

153 FERC ¶ 61,313
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, and Tony Clark,

Midwest Independent Transmission System Operator, Inc. Docket Nos. ER12-2302-002
ER12-2302-003

ORDER ON REHEARING AND COMPLIANCE

(Issued December 17, 2015)

1. On July 22, 2014, the Commission issued an order conditionally accepting Midwest Independent Transmission System Operator, Inc.'s (MISO)¹ revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)² regarding MISO's System Support Resource (SSR)³ procedures made in compliance with an order issued on September 21, 2012.⁴ On August 21, 2014, MISO and Wisconsin

¹ Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

² MISO, FERC Electric Tariff, 2, Modules, Module C, Energy and Operating Reserve Markets, II, General Provisions, 38, General Responsibilities and Requirements, 38.2, Market Participants, 38.2.7, System Support Resources (3.0.0), § 38.2.7.

³ The Tariff defines SSRs as "Generation Resources or Synchronous Condenser Units that have been identified in Attachment Y – Notification to this Tariff and are required by the Transmission Provider for reliability purposes, to be operated in accordance with the procedures described in Section 38.2.7 of this Tariff." MISO, FERC Electric Tariff, Fourth Revised Vol. No. 1, First Revised Sheet No. 288, § 1.643. Unless indicated otherwise, all capitalized terms shall have the same meaning given to them in MISO's Tariff.

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012) (September 2012 Order), *order on compliance*, 148 FERC ¶ 61,056 (2014) (July 2014 Order).

Electric Power Company (Wisconsin Electric) filed requests for rehearing, or in the alternative, clarification, of the July 2014 Order in Docket No. ER12-2302-002. On September 19, 2014,⁵ MISO submitted a compliance filing with proposed Tariff revisions as directed by the July 2014 Order in Docket No. ER12-2302-003.⁶ In this order, we deny rehearing and grant clarification, and we accept subject to condition, effective September 24, 2012, MISO's proposed Tariff revisions.

I. Background

2. Under MISO's Tariff, market participants that decide to suspend or retire a Generation Resource or Synchronous Condenser Unit must submit an Attachment Y Notice to suspend or retire. MISO then conducts a reliability study to determine whether all or a portion of the resource's capacity is needed to maintain system reliability. If MISO finds that the resource is needed to maintain system reliability and no feasible alternatives exist, MISO designates the Generation Resource or Synchronous Condenser Unit as an SSR Unit and then enters into an SSR agreement to ensure that the resource continues to operate, as needed.⁷

3. On July 25, 2012, MISO submitted proposed Tariff revisions regarding the treatment of resources that submit Attachment Y Notices.⁸ The Commission conditionally accepted MISO's proposed Tariff revisions in the September 2012 Order, effective September 24, 2012, subject to further compliance.⁹ As relevant here, in the September 2012 Order, the Commission conditionally accepted MISO's general proposal permitting owners and operators of retiring facilities to retain and transfer interconnection service on the condition that MISO modify its proposal to ensure that such proposal will

⁵ On July 30, 2014, MISO filed a motion for extension of time to fulfill the compliance requirements directed by the July 2014 Order. On August 12, 2014, the Commission granted MISO's motion and extended the time for MISO to comply until September 19, 2014.

⁶ MISO, Compliance Filing, Docket No. ER12-2302-003 (filed Sept. 19, 2014) (September 2014 Compliance Filing).

⁷ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *reh'g denied*, 109 FERC ¶ 61,157 (2004).

⁸ MISO, Filing, Docket No. ER12-2302-000 (filed July 25, 2012) (July 2012 Filing).

