withdrawal of two additional members of Group 5, Project Nos. G608 and G618, because MISO anticipated during its 2011 restudy that such withdrawals might occur and therefore evaluated the detailed impacts and cost allocations of the Group 5 projects in the completed Group 5 restudy.⁴³

23. In response to staff's inquiry regarding MISO's proposal to replace references in the Original GIA to capacitor bank upgrades with references to two new Common Use Upgrades, MISO explains that the capacitor bank upgrades, which were identified as required upgrades in the original Group 5 studies, have been superseded by the new proposed Common Use Upgrades, which were identified as required upgrades in the Group 5 restudy. MISO states that the new Common Use Upgrades – (1) the Arrowhead 345 kV 75 MVAR Cap Bank Addition Duluth Minnesota (Arrowhead Capacitor Bank) and (2) the Hazleton-Mitchell County 345 kV Line Uprate – resolved reliability problems identified in the Candidate MVP scenario that were not otherwise resolved by the Contingent MVPs. Accordingly, MISO proposed in the Amended GIA to add these new Common Use Upgrades while deleting references to the previously-required capacitor bank upgrades.⁴⁴

24. Furthermore, MISO states that MISO's recent Queue Reform efforts have also affected the Group 5 projects and changed the Common Use Upgrades required to

⁴⁰ *Id.* at 4.

⁴¹ *Id.*

⁴² *Id.* at 4-5.

⁴³ *Id.* at 5-6.

⁴⁴ *Id.* at 7-8.

reliably interconnect the group. MISO explains that eight projects from Group 5, in addition to Project Nos. G608 and G618, have withdrawn from the interconnection queue or been placed in the System Planning and Analysis phase under MISO's recently-revised generator interconnection procedures.⁴⁵ As MISO explains, the combined impact of these ten project withdrawals has significantly changed the results of the Group 5 restudy for the remaining Group 5 projects, eliminating the need for the Arrowhead Capacitor Bank and requiring revised cost allocation percentages for the Hazelton-Mitchell County 345 kV rating uprate.⁴⁶

25. With respect to the Contingent MVPs, MISO states that the construction of those MVPs is required in order to reliably interconnect the Oak Glen Project and Group 5 more generally. MISO states that it was an oversight not to include the Contingent MVPs in Exhibit A10 of the Original GIA, and that the Amended GIA could be further revised to include the Contingent MVPs in Exhibit A10.⁴⁷ MISO explains that under the Candidate MVP scenario, which assumes that the Contingent MVPs are in place, the Contingent MVPs address a number of reliability issues that Group 5 otherwise would be responsible for resolving in the "but for" scenario. For example, MISO states that the Oak Glen Project's cost responsibility would be approximately \$9 million higher under the "but for" scenario than under the Candidate MVP scenario reflected in the Amended GIA.⁴⁸ Thus, MISO explains, while Group 5 members' cost responsibility is lower under the Candidate MVP scenario than the "but for" scenario,⁴⁹ the Contingent MVPs are nonetheless required to reliably interconnect Group 5.

26. MISO reiterates that it does not propose to assess to the Oak Glen Project or any other Group 5 member the cost of the Contingent MVPs.⁵⁰ MISO provides a table

⁴⁵ Under MISO's revised generator interconnection procedures, existing customers in the interconnection queue (including many members of Group 5) were required, unless otherwise exempt, to make a financial payment (the M2 milestone payment) by June 28, 2012 to remain in the Definitive Planning Phase. Members of Group 5 which were assessed the M2 milestone payment and failed to pay it were returned to the System Planning and Analysis phase, thereby removing them from Group 5 and the scope of the Group 5 restudy. *Id.* at 8, nn.19-20.

⁴⁶ *Id.* at 8-9.

⁴⁷ *Id.* at 11.

⁴⁸ *Id.* at 14.

⁴⁹ *Id.* at 11, 13.

