

144 FERC ¶ 61,206
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

PJM Interconnection, L.L.C.

Docket Nos. ER11-2814-000
ER11-2814-001
ER11-2815-001
ER11-2815-002
ER11-2815-004

ORDER APPROVING SETTLEMENT

(Issued September 19, 2013)

1. In this order, the Commission approves a settlement filed on July 27, 2011 by American Transmission Systems, Inc. (ATSI) on behalf of PJM Interconnection, L.L.C. (PJM); American Municipal Power, Inc.; and Buckeye Power, Inc. (the Settling Parties) that resolves issues set for hearing and settlement judge procedures by making revisions to ATSI's formula rate protocols (Protocols Settlement).

I. Background

2. On February 1, 2011, PJM and ATSI jointly submitted modifications to the PJM Open Access Transmission Tariff (Tariff), the Amended and Restated Operating Agreement (OA), the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region (RAA) and the Consolidated Transmission Owners Agreement (TOA) in connection with ATSI's integration into PJM, effective June 1, 2011. PJM proposed various ministerial revisions to the PJM Tariff, OA, RAA and TOA to implement the integration of the ATSI Zone into the PJM Region. PJM also proposed substantive revisions to the PJM Tariff to, *inter alia*, recover from transmission customers in the ATSI zone: (1) PJM integration-related costs, (2) deferred internal integration costs,

(3) Midwest Independent Transmission System Operator, Inc. (MISO)¹ exit fees, (4) costs of transmission projects previously identified in the MISO Transmission Expansion Plan and approved by the MISO Board of Directors prior to ATSI's integration into PJM (Legacy MTEP projects), and (5) costs of any transmission projects approved in PJM's regional transmission expansion planning (RTEP) process. ATSI proposed to transfer its existing formula rate set forth in Attachment O of the MISO ASM tariff, subject to modifications necessary to implement the move into PJM. ATSI also proposed to add a protocol to its formula rate to set forth a process through which ATSI will, among other things, provide an opportunity for ATSI transmission customers to annually review the components of ATSI's formula rate prior to the commencement of the rate year on June 1.

3. In its May 31, 2011 order,² the Commission accepted PJM's proposed ministerial revisions to the PJM Tariff, OA, RAA, and TOA, effective June 1, 2011. The Commission accepted and suspended ATSI's formula rate tariff provisions proposed to be included in the PJM Tariff, effective June 1, 2011, subject to refund and ATSI making a compliance filing within 30 days of the date of the order removing from its formula rates: (1) the costs incurred by PJM in connection with ATSI's integration and billed to ATSI; (2) ATSI's deferred internal integration costs; and (3) MISO exit fees, including Legacy MTEP costs. Finally, the Commission set ATSI's proposed formula rate protocols for hearing and settlement judge proceedings.

4. On July 27, 2011, ATSI submitted the Protocols Settlement pursuant to Rule 602 of the Commission's Rules of Practice and Procedure resolving the matters set for hearing and settlement judge procedures by the Commission in its May 31, 2011 Order.³

5. On December 21, 2012, ATSI submitted, on behalf of itself, American Municipal Power, Inc. (AMP), and Buckeye, a settlement agreement to resolve all pending issues not resolved by the Protocols Settlement with respect to ATSI's proposal in Docket Nos. ER11-2814 and ER11-2815. On the same date, ATSI submitted, on behalf of itself, the MISO, and the MISO Transmission Owners, a settlement agreement to resolve all pending issues with respect to MISO's proposal in Docket No. ER11-3219 to add a new Schedule 37 to MISO's Transmission, Energy and Operating Reserve Markets Tariff to

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

² *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,198 (2011) (May 31, 2011 Order).

