

Northwestern Wisconsin Electric Company
Otter Tail Power Company
Southern Illinois Power Cooperative
Southern Indiana Gas & Electric Company
Southern Minnesota Municipal Power Agency
Tipton Municipal Utilities
Wabash Valley Power Association, Inc.
Wolverine Power Supply Cooperative, Inc.

ORDER DENYING REHEARING

(Issued March 20, 2014)

1. On June 17, 2013, Arkansas Electric Cooperative Corporation, Arkansas Cities,¹ East Texas Cooperatives,² Mississippi Delta Energy Agency, Clarksdale Public Utilities Commission, and Public Service Commission of Yazoo City (collectively, Joint Customers) filed a request for rehearing of the Commission's May 16, 2013 order finding that the formula rate protocols under the Midwest Independent Transmission System Operator, Inc.³ (MISO) Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff) are insufficient to ensure just and reasonable rates.⁴ As discussed below, we deny Joint Customers' request for rehearing.

¹ For the purpose of this proceeding, the Arkansas Cities consist of the Conway Corporation, the West Memphis Utilities Commission, the City of Osceola, Arkansas, the City of Benton, Arkansas, and the City of Prescott, Arkansas.

² For the purpose of this proceeding, East Texas Cooperatives consist of East Texas Electric Cooperative, Inc.; Sam Rayburn G&T Electric Cooperative, Inc.; and Tex-La Electric Cooperative of Texas.

³ Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013) (May 16 Order). Joint Customers style their pleading as a "Request for Reconsideration," which they purport to have submitted pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2013); however, Joint Customers substantively seek rehearing of the May 16 Order, pursuant to Rule 713, 18 C.F.R. § 385.713 (2013).

I. Background

2. In the May 16 Order, pursuant to section 206 of the Federal Power Act,⁵ the Commission required MISO and its transmission-owning members to revise the *pro forma* and company-specific formula rate protocols to include all interested parties as eligible participants in the annual formula rate update. The Commission also directed MISO and its transmission owners to establish well-defined procedures through which interested parties can challenge transmission owners' annual updates. Among other things, the Commission sought to improve the transparency of the annual updates by requiring transmission owners to submit their formula rate updates with the Commission as annual informational filings.⁶

II. Request for Rehearing and Responsive Pleadings

3. Joint Customers request that the Commission "modify its ruling [in the May 16 Order] to require public utility transmission providers in MISO to make their informational filings in an existing FERC docket."⁷ This could apply to either the docket in which the formula rate was approved or the docket in which the transmission owner files its amended formula rate protocols.⁸ Joint Customers contend that public utilities have different practices with respect to the manner and extent that they serve informational filings on customers.⁹ As a result, Joint Customers assert that certain parties may not be notified that an informational filing has been submitted. Joint Customers argue that requiring transmission owners to submit their annual informational filing in a specified docket would enable interested parties to obtain electronic service, provided they are parties to the underlying proceeding, as well as the opportunity to electronically subscribe to the docket and receive notification when the informational filing is submitted.¹⁰ Joint Customers claim that many utilities submit their informational filings in the docket in which their formula rates were approved.

⁵ 16 U.S.C. § 824e (2012).

⁶ May 16 Order, 143 FERC ¶ 61,149 at P 92.

⁷ Joint Customers Rehearing Request at 3.

⁸ *Id.*

⁹ *Id.* at 2.

¹⁰ *Id.* at 3.

4. In contrast, Joint Customers argue that it will be more difficult for interested parties to obtain notification of when or if the informational filing has been submitted if transmission owners are permitted to file their annual updates in new dockets. Additionally, Joint Customers submit that any burden that their proposed docketing requirement would impose on either the Commission or transmission owners would be negligible, whereas the benefit to interested parties would be immense.¹¹
5. On July 2, 2013, MISO and the MISO Transmission Owners¹² filed a response to Joint Customers' rehearing request.

III. Discussion

A. Procedural Matters

6. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2013), prohibits an answer to a request for rehearing. Accordingly, we do not accept the answer filed by MISO and the MISO Transmission Owners.¹³

¹¹ *Id.*

¹² For purposes of this proceeding, the MISO Transmission Owners 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; American Transmission Company LLC; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Indiana, Inc.; Great River Energy; Indianapolis Power & Light Company; International Transmission Company d/b/a ITC *Transmission*; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; 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; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

¹³ See, e.g., *Duke Energy Carolinas LLC*, 145 FERC ¶ 61,252, at P 20 (2013).

