

150 FERC ¶ 61,201
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company	Docket Nos. ER14-2884-000
Kansas City Power and Light Company	EL14-74-000
KCP&L Greater Missouri Operations Company	EL14-75-000

ORDER ON COMPLIANCE FILING

(Issued March 19, 2015)

1. On September 15, 2014, in response to the Commission's July 17, 2014 order,¹ Kansas City Power and Light Company (KCP&L) and KCP&L Greater Missouri Operations Company (GMO) (jointly, KCP&L/GMO) filed proposed revisions to GMO's formula rate protocols under GMO's Open Access Transmission Tariff (GMO Tariff).² In this order, we conditionally accept GMO's revised formula rate protocols, effective March 1, 2015, as requested, subject to further compliance.

¹ *Kansas City Power & Light Co. and KCP&L Greater Missouri Operations Co.*, 148 FERC ¶ 61,034 (2014) (July 17 Order).

² As we explained in the July 17 Order, 148 FERC ¶ 61,034 at n.2, KCP&L's formula rate and formula rate protocols are only included in Southwest Power Pool, Inc.'s (SPP's) Open Access Transmission Tariff (SPP Tariff), whereas GMO's formula rate and formula rate protocols are included in both the GMO Tariff and the SPP Tariff. KCP&L/GMO represent that, upon Commission approval of this compliance filing, SPP will make a companion filing to incorporate the revised protocols for both KCP&L and GMO into the SPP Tariff.

I. Background

A. MISO Protocols Proceedings

2. On May 17, 2012, the Commission instituted a proceeding under section 206 of the Federal Power Act (FPA)³ as to the formula rate protocols of Midwest Independent Transmission System Operator, Inc. (MISO),⁴ finding that they may lead to unjust and unreasonable rates. The Commission specifically identified three areas of concern: (1) scope of participation (i.e., who can participate in the information exchange); (2) the transparency of the information exchange (i.e., what information is exchanged); and (3) the ability of customers to challenge transmission owners' implementation of the formula rate as a result of the information exchange (i.e., how the parties may resolve their potential disputes).⁵

3. After receiving comments from parties to the proceeding, on May 16, 2013, the Commission found that the formula rate protocols under the MISO tariff were insufficient to ensure just and reasonable rates, and therefore, directed MISO and its transmission owners to file revised formula rate protocols to address the Commission's concerns about the scope of participation, the transparency of the information exchange, and the ability of customers to challenge transmission owners' implementation of the formula rate as a result of the information exchange.⁶ On March 20, 2014, the Commission conditionally accepted, subject to further compliance, MISO's proposed tariff revisions made in compliance with the MISO Investigation Order.⁷ Among the requirements addressing the

³ 16 U.S.C. § 824e (2012).

⁴ Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127, at P 8 (2012).

⁶ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013) (MISO Investigation Order), *reh'g denied*, 146 FERC ¶ 61,209 (2014).

⁷ *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,212 (2014) (MISO Compliance Order). The Commission also separately evaluated the compliance filings of two MISO transmission owners. *See Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,210 (2014) (evaluating the compliance filing of Southern Indiana Electric & Gas Company (Southern Indiana)); *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC

(continued...)

transparency of the information exchange, in the MISO Investigation Order, the Commission required MISO to include a provision in the formula rate protocols that transmission owners make annual informational filings of their formula rate updates with the Commission.⁸ Further, on May 19, 2014, MISO submitted a compliance filing in response to the MISO Compliance Order. The Commission conditionally accepted that compliance filing on January 22, 2015.⁹

B. The KCP&L/GMO Protocols Order (July 17 Order)

4. In the July 17 Order, the Commission explained that it had undertaken a review of the transmission formula rates and formula rate protocols of jurisdictional public utilities to identify public utilities that currently are not required to make annual informational filings of their formula rate updates with the Commission, and identified KCP&L and GMO as two such public utilities.¹⁰ The Commission found that the then-effective KCP&L/GMO formula rate protocols were deficient in the three areas of concern identified in the MISO Investigation Order and the MISO Compliance Order, and thus appeared to be unjust and unreasonable.¹¹ The Commission directed KCP&L/GMO to file revised formula rate protocols to conform to the requirements of the MISO Investigation Order and the MISO Compliance Order, or show cause why they should not be required to do so.¹²

¶ 61,211 (2014) (evaluating the compliance filing of Northern Indiana Public Service Company (NIPSCO)).

⁸ MISO Investigation Order, 143 FERC ¶ 61,149 at P 92.

