

145 FERC ¶ 61,256  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Northern Indiana Public Service Company

v.

Docket No. EL13-88-000

Midcontinent Independent System Operator, Inc. and  
PJM Interconnection, L.L.C.

ORDER HOLDING COMPLAINT IN ABEYANCE

(Issued December 19, 2013)

1. On September 11, 2013, Northern Indiana Public Service Company (NIPSCO) filed a complaint pursuant to section 206, 306, and 309 of the Federal Power Act (FPA)<sup>1</sup> and Rule 206 of the Commission's Rules of Practice and Procedure<sup>2</sup> against Midcontinent Independent System Operator, Inc. (MISO) and PJM Interconnection, L.L.C. (PJM). NIPSCO requests that the Commission order MISO and PJM to reform the interregional planning process of the Joint Operating Agreement between MISO and PJM (JOA). As discussed below, we will hold the complaint in abeyance pending further Commission action.

**I. Background**

2. NIPSCO is a vertically-integrated Indiana corporation engaged in the generation, transmission and distribution of energy at wholesale and retail levels. NIPSCO is an electric load-serving entity and a transmission owning member of MISO.<sup>3</sup>

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<sup>1</sup> 16 U.S.C. §§ 824e, 825e, 825h (2012).

<sup>2</sup> 18 C.F.R. § 385.206 (2013).

<sup>3</sup> NIPSCO Complaint at 12.

3. Both MISO and PJM are Commission-approved regional transmission organizations (RTO) and signatories to the MISO-PJM JOA.<sup>4</sup>

4. On July 10, 2013, MISO (in Docket No. ER13-1943-000) and PJM (in Docket No. ER13-1944-000) submitted proposed changes to the JOA to comply with the interregional transmission coordination requirements of Order No. 1000.<sup>5</sup> Also on July 10, 2013, in Docket No. ER13-1945-000, MISO submitted proposed changes to its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) to, among other things, state that its interregional transmission coordination and cost allocation provisions with PJM are outlined in the JOA. In addition, on July 10, 2013, the PJM Transmission Owners<sup>6</sup> submitted in Docket No. ER13-1924-000 a filing to demonstrate that the JOA complies with the interregional cost allocation requirements of Order No. 1000.

## II. Complaint

5. NIPSCO states that it has filed its complaint to remedy flaws in the interregional transmission planning provisions of the JOA. NIPSCO also argues that the MISO-PJM Order No. 1000 interregional compliance filings do not comply with Order No. 1000. Finally, NIPSCO argues that assuming, *arguendo*, that MISO and PJM have complied with Order No. 1000, given the specific orders approving the MISO-PJM seam in particular, and the specific facts and circumstances surrounding the state of affairs along

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<sup>4</sup> *Id.* at 13.

<sup>5</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

<sup>6</sup> The PJM Transmission Owners are: Allegheny Power, American Electric Power Service Corporation, Exelon Corporation, Dayton Power and Light Company, Virginia Electric and Power Company (Dominion Virginia Power), Public Service Electric and Gas Company, PPL Electric Utilities Corporation, Baltimore Gas and Electric Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, UGI Utilities, Inc., Allegheny Electric Cooperative, Inc., CED Rock Springs, LLC, Old Dominion Electric Cooperative, Rockland Electric Company, Duquesne Electric Company, Neptune Regional Transmission System, LLC, Trans-Allegheny Interstate Line Company, Linden VFT LLC, American Transmission Systems Incorporated, City of Cleveland Department of Public Utilities (Division of Cleveland Public Power), Duke Energy Ohio Inc., Duke Energy Kentucky Inc., City of Hamilton Ohio, Hudson Transmission Partners LLC, and East Kentucky Power Cooperative Inc.

the MISO-PJM seam, the Commission should take action to ensure that customers rates remain just and reasonable.<sup>7</sup>