B. Substantive Matters

7. We will deny Joint Customers' request for rehearing, as the requirement that they seek is unnecessary to ensure that the procedures set out in MISO's *pro forma* and the various company-specific formula rate protocols result in just and reasonable transmission rates, given the requirements of the May 16 Order and our orders conditionally accepting the protocols proposed by MISO's transmission owners. In the May 16 Order, the Commission required MISO "to specify in its protocols an adequate time period for interested parties to review" transmission owners' annual updates.¹⁴ Following this review period, the Commission required that transmission owners submit their formula rate updates to the Commission as annual informational filings.¹⁵ This combination of requirements encouraged transmission owners to establish a series of milestones for their annual update process that culminates in the transmission owner's submission of its annual update to the Commission in an informational filing. In practice, we note that each of the formula rate protocols proposed in compliance with the May 16 Order, which we conditionally accept in concurrently issued orders,¹⁶ specifies a date by which the transmission owner must submit its informational filing.¹⁷ These deadlines provide interested parties with a reasonable estimation of when transmission owners will submit their informational filings.

8. Further, the Commission's staff intends to assign new dockets to each informational filing made, in order to facilitate the tracking of the status of each informational filing by the Commission and the other interested parties. This practice

¹⁴ May 16 Order, 143 FERC ¶ 61,149 at P 91.

¹⁵ *Id.* P 92.

¹⁶ *Midcontinent Independent System Operator, Inc. and Southern Indiana Gas & Electric Co.*, 146 FERC ¶ 61,210 (2014); *Midcontinent Independent System Operator, Inc., et al.*, 146 FERC ¶ 61,211 (2014); *Midcontinent Independent System Operator, Inc., et al.*, 146 FERC ¶ 61,212 (2014).

¹⁷ *See* *Midcontinent Independent System Operator, Inc., Compliance Filing*, Docket No. ER13-2379-000, at 4 (filed Sept. 13, 2013) (requiring the submission of an informational filing by January 31 of each year); *Southern Indiana Gas & Electric Co., Compliance Filing*, Docket No. ER13-2375-000, Att. I § 3 (filed Sept. 13, 2013) (requiring the submission of an informational filing by January 15 of each year); *Northern Indiana Public Service Co., Compliance Filing*, Docket No. ER13-2376-000, Att. I § VII (filed Sept. 13, 2013) (requiring the submission of an informational filing by January 31 of each year).

helps to ensure the orderly processing of the matters before the Commission.¹⁸ Joint Customers' concern regarding notification is resolved in the orders conditionally accepting the protocols proposed by MISO's transmission owners, in which we direct MISO to provide notification through the email "exploder" list to be maintained by MISO, and by posting the docket number assigned annually to each transmission owner's informational filing on the MISO website and open access same-time information system (OASIS) within five days of such filing.¹⁹ Thus, we do not believe that interested parties will be unable to determine when or if a transmission owner has submitted the requisite informational filing.

The Commission orders:

Joint Customers' request for rehearing of the May 16 Order is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁸ Further, the Commission controls its own dockets and has substantial discretion to manage its proceedings. *See, e.g., J.P. Morgan Ventures Energy Corp. v. Cal. Indep. Sys. Operator Corp.*, 142 FERC ¶ 61,150, at P 11 (2013); *see also Mobil Oil Exploration & Producing Se. Inc. v. United Distrib. Cos.* 498 U.S. 211, 230-31 (1991) ("An agency enjoys broad discretion in determining how best to handle related, yet discrete, issues in terms of procedures and priorities an agency need not solve every problem before it in the same proceeding. This applies even where the initial solution to one problem has adverse consequences for another area that the agency was addressing." (internal citations omitted)); *Fla. Mun. Power Agency v. FERC*, 315 F.3d 362, 366 (D.C. Cir. 2003) (administrative agencies enjoy broad discretion to manage their own dockets).

¹⁹ *Midcontinent Independent System Operator, Inc. and Southern Indiana Gas & Electric Co.*, 146 FERC ¶ 61,210 at PP 33 and 39 (2014); *Midcontinent Independent System Operator, Inc., et al.*, 146 FERC ¶ 61,211 at PP 29 and 37 (2014); *Midcontinent Independent System Operator, Inc., et al.*, 146 FERC ¶ 61,212 at PP 59 and 71 (2014).