⁹ September 2012 Order, 140 FERC ¶ 61,237 at P 1.

be implemented in a just and reasonable and not unduly discriminatory manner.¹⁰ The Commission explained that it recognized the benefits to an owner or operator of a retiring resource to retain and transfer the retiring unit's interconnection service, but raised several issues with MISO's specific proposal allowing an owner or operator of an SSR Unit planning to retire a facility to transfer its interconnection service to a new facility. For example, the Commission explained that MISO did not illustrate how its proposal is consistent with its Tariff, indicate how it will evaluate a transfer of interconnection service, describe the nature of interconnection service being transferred, address potential competitive implications of its proposal, or provide sufficient transparency for transfers to occur.¹¹ Additionally, as relevant here, the Commission accepted MISO's proposal explaining its process for identifying SSR alternatives subject to the condition that, among other things, MISO submit further explanation of its process for identifying SSR alternatives and its basis for selecting an SSR alternative among those identified.¹² The Commission explained that MISO did not describe its proposal in detail, including how its existing planning process will ensure a thorough consideration of all types of SSR alternatives in an open and transparent manner.¹³ Finally, as relevant here, the Commission accepted MISO's proposal allocating SSR costs without regard to historical local balancing authority boundaries subject to the condition that, among other things, MISO submit an explanation of the general principles MISO will apply to identify load-serving entities (LSEs) that should pay SSR costs, including whether MISO will apply its existing planning process to identify SSR beneficiaries.¹⁴

4. On December 18, 2012, MISO submitted a compliance filing proposing additional Tariff revisions as required by the September 2012 Order.¹⁵ In the July 2014 Order, the Commission conditionally accepted MISO's proposed Tariff revisions in its December 2012 Compliance Filing, effective September 24, 2012, subject to further compliance.¹⁶

¹⁰ *Id.* P 47.

¹¹ *Id.* PP 48-52.

¹² *Id.* P 36.

¹³ *Id.*

¹⁴ *Id.* P 154.

¹⁵ MISO, Compliance Filing, Docket No. ER12-2302-001 (filed Dec. 18, 2012) (December 2012 Compliance Filing).

¹⁶ July 2014 Order, 148 FERC ¶ 61,056 at P 1.

As relevant here, the Commission accepted MISO's revised proposal allowing an owner or operator of an SSR Unit planning to retire a facility to retain or transfer its interconnection service to a new facility subject to the condition that MISO submit further Tariff revisions proposing additional procedures to ensure that the transfer of interconnection service to a new generator, or to increase the capacity of an existing facility at the identical point of interconnection, is offered in a just and reasonable and not unduly discriminatory manner.¹⁷ Additionally, the Commission accepted MISO's revised proposal for identifying SSR alternatives subject to the condition that MISO submit further explanation and Tariff revisions clarifying how the contractual commitments required of generation resources, demand-side resources, and potentially additional types of resources, are comparable to the commitments that apply to transmission solutions.¹⁸ Finally, the Commission accepted MISO's explanation of the general principles that MISO will apply to identify the LSEs that should pay SSR costs.¹⁹

II. Requests for Rehearing or Clarification

5. On August 21, 2014, MISO requested rehearing, or in the alternative, clarification of the Commission's directives in the July 2014 Order related to the transfer of interconnection service and comparable firmness of commitment issues.²⁰ On the same day, Wisconsin Electric requested clarification, or in the alternative, rehearing of the Commission's acceptance in the July 2014 Order of MISO's explanation of the general principles that MISO will apply to identify the LSEs that should pay SSR costs.²¹
6. On September 5, 2014, MISO filed a request for leave to answer and answer to Wisconsin Electric's Rehearing Request.

¹⁷ *Id.* P 50, Requirement 6.

¹⁸ *Id.* P 34.

¹⁹ *Id.* P 49.

²⁰ MISO, Rehearing Request, Docket No. ER12-2302-002, at 1-2 (filed Aug. 21, 2014) (MISO Rehearing Request).

²¹ Wisconsin Electric, Rehearing Request, Docket No. ER12-2302-002, at 3 (filed Aug. 21, 2014) (Wisconsin Electric Rehearing Request).

III. MISO's Compliance Filing

7. In its September 2014 Compliance Filing, MISO proposed Tariff revisions to comply with the July 2014 Order. MISO states that its compliance filing responds to directives in the July 2014 Order and includes corresponding Tariff revisions to MISO's SSR procedures,²² Attachment Y-1 *pro forma* SSR Agreement, and Attachment Y-2 *pro forma* Request for Study.