6. NIPSCO states that elements of its proposed reforms to the JOA process may arguably be considered within the scope of the PJM's and MISO's Order No. 1000 interregional compliance filings, while other elements may be outside the mandates of Order No. 1000. NIPSCO states that it understands the Commission's rules of procedure do not permit parties to seek changes in compliance filings that go beyond the scope of the initial order. Thus, to ensure its proposals are addressed on the merits and not dismissed for want of proper procedures and in order to present a comprehensive solution, NIPSCO is filing this section 206 complaint in conjunction with its September 9, 2013 protest of the MISO and PJM Order No. 1000 interregional compliance filings.<sup>8</sup>

7. NIPSCO submits that, to make the JOA interregional planning provisions just and reasonable, the Commission should order MISO and PJM to implement the following six reforms:

- (1) The MISO-PJM cross-border planning process should run concurrently with the MISO Transmission Expansion Plan (MTEP) and PJM Regional Transmission Expansion Plan (RTEP) planning cycles, rather than after those regional planning cycles.<sup>9</sup> NIPSCO proposes a schedule to have the interregional planning process run concurrently with the regional planning process, which is included as Attachment A to the complaint.
- (2) There should be consistency between the PJM and MISO planning analysis. While the RTOs have regional differences, both entities should be consistent in their application of reliability criteria and modeling assumptions.<sup>10</sup>

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<sup>7</sup> NIPSCO Complaint at 4.

<sup>8</sup> *Id.* at 2. NIPSCO submitted its protest to PJM's and MISO's Order No. 1000 interregional compliance filings on September 9, 2013 in Docket Nos. ER13-1924-000, ER13-1943-000, ER13-1944-000, and ER13-1945-000. NIPSCO states that it would not be opposed to consolidation of the complaint with the MISO-PJM Order No. 1000 interregional compliance filings. NIPSCO Complaint at 58.

<sup>9</sup> NIPSCO Complaint at 6-7.

<sup>10</sup> *Id.* at 7-8.

- (3) MISO and PJM should have a single common set of criterion for the approval of cross-border market efficiency projects. The current and proposed changes to the JOA do not streamline the process but instead add delays, complications, and further administrative hurdles.<sup>11</sup>
- (4) The criteria for approval of a cross-border market efficiency project should be amended to address all known benefits including, more specifically, avoidance of future market-to-market payments made to reallocate short-term transmission capacity in the real-time operation of the system.<sup>12</sup>
- (5) MISO and PJM should be required to have a process for joint planning and cost allocation of lower voltage and lower cost upgrades for cross-border projects.<sup>13</sup>
- (6) MISO and PJM must improve the processes within the JOA with respect to new generator interconnections and generation retirements.<sup>14</sup>

### **III. Notice of Filing and Responsive Pleadings**

Notice of NIPSCO's complaint was published in the *Federal Register*, 78 Fed. Reg. 57,374 (2013), with interventions and protests due on or before October 31, 2013. MISO and PJM filed answers. Illinois Commerce Commission, Michigan Public Service Commission, Missouri Public Service Commission, and the Organization of MISO States filed notices of intervention. Indiana Utility Regulatory Commission (Indiana Commission) filed a notice of intervention and comments. Motions to intervene and comments were filed by American Electric Power Service Corporation (American Electric Power), the Wind Parties,<sup>15</sup> E.ON Climate & Renewables North America, LLC (E.ON), Exelon Corporation (Exelon), Hoosier Wind Project, LLC (Hoosier Wind), the Indiana Office of Utility Consumer Counselor (Indiana Consumer Counselor), ITC,<sup>16</sup> the

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<sup>11</sup> *Id.* at 8-9.

<sup>12</sup> *Id.* at 9-10.

<sup>13</sup> *Id.* at 10.

<sup>14</sup> *Id.* at 11.

<sup>15</sup> The Wind Parties consist of American Wind Energy Association, Wind on the Wires, and the Mid-Atlantic Renewable Energy Coalition.

<sup>16</sup> ITC consists of International Transmission Company, Michigan Electric Transmission Company, LLC, and ITC Midwest LLC.

