

148 FERC ¶ 61,211
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission
System Operator, Inc.

Docket No. OA08-53-003

ORDER CONDITIONALLY ACCEPTING COMPLIANCE FILING, SUBJECT TO
FURTHER COMPLIANCE

(Issued September 18, 2014)

1. On April 23, 2010, Midwest Independent Transmission System Operator, Inc. (MISO)¹ submitted revisions to Attachment FF (Transmission Expansion Planning Protocol)² of its Open Access Transmission and Energy Markets Tariff (TEMT or Third Revised Volume) and its Open Access Transmission, Energy and Operating Reserve Markets Tariff (ASM Tariff or Fourth Revised Volume)³ in compliance with the Commission's directives in the March 24, 2010 Planning Order.⁴

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

² MISO incorporated its planning provisions into existing Attachment FF, which contained its existing transmission planning process. Throughout this order, however, the transmission planning process required by Order No. 890 is sometimes referred to generically as the "Attachment K process."

³ With Commission acceptance of MISO's proposals for an Ancillary Services Market, effective January 6, 2009, the MISO TEMT became the ASM Tariff. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,321 (2008). Throughout this order, however, we generically refer to both the TEMT and ASM Tariff as the "MISO Tariff" or "Tariff."

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 130 FERC ¶ 61,232 (2010) (March 24, 2010 Planning Order).

2. In this order, we will conditionally accept MISO's compliance filing in Docket No. OA08-53-003, effective December 7, 2007, for the Third Revised Volume, and January 6, 2009, for the Fourth Revised Volume, as requested, subject to a further compliance filing.

I. Background

3. In Order No. 890,⁵ the Commission reformed the *pro forma* open access transmission tariff (OATT) to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process. To remedy the potential for undue discrimination in planning activities, the Commission directed all transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment to their OATT (Attachment K).

4. The nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability;⁶ (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of, and to build on, transmission planning efforts and processes already underway in many regions of the country. The Commission also explained, however, that although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of the nine principles in its transmission planning process and all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules,

⁵ *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 (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).

⁶ In Order No. 890-A, the Commission clarified that the comparability principle requires each transmission provider to identify, as part of its Attachment K planning process, how it will treat resources on a comparable basis and, therefore, how it will determine comparability for purposes of transmission planning. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

as supplemented with web-posted business practices when appropriate,⁷ must be specific and clear in order to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.

5. As for Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) with Commission-approved transmission planning processes already on file, such as MISO, the Commission explained that when it initially approved these processes, they were found to be consistent with or superior to the existing *pro forma* OATT. However, because the *pro forma* OATT was being reformed by Order No. 890, the Commission found that it was necessary for each RTO and ISO either to reform its planning process or show that its planning process is consistent with or superior to the *pro forma* OATT, as modified by Order Nos. 890 and 890-A.⁸

6. On December 7, 2007, MISO made its filing in Docket No. OA08-53-000 in compliance with Order No. 890's planning requirements. In the May 2008 Planning Order,⁹ the Commission accepted that compliance filing, as modified, effective December 7, 2007, subject to a further compliance filing. On August 13, 2008, MISO made its filing in Docket No. OA08-53-001 in compliance with the May 2008 Planning Order. In the May 2009 Planning Order,¹⁰ the Commission accepted that compliance filing, as modified, subject to a further compliance filing. On July 20, 2009, MISO submitted in Docket No. OA08-53-002 its filing in compliance with the May 2009 Planning Order. In the March 24, 2010 Planning Order,¹¹ the Commission accepted that compliance filing, as modified. In the March 24, 2010 Planning Order, the Commission also directed MISO to file, in a compliance filing to be submitted within 60 days of the date of that order, revisions to Attachment FF to further address: (1) the comparability principle; and (2) stakeholder involvement and the updating of posted models, criteria and assumptions at the local transmission planning level.¹²

⁷ Order No. 890, FERC Stats. & Regs. ¶ 31,241 at PP 1649-1655.

⁸ See Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 439; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at PP 174-175.

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,164 (2008) (May 2008 Planning Order).

¹⁰ *Midwest Indep. Transmission Sys. Operator, Inc.*, 127 FERC ¶ 61,169 (2009) (May 2009 Planning Order).

¹¹ March 24, 2010 Planning Order, 130 FERC ¶ 61,232 at PP 2, 36.