⁹ *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,025 (2015); *see also Midcontinent Indep. Sys. Operator, Inc. and Northern Indiana Public Service Company*, 150 FERC ¶ 61,022, at P 17 (2015) (NIPSCO Second Compliance Order) and *Midcontinent Indep. Sys. Operator, Inc. and Southern Indiana Gas & Electric Company*, 150 FERC ¶ 61,023, at P 18 (2015) (Southern Indiana Second Compliance Order).

¹⁰ July 17 Order, 148 FERC ¶ 61,034 at P 7.

¹¹ *Id.*

¹² July 17 Order, 148 FERC ¶ 61,034 at P 7; *see MISO Investigation Order*, 143 FERC ¶ 61,149; *MISO Compliance Order*, 146 FERC ¶ 61,212.

II. Notice and Responsive Filings

5. Pursuant to the July 17 Order, interventions in Docket Nos. EL14-74-000 and EL14-75-000 were due within 30 days of publication of notice in the *Federal Register* of the Commission's initiation of section 206 proceeding, i.e., due by August 12, 2014.¹³ Timely motions to intervene were filed by SPP and Sunflower Electric Power Corporation and Mid-Kansas Electric Company, LLC, and a notice of intervention was filed by the Missouri Joint Municipal Electric Utility Commission (Missouri Municipal Commission). The Missouri Public Service Commission (Missouri Commission) and the City of Independence, Missouri (Independence) filed late-filed motions to intervene in these dockets, although their interventions in Docket No. ER14-2884-000 were timely filed as indicated below.

6. Notice of the KCP&L/GMO compliance filing was published in the *Federal Register*, 79 Fed. Reg. 56,796 (2014), with interventions and protests due on or before October 6, 2014, subsequently extended until October 27, 2014. SPP, Independence, and Missouri Municipal Commission filed timely motions to intervene. The Missouri Commission filed a notice of intervention and protest. The Kansas State Corporation Commission (Kansas Commission) filed a notice of intervention and protest. KCP&L/GMO filed an answer to the two protests on November 10, 2014.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties in the proceedings where requested. Given the early stage of this proceeding, the absence of any undue prejudice or delay, and their interest in this proceeding, we will grant the untimely, unopposed interventions of Missouri Municipal Commission and Independence in Docket Nos. EL14-74-000 and EL14-75-000.

8. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept KCP&L/GMO's answer because it has provided information that has assisted us in our decision-making process.

¹³ July 17 Order, 148 FERC ¶ 61,034 at P 33; 79 Fed. Reg. 42,786 (2014).

B. Substantive Matters**1. Scope of Participation****a. July 17 Order**

9. The Commission found that the KCP&L/GMO formula rate protocols inappropriately limit the ability of certain interested parties to obtain information and participate in the review processes.¹⁴ The Commission noted that only KCP&L/GMO's transmission customers and "designated" Missouri Commission and Kansas Commission staff participates in the True-Up Adjustment meeting. Further, the Commission noted that KCP&L/GMO use but do not define the term "interested parties" in their formula rate protocols.¹⁵ Therefore, to afford adequate opportunity for participation and access to information, the Commission directed KCP&L/GMO to revise the formula rate protocols to provide all interested parties and the Commission with access to information regarding annual updates as directed by the Commission in the MISO Investigation Order and the MISO Compliance Order, or show cause why this should not be required.¹⁶

b. KCP&L/GMO Compliance Filing

10. KCP&L/GMO state that they have adopted the definition of "Interested Parties" accepted by the Commission in the MISO Compliance Order.¹⁷ Accordingly, Section I.3.f of KCP&L/GMO's proposed formula rate protocols clarify that "the term Interested Parties includes, but is not limited to, customers under the OATT, state utility regulatory

¹⁴ July 17 Order, 148 FERC ¶ 61,034 at P 15 (citing MISO Investigation Order, 143 FERC ¶ 61,149 at P 34 (where the Commission similarly found that "the MISO formula rate protocols . . . inappropriately limit the ability of certain interested parties to obtain information and participate in review processes and are, thus, unjust and unreasonable.")).

¹⁵ *Id.* P 15 & n.17.

¹⁶ *Id.* P 16; *see* MISO Investigation Order, 143 FERC ¶ 61,149 at PP 34-37; MISO Compliance Order, 146 FERC ¶ 61,212 at PP 18-19.

¹⁷ KCP&L/GMO Compliance Filing at 2 (citing MISO Compliance Order, 146 FERC ¶ 61,212 at P 18 (where the Commission found the following definition of "interested parties" to be just and reasonable: "interested parties . . . includ[es] but [is] not exclusive to customers under the Tariff, state utility regulatory commissions, consumer advocacy agencies, and state attorney[s] general.")).

commissions, consumer advocacy agencies, and state attorney generals”¹⁸
KCP&L/GMO represent that interested parties have the right to participate in the Annual Update and True-Up Adjustment meetings, submit information requests, and make informal and formal challenges.¹⁹

c. Commission Determination

11. We find that KCP&L/GMO’s proposed definition of Interested Parties provides sufficient scope of participation for their protocols and will, therefore accept this proposed revision with no further modifications. We direct KCP&L/GMO to take all necessary steps to have SPP make a parallel compliance filing to incorporate the same revision to the KCP&L/GMO protocols in the SPP Tariff.