Wind Generators,<sup>17</sup> MISO Transmission Owners (MISO TOs),<sup>18</sup> and Southern Indiana Gas & Electric Company (Southern Indiana). Alliant Energy Company, American Municipal Power, Inc., American Transmission Company LLC, Consumers Energy Company, the Dayton Power and Light Company, Dominion Resources Services, Inc., Duke Energy Corporation, Duke-American Transmission Company, LLC, Duquesne Light Company, Edison Mission Energy, EDP Renewables North America LLC, FirstEnergy Transmission Owners,<sup>19</sup> NextEra Energy Resources, LLC, North Carolina Electric Membership Corporation, NRG Companies,<sup>20</sup> the PSEG Companies,<sup>21</sup> Public

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<sup>17</sup> The Wind Generators consist of Invenergy Wind Development LLC, Iberdrola Renewables, LLC, Algonquin Power Co., Infigen Asset Management, LLC, and Acciona Wind Energy USA LLC.

<sup>18</sup> Unless otherwise specified, the MISO TOs for this filing consist of: 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; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; South Mississippi Electric Power Association; Southern Illinois Power Cooperative; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

<sup>19</sup> FirstEnergy Transmission Owners consist of Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, American Transmission Systems, Inc., and Trans-Allegheny Interstate Line Company.

<sup>20</sup> For purposes of this filing, the NRG Companies are Louisiana Generating LLC; NRG Power Marketing LLC; GenOn Energy Management, LLC; Bayou Cove Peaking Power LLC; Big Cajun I Peaking Power LLC; NRG Sterlington Power LLC; Cottonwood Energy Company LP; Conemaugh Power LLC; Gen-On Mid-Atlantic LLC; Indian River Power LLC; Keystone Power LLC; NRG Chalk Point, LLC; NRG Energy Center Dover LLC; NRG Energy Center Paxton LLC; NRG Power Midwest, LP; NRG REMA, LLC; NRG Rockford LLC; NRG Rockford II LLC; NRG Wholesale Generation LP; Vienna Power LLC and Energy Curtailment Services, Inc.

<sup>21</sup> The PSEG Companies consist of Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade LLC.

Interest Organizations,<sup>22</sup> Wisconsin Electric Power Company, and Wisconsin Public Service Corporation and Upper Peninsula Power Company filed motions to intervene. On November 15, 2013, NIPSCO filed an answer.

**A. MISO's Answer**

8. MISO contends that the complaint is invalid for a variety of reasons and should be dismissed. MISO notes that the Order No. 1000 interregional compliance filings are still pending and, thus, the complaint's claims of non-compliance are beyond the scope of a section 206 filing. MISO argues that section 206 filings must address a final rate, and since the JOA revisions are still pending before the Commission, they are not a valid subject of a section 206 filing. MISO contends that NIPSCO has not experienced any actual harm due to the proposed JOA revisions, which is also required for a complaint.<sup>23</sup> MISO points out that NIPSCO acknowledges that market-to-market payments, such as are currently being made from PJM to MISO, are an acceptable short-term solution, and thus NIPSCO has not suffered any harm from that provision. While parties in PJM are paying these market-to-market payments, MISO notes that NIPSCO has been the beneficiary of the payments, and it is not NIPSCO's place to file a complaint.<sup>24</sup> With regard to consolidating the complaint with the interregional compliance filings, MISO contends that the issues raised in the complaint go beyond Order No. 1000 compliance, so consolidation is unwarranted.<sup>25</sup> Finally, MISO contends that NIPSCO's claim that no transmission project will be approved under the relevant JOA provisions is unwarranted, as several projects are currently being evaluated.<sup>26</sup>

9. MISO argues that NIPSCO's claims that the Commission should have imposed different interregional requirements in Order No. 1000 are an impermissible collateral attack on Order No. 1000. For example, MISO notes that while Order No. 1000 requires only "interregional coordination," the complaint advocates "interregional planning." Additionally, MISO explains while Order No. 1000 requires that interregional and regional processes occur within the same general time frame, NIPSCO advocates that the processes occur "at the same time." Finally, MISO points out that while Order No. 1000 requires that the interregional processes are dependent on the regional transmission

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<sup>22</sup> The Public Interest Organizations consist of the Sustainable FERC Project, Great Plains Institute, National Audubon Society, Natural Resources Defense Council and Sierra Club.