¹² *Id.* PP 17-18, 29-30.

7. On April 23, 2010, in Docket No. OA08-53-003, MISO filed proposed revisions to Attachment FF of the MISO Tariff to comply with the Commission's directives in the March 24, 2010 Planning Order. We address the April 23, 2010 filing in this order.

II. Notice of Filing and Responsive Pleadings

8. Notice of MISO's filing was published in the *Federal Register*, 75 Fed. Reg. 23,751 (2010), with interventions and protests due on or before May 14, 2010.

9. Consumers Energy Company (Consumers) filed timely comments and The Detroit Edison Company (Detroit Edison) filed a timely motion to intervene and comments. International Transmission Company, Michigan Electric Transmission Company, LLC and International Transmission Midwest LLC (collectively, International Transmission) and MISO filed answers to Consumers' and Detroit Edison's comments.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), Detroit Edison's timely, unopposed motion to intervene serves to make it a party to this proceeding.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept International Transmission's and MISO's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

12. We find that MISO's revised Attachment FF transmission planning process partially complies with the March 24, 2010 Planning Order. Accordingly, we conditionally accept MISO's compliance filing, effective December 7, 2007, for the Third Revised Volume tariff sheets, and January 6, 2009, for the Fourth Revised Volume tariff sheets, as requested, subject to a further compliance filing, as discussed below.

1. Comparability

a. March 24 Planning Order

13. In the March 24, 2010 Planning Order, the Commission found that MISO's Attachment FF complies with the comparability principle, with one exception. The Commission found that MISO had complied with the requirement to clarify that alternatives stakeholders can propose may include transmission, generation, and demand-

side resources. However, the Commission found that MISO had only partially complied with the requirement to clarify that it will review and evaluate such alternatives on a comparable basis.¹³

14. The Commission found that MISO's proposed language in section I.B.1.b of Attachment FF that states, in relevant part, that MISO will review and evaluate alternatives proposed by stakeholders on a comparable basis, "taking into consideration the contractual commitment to generation and demand side solutions by Market Participants as required under the Tariff," was not clear about what contractual commitments generation and demand-side resource solutions must meet and whether such commitments are comparable to those required of transmission solutions.¹⁴ In addition, the Commission stated that the proposed language did not indicate the Tariff provisions to which it was referring.¹⁵ Therefore, the Commission directed MISO, in a compliance filing, to revise section I.B.1.b to either delete the phrase "taking into consideration the contractual commitment to generation and demand side solutions by Market Participants as required under the Tariff" or to revise it to clarify what contractual commitments will apply to generation and demand-side resource solutions, how they are comparable to the commitments that apply to transmission solutions, and which Tariff provisions are applicable to this section.¹⁶

b. MISO Filing

15. MISO states that it has revised section I.B.1.b of Attachment FF to clarify what contractual commitments apply to generation and demand-side resource solutions and the comparability of those commitments to transmission solutions. Specifically, MISO proposes to revise the relevant portion of its Tariff to state that generation solutions must have filed an interconnection agreement, either executed or unexecuted, by the time that the transmission solution would need to be committed to in order to ensure a timely solution to the identified planning need. MISO states that the language outlining the commitment for generator interconnections can be found in Attachment X (Generator Interconnection Procedures) of the MISO Tariff. MISO also states that demand-side resource solutions must have an executed contract between the load serving entity and customer in place by the time the transmission solution would otherwise need to be committed to in order to ensure a timely solution to the identified planning need. MISO

¹³ *Id.* P 17.

¹⁴ *Id.* P 18.

¹⁵ *Id.*

¹⁶ *Id.*

states that such contracts must span the five-year planning horizon to ensure the ability to provide adequate lead time for an alternative transmission solution should the demand-side contracts terminate. Specifically, MISO proposes to revise section I.B.1.b of Attachment FF, in relevant part, as follows:

[A]lternatives [submitted by stakeholders] may include transmission, generation, and demand-side resources. The Transmission Provider will review and evaluate such alternatives on a comparable basis, ~~taking into consideration the contractual commitment to generation and demand side solutions by Market Participants as required under the Tariff~~ and select the most appropriate solution. Comparability includes the ability of the Transmission Provider to obtain contractual assurances that the selected solution will be implemented by the required in-service dates. Contractual commitments associated with transmission solutions to be constructed by [MISO] Transmission Owners are provided for by the ISO Agreement. Contractual commitments associated with generation solutions require that a generator interconnection agreement be filed with the Commission pursuant to Attachment X of the Tariff by the time the alternative transmission solution would need to be committed to in order to ensure installation on the required need date. Contractual commitments associated with demand-side resource solutions require demonstration to the Transmission Provider of an executed contract between [Load Serving Entity] and End-Use Customers. Such demand-side contracts must be in place by the time the transmission solution would otherwise need to be committed to in order to ensure a timely solution to the identified planning need, and must be a sufficient duration such that a reliable solution can be assured through the planning horizon.^{17]}

c. Protests/Comments

16. Detroit Edison states that MISO's proposed requirement that potential generation solutions have a filed generator interconnection agreement, either executed or unexecuted, by the time that the transmission solution would need to be committed to makes it more likely than not that a proposed generation project could never be considered by MISO as an alternative to a proposed transmission project. According to Detroit Edison, this proposal does not comply with the requirement that generation alternatives be treated comparably to transmission projects.

¹⁷ MISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Substitute First Revised Sheet No. 3431 and Original Sheet No. 3431A. The underlined portion refers to new language proposed by MISO to comply with the Commission's directives.

17. To illustrate its point, Detroit Edison describes MISO's annual transmission planning process. Detroit Edison states that proposed projects in the MISO Transmission Expansion Plan (MTEP) are categorized as either Appendix A, B or C projects,¹⁸ depending on their urgency of need and the completeness of their comparison among alternatives. Detroit Edison states that projects are proposed in MISO's annual transmission planning process on September 15 of every year. Beginning the following January, MISO then conducts a series of Sub-Regional Planning Meetings, including the April Sub-Regional Planning Meeting, where possible alternative solutions to projects proposed on September 15 of the previous year are to be discussed. Then, during the June Sub-Regional Planning Meeting, MISO presents the results of its analysis of alternatives and accepts comments from stakeholders on MISO's proposed preferred solutions. If, after the June Sub-Regional Planning Meeting, the MISO Board of Directors approves a proposed transmission project for inclusion in MTEP Appendix A, then the relevant MISO transmission owner is committed to constructing that project.

18. Detroit Edison believes that this schedule does not provide enough time for a generation project to be considered in response to a transmission project proposed on September 15. Detroit Edison states that, if a transmission project were offered as an MTEP Appendix A project on September 15, and alternatives were presented during the April Sub-Regional Planning Meeting, one could conclude that the time frame that a generation project "otherwise would need to be committed" would lie somewhere between September 15 and the April Sub-Regional Planning Meeting because, by June, MISO planning staff will have identified its preferred solution.¹⁹ However, Detroit Edison argues that MISO's generator interconnection study calendar illustrates the impossibility of a generator being able to respond in that time frame. For example, Detroit Edison cites a hypothetical transmission project that is proposed on September 15, 2010. If a generator that was not already in the MISO generator interconnection queue wanted to respond as a potential alternative to the transmission project proposed on September 15, it would have to enter the generator interconnection queue. According to Detroit Edison, if there were not sufficient transmission capacity and the interconnection request were placed in the System Planning and Analysis phase, it could take over a year to complete the required interconnection studies for the proposed generator alternative. Detroit Edison argues that, even under the best case scenario, the earliest a potential generator alternative that was not already in the MISO interconnection queue could be studied and be in a position to file a generator interconnection agreement with the Commission would be around June 2011. Detroit Edison believes there would

¹⁸ The Appendix to this order contains a description of Appendixes A, B and C projects.

¹⁹ Detroit Edison Comments at 5.

still not be enough time for a generation project to be evaluated as an alternative to the hypothetical transmission project that was proposed on September 15, 2010 because June 2011 is approximately the same time that MISO's Board of Directors would be scheduled to review and approve the projects for that planning cycle.

19. Detroit Edison argues that, regardless of how one might reasonably expect MISO to define the time when a generation project would "otherwise need to be committed," it would likely be less than a year from the time a transmission project is proposed. Thus, Detroit Edison argues that MISO's proposed Tariff revisions will negate any meaningful participation by generation alternatives in MISO's Order No. 890 planning process, and generator alternatives will not be treated on a comparable basis.