⁵⁰ *Id.* at 19.

summarizing each Group 5 member’s cost responsibility under a number of scenarios: (1) the results of the original Group 5 studies, which assumed the construction of, and the assignment to Group 5 of the costs for, the Brookings Line; (2) the results of the original Group 5 studies if the cost of the Brookings Line is not allocated to Group 5; (3) the “but for” scenario under the Group 5 restudy, which excludes the three Contingent MVPs and identifies network upgrades required to reliably interconnect Group 5 without those projects in place; (4) the Candidate MVP scenario under the Group 5 restudy, which includes the three Contingent MVPs and assumes cost allocation to transmission delivery service customers pursuant to the MVP-related provisions of the MISO Tariff; (5) a modified Candidate MVP scenario that includes the three Contingent MVPs and assumes that Group 5 members are responsible for the full cost of the Contingent MVPs; and (6) the revised Candidate MVP scenario described in the Supplemental Filing, which accounts for the withdrawal of eight additional projects from Group 5 following the filing of the Amended GIA.⁵¹ The following table summarizes the results of each scenario for Group 5 generally, and for the Oak Glen Project specifically:

MISO Projects	Original 2007 Group 5 Study with Brookings Line (1)	Original 2007 Group 5 Study excluding Brookings Line (2)	2011 Restudy “But For” scenario (3)	2011 Restudy Candidate MVP scenario (4)	2011 Restudy Modified Candidate MVP scenario (5)	2011 Restudy Revised Candidate MVP scenario (post-project withdrawal) (6)
Group 5 Projects	\$996.72 million	\$296.72 million	\$639.27 million	\$298.33 million	\$1,470.31 million	\$106.8 million
G604 (Oak Glen)	\$2.36 million	\$2.36 million	\$12.07 million	\$2.89 million	\$22.61 million	\$2.21 million

27. As MISO explains, the table demonstrates that the Oak Glen Project’s cost responsibility has actually gone down under the revised Candidate MVP scenario post-withdrawal of the additional Group 5 projects. The Oak Glen Project was assessed an estimated \$2.36 million in network upgrades under the original Group 5 studies (scenario 1). After the Group 5 restudy was completed, the Oak Glen Project’s estimated network upgrade cost responsibility increased to \$2.89 million, i.e., the cost responsibility

⁵¹ *Id.* at 17.

reflected in the Amended GIA as filed (scenario 4). However, following the withdrawal of eight additional Group 5 projects subsequent to MISO's filing in this docket and the elimination of the need for the Arrowhead Capacitor Bank, the Oak Glen Project's cost responsibility is now roughly \$2.21 million (scenario 6).⁵²

28. Finally, MISO summarizes the changed system conditions and assumptions that it used in the Group 5 restudy. First, MISO explains that it no longer includes in its base case models projects listed in Appendix B of the MISO Transmission Expansion Plan, as projects included in Appendix B have not received MISO board approval and have not received cost allocation determinations. Instead, Appendix B projects are considered as potential mitigation under the restudy. Second, MISO now evaluates summer off peak conditions assuming that wind is dispatched at 100 percent with load equal to 70-80 percent of peak load, depending on the control area. Third, MISO revised its dispatch assumptions to dispatch to remote MISO local balancing area authorities rather than solely offsetting local Network Resources. Fourth, MISO notes that it applied an additional injection constraint criterion of five percent impact of a system intact (N-0) facility.⁵³ MISO also lists noteworthy transmission exclusions (including the Brookings Line and upgrades associated with Project No. G392).⁵⁴

III. Discussion

A. Procedural Matters

29. 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 parties that filed them parties to this proceeding.

30. 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's answer because it has provided information that assisted us in our decision-making process. We also grant MISO's motion for leave to file one day out of time.

⁵² *Id.* at 18, 20-21.

⁵³ *Id.* at 21-22.

⁵⁴ *Id.* at 22-23.

B. Commission Determination

1. GIA

31. As further discussed below, we conditionally accept the Amended GIA, subject to MISO making a compliance filing that (1) corrects the Common Use Upgrades in the Amended GIA to delete the reference to the Arrowhead Capacitor Bank, (2) revises Exhibit A10 to include references to the Contingent MVPs, and (3) addresses the omission from the Amended GIA of certain members of Group 5.