<sup>23</sup> MISO Answer at 13-16.

<sup>24</sup> *Id.* at 17-18.

<sup>25</sup> *Id.* at 19.

<sup>26</sup> *Id.* at 21.

planning process, the complaint advocates that the interregional process take priority over the regional processes.<sup>27</sup>

10. MISO claims that NIPSCO has not proven that the JOA and MISO's Tariff provisions are no longer just and reasonable. MISO notes that the Commission has previously found MISO's RTO structure and rules compliant with Order No. 2000, its MTEP process compliant with Order No. 890, and the JOA compliant with the Commission order regarding the MISO-PJM seam.<sup>28</sup> MISO contends that NIPSCO bears the burden of proof in showing that the JOA and the Tariff are no longer just and reasonable, which it has failed to do so far.<sup>29</sup>

11. MISO contends that the proper venue to address NIPSCO's concerns is in its stakeholder process. Only if the stakeholder process fails is a section 206 complaint appropriate. Although MISO states that it is receptive to some of NIPSCO's suggested reforms, handling them outside of the stakeholder process would deny other stakeholders in MISO a chance to demonstrate their views and provide appropriate feedback.<sup>30</sup> MISO also addresses each of NIPSCO's six proposed reforms, noting that each is best handled through the Order No. 1000 interregional compliance proceeding or the stakeholder process.

#### **B. PJM's Answer**

12. PJM argues that NIPSCO's complaint should be dismissed because it is premature, alleges speculative harm, and fails to demonstrate that PJM's Order No. 1000 interregional compliance filing is unjust or unreasonable. PJM states that NIPSCO ignores that the RTOs are currently conducting an extensive joint planning study on the MISO-PJM seam. According to PJM, the results of the joint planning study are expected by mid-2014 and those results may produce solutions to the concerns NIPSCO raised in its complaint. For example, PJM explains, NIPSCO proposes that the criteria for approval of cross-border market efficiency projects should be revised to include the avoidance of market-to-market payments as an indicator of potential seams issues used to consider transmission solutions. PJM states that, upon closer examination, the cost of congestion on the seam is the only relevant factor to NIPSCO's argument and the joint

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<sup>27</sup> *Id.* at 22.

<sup>28</sup> *Id.* at 26 (citing *Midwest. Indep. Transmission Sys. Operator, Inc. and PJM Interconnection, L.L.C.*, 106 FERC ¶ 61,251, at P 23 (2003); *Midwest Indep. Transmission Sys. Operator, Inc. and PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,143 (2004)).

<sup>29</sup> *Id.* at 26.

<sup>30</sup> *Id.* at 29-31.

planning study has shown that congestion cost along the MISO-PJM seam has decreased by 52 percent.<sup>31</sup>

13. In addition, PJM states that, as part of the MISO-PJM phase II joint study process, the RTOs solicited proposals utilizing the Order No. 1000 enhanced process to upgrade the transmission system to address identified issues subject to the joint study process under the terms of the existing JOA. In response to the solicitation, the RTOs received approximately 76 interregional transmission proposals from 12 proposing companies. PJM notes that NIPSCO itself submitted 14 proposals in or near its service territory for consideration. The proposals were reviewed at the October 25, 2013 interregional planning stakeholder advisory committee meeting and the joint RTO planning committee is currently evaluating the submitted proposals to determine the extent to which they resolve cross-border transmission issues.<sup>32</sup> PJM also states that the RTOs have just submitted to the Commission a work plan and timetable that was developed with the state commissions in both the MISO and PJM regions, as well as stakeholders of both RTOs.<sup>33</sup> Through that process, PJM points out, both the Organization of MISO States and the Organization of PJM States urged the Commission to refrain from usurping the joint common market initiative process already underway.<sup>34</sup>