20. Instead, Detroit Edison proposes that MISO be required to implement a different procedure that Detroit Edison argues would more appropriately incorporate generator alternatives. Specifically, Detroit Edison states that if a stakeholder proposes a generator alternative to an MTEP Appendix A-proposed transmission project, both projects should be moved to MTEP Appendix B in the current planning cycle to provide MISO sufficient time to define the scale of generation required to stand in place of the transmission project and to enable a generation developer to propose a project in MISO's generator interconnection study process. Detroit Edison states that, in MISO's Business Practice Manual for Transmission Planning, MTEP Appendix B projects are those that are demonstrated to be a potential solution to an identified need, or to have an identified cost savings or other benefit.²⁰ Unlike a project approved for inclusion in Appendix A, a project included in Appendix B does not need to move forward and MISO transmission owners are not committed to constructing that project.

21. Detroit Edison argues that moving projects to MTEP Appendix B would be appropriate and would provide time for analysis and assessment of a preferred solution. Furthermore, Detroit Edison proposes that, in order to be considered as an alternative project, a proposed alternative generation project should be required to progress through MISO's generator interconnection process up to the point where it would be eligible to enter into the Definitive Planning Phase.²¹ In addition, Detroit Edison states that, prior to the generation project being required to enter into the Definitive Planning Phase, MISO should be required to indicate whether it prefers the transmission project or the

²⁰ *Id.* at 7.

²¹ The Definitive Planning Phase is defined as the final phase of the generator interconnection procedures process consisting of an interconnection facilities study and, as applicable, an interconnection system impact study. *See* MISO Tariff, Attachment X (Generator Interconnection Procedures).

generation project as a solution to the identified need. Detroit Edison states that MISO's selection of the generation project as the preferred solution would grant the proposed generation developer the assurance required for it to move forward in expending the resources necessary to meet the milestones associated with the Definitive Planning Phase (i.e., site control, equipment on order, necessary permits, regulatory approval, generator developer's board approval, or deposit).²² Detroit Edison states that, since MISO's transmission owners are not required to demonstrate any of these milestones ahead of approving a transmission project, not making the generation developer make the financial commitment until it was selected by MISO as the preferred solution, thus granting that developer the assurance required for it to move forward in expending the resources necessary to achieving these milestones, would treat generation projects on a basis that is comparable to that of transmission projects.

22. In its comments, Consumers states that, while it supports MISO's proposal to have a generation or demand-side resource solution fully committed by the time the transmission owner would need to begin building the alternative transmission solution, Consumers believes the proposed language is ambiguous and could be interpreted to require the generation proposal or demand-side resource solution to be committed prior to selection by MISO's Board of Directors. Thus, Consumers argues, the proposed Tariff language does not treat transmission, generation and demand-side resource solutions comparably. Consumers suggests revisions to the Tariff language, arguing that when the focus is changed from the execution of a contract between the load serving entity and the end use customers to the approval of the MISO's Board of Directors under Appendix A, the timing of the determination of comparability will be clearly identified. Specifically, Consumers proposes to revise section I.B.1.b, as follows:

Upon approval by the Midwest ISO's Board of Directors of a generation solution in Appendix A, ~~Contractual commitments associated with generation solutions require that~~ a generator interconnection agreement shall be filed with the Commission pursuant to Attachment X of this Tariff by the latest date ~~time~~ the alternative transmission solution would need to be committed to in order to ensure installation on the required need date. Upon approval by the Midwest ISO Board of Directors of a demand side solution in Appendix A, demonstrated ~~Contractual commitments associated with demand side resource solutions require demonstration to the Transmission Provider of an executed contract between LSE and End Use Customers shall be provided to the~~ Transmission Provider. Such demand side contracts must be in place by the latest date that the transmission solution would otherwise need to be

²² Detroit Edison Comments at 7.

committed to in order to ensure a timely solution to the identified planning need, and must be of a sufficient duration such that a reliable solution can be assured through the planning horizon.^[23]

d. Answers

23. In its answer, International Transmission states that there are several problems with Detroit Edison's statement that generation alternatives could never be considered by MISO as alternatives to transmission projects. First, International Transmission argues that, if a generation solution falls into the System Planning and Analysis phase where transmission is insufficient to allow for deliverability of a proposed generation solution, then that solution is not a valid alternative that can adequately be evaluated within the time horizon that is required to review and evaluate a proposed transmission solution that is being proposed to resolve a reliability issue. Second, International Transmission argues that under section I.B.1b. of the revised MISO Tariff, transmission owners who plan to submit new transmission projects by September 15 must have already provided MISO (by June 1 of the same year) with the base power flow models used in support of the identified transmission projects.²⁴ Therefore, International Transmission argues that proponents of generation solutions to transmission needs will have ample information at their disposal by June 1 (three months prior to the beginning of the annual MTEP cycle in September) to evaluate the transmission system and identify generation alternatives to a potential transmission problem.