IV. Notice of Filings and Responsive Pleadings

8. Notice of MISO's September 2014 Compliance Filing in Docket No. ER12-2302-003 was published in the *Federal Register*, 79 Fed. Reg. 58,757 (2014), with interventions and protests due on or before October 10, 2014.

9. Prairie Power, Inc. filed a timely motion to intervene and the Council of the City of New Orleans, Louisiana filed a notice of intervention.

10. On October 17, 2014, Alliant Energy filed a motion to accept protest out-of-time and protest regarding MISO's September 2014 Compliance Filing.²³

V. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the notice of intervention and timely, unopposed motion to intervene serve to make the entities that filed them parties to the proceeding.

12. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2015) prohibits answers to requests for rehearing. Accordingly, we reject MISO's answer to Wisconsin Electric's Rehearing Request.

²² See MISO, FERC Electric Tariff, 38.2.7, System Support Resources (36.0.0), § 38.2.7.

²³ Alliant Energy was made an intervenor in the September 2012 Order.

B. Substantive Matters**1. Transfer and Retention of Interconnection Service****a. July 2014 Order**

13. In the July 2014 Order addressing MISO's December 2012 Compliance Filing, the Commission noted that while MISO had satisfied many of the requirements of the September 2012 Order, there were additional compliance requirements that MISO had not fully addressed. As relevant here, the July 2014 Order noted MISO had not complied with the requirement to submit further Tariff revisions proposing procedures to ensure that the transfer of interconnection service to a new generator, or to increase the capacity of an existing facility at the identical point of interconnection, is offered in a just and reasonable and not unduly discriminatory manner.²⁴ The Commission noted that MISO's assertions in the December 2012 Compliance Filing that existing provisions of its Tariff already allow for the transfer of interconnection service and, therefore, MISO need not address the Commission's requirements amount to an untimely request for rehearing, and in any case, are incorrect.²⁵ In addressing MISO's specific assertions, the Commission stated that MISO's Generator Interconnection Procedures (GIP) section 4.3²⁶ and *pro forma* Generator Interconnection Agreement (GIA) article 19.1²⁷ address the transfer and reassignment, respectively, of interconnection service for a specific generating facility from one party to another, and do not address a change in the underlying generating facility. The Commission continued that although MISO GIP section 2.1(a)(iv)²⁸ addresses the application of the GIP to any substantive modification to the operating characteristics of an existing generating facility, it does not address the

²⁴ July 2014 Order, 148 FERC ¶ 61,056 at P 50, Requirement 6 (citing September 2012 Order, 140 FERC ¶ 61,237 at PP 47-52).

²⁵ MISO did not seek rehearing of the September 2012 Order, in which the Commission, among other things, directed MISO to modify its transfer of interconnection service proposal to ensure that it will be implemented in a just and reasonable and not unduly discriminatory manner. *See* September 2012 Order, 140 FERC ¶ 61,237 at PP 47-52.

²⁶ MISO, FERC Electric Tariff, Attachment X (32.0.0), § 4.37

²⁷ MISO, FERC Electric Tariff, Attachment X (32.0.0), app. 6, art. 19.1.

²⁸ MISO, FERC Electric Tariff, Attachment X, (32.0.0), § 2.1(a)(iv).

replacement of a retiring unit with new generation.²⁹ As such, the Commission required MISO to submit further Tariff revisions proposing additional procedures to ensure that the transfer of interconnection service to a new generator, or to increase the capacity of an existing facility at the identical point of interconnection, is offered in a just and reasonable and not unduly discriminatory manner.

b. MISO's Rehearing Request

14. MISO states that the July 2014 Order should be reversed or clarified to permit MISO to comply with the same generation interconnection procedures for the replacement of a retiring SSR Unit with new generation that applies to all other retiring units.³⁰ MISO states that the Commission directed MISO to modify its Tariff to create additional generation interconnection procedures for the transfer of interconnection service to a new generator, but argues that its Termination of Interconnection Rights section³¹ provides, in part, that the owner of an SSR Unit may have the opportunity to transfer its interconnection rights if it complies with the same generation interconnection procedures with which all other generation facilities must comply.³²

15. MISO states that its Tariff treats all generation interconnection requests in an equal and non-discriminatory manner, whether or not such requests result from the operation of SSR Tariff provisions.³³ MISO explains that the approved MISO generation interconnection Tariff procedures do not address the replacement of a retiring unit with

²⁹ July 2014 Order, 148 FERC ¶ 61,056 at P 50 n.111.