14. PJM states that NIPSCO fails to provide any evidence that it has been harmed since the changes are only now going into effect. As a result, PJM believes that the complaint is premature, speculative at best, and not actionable by the Commission at this time. PJM further indicates that the Commission cannot address speculative, future harms and, as the Commission has emphasized, if a party cannot show that “some real harm (actual or potential) is probable, there is little point in wasting the scarce resources of the Commission.”<sup>35</sup> PJM argues that NIPSCO’s complaint is related to revisions to the

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<sup>31</sup> Specifically, PJM states that the MISO-PJM joint model used in the joint planning study was refreshed with PJM’s RTEP 2013 and MISO’s MTEP 2013 data and indicates that the projected cost of congestion along the MISO-PJM seam is expected to decrease from \$183,420 (based on the now superseding modeling of the year 2027) to \$87,602 (based on the modeling of the updated assumptions for a 2028 study year). See PJM Answer at 11.

<sup>32</sup> *Id.* at 12.

<sup>33</sup> *Id.* at 13 (citing PJM and MISO, Informational Filing Providing a Description of and Schedule for Joint and Common Market Initiatives of PJM and MISO, Docket No. AD12-16-000 (filed Sept. 26, 2013)).

<sup>34</sup> See *id.* at Exhibit A.

<sup>35</sup> *Id.* at 25 (citing *So. Cal. Edison Co.*, Opinion No. 284-A, 50 FERC ¶ 61,872 (1990)).

JOA submitted on behalf of the RTOs in their respective Order No. 1000 interregional compliance filings, which are currently pending the Commission's review and decision, and to issues that are actively engaged in the RTOs' ongoing JOA joint planning study that is being conducted under the existing JOA process, and initiatives that are being addressed at the joint common market meetings, both of which began in the summer of 2012.<sup>36</sup> Therefore, PJM suggests that action by the Commission on the complaint would be premature and should await the Commission's consideration of the proposed revisions to the JOA in the context of MISO's and PJM's Order No. 1000 interregional compliance filings and a reasonable time for MISO and PJM to demonstrate that their revisions are in practice meeting the new Order No. 1000 standards.<sup>37</sup>

15. PJM also believes that NIPSCO has failed to demonstrate that PJM's Order No. 1000 interregional compliance filing is unjust or unreasonable because it has not met its burden of proof. Specifically, NIPSCO has not offered substantial evidence to justify a finding that the existing or revised JOA protocols are unjust and unreasonable. Therefore, PJM argues that NIPSCO's complaint is essentially a collateral attack on Order No. 1000. PJM contends that it would be a waste of Commission resources to address the complaint now based on a past version of the JOA.

16. While PJM moves for summary dismissal of NIPSCO's complaint, it concedes that NIPSCO's suggestions are worthy of consideration and review by the Commission as part of monitoring by Commission staff and stakeholders as to whether the proposed JOA revisions have proven to be an improvement over the existing JOA process. PJM states that it would be far more productive for NIPSCO to join with other stakeholders in reviewing and critiquing the revised interregional planning process, which is currently in mid-cycle and which awaits Commission approval of the corresponding MISO/PJM JOA changes. As a result, PJM requests that the Commission deny the complaint as premature and give the parties an opportunity to further implement the revised JOA reforms presently pending before the Commission before any litigation is considered.<sup>38</sup>

### C. Comments

17. Indiana Commission, Indiana Consumer Counselor, American Electric Power, ITC, Southern Indiana, Wind Parties, Wind Generators, Hoosier Wind, and E.ON generally support the complaint and argue, among other things, that: (i) the Order No. 1000 interregional compliance filings by MISO and PJM do little to further the

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<sup>36</sup> *Id.* at 9.