2. Transparency

a. July 17 Order

12. The Commission found that the KCP&L/GMO formula rate protocols do not provide all interested parties with the information necessary to understand and evaluate the implementation of the formula rate.²⁰ The Commission stated that transmission owners must post their revenue requirement and relevant information on both the Regional Transmission Organization’s website and Open Access Same-Time Information System (OASIS) to ensure accessibility to all interested parties.²¹

13. To ease the burden on both transmission customers and owners, the Commission also directed KCP&L/GMO to:

propose, in their compliance filing, a process for KCP&L/GMO to endeavor to coordinate with other transmission owners that use a regional cost sharing mechanism and hold joint meetings to enable all interested parties to understand how KCP&L/GMO and the other transmission owners

¹⁸ KCP&L/GMO Revised Protocols § I.3.f.

¹⁹ *Id.* at 2-3.

²⁰ July 17 Order, 148 FERC ¶ 61,034 at P 21 & n.39.

²¹ *Id.* (citing MISO Investigation Order, 143 FERC ¶ 61,149 at P 86).

are implementing their formula rates to recover the costs of projects subject to such regional cost sharing.^[22]

14. In addition, the Commission required KCP&L/GMO to notify any interested party, through an email distribution list, of their postings related to Annual Updates and True-Up Adjustments.²³ Finally, the Commission found that, to allow the Commission to perform its duty to ensure just and reasonable rates, KCP&L/GMO must make an annual informational filing that includes data and sufficiently detailed workpapers to support Annual Updates and True-Up Adjustments.²⁴ The Commission therefore, directed KCP&L/GMO to revise the formula rate protocols to provide interested parties the information necessary to understand and evaluate the implementation of the formula rate for both the correctness of inputs and calculations, and the reasonableness and prudence of the costs to be recovered in the formula rate, or show cause why this should not be required.²⁵

b. KCP&L/GMO Compliance Filing

15. KCP&L/GMO state that the proposed formula rate protocols require KCP&L/GMO to post their Annual Updates and True-Up Adjustments on both the SPP website and OASIS. KCP&L/GMO explain that the homepage of the SPP website provides a link to the OASIS site where the KCP&L/GMO information is located.²⁶ KCP&L/GMO represent that, in an effort to be consistent with the Commission's directive in its MISO Compliance Order, KCP&L/GMO's revised protocols provide that "any delay in the publication date should result in an equivalent extension of time for submission of information requests."²⁷

16. KCP&L/GMO acknowledge the Commission's directive to coordinate with other transmission owners to reduce the burden on interested parties, but note that, unlike MISO's transmission owners, SPP transmission owners do not have standard formula rate

²² *Id.* P 22.

²³ *Id.* P 23.

²⁴ *Id.* P 24.

²⁵ *Id.* P 25.

²⁶ KCP&L/GMO Compliance Filing at 3.

²⁷ *Id.* (citing KCP&L/GMO Revised Protocols § I.3.e).

templates and protocols. KCP&L/GMO state that they have reviewed the formula rate protocols of other SPP transmission owners and determined that none requires a joint meeting. KCP&L/GMO explain that there is no common provision that would enable KCP&L/GMO to coordinate holding joint meetings without engaging each transmission owner to establish a new process and, therefore, KCP&L/GMO argue that this requirement should not be included in its revised formula rate protocols at this time.²⁸

17. KCP&L/GMO state that, as required by the Commission, they will notify any interested party, through an email distribution list, of their postings related to Annual Updates and True-Up Adjustments. KCP&L/GMO explain that such distribution will utilize SPP's service list, which includes all members, customers, and market participants.²⁹ Finally, KCP&L/GMO state that Section IV of their proposed formula rate protocols provide that informational filings will be submitted to the Commission in separate dockets by KCP&L and GMO by March 15 of the year after the end of the informal and formal challenge periods.³⁰

c. Protests

18. The Missouri Commission argues that the Commission should not use the MISO transmission owners' compliance filings as a template to evaluate SPP members' formula rate protocols because, in contrast to the MISO tariff, which generally uses a MISO template that is comprised of both the protocols and the rate formula, SPP transmission owners all have individually-developed formula rate tariffs, which have been negotiated through settlement with their customers and Commission staff.³¹

19. The Kansas Commission states that KCP&L/GMO have not provided sufficient documentary evidence in their compliance filing to justify all of the proposed tariff changes. The Kansas Commission states that KCP&L/GMO has unjustly and unreasonably reduced the procedural rights of interested parties to investigate and effectively participate in formula rate reviews. The Kansas Commission notes that the proposed formula rate protocols contain significant alterations to the protocols that the Commission has conditionally approved for other public utilities, such as the MISO transmission owners. The Kansas Commission asks the Commission to reject

²⁸ *Id.* at 3-4.