32. We are sympathetic to the concerns of the Protesters arising from the position in which they now find themselves. Having successfully developed the Oak Glen Project, the Protesters face the possibility of significantly higher network upgrade cost responsibility than contemplated under the original Group 5 studies in the “but for” scenario in the Group 5 restudy. However, what upgrades are required, and the related costs for which the Oak Glen Project may be responsible, under the “but for” scenario is not before us and therefore not at issue in this proceeding. MISO seeks only to amend the Original GIA to reflect the Group 5 restudy results under the Candidate MVP scenario, which as discussed below, we find just and reasonable and consistent with the terms of the Original GIA. However, in the event that MISO proposes to change the system upgrades for which the Oak Glen Project bears cost responsibility, it must file any such amendments to the Amended GIA with the Commission for approval before seeking to recover from Oak Glen costs associated with those upgrades.

33. We find, as a threshold matter, that MISO properly invoked its authority under Article 11.3.1 of the Original GIA to restudy the Oak Glen Project. As MISO explained to the Commission nearly three years ago in the *Community Wind* proceeding, a restudy of Group 5 was required due to the withdrawal of several projects from the interconnection queue.⁵⁵ Among those members of Group 5 that withdrew was Project G438, a higher-queued project listed as a contingent facility in Exhibit A10 of the Original GIA. Based on these facts, we find that MISO properly invoked its restudy authority pursuant to Article 11.3.1(1) of the Original GIA, which authorizes MISO to conduct a restudy to reevaluate the system upgrades required to interconnect the Oak Glen Project if a higher queued interconnection request is withdrawn or deemed withdrawn.

34. The interrelated nature of projects in a group study is also relevant and should be noted here. While it was the withdrawal of a higher-queued project that triggered the restudy authority under Article 11.3.1, Project G438 was not the only member of Group 5 whose withdrawal could impact the Oak Glen Project’s cost responsibility once that

⁵⁵ *Community Wind II*, 131 FERC ¶ 61,165 at P 28.

restudy was properly triggered. As the Commission held in Order No. 2003-A, and section 4.1 of MISO's generator interconnection procedures acknowledges, the determination of cost responsibility for common facilities needed to reliably interconnect a group of interconnection customers may depend on factors other than queue position.⁵⁶ The Oak Glen Project, as a member of Group 5, has a responsibility to fund its share of common facilities required for the reliable interconnection of the group. That the common facilities required have changed as the composition of the group has changed is unfortunate but not surprising, given that the original Group 5 studies addressed more than 30 projects, while the Group 5 restudy concerned significantly fewer. MISO's assertion that it cannot reasonably anticipate in such a large study all of the permutations of required facilities that might result as projects withdraw from the group appears correct. In this instance, this inability to anticipate the current outcome means that some common upgrades not identified in the original Group 5 studies are nonetheless required for the reliable interconnection of the remaining members of Group 5. We expect that MISO's recently-implemented queue reform procedures, which, among other things, impose greater financial obligations upon customers to proceed through the queue and thus better protect viable projects from the impact of the withdrawal of speculative projects, will help minimize this risk for interconnection customers going forward.

35. We also find, under the limited circumstances before us, that MISO's decision to update the system conditions and assumptions used for the Group 5 restudy was appropriate. MISO was faced with a unique situation: a collection of more than 20 projects across a large geographic area is being restudied together years after the original studies were performed, for the purpose of determining the upgrades necessary to reliably interconnect the *group* of projects. Relying on outdated model assumptions to perform the Group 5 restudy could result in the construction of unneeded facilities. Given these facts, we find, contrary to the Protesters' contentions, that MISO's decision to use updated system conditions and assumptions was reasonable, and not contrary to the Original GIA in the circumstances presented.