<sup>37</sup> *Id.* at 6-7.

<sup>38</sup> *Id.* at 27.

development of necessary new transmission infrastructure between the two RTOs;<sup>39</sup> (ii) PJM and MISO should monitor facilities along the interface and coordinate solutions for facilities that present reliability issues in both regions;<sup>40</sup> (iii) the JOA has failed to identify a worthy interregional project, and that continuation of the JOA will continue to deny customers of MISO and PJM from receiving the benefits of cross-border transmission projects;<sup>41</sup> (iv) the proposed JOA revisions in the MISO and PJM compliance filings do not fully satisfy the Commission's Order No. 1000 directives with regard to interregional transmission planning;<sup>42</sup> (v) neither MISO nor PJM addresses the underlying problems with the JOA planning process or the underlying causes of transmission congestion;<sup>43</sup> and (vi) congestion at the seam between MISO and PJM has led to increasing curtailment of the assets of wind generators in the Commonwealth Edison Transmission Zone in Northern Illinois.<sup>44</sup>

18. In contrast to the other commenters, Exelon and the MISO TOs oppose the complaint and argue, among other things, that: (i) NIPSCO's request to impose MISO's metrics on PJM should be dismissed because MISO and PJM have different sets of criteria reflecting differing conditions and differing policy positions in the different regions when evaluating cross-border projects;<sup>45</sup> (ii) NIPSCO's request to include market-to-market settlement payments in the benefits analysis for proposed cross-border projects would amount to double-counting congestion, thereby encouraging poor operational practices;<sup>46</sup> (iii) NIPSCO's proposed reforms have not been set out with sufficient specificity or deliberation and request that the Commission direct MISO and PJM to initiate stakeholder proceedings to develop specific proposals to address any identified concerns;<sup>47</sup> (iv) the complaint does not meet the requirements of section 206 of

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<sup>39</sup> Indiana Consumer Counselor Comments at 5-6; Southern Indiana Comments at 3.

<sup>40</sup> Indiana Consumer Counselor Comments at 4-5.

<sup>41</sup> ITC Comments at 4.

<sup>42</sup> Southern Indiana Comments at 4-6.

<sup>43</sup> Wind Parties Comments at 3-4; Hoosier Wind Comments at 5.

<sup>44</sup> *Id.* at 5; Wind Generators Comments at 1, 5. *See also* Hoosier Wind Comments at 3-4 and E.ON Comments at 5.

<sup>45</sup> Exelon Comments at 8.

<sup>46</sup> *Id.* at 10-12.

<sup>47</sup> MISO TOs Comments at 2.

the FPA;<sup>48</sup> and (v) the complaint fails to show that the existing MISO-PJM JOA is unjust and unreasonable, or that NIPSCO's proposed reforms are just and reasonable and not unduly discriminatory or preferential.<sup>49</sup>

#### IV. Discussion

##### A. Procedural Matters

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

20. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 358.123(a)(2) (2013), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept NIPSCO's answer and will, therefore, reject it.

##### B. Substantive Matters

21. NIPSCO asserts that it filed this complaint to reform the cross-border transmission planning provisions of the JOA. MISO and PJM argue that their Order No. 1000 compliance filings are still pending and thus, the complaint's claims of non-compliance are beyond the scope of a section 206 filing and are premature.

Upon review of the complaint, we conclude that it is premature to act on this complaint at this time and will instead hold the complaint in abeyance pending further Commission action.<sup>50</sup> We agree with MISO and PJM that the complaint raises issues that overlap with the MISO-PJM Order No. 1000 interregional compliance filings, which are currently

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<sup>48</sup> *Id.* at 6.