²⁹ *Id.* at 4.

³⁰ *Id.*

³¹ Missouri Commission Protest at 4.

KCP&L/GMO's proposed formula rate protocols and set all of the genuine issues of material fact that are involved in the filing for a full evidentiary hearing.³²

20. The Missouri Commission argues that the proposed 30-day limit for interested parties to submit information requests after the posting date of the Annual Update is unreasonable. The Missouri Commission explains that the KCP&L/GMO formula rate protocols require the Annual Update to be posted by September 24 with the public meeting to be held by October 16, leaving only eight additional days after the public meeting for interested parties to submit information requests. The Missouri Commission suggests that the Commission should direct KCP&L/GMO to expand the time period for information requests from 30 days to at least 60 days.³³

21. The Missouri Commission also states that the Commission should require KCP&L/GMO to offer remote access for the Annual Update meetings and the True-Up Adjustment meetings. The Missouri Commission notes that Section II.2 of the proposed KCP&L/GMO formula rate protocols gives KCP&L/GMO the option to choose whether or not to provide remote access options when KCP&L/GMO convenes its True-Up Adjustment meeting, whereas Section I.3 of the proposed KCP&L/GMO formula rate protocols states that KCP&L/GMO will choose between alternate remote access options when KCP&L/GMO convenes its Annual Update meeting. The Missouri Commission argues that the language regarding remote access in Section II.2 should be changed to match the corresponding language in Section I.3.³⁴

22. Additionally, the Missouri Commission cites to the information and document request criteria listed in Section II.3 of KCP&L/GMO's proposed formula rate protocols and argues that the type of information interested parties may request regarding Annual Updates should be at least as broad as the type of information that may be requested regarding the True-Up Adjustment.³⁵

23. The Kansas Commission states that KCP&L/GMO propose to use an email service list rather than actual notification. The Kansas Commission requests that KCP&L/GMO continue to provide actual notification of these filings/meetings to all parties that have indicated an interest in KCP&L/GMO formula rate proceedings. The Kansas

³² Kansas Commission Protest at 3, 7-8.

³³ Missouri Commission Protest at 5.

³⁴ *Id.* at 5-6.

³⁵ *Id.*

Commission suggests that the goals of the Commission in the July 17 Order were to establish greater transparency and opportunity for review, and accordingly, KCP&L/GMO should not be making any changes to their protocols that will have the opposite effect. The Kansas Commission requests that the notification procedure be modified to increase transparency and accessibility.³⁶

24. The Kansas Commission argues that Section I.4(e) of the proposed KCP&L/GMO formula rate protocols does not adequately reflect the description of the accounting changes required by the Commission in the MISO Investigation Order.³⁷ The Kansas Commission requests that the Commission require KCP&L/GMO to incorporate accounting changes protocols that are as transparent as those required by the MISO Investigation Order.³⁸

25. The Kansas Commission also protests the proposed information exchange procedures and argues that they are woefully inadequate. According to the Kansas Commission, the deadlines proposed by KCP&L/GMO will result in less time for interested parties to analyze formula rate data and seek discovery than the timeframes the Commission conditionally approved for the MISO transmission owners. The Kansas Commission notes that: (1) KCP&L/GMO's formula rate protocols provide that KCP&L/GMO must post their Annual Update by September 24; (2) the Annual Update meeting must be held no later than October 16; and (3) discovery may only be issued until October 24. The Kansas Commission contrasts the KCP&L/GMO formula rate protocols with the MISO Investigation Order protocols, which require a MISO transmission owner to file its Annual Update on September 1 and allow for discovery until December 1. The Kansas Commission reiterates that it believes the Commission in the July 17 Order meant to increase transparency and enhance the ability of interested parties to have sufficient time to review formula rate data.³⁹

d. Answer

26. KCP&L/GMO state that they endeavored to address the specific deficiencies identified in the July 17 Order. KCP&L/GMO also dispute the specific modifications proposed in the protests filed by the Missouri Commission and the Kansas Commission.

³⁶ Kansas Commission Protest at 4.

³⁷ *Id.* at 4-5 (citing MISO Investigation Order, 143 FERC ¶ 61,149 at P 87).