³⁰ MISO Rehearing Request at 3 (citing July 2014 Order, 148 FERC ¶ 61,056 at P 50, Requirement 6).

³¹ MISO, FERC Electric Tariff, 38.2.7, System Support Resources (3.0.0), § 38.2.7.j (Termination of Interconnection Rights).

³² MISO Rehearing Request at 4.

³³ *Id.* at 5 (citing *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)).

new generation under the SSR Tariff provisions in any different manner than any other generation interconnection request, which is consistent with Order No. 2003.³⁴

16. MISO continues that the July 2014 Order lacks explanation regarding the need for additional procedures in the MISO Tariff to address generation facilities that interconnect pursuant to the SSR procedures.³⁵ Additionally, MISO states that the July 2014 Order appears to require MISO to propose generator interconnection procedures for generation facilities involved with SSR Tariff provisions that are different than those used for all other types of generation interconnections. MISO explains that such an interpretation would require MISO to develop discriminatory generation interconnection procedures that would only be applicable in the context of the SSR Tariff provisions.

17. MISO also states that the July 2014 Order appears to direct MISO to modify GIP section 4.3 and GIA article 19.1 because these Tariff provisions do not address a change in an underlying generating facility. MISO also states that the July 2014 Order appears to direct MISO to modify GIP section 2.1(a)(iv) because it does not address the replacement of a retiring unit with new generation.³⁶ MISO explains that it is unclear from the July 2014 Order how MISO is being directed to modify these existing Tariff sections to address the replacement of a retiring unit with new generation without creating discriminatory terms and conditions in such contexts that would not apply to a generation interconnection request that was unrelated to the SSR Tariff provisions.

c. Commission Determination

18. We deny MISO's request for rehearing. We are not requiring MISO to adopt Tariff provisions that would lead to discriminatory treatment regarding how all other types of generation interconnections are handled under MISO's Tariff. MISO's generator interconnection Tariff procedures, specifically GIP section 4.3 and GIA article 19.1 address the transfer and reassignment, respectively, of interconnection service for a specific existing generating facility from one party to another and do not address the transfer of interconnection service from an existing generating facility to an entirely new generating facility. We also note that MISO GIP section 2.1(a)(iv) addresses the application of its GIP to any substantive modification to the operating characteristics of an existing generating facility, but does not address the replacement of a retiring unit with new generation as MISO suggests.

³⁴ *Id.*

³⁵ *Id.* at 6.

³⁶ *Id.* at 6-7.

19. Therefore, MISO's assertion that its proposal in the December 2012 Compliance Filing that the owner of an SSR Unit may have the opportunity to transfer its interconnection service if it complies with the same generation interconnection procedures with which all other generation facilities must comply misunderstands GIP sections 2.1(a)(iv) and 4.3 and GIA article 19.1. These specific generation interconnection procedures do not address the replacement of a retiring unit with new generation in order to allow MISO to implement its proposal. Accordingly, we deny rehearing.

d. MISO's Compliance Filing

20. In MISO's September 2014 Compliance Filing, MISO proposes revisions to Tariff section 38.2.7.k, which MISO states applies to the retention of interconnection service.³⁷ Specifically, MISO proposes the following underlined revisions to address the retention of interconnection service:

The owner or operator . . . may retain its interconnection rights . . . if . . . the owner or operator of an SSR Unit planning to Retire a facility has submitted an Attachment X request with the Attachment Y Notice for substantive modifications to replace or increase the capacity of the retiring facility at the identical point of interconnection, in which case the interconnection rights may be retained by the owner of the modified facility upon successful completion of the interconnection procedures in Attachment X.^[38]

21. MISO states that the retention of interconnection rights by an owner or operator of a generation resource or Synchronous Condenser Unit that is needed for reliability is just and reasonable and not unduly discriminatory. MISO explains that revised Tariff section 38.2.7.k deals with the limited circumstance of substantive equipment modifications where the retirement of the entire generating facility is not intended.³⁹

³⁷ MISO, FERC Electric Tariff, 38.2.7, System Support Resources (36.0.0), § 38.2.7.k (Termination of Interconnection Rights).