24. International Transmission also disagrees with Consumers' proposal that contractual commitments associated with generation or demand-side resource solutions "shall be provided to the Transmission Provider by the latest date that the transmission solution would otherwise need to be committed"²⁵ International Transmission argues that Consumers' proposed revisions "will result in an open-ended proposal that will create uncertainty in building transmission projects that are proposed in response to immediate North American Electric Reliability Corporation (NERC) system violations."²⁶ International Transmission argues that, based on Consumers' revisions, the transmission owners – the entities responsible for NERC system violations – will not be

²³ Consumers Comments at 3 (citing MISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Original Sheet No. 3431A).

²⁴ International Transmission Answer at 5 (citing MISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Original Sheet No. 3430).

²⁵ *Id.* at 6-7 (citing Consumers Answer at 3).

²⁶ *Id.* at 7.

certain that the selected alternative will be fulfilled by the generation developer or the load serving entity until the point when they would need to start the construction of the transmission solution. International Transmission argues that, if the generation or demand-side resource solutions do not materialize, it will be too late for the transmission owner to begin planning and constructing the necessary project to alleviate the NERC violation in a timely manner. International Transmission argues that Consumers' proposal would require transmission owners to continue with the design work for all proposed projects and have all necessary materials for construction on hand, just in case the selected provider chooses not to, or is unable to, complete the approved solution.

25. International Transmission supports MISO's proposal that contractual commitments associated with generation solutions require that an interconnection agreement be filed with the Commission. International Transmission argues that, prior to signing the interconnection agreement, it is very easy for a proponent of a generation solution to withdraw the proposed solution from the queue. International Transmission argues that, if a generation solution is chosen as the preferred solution to a NERC criteria violation, and if the proponent of that solution later chooses not to go forward with the project, the transmission owner is still required to meet all NERC standards. Therefore, International Transmission argues that a generation solution must be a firm, concrete and definitive solution; and it becomes such a solution, International Transmission argues, only when an interconnection agreement is signed or submitted to the Commission.

26. International Transmission believes, however, that in order to clarify the timing and implementation date of an approved generation solution, the focus of section I.B.1.b of the MISO Tariff should be changed so that MISO's Board of Directors can approve both transmission and the associated generation solution under Appendix A. International Transmission argues that both proposed transmission and identified generation alternatives should be allowed to move forward through the MTEP process pending the submission of the required interconnection agreement for Commission approval. Specifically, International Transmission proposes the following language in section I.B.1.b:

Upon approval by the Midwest ISO's Board of Directors of a proposed transmission solution and the associated alternative generation solution, the Transmission Owner shall delay the implementation of the approved transmission solution for ninety days. Within ninety (90) days of the Board's approval, contractual commitments associated with the approved generation solution shall be completed and a generator interconnection agreement shall be filed with the Commission pursuant to Attachment X of this Tariff. In order to ensure installation on the required need date, the identified and approved alternative transmission solution would be

committed to if such agreement is not filed with the Commission within ninety (90) days of the Board's approval and the Transmission Provider shall issue a notice to the Transmission Owner to implement the approved transmission solution.^[27]

27. International Transmission also suggests proposed Tariff revisions intended to incorporate MISO's statement that contracts relating to demand-side resource solutions must "span the five year planning horizon to ensure the ability to provide adequate lead time for alternative transmission solutions should the demand-side contract terminate."²⁸ International Transmission states that MISO inadvertently omitted this language in the Tariff.