³⁸ *Id.*

³⁹ *Id.* at 5.

KCP&L/GMO state that the Commission should find that their compliance filing addresses the Commission's concerns raised in the July 17 Order, and reject the Kansas Commission's request to set this matter for hearing.⁴⁰

27. Specifically, KCP&L/GMO dispute the Missouri Commission's argument that the 30-day limit on Annual Update information requests is unreasonable and that KCP&L/GMO should allow at least 60 days for Annual Update information requests. KCP&L/GMO note that the Commission in the July 17 Order did not explicitly identify this as a deficiency and that KCP&L/GMO did not make a change to the information exchange for the Annual Update because this is negotiated and settled language agreed to by the parties to KCP&L/GMO's original formula rate case. Nevertheless, KCP&L/GMO does not oppose the Missouri Commission's proposed change.⁴¹

28. In response to Missouri Commission's request for KCP&L/GMO to offer remote access, KCP&L/GMO states that it was always the intent of the language to offer remote access for both the Annual Update meeting and the True-Up Adjustment meeting and represent that KCP&L/GMO have always made remote access available. KCP&L/GMO therefore do not oppose modifying their formula rate protocols to explicitly incorporate this language.⁴²

29. KCP&L/GMO also do not oppose amending their formula rate protocols to explicitly state that the type of information interested parties may request regarding Annual Updates is at least as broad as the information interested parties may request regarding True-Up Adjustments. KCP&L/GMO propose to amend Section II of their proposed formula rate protocols to clarify that the type of information that interested parties may request regarding Annual Updates is the same as the type of information that interested parties may request regarding True-Up Adjustments.⁴³

30. Similarly, in response to the Missouri Commission and the Kansas Commission questioning the adequacy of the information exchange procedures for the Annual Update,

⁴⁰ KCP&L/GMO Answer at 3, 10.

⁴¹ *Id.* at 3-4.

⁴² *Id.* at 4-5.

⁴³ *Id.* at 4.

KCP&L/GMO note that the July 17 Order did not explicitly identify this as a deficiency. Nevertheless, they state that they are not opposed to making the suggested change.⁴⁴

31. With regard to the Kansas Commission's request that KCP&L/GMO continue to provide actual notification to all parties that have indicated an interest in KCP&L/GMO's formula rate proceedings, KCP&L/GMO note that state utility regulatory commissions are included in the definition of interested parties, and the Kansas Commission, the Missouri Commission, and their respective staffs are already on the SPP Service List. KCP&L/GMO state that they currently send notifications to staff and will continue to do so in the future. KCP&L/GMO argue that the language in Section I.3(f) of the proposed formula rate protocols increases transparency and accessibility as per the goals of the July 17 Order.⁴⁵

32. In response to the Kansas Commission's argument that Section I.4(e) of the KCP&L/GMO formula rate protocols does not adequately reflect the description of the accounting changes required by the MISO Investigation Order, KCP&L/GMO state that this issue also was not identified by the Commission in the July 17 Order as a deficiency that needs to be addressed and, as such, no change was required.⁴⁶

e. Commission Determination

33. We find that the provisions in KCP&L/GMO's proposed formula rate protocols relating to transparency generally comply with the requirements of the July 17 Order. We therefore will conditionally accept them, subject to further compliance, as discussed below. We also will direct KCP&L/GMO to take all necessary steps to have SPP make a parallel compliance filing to incorporate the same revisions to the KCP&L/GMO protocols in the SPP Tariff.

34. We acknowledge that SPP and MISO are fundamentally different and agree that we should not rely solely on the MISO transmission owners' compliance filings to evaluate SPP members' formula rate protocols. However, to the extent that the same deficiencies identified in the MISO Investigation Order and the MISO Compliance Order are present in KCP&L/GMO's formula rate protocols, it is reasonable for us to consider the Commission's findings as they relate to the MISO transmission owners' compliance filings in our review of KCP&L/GMO's formula rate protocols. Nevertheless, the

⁴⁴ *Id.*

⁴⁵ *Id.* at 5-6.

⁴⁶ *Id.* at 7.

directives in the July 17 Order and herein respect the fact that KCP&L/GMO's formula rate protocols have been individually developed, and, therefore, we provide KCP&L/GMO with flexibility in how they must address the identified deficiencies.

35. We dismiss the Kansas Commission's request for a full evidentiary hearing of KCP&L/GMO's proposed revisions. Based on our review of the pleadings before us, we see no issues of material fact that necessitate a full evidentiary hearing.