36. We find that the Protesters' remaining arguments are either premature or without merit. Their primary objection is to the imposition of the "but for" scenario costs and

⁵⁶ *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, at P 120, *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); *see also* MISO Tariff, Attachment X § 4.1.

corresponding network upgrades under the Group 5 restudy.⁵⁷ As explained above, MISO is not at this time proposing to amend the Original GIA to incorporate those upgrades; rather, it seeks only to revise the network upgrades required for the Oak Glen Project under the Candidate MVP scenario. Accordingly, to the extent that the Protesters object only to the assessment of cost responsibility under the “but for” scenario, their objections are premature. We also note that the Oak Glen Project’s cost responsibility under the current revised Candidate MVP scenario is less than under the Original GIA, a result to which the Protesters did not object.

37. As noted earlier, we also find that MISO’s filing of the Amended GIA is permissible under the terms of the Original GIA. Article 11.3.2 of the Original GIA provides that the Interconnection Customer agrees both to (1) enter into an Interconnection Study Agreement if a restudy is properly invoked pursuant to Article 11.3.1 prior to the time that system upgrades required for higher-queued customers are in place, and (2) amend Appendix A “in accordance with Article 30.10 to reflect the results of any restudy required under this Article 11.3.2.”⁵⁸ Having found that restudy was properly invoked, and that the results of the restudy under the Candidate MVP scenario are appropriately applied to the Oak Glen Project, the Commission also finds that amendment of the Original GIA as MISO currently proposes is contemplated by, and consistent with, the plain language of the Original GIA.

38. We also deny Protesters’ argument that MISO should be prohibited from allocating to the Oak Glen Project costs for upgrades not identified in the Original GIA because MISO was obligated by Order No. 2003-A to include a maximum estimate of funding exposure should higher-queued projects withdraw.⁵⁹ As noted above, the sheer size of Group 5, coupled with MISO’s inability to reasonably predict and incorporate into each GIA the cost responsibility for each permutation of Group 5, has injected uncertainty regarding individual group members’ maximum cost exposure. That said, the Commission again notes that the current estimate for the Oak Glen Project’s cost responsibility under the revised Candidate MVP scenario is in fact less than estimated under the original Group 5 studies, and the Protesters have not objected to that result.

39. Finally, we direct MISO to submit a revised Amended GIA within 30 days. MISO notes in its Supplemental Filing that the withdrawal of additional members of Group 5

⁵⁷ E.g., Oak Glen Protest at 5 (“The Amended and Restated GIA includes provisions that may lead to unjust and unreasonable charges to the MMPA *should the Group 5 “but for” cost allocation be imposed upon MMPA.*” (italics added)).

⁵⁸ Original GIA, art. 11.3.2.

⁵⁹ Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 320.

subsequent to MISO's filing of the Amended GIA has further revised the remaining Group 5 members' cost responsibility and eliminated the Arrowhead Capacitor bank that MISO originally proposed to include in the Amended GIA. MISO therefore must submit a revised Amended GIA that removes references to the Arrowhead Capacitor Bank, revises the cost allocation percentages for the Hazelton-Mitchell County 345 kV rating uprate, and updates the cost responsibility for the Oak Glen Project. In addition, MISO acknowledges that it inadvertently omitted from Exhibit A10 references to the Contingent MVPs, so the Commission directs MISO to add references to those projects in Exhibit A10. Finally, it appears that MISO omitted or removed from the list of remaining Group 5 projects in Appendix A, Exhibit A10, several additional members of Group 5 that appear to remain part of the group. In its compliance filing, MISO must (1) explain whether that omission was intentional and justified based upon the outcome of the Group 5 restudy, and (2) if not, amend the Amended GIA to add those projects.

2. Waiver of 60-Day Prior Notice Requirement

40. We grant waiver of the 60-day prior notice requirement for good cause shown and make the Amended GIA effective May 24, 2012.⁶⁰

The Commission orders:

(A) The Amended GIA is hereby conditionally accepted, effective May 24, 2012, as discussed in the body of this order.

(B) MISO is hereby directed to make a compliance filing, within 30 days of the date of this order, as directed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶⁰ See *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,339, *reh'g denied*, 61 FERC ¶ 61,089 (1992).