28. In its answer, MISO states that Detroit Edison's proposal would be detrimental to the ability of MISO to ensure that reliability standards can be met and is not necessary in order to enable MISO to review and evaluate alternatives on a comparable basis. First, MISO states that it is highly unlikely that a generation alternative that requires a lengthy interconnection study process, such as the System Planning and Analysis phase, would be proposed in April as a solution to an identified transmission issue for which a transmission project has been proposed at the beginning of the planning cycle the prior September. MISO argues that because of the incremental cost of new generation as compared to comparable transmission solutions, generation is most often a viable alternative to transmission issues when the generation is already in the planning process driven by the need for additional resources, not solely as a solution to a transmission issue. MISO states that, in such circumstances, it is quite likely that the generation interconnection process for such generation is underway long before the April deadline for stakeholders to present alternative solutions in the annual Sub-Regional Planning Meeting process.

29. Nevertheless, MISO states that in the event that a stakeholder were to submit in April a generation solution as an alternative to a proposed transmission solution, MISO's planning staff would be able to determine the requisite scale of generation that would be needed before the initial review by the Board of Directors of recommended solutions. MISO states that if it is determined that, owing to transmission permitting and construction lead times, the transmission solution should begin implementation, MISO would be required to move the transmission solution to the Board of Directors as an

²⁷ *Id.* at 9 (citing MISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Original Sheet No. 3431A).

²⁸ *Id.* (citing MISO Transmittal at 3).

Appendix A project, meaning that it is recommended for approval to implement and that its cost allocation and recovery is determined. MISO argues that to leave a proposed solution in Appendix B would not provide assurances to the transmission developer that the project constitutes an approved part of the regional plan with associated cost responsibility under the Tariff, which are necessary for the transmission owner to proceed with the investment. MISO argues that such a delay would cause MISO and the transmission owner to violate planning standards, “which require the consideration of transmission development lead-times.”²⁹

30. However, MISO states that recommendation of the transmission solution in order to begin implementation that will ensure reliable system performance does not mean that the generation option is negated as the appropriate solution. MISO states that its planning practices include a quarterly review by the Board of Directors of all approved transmission projects for their status and continuing need. In the event that changes to system demand or configuration render a previously approved transmission solution no longer necessary, MISO states that the previously approved transmission solution can be deferred or cancelled as appropriate. MISO states that such changes to system configuration include the interconnection, or pending interconnection, of a resource that has completed the interconnection process and has filed with the Commission an interconnection agreement pursuant to Attachment X of the MISO Tariff.

31. MISO does not support Consumers’ proposal that MISO recommend to the Board of Directors a generation solution that does not yet have a commitment to proceed, as long as that commitment is filed by the latest date the alternative transmission solution requires a commitment to ensure timely completion. MISO states that Consumers’ proposal would put the Board of Directors in the position of approving a solution that may never materialize and MISO’s planning staff in the position of having to change, at a future date, the recommended solution from the generation project to the transmission project if the interconnection agreement is not filed when required to proceed with the transmission option. MISO argues that the language filed by MISO makes such revised recommendations unnecessary. As set forth in its compliance filing, MISO states that it will not recommend a transmission solution for approval before the date that it is necessary to commit to the project if there is an alternative generation solution that has an interconnection agreement pending. MISO argues that there would be no need to prematurely recommend either solution to the Board of Directors until the commitment date. In such a case, MISO states that it would review and evaluate both alternatives for effectiveness and, if both were effective solutions, it would make its recommendation on the preferred solution taking into consideration the project lead times at the time that a

²⁹ MISO Answer at 6 (citing North American Electric Reliability Corporation Reliability Standard TPL-001-0.1, A.3 (May 13, 2009)).

recommendation to the Board of Directors is needed to ensure continued system reliability.

e. **Commission Determination**

32. We find that MISO's proposed revisions to section I.B.1.b of Attachment FF, subject to the modifications directed below, comply with the requirement that it clarify that it will review and evaluate alternatives on a comparable basis. Specifically, we find that MISO clarifies what contractual commitments will apply to generation and demand-side resource solutions, how they are comparable to the commitments that apply to transmission solutions, and which Tariff provisions are applicable to section I.B.1.b of Attachment FF.

33. Detroit Edison argues that the length of time it takes to complete generator interconnection studies puts proponents of a potential generation solution to a transmission need at a disadvantage. We disagree. First, as International Transmission points out, stakeholders will not have to wait until September 15 to evaluate transmission needs since they will have access by June 1 to base power flow models with sufficient information to evaluate the transmission system and identify generation alternatives to meet potential transmission needs. In the instance where it takes longer to study a potential generation solution due to insufficient transmission capacity to support the proposed generator interconnection request, such that the generation alternative cannot be committed to prior to the date that it is necessary to commit to the transmission solution, we also agree with International Transmission that the particular generation solution would not yet be a valid alternative that can be evaluated within the time horizon required to meet the system need.