36. With regard to the language in Section I.3(g) of KCP&L/GMO's proposed formula rate protocols, we agree with the arguments made by the Missouri Commission and the Kansas Commission that a 30-day time period in which to make Annual Update information requests may be inadequate.⁴⁷ Moreover, the proposed formula rate protocols that allow for as little as eight days of discovery after the Annual Update meeting may not provide interested parties with a sufficient period of time to consider the information exchanged at the Annual Update meeting before they make their information requests. KCP&L/GMO state that they are not opposed to modifying their formula rate protocols to allow for at least 60 days in which to make Annual Update information requests, as proposed by the Missouri Commission.⁴⁸ Accordingly, we will direct KCP&L/GMO to revise their proposed formula rate protocols to allow for at least 60 days in which to make Annual Update information requests.

37. We find that KCP&L/GMO should include tariff language regarding joint meetings with other transmission owners using formula rates to establish the revenue requirements for recovery of the costs of projects subject to the same regional cost allocation. A joint meeting with other transmission owners using formula rates to establish the revenue requirements for recovery of the costs of projects that they develop that are subject to the same regional cost allocation would be an efficient way for such transmission owners to conduct annual meetings to discuss their annual updates, so that parties interested in the annual updates of multiple transmission owners with projects subject to the same regional cost allocation do not have to separately participate in each transmission owner's annual meeting.⁴⁹ This could ease the burden of both transmission customers and owners by limiting the number of annual meetings necessary.⁵⁰

⁴⁷ Missouri Commission Protest at 5; Kansas Commission Protest at 5.

⁴⁸ KCP&L/GMO Answer at 3-4.

⁴⁹ MISO Compliance Order, 146 FERC ¶ 61,212 at P 59.

⁵⁰ *Id.* While we recognize that KCP&L/GMO's formula rate protocols only govern KCP&L/GMO's annual updates, we expect other public utility transmission owners using formula rates to establish revenue requirements for recovery of the costs of

Accordingly, we will direct KCP&L/GMO to include a requirement, in the compliance filing ordered below, that they endeavor to coordinate with other transmission owners using formula rates to establish revenue requirements for recovery of the costs of transmission projects that utilize the same regional cost sharing mechanism and hold joint meetings to enable all interested parties to understand how those transmission owners are implementing their formula rates for recovering the costs of such projects.⁵¹

38. We agree with the Missouri Commission's assertion that KCP&L/GMO's formula rate protocols should require KCP&L/GMO to provide remote access to their Annual Update and True-Up Adjustment meetings.⁵² We find it reasonable to allow for remote access to ease burdens (e.g., travel costs) and ensure all interested parties have the opportunity to participate in the meetings. We will therefore direct KCP&L/GMO to modify their formula rate protocols to explicitly require remote access for participation at Annual Update and True-Up Adjustment meetings.

39. In response to the Missouri Commission's argument regarding the type of information interested parties may request regarding Annual Updates,⁵³ KCP&L/GMO propose to amend Section II of their proposed formula rate protocols to clarify that the type of information that interested parties may request regarding Annual Updates is the same as the type of information that interested parties may request regarding True-Up Adjustments.⁵⁴ We agree that this clarification is necessary and therefore will direct KCP&L/GMO to make the proposed modification.

40. The Kansas Commission argues that KCP&L/GMO's formula rate protocols do not adequately reflect the description of the accounting changes required by the Commission in the MISO Investigation Order.⁵⁵ In the MISO Investigation Order, the Commission held that the MISO transmission owners must disclose any change in

transmission projects that utilize the same regional cost sharing mechanism to cooperate in coordinating to hold joint meetings.

⁵¹ KCP&L/GMO would not need to coordinate with transmission owners that do not use formula rates and thus do not update their rates each year.

⁵² Missouri Commission Protest at 5-6.

⁵³ *Id.* at 5.

⁵⁴ KCP&L/GMO Answer at 4.

⁵⁵ Kansas Commission Protest at 4-5.

accounting during the rate period that affects inputs to the formula rate or the resulting charges billed under the formula rate.⁵⁶ We note that KCP&L/GMO's proposed formula rate protocols require KCP&L/GMO to identify any changes in accounting policies that could impact the formula rate or the calculations under the formula rate within the next three years.⁵⁷ Accordingly, we find that KCP&L/GMO's formula rate protocols provide the necessary transparency with regard to disclosure of accounting changes and therefore no further modification is required by KCP&L/GMO.

41. As to the Kansas Commission's request that KCP&L/GMO continue to provide actual notification to all interested parties, we note that KCP&L/GMO's proposed formula rate protocols require KCP&L/GMO to notify interested parties included on the SPP-maintained distribution list of the website address of its Annual Update and True-Up Adjustment postings. Further, the proposed formula rate protocols also clarify that interested parties can contact SPP to subscribe to this distribution list.⁵⁸ We find that the notification procedures in KCP&L/GMO's proposed formula rate protocols, which provide actual notification to all interested parties, comply with the July 17 Order and, therefore, we will not require any further modification of these procedures by KCP&L/GMO.