<sup>49</sup> *Id.*

<sup>50</sup> The Commission has discretion to determine the best procedures to address the issues before it. *See, e.g., Tennessee Gas Pipeline Co. v. FERC*, 972 F.2d 376, 381 (D.C. Cir. 1992) ("The agency is entitled to make reasonable decisions about when and in what type of proceeding it will deal with an actual problem."); *Nader v. FCC*, 520 F.2d 182, 195 (D.C. Cir. 1975) ("[T]his court has upheld in the strongest terms the discretion of regulatory agencies to control the disposition of their caseload."). *See also ISO New England, Inc.*, 130 FERC ¶ 61,236, at P 12 n.9 (2010) (citing *Vermont Yankee Nuclear Power Corp. v. Natural Res. Def. Council, Inc.*, 435 U.S. 519, 524-25 (1978) (agencies have broad discretion over the formulation of their procedures)); *Mich. Pub. Power Agency v. FERC*, 963 F.2d 1574, 1578-79 (D.C. Cir. 1992) (the Commission has discretion to mold its procedures to the exigencies of the particular case).

pending before the Commission. In addition, the complaint raises issues that are under consideration by the Commission in other proceedings, including: Docket No. AD12-16-000 (relating to capacity delivery across the MISO-PJM seam),<sup>51</sup> Docket No. AD14-3-000 (relating to coordination across the PJM/MISO seam),<sup>52</sup> and Docket No. EL13-75-000 (relating to MISO-PJM JOA market-to-market issues).<sup>53</sup> Determinations on these matters may materially affect certain elements of the complaint. We disagree, however, that the complaint should be dismissed at this time. Rather, we find that the issues raised in the complaint should be considered at a later time in light of the Commission's determinations in the related matters noted above. Accordingly, the Commission will hold the complaint in abeyance and will consider the merits of the complaint in a subsequent Commission order.

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<sup>51</sup> On June 11, 2012, the Commission issued in Docket No. AD12-16-000 a notice for request of comments regarding whether existing rules on transfer capability act as barriers to the delivery of generation capacity between the markets administered by MISO and PJM, and to the extent that such barriers exist, whether those rules should be modified to mitigate such barriers. On September 26, 2013, PJM and MISO submitted an informational filing describing their plan and schedule for addressing various joint and common market initiatives. In a concurrently issued order, the Commission directs Commission staff to participate in the RTOs' joint and common market meetings and establishes a new proceeding to reflect the broadened scope of issues contemplated by the RTOs' September 26, 2013 Filing and their joint and common market initiatives.

<sup>52</sup> In a concurrently issued order in Docket No. AD14-3-000, the Commission directs Commission staff to participate in PJM's and MISO's joint and common market meetings and establishes a new proceeding to reflect the broadened scope of issues contemplated by the RTOs' September 26, 2013 Filing in Docket No. AD12-16-000 and their joint and common market initiatives. *See Capacity Deliverability Across the Midwest Independent Transmission System Operator, Inc./PJM Interconnection, L.L.C. Seam*, 145 FERC ¶ 61,258 (2013).

<sup>53</sup> On July 3, 2013, certain load-serving entities within MISO (the Indicated Load-Serving Entities) filed in Docket No. EL13-75-000 a complaint against MISO and PJM requesting that the Commission direct PJM to repay monies to MISO, and MISO in turn, to repay monies to the Indicated Load Serving Entities. The funds in question relate to three market-to-market payments, the costs of which are borne by the Indicated Load-Serving Entities, under the MISO-PJM JOA.

The Commission orders:

NIPSCO's complaint is held in abeyance pending further Commission action, as discussed in the body of this order.

By the Commission. Commissioner Moeller is concurring with a separate statement attached.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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(Issued December 19, 2013)

MOELLER, Commissioner, *concurring*:

Because this matter raises issues that overlap with the MISO-PJM Order No. 1000 interregional compliance filings, we are holding the complaint in abeyance and will consider the merits of the complaint in a subsequent Commission order.

While I concur in this result, this is an important matter that needs to be promptly addressed, and it should be a high priority when we consider the variety of issues in the MISO-PJM Order No. 1000 interregional compliance filings.

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Philip D. Moeller  
Commissioner