34. We also agree with MISO that a generator that may mitigate a particular transmission need is likely being evaluated in the interconnection process long before the April deadline for stakeholders to present alternative solutions in the annual Sub-Regional Planning Meeting process. Furthermore, as MISO explained in its answer, MISO's planning practices include quarterly reviews that consider changes to system configurations, including the interconnection, or pending interconnection, of a resource that has completed the interconnection process and has filed with the Commission an interconnection agreement pursuant to Attachment X of the MISO Tariff. Therefore, we are not persuaded by Detroit Edison's protest, and find Detroit Edison's proposed language unnecessary to ensure comparable treatment of transmission, generation and demand side resource solutions.

35. Likewise, we disagree with Consumers' argument that the proposed Tariff language is ambiguous and could be interpreted to require the alternative generation or demand-side resource solutions to be committed prior to selection by MISO's Board of Directors. We find MISO has provided sufficient support to demonstrate that it is

appropriate to have finalized contractual commitments for alternative proposed generation and demand-side resource solutions prior to MISO's Board of Directors deciding whether to approve a transmission project as the preferred solution. We also agree with MISO that Consumers' proposal would put MISO's Board of Directors in a position of potentially foregoing approval of a transmission solution and relying on a non-transmission solution that may never materialize, thereby requiring MISO's planning staff to change the recommended solution at a future date. We find that MISO's commitment to not recommend a transmission solution for approval before the date that it is necessary to commit to the transmission solution if there is an alternative generation solution with a pending generator interconnection agreement before the Commission allows for comparable treatment of generation resources. Therefore, we find Consumers' proposed Tariff language unnecessary to ensure comparable treatment.

36. In addition, we are not persuaded that International Transmission's proposed language that would allow MISO's Board of Directors to delay implementation of an approved transmission solution pending finalization of an alternative generation solutions' contractual commitments is appropriate. As discussed above, we find that MISO has demonstrated that it is appropriate to have finalized contractual commitments for proposed generation and demand-side resource solutions prior to MISO's Board of Directors foregoing approval of a transmission solution and relying on a non-transmission solution instead to meet an identified need. Therefore, we find International Transmissions' proposed Tariff language unnecessary to ensure comparable treatment. We will, however, require MISO to insert clarifying language, consistent with MISO's transmittal, in section I.B.1.b of Attachment FF to state that demand-side resource solutions "must span the five year planning horizon to ensure the ability to provide adequate lead time for an alternative transmission solution should the demand contracts terminate."³⁰ Accordingly, we direct MISO, in the compliance filing ordered below, to revise section I.B.1.b, in relevant part, as follows:

Contractual commitments associated with demand-side resource solutions require demonstration to the Transmission Provider of an executed contract between LSE and End-Use Customers. Such demand-side contracts must be in place by the time the transmission solution would otherwise need to be committed to in order to ensure a timely solution to the identified planning need, and must be span the five year planning horizon to ensure the ability to provide adequate lead time for an alternative transmission solution should the demand contracts terminate sufficient duration such that a reliable solution can be assured through the planning horizon.

³⁰ MISO Transmittal at 3.

2. MISO Transmission Owner Local Planning

a. March 24, 2010 Planning Order

37. The Commission found in the March 24, 2010 Planning Order that MISO's Attachment FF, with certain revisions, complied with the Commission's directives in the May 2009 Planning Order.³¹ However, the Commission found that MISO's proposal to allow stakeholders to comment on transmission owner models, criteria and assumptions at the same time that they comment on draft local plans (i.e., comments from stakeholders are due 45 days after the September 15 posting date) did not comply with the Commission's directive that MISO "define the process by which stakeholders can comment on the transmission owner's criteria, assumptions and models, prior to draft transmission plans being completed."³² Therefore, the Commission directed MISO to modify Attachment FF, in a compliance filing, to define the process by which stakeholders can comment on transmission owners' posted criteria, assumptions and models prior to draft local plans being posted on September 15.³³ Further, the Commission directed MISO to revise Attachment FF, in a compliance filing, to require transmission owners to regularly update their posted models, criteria and assumptions to the extent they change during the development of local transmission proposals.³⁴