³⁸ MISO September 2014 Compliance Filing at 9.

³⁹ *Id.* MISO indicates that, outside of this compliance context, it may submit Tariff revisions that remove the requirement to submit an Attachment Y Notice since retirement of the generating is not the overall result. *Id.*

22. MISO also states that the transfer of interconnection rights to a new owner as part of an SSR Unit owner's plans to retire is no longer the subject of revised Tariff section 38.2.7.k (i.e., specific references to GIP section 4.3 and GIA article 19.1 have been deleted). MISO states that it proposes to evaluate requests for the transfer of interconnection rights to a new owner according to the provisions in Attachment X and states that this treatment is just, reasonable, and not unduly discriminatory; relies upon approved Tariff language; and is consistent with the intent of Order No. 2003.⁴⁰

e. Alliant Energy's Protest

23. Alliant Energy states that the Commission should reject MISO's proposed Tariff revisions in the September 2014 Compliance Filing. Alliant Energy explains that although MISO's proposed Tariff language ensures the transfer of interconnection rights, the proposed language only addresses the transfer of a retiring generator's rights to a replacement generator at the identical point of interconnection for a generating resource that MISO required to remain in service as an SSR Unit and then is subsequently allowed to retire. Alliant Energy contends that MISO's proposed Tariff revisions do not address the situation in which a resource files an Attachment Y Notice and is allowed to retire without becoming an SSR Unit but wishes to transfer its interconnection rights to a replacement generator at the identical point of interconnection.⁴¹ Alliant Energy continues that the Commission did not make a distinction between the transfer of interconnection service for a unit that is required to become an SSR Unit and a unit that is allowed to retire without becoming an SSR Unit; however, Alliant Energy argues, MISO's proposed Tariff revisions make such a distinction, which is unduly discriminatory.⁴²

f. Commission Determination

24. We accept subject to condition, effective September 24, 2012, MISO's revised proposal in its September 2014 Compliance Filing.⁴³

⁴⁰ *Id.*

⁴¹ Alliant Energy Protest at 8.

⁴² *Id.* at 9-10.

⁴³ The Commission can revise a proposal filed under section 205 of the Federal Power Act as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

25. First, we accept MISO's proposed revisions to section 38.2.7.k of its Tariff to remove specific references to GIP section 4.3 and GIA article 19.1. The Commission found in the July 2014 Order that MISO's GIP section 4.3 and GIA article 19.1 address the transfer and reassignment, respectively, of interconnection service for a specific generating facility from one party to another. Consistent with this finding, we accept MISO's proposal to remove such provisions from this section of the Tariff and agree that MISO should evaluate requests to transfer interconnection service to a new owner according to the provisions in Attachment X.

26. However, we continue to have concerns with MISO's proposal allowing an owner of an SSR Unit to retain interconnection service for its facility if the owner submits an Attachment Y Notice with an Attachment X request for substantive modifications to replace or increase the capacity of the retiring facility. Consistent with our denial of rehearing above, we find that MISO's proposed language is not permitted under Attachment X. We interpret MISO's proposed Tariff language as allowing the replacement of the retiring facility with capacity of another facility, including replacement with more capacity than the capacity of the retiring facility, through a substantive modification request, and such an interpretation is inconsistent with the Commission's finding above, and previously, that MISO's GIP section 2.1(a)(iv) does not address the replacement of a retiring unit with new generation.⁴⁴

27. If MISO intends to allow the replacement of the retiring facility with capacity of another facility, including replacement with more capacity than the capacity of the retiring facility, MISO must propose procedures as part of its Tariff to ensure that the opportunity to replace or increase the capacity of the retiring facility is offered on a fair, transparent, and nondiscriminatory basis.⁴⁵ As noted previously, the procedures should allow for a clear and consistent way in which generators seeking a transfer of interconnection service from a retiring generator may identify opportunities and how such a generator would be chosen for such service.⁴⁶ Moreover, any resulting rates,

⁴⁴ See July 2014 Order, 148 FERC ¶ 61,056 at P 50 n.111.