42. We find that KCP&L/GMO comply with the Commission's directives in the July 17 Order to file an annual information filing. We remind KCP&L/GMO that, consistent with the directives in the Southern Indiana and NIPSCO Second Compliance Orders,⁵⁹ KCP&L/GMO are required to each file their annual informational filing in a new docket each year.

3. Challenge Procedures

a. July 17 Order

43. The Commission found that the KCP&L/GMO formula rate protocols do not fully provide the ability to challenge Annual Updates and resolve disputes through straightforward and defined procedures. The Commission explained that "the informal

⁵⁶ 143 FERC ¶ 61,149 at P 87.

⁵⁷ KCP&L/GMO Revised Protocols § I.4.e.

⁵⁸ *Id.* § I.3.f.

⁵⁹ *See* NIPSCO Second Compliance Order, 150 FERC ¶ 61,022 at P 17; Southern Indiana Second Compliance Order, 150 FERC ¶ 61,023 at P 18.

challenge provisions within the KCP&L/GMO formula rate protocols appear to be applicable only to disputes related to true-up adjustments and therefore may not be sufficient to allow interested parties to resolve any other disputes related to the implementation of the KCP&L/GMO formula rates as provided by the MISO Investigation Order.”⁶⁰ The Commission clarified that formal challenges are distinct from, and in addition to, the ability to file complaints pursuant to section 206 of the FPA and observed that the KCP&L/GMO formula rate protocols require that formal challenges be complaints filed pursuant to section 206 or 306 of the FPA.⁶¹ For these reasons, the Commission found that the KCP&L/GMO formula rate protocols appear to be unjust and unreasonable, and directed KCP&L/GMO to revise their formula rate protocols to provide specific procedures for challenges sufficient to ensure that transmission customers pay just and reasonable rates as provided by the MISO Investigation Order and the MISO Compliance Order, or show cause why this should not be required.⁶²

b. KCP&L/GMO Compliance Filing

44. KCP&L/GMO state that Section II and Section III of their proposed formula rate protocols clarify that the challenge procedures apply to both Annual Updates and True-Up Adjustments. KCP&L/GMO explain that their proposed formula rate protocols no longer include language that requires formal challenges to be filed as complaints pursuant to section 206 or 306 of the FPA.⁶³

45. KCP&L/GMO also explain that their formula rate protocols have been modified to allow interested parties to raise all issues that may be necessary to determine: (1) the extent or effect of an accounting change; (2) whether the annual true-up fails to include data properly recorded in accordance with the protocols; (3) the proper application of the formula rate and procedures in the proposed protocols; (4) the accuracy of data and consistency with the formula rate of the calculations shown in the annual true-up; (5) the prudence of actual costs and expenditures; (6) the effect of any change to the underlying Uniform System of Accounts or applicable form; or (7) any other information that may

⁶⁰ July 17 Order, 148 FERC ¶ 61,034 at P 28.

⁶¹ 16 U.S.C. § 825e (2012).

⁶² July 17 Order, 148 FERC ¶ 61,034 at PP 28-29; *see* MISO Investigation Order, 143 FERC ¶ 61,149 at PP 113-123; MISO Compliance Order, 146 FERC ¶ 61,212 at PP 103-117.

⁶³ KCP&L/GMO Compliance Filing at 5.

reasonably have substantive effect on the calculation of the charge pursuant to the formula.⁶⁴ KCP&L/GMO represent that these provisions will allow interested parties to challenge the inputs to an Annual Update or True-Up Adjustment without unnecessarily requiring KCP&L/GMO to provide information that is not relevant to the Annual Update or True-Up Adjustment.⁶⁵

c. Protests

46. The Missouri Commission argues that Section III.2 of the proposed KCP&L/GMO formula rate protocols should be more specific in stating that a formal challenge to the Annual Update or True-Up Adjustment within 30 days of the commencement of the Senior Management Review is not required to be filed at the Commission. The Missouri Commission states that a formal challenge is separate and distinct from a complaint under section 206 of the FPA and, therefore, proposes to change “may file a complaint challenging” to “may notify KCP&L/GMO in writing of a Formal Challenge to the Annual Update or True-Up Adjustment.”⁶⁶

47. The Kansas Commission states that KCP&L/GMO’s formula rate protocols create uncertainty as to the precise deadline for informal challenges. According to the Kansas Commission, Section II.6 does not adequately set the deadline for an informal challenge, in part, because it sets the deadline to issue an informal challenge up to 150 days from June 1, which would be October 29.⁶⁷

48. The Kansas Commission notes that the proposed KCP&L/GMO formula rate protocols include a 60-day KCP&L/GMO review period and then a 30-day Senior Management review period, which the Kansas Commission suggests is an arbitrary and unnecessary level of complication that unduly limits the rights of parties. The Kansas Commission argues that the Senior Management review period unnecessarily adds time between the periods for informal challenge and formal challenge. The Kansas Commission argues that both the 60-day KCP&L/GMO review period and the 30-day Senior Management review period should be removed.⁶⁸

⁶⁴ *Id.* at 5-6 (citing July 17 Order, 148 FERC ¶ 61,034 at n.49).