b. MISO Filing

38. MISO states that it has complied with the Commission's directives in the March 24, 2010 Planning Order. MISO proposes revised Tariff sheets that provide for the following changes: (1) MISO will post the planning models by the end of the first quarter of each year; (2) if the transmission owner uses a different model to develop its local planning proposal before the September 15 project reporting deadline, the transmission owner will post these models and any assumptions underlying any local transmission owner area modifications or differences from the MISO planning cycle case (e.g. local coincident peak analysis, additional model detail, etc.) by June 1; (3) updates to the assumptions and models, if they change from the information posted in June, will be made on a regular basis; (4) stakeholders must then provide comments on the transmission owner models and assumptions by July 1st, and MISO will transmit those

³¹ March 24, 2010 Planning Order, 130 FERC ¶ 61,232 at P 29.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

comments to the relevant transmission owner; and (5) on September 15, the proposed plans based on these transmission owner models and assumptions will be posted.

c. Commission Determination

39. We find that MISO's Attachment FF complies with the Commission's directives in the March 24, 2010 Planning Order. MISO revised Attachment FF to define the process by which stakeholders can comment on transmission owners' posted criteria, assumptions and models prior to draft local plans being posted on September 15. In addition, MISO revised Attachment FF to require transmission owners to regularly update their posted models, criteria and assumptions to the extent they change during the development of local transmission proposals.

The Commission orders:

(A) MISO's compliance filing in Docket No. OA08-53-003 is hereby conditionally accepted effective December 7, 2007, for the Third Revised Volume, and January 6, 2009, for the Fourth Revised Volume, as requested, subject to a further compliance filing, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Section 2.3 to the Transmission Planning Business Practice Manual describes Appendix A projects as:

projects that have been justified to be the preferred solution to an identified reliability, [public] policy or other need, or to achieve an identified cost savings or other benefit and that have been approved by the Transmission Provider Board. The project justification process includes consideration of a variety of factors including urgency of need and comparison from amongst alternatives of operating performance, initial investment costs, robustness of solution, longevity of the solution provided, and performance against other economic metrics. Pending Appendix A projects are recommended for approval by the Transmission Provider Board. Once a project is approved by the Transmission Provider Board as an Appendix A project, the project is implemented in accordance with the [Transmission Owners Agreement] and the Tariff. Projects in Appendix A may be generated from the baseline planning process, or from the generator interconnection or Transmission Service request study processes. Projects in Appendix A may be eligible for regional cost sharing per provisions in Attachment FF of the Tariff, and are categorized according to their cost sharing eligibility. See Section 2.4 of this [Business Practice Manual] (MTEP Project Categories) for descriptions of the different categories of Appendix A projects. See Section 8.0 (Cost Allocation Process) for details on eligibility criteria and cost allocation methodologies.

Section 2.3 to the Transmission Planning Business Practice Manual describes Appendix B projects as:

projects that are demonstrated to be a potential solution to an identified reliability, [public] policy or other need, or to an identified cost savings or other benefit. In the MTEP development process, an initial needs or potential benefit analysis is performed based on applicable criteria. Once a need or potential benefit is identified, potential solutions from Appendix C are tested for effectiveness in meeting the needs or providing the benefits. Appendix C projects with verified needs and effectiveness are then moved to Appendix B as potential needs to an expansion driver. It is possible that

there could be several alternative Appendix B projects to address the same planning issue or need. Projects will remain in Appendix B until the evaluation process for selecting the preferred solution among alternatives is completed.

Section 2.3 to the Transmission Planning Business Practice Manual describes Appendix C projects as:

projects which are proposed by Transmission Owners, Stakeholders, or MISO planning staff for which specific needs have not yet been established, but that are thought by sponsor to be a potentially beneficial expansion, and for which the sponsor has provided to MISO a description of the potential need or benefit. All newly proposed projects start as Appendix C projects in the MTEP planning process. These could also include transmission projects which are conceptual in nature and in the early stages of planning. Appendix C projects are not included in MTEP initial power-flow models used to perform baseline reliability studies since the needs or the effectiveness of these projects are yet to be verified. In order to advance to Appendix B, Appendix C projects must be matched as a potential solution to an identified reliability, [public] policy or other need, or to an identified cost savings or other benefit.