³ 18 C.F.R. § 385.602 (2013).

address the withdrawal of ATSI from MISO. An order addressing these two settlements is being issued concurrently with this order.⁴

II. The Protocols Settlement

6. Article I of the Protocols Settlement sets forth the procedural background, and Article II describes the revisions to ATSI's formula rate protocols. Section 2.1 states that the protocols filed by ATSI as proposed Attachment H-21B to the Tariff shall, as of the Effective Date, be replaced in their entirety with the protocols set forth in Attachment A to the Settlement (Settlement Protocols). Section 2.2 defines the effective date of the Settlement Protocols. Section 2.3 states that the Protocols Settlement resolves all issues among the Settling Parties that were set for hearing and settlement judge procedures in the May 31, 2011 Order.

7. Article III states that the terms of the Protocols Settlement shall be subject to change solely by written amendment executed by the Settling Parties, and the standard of review for any modification of the Protocols Settlement, whether set forth in a written amendment executed by the Settling Parties or pursuant to the Commission's exercise of its authority under section 206 of the FPA, whether acting *sua sponte* or on a complaint filed by a Settling Party or a non-Settling Party, shall be the "just and reasonable" standard. Article IV sets forth miscellaneous provisions.

III. Initial and Reply Comments

8. The Commission's Trial Staff filed initial comments to the Protocols Settlement. In its comments, Trial Staff states that the Protocols Settlement is fair, reasonable, and in the public interest. Trial Staff supports acceptance of the Protocols Settlement by the Commission, subject to the inclusion by ATSI in its reply comments of certain information relevant to the calculations to be performed by ATSI in its formula rate. Trial Staff explains that ATSI's formula rate template, as approved by the Commission in its May 31, 2011 Order, fails to specifically state the various rates of depreciation and amortization and the amount of Post-Retirement Benefits Other Than Pensions (PBOP) used to derive the actual charges under the formula rate. Trial Staff recognizes that the formula rate is not set for hearing but states that additional clarity would be provided if ATSI were to specify this information in its reply comments.

⁴ *PJM Interconnection, L.L.C., Midwest Independent Transmission System Operator, Inc.*, 144 FERC ¶ 61,207 (2013).

9. ATSI filed reply comments. In its reply comments, ATSI states that only its proposed formula rate protocols were set for hearing and settlement judge procedures, and therefore Trial Staff's concerns about the specificity of the formula rate are beyond the scope of the proceeding. ATSI also argues that Trial Staff's comments do not present any objection to the Protocols Settlement's resolution of the terms of the protocols, and therefore the Commission should accept it as fair, reasonable, and in the public interest. ATSI states that, while it would be inappropriate to address Trial Staff's specific concerns in this proceeding, any interested party can seek information about the stated values to be used for PBOP and depreciation and/or amortization rates by posing questions to ATSI in the pending annual update process. In addition, ATSI states that, once the Protocols Settlement takes effect, those stated values will be provided in a workpaper to be included with each annual update informational filing.

IV. Discussion

10. We agree with ATSI that Trial Staff's concerns about the specificity of the formula rate are beyond the scope of the proceeding. The Commission in the May 31, 2011 Order set only ATSI's proposed formula rate protocols for hearing and settlement judge procedures, not ATSI's formula rate. Trial Staff is concerned about the specificity about ATSI's formula rate and does not present any objection to the Protocols Settlement's resolution of the terms of the protocols. Hence, we find that Trial Staff's concern is not a barrier to our approval of the Protocols Settlement.

11. Accordingly, we find that the Protocols Settlement appears to be fair and reasonable and in the public interest, and hereby approve it. Our approval of the Protocols Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

12. Because ATSI has made its baseline electronic tariff filing pursuant to Order No. 714, but did not file the settlement in the eTariff format required by Order No. 714, it is required to make a compliance filing through eTariff to ensure that its electronic tariff provisions reflect the Commission action in this order.⁵ In its compliance filing, ATSI should request in its transmittal letter that the settlement terms and conditions become effective June 1, 2011, consistent with the May 31, 2011 Order.

⁵ See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).

The Commission orders:

The Protocols Settlement is hereby approved, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.