⁴⁵ See September 2012 Order, 140 FERC ¶ 61,237 at P 52. We note that MISO has already addressed how it will evaluate and study the replacement of a retiring unit with new generation. See December 2012 Compliance Filing at 9-13.

⁴⁶ See September 2012 Order, 140 FERC ¶ 61,237 at P 51.

terms, and conditions related to the transfer of interconnection service must be filed pursuant to section 205 of the Federal Power Act.⁴⁷

28. Additionally, MISO's proposal limits the retention of interconnection rights to an "owner or operator of an SSR Unit planning to Retire a facility." However, as Alliant Energy states and we agree, MISO's proposal allows for different treatment by creating a distinction between an owner of a retiring resource that is allowed to retire and one that is designated as an SSR Unit. MISO did not provide sufficient justification for the distinction and such disparate treatment raises undue discrimination concerns. Thus, we direct MISO to eliminate the distinction.

29. Therefore, we accept subject to condition, effective September 24, 2012, MISO's proposed Tariff revisions to section 38.2.7.k and direct MISO to submit a compliance filing within 45 days of the date of this order revising section 38.2.7.k with procedures to ensure that the transfer and retention of interconnection service to another generator occurs in a manner that is just and reasonable and not unduly discriminatory or preferential. We also note that MISO uses the term "interconnection rights" instead of "interconnection service" throughout section 38.2.7.k. In order to be consistent with MISO's Tariff, we direct MISO to use the term "interconnection service."

2. Comparable Firmness of Commitment

a. July 2014 Order

30. In the July 2014 Order, the Commission conditionally accepted MISO's proposed Tariff revisions in its December 2012 Compliance Filing allowing MISO to evaluate SSR alternatives with its stakeholders pursuant to the open and transparent planning provisions of existing Attachment FF (Transmission Expansion Planning Protocol) of the Tariff, and to consider alternatives such as the re-dispatch of existing generation, new generation in the interconnection queue, system reconfiguration, load reductions, and transmission upgrade solutions.⁴⁸ The Commission stated that in light of the unique

⁴⁷ *Id.* PP 50-51. The Commission raised similar concerns in MISO's Net Zero Interconnection Service proceeding, which required MISO, among other things, to provide Tariff language detailing the selection process for Net Zero opportunities, including posting requirements, and requiring any compensation arrangements to be filed with the Commission. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,233 (2012), *order on reh'g and compliance*, 139 FERC ¶ 61,253 (2012), *order on compliance*, 145 FERC ¶ 61,260 (2013), *order on compliance*, 152 FERC ¶ 61,184 (2015).

⁴⁸ July 2014 Order, 148 FERC ¶ 61,056 at PP 9-11.

characteristics of MISO's SSR program, MISO may need to obtain certain contractual assurances that a selected SSR alternative will be implemented prior to the required in-service date; however, MISO has not demonstrated that the required contractual commitments that apply to generation and demand-side resources are comparable to the commitments that apply to transmission solutions.⁴⁹ The Commission directed MISO to submit further explanation, and corresponding Tariff revisions, to clarify how the contractual commitments required of generation resources, demand-side resources, and potentially additional types of resources, are comparable to the commitments that apply to transmission solutions.⁵⁰

b. MISO's Rehearing Request

31. MISO states that the Commission should reverse or clarify one aspect of the requirement for MISO to modify its Tariff to provide that contractual commitments that apply to generation resources and demand-side resources that are alternatives to SSR Units be comparable to the commitments that apply to transmission solutions developed by MISO.⁵¹ MISO states that the Commission agreed with MISO that it may need to obtain certain contractual assurances that a selected SSR alternative will be implemented prior to the required in-service date, but explains that the Commission's directive requires MISO to add specificity under circumstances where the Commission does not explain what resources would qualify as "potentially additional types of resources." Additionally, MISO explains that the Commission does not provide direction regarding comparisons of fundamentally different contractual commitments that should be examined for purposes of comparability in the Tariff.⁵² MISO continues that the contractual commitments for alternatives to SSR agreements are fundamentally different than the commitments that apply to transmission solutions because contractual commitments for alternatives to SSR agreements require greater specificity.⁵³

⁴⁹ *Id.* P 34 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261, at P 216 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

⁵⁰ *Id.*

⁵¹ MISO Rehearing Request at 8.

⁵² *Id.* at 9-10.

⁵³ *Id.* at 10-11.

c. Commission Determination

32. We grant MISO's request for clarification. MISO argues that the July 2014 Order required MISO to submit Tariff revisions clarifying how the contractual commitments required of generation resources, demand-side resources, and potentially additional types of resources, are comparable to the commitments that apply to transmission solutions, but the Commission did not explain what resources would qualify as "potentially additional types of resources" and did not provide direction regarding comparisons of fundamentally different contractual commitments. MISO asserts that the types of possible alternatives and special circumstances surrounding the types cannot be completely anticipated by MISO.⁵⁴ We agree with MISO's assertion and given this uncertainty, we clarify the directive from the July 2014 Order and direct MISO to submit Tariff revisions that provide specific guidance about the contractual commitments required of generation and demand-side resource alternatives, and general guidance about how MISO will evaluate whether contractual commitments required for additional types of resources are comparable to the commitments that apply to transmission solutions. As discussed below, in its September 2014 Compliance Filing, MISO complies, subject to condition, with this clarified directive.

d. MISO's Compliance Filing

33. In its September 2014 Compliance Filing, MISO proposes revisions to the comparable firmness of commitment provision in Tariff section 38.2.7.c.⁵⁵ Specifically, MISO proposes the following underlined revisions to provide general guidance about how it will evaluate the firmness of commitment for additional types of resource alternatives (i.e., resources that are different than generation or demand-side resource alternatives):

Comparability includes the ability of [MISO] to require contractual assurances that the Market Participant who provides the alternative solution will implement the solution before the Generation Resource . . . is permitted to Retire or Suspend. The executed contractual arrangements must provide a binding arrangement that obligates the Market Participant . . . to complete any required infrastructure changes that are needed to avoid the reliability issues that would otherwise be addressed by transmission upgrades. While the contractual arrangements will vary based

⁵⁴ *Id.* at 11.

⁵⁵ MISO, FERC Electric Tariff, 38.2.7, System Support Resources (36.0.0), § 38.2.7.c (Evaluation of SSR Unit Application).

on the particular solution, the terms of the contractual arrangements must further obligate the Market Participant . . . to implement actions when required by [MISO] to provide necessary relief.[⁵⁶]

34. MISO also proposes the following underlined revisions to clarify the specific contractual commitments associated with generation and demand-side resource alternative solutions:

A Generator alternative may be a new Generator, or an increase to existing Generator capacity, which has an executed Generator Interconnection Agreement pursuant to Attachment X for a Commercial Operation Date that is prior to the commencement of the change of status date of the Generation Resource . . . and must be registered as a Generation Resource that is obligated to offer into the market and respond to instructions from [MISO]. Contractual commitments associated with demand-side resource alternative solutions shall require demonstration to [MISO] of an executed contract between LSE or [Aggregator of Retail Customers] and Energy Consumers as well as necessary procedures and protocols for responding to [MISO] instructions.[⁵⁷]

e. Commission Determination

35. We accept, subject to condition, effective September 24, 2012, MISO's proposed revisions to Tariff section 38.2.7.c because the revisions as modified herein satisfy the Commission's directive, as clarified above. We find that, in light of the unique characteristics of MISO's SSR program, MISO's proposed revisions demonstrate that the required contractual commitments that apply to generation and demand-side resources are comparable to the commitments that apply to transmission solutions.⁵⁸ We find that MISO's proposed revisions provide general guidance for all potential additional types of SSR resource alternatives, which allows MISO discretion for choosing viable alternatives, while also providing specific guidance for generator and demand-side resource alternatives. However, we note that MISO's proposed revisions providing that a "Generator alternative may be a new Generator, or an increase to existing Generator capacity" do not address the situation where an existing generator, which is not available at the time of SSR designation and is subsequently made available, can be selected as an

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ See July 2014 Order, 148 FERC ¶ 61,056 at P 34.

alternative solution.⁵⁹ Therefore, we direct MISO to submit a compliance filing within 45 days of the date of this order revising Tariff section 38.2.7.c to provide for an existing generator to be considered as a generator alternative.

3. Cost Allocation

a. July 2014 Order

36. In the July 2014 Order, the Commission accepted MISO's explanation of the general principles that MISO will apply to identify the LSEs that should pay SSR costs.⁶⁰ The Commission noted that MISO's explanation—including that it will allocate SSR costs *pro rata* to all LSEs in a pricing zone that requires the SSR Unit for reliability—was more restrictive than the MISO Tariff requires, and could be at odds with MISO's practice in situations where the pricing zone and local balancing authority area are not one and the same.⁶¹ The Commission also noted that MISO's Tariff allows it the flexibility to apply a different level of granularity in order to identify the relevant LSEs that require the SSR Unit.⁶²

b. Wisconsin Electric's Clarification Request

37. Wisconsin Electric states that the Commission's statement in the July 2014 Order indicating that MISO has flexibility in the method it uses to identify the beneficiaries of an SSR Unit should be clarified such that, in all circumstances, the results of MISO's methodology must be consistent with MISO's Tariff and therefore must allocate costs "to the LSE(s) which require the operation of the SSR Unit for reliability purposes."⁶³

⁵⁹ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, Docket Nos. ER15-1395-000, ER15-1396-000 (Apr. 23, 2015) (delegated letter order) (accepting MISO's notice of termination of an SSR Agreement between MISO and White Pine Electric Power, LLC for White Pine Unit No. 2 and request to cancel Rate Schedule 43I associated with the SSR Agreement due to the availability of the existing Portage generator).

⁶⁰ July 2014 Order, 148 FERC ¶ 61,056 at P 49.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Wisconsin Electric Clarification Request at 3-4 (citing MISO, FERC Electric Tariff, 38.2.7, System Support Resources (3.0.0), § 38.2.7.k (Allocation of SSR Unit Costs)).

Wisconsin Electric continues that if an outcome of MISO's methodology in a particular circumstance were to allocate substantial SSR costs to non-beneficiaries, such an outcome must be rejected as contrary to the Commission's orders and MISO's Tariff.⁶⁴ Last, Wisconsin Electric states concerns with MISO's practice at the time of allocating SSR costs by relying on local balancing authority boundaries.

c. Commission Determination

38. We clarify that MISO must allocate SSR costs consistent with its Tariff, which requires such costs to be allocated to the LSEs that require the operation of the SSR Units for reliability purposes.⁶⁵ We agree with Wisconsin Electric's concern that MISO's practice of allocating SSR costs (which, at the time of Wisconsin Electric's request for clarification filing, relied upon local balancing authority boundaries) can produce results that are not consistent with MISO's Tariff or cost-causation principles by failing to allocate costs to the LSEs that benefit from those SSR Units, and on February 19, 2015, the Commission issued an order addressing such a concern.⁶⁶

The Commission orders:

(A) MISO's request for rehearing on the transfer of interconnection service issue is denied, as discussed in the body of this order.

(B) MISO's request for clarification on the comparable firmness of commitment issue is granted, as discussed in the body of this order.

(C) Wisconsin Electric's request for clarification on the cost allocation issue is granted, as discussed in the body of this order.

(D) MISO's proposed Tariff revisions in its September 2014 Compliance Filing are accepted subject to condition, effective September 24, 2012, as discussed in the body of this order.

⁶⁴ *Id.* at 4.

⁶⁵ See July 2014 Order, 148 FERC ¶ 61,056 at P 49 (citing September 2012 Order, 140 FERC ¶ 61,237 at PP 147, 153, 154).

⁶⁶ *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,104, *order on compliance*, 152 FERC ¶ 61,216 (2015).

(E) MISO is hereby directed to submit a compliance filing within 45 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.