⁶⁵ *Id.* at 6.

⁶⁶ Missouri Commission Protest at 6.

⁶⁷ Kansas Commission Protest at 5.

⁶⁸ *Id.* at 6.

49. The Kansas Commission argues that the KCP&L/GMO challenge dates should be changed to be consistent with those found in the MISO Investigation Order. According to the Kansas Commission, formal challenges cannot be filed until 90 days after October 29, or January 27 of the following year. The Kansas Commission suggests that this timing is illogical because a formal challenge has to be filed in the same docket as the informational filing, which will not be filed until at least March 15; the Commission in the MISO Investigation Order allowed for an informal challenge to be filed by January 31 and a formal challenge to be filed between March 15 and March 31.⁶⁹

50. Additionally, the Kansas Commission alleges that the proposed KCP&L/GMO formula rate protocols do not adequately reflect the content to be included in informal and formal challenges, as required by the Commission in the MISO Investigation Order. The Kansas Commission requests that the Commission deny the proposed KCP&L/GMO formula rate protocols and require KCP&L/GMO to make changes to their protocols so that the parties participating in the review of the KCP&L/GMO formula rate implementation are fully informed about the informal and formal challenge procedures.⁷⁰

d. Answer

51. In response to the Missouri Commission's recommendation that Section III.2 of KCP&L/GMO's formula rate protocols should specifically state that a formal challenge is not required to be filed at the Commission, KCP&L/GMO state that they addressed this concern by revising Section III.2(a) of their proposed formula rate protocols to strike out references to sections 206 or 306 of the FPA. Nevertheless, KCP&L/GMO do not oppose the additional language requested by the Missouri Commission and agree to add "may notify KCP&L/GMO in writing of a Formal Challenge" to Section III.2(a) of the proposed formula rate protocols to further clarify this point.⁷¹

52. KCP&L/GMO strongly disagree with the Kansas Commission's suggestion that the 60-day KCP&L/GMO review period and the 30-day Senior Management review requirement should be removed from the proposed formula rate protocols. KCP&L/GMO argue that they did not arbitrarily add this as an unnecessary layer to the challenge procedures; rather, this language was part of the process for the challenge procedures that was negotiated and settled among the parties to the original formula rate case. KCP&L/GMO assert that this process was not identified as a deficiency by the

⁶⁹ *Id.*

⁷⁰ *Id.* at 6-7.

⁷¹ KCP&L/GMO Answer at 5.

Commission and, as these provisions were negotiated by the parties in good faith, they remain just and reasonable. KCP&L/GMO suggest that, conversely, it would not be just and reasonable to arbitrarily remove sections of the challenge procedures that include the 60-day KCP&L/GMO review period and the 30-day Senior Management review requirement.⁷²

53. KCP&L/GMO also argue that the Kansas Commission incorrectly states that a formal challenge must be filed in the same docket as the informational filing, which is due to be filed on March 15 each year. KCP&L/GMO clarify that the informational filing must disclose any ongoing disputes under the informal or formal challenge procedures and that the formal challenge process and timeline is not directly tied to or affected by the informational filing.⁷³

54. In response to the Kansas Commission's assertion that KCP&L/GMO's formula rate protocols do not adequately reflect the content required by the MISO Investigation Order to be included in informal and formal challenges, KCP&L/GMO note that the Commission in the July 17 Order did not allege that the challenge procedures were improper or insufficient. Rather, KCP&L/GMO represent that the Commission narrowly stated that the "informal challenge provisions within the KCP&L/GMO formula rate protocols appear to be applicable only to disputes related to true-up adjustments." KCP&L/GMO state that they therefore modified their formula rate protocols to clarify that the informal challenge procedures apply to the Annual Update as well as the True-Up Adjustment. KCP&L/GMO argue that they have adequately addressed the Commission's concern and that no additional changes are required.⁷⁴

e. Commission Determination

55. We find that the provisions in KCP&L/GMO's proposed formula rate protocols relating to challenge procedures generally comply with the requirements of the July 17 Order. We therefore will conditionally accept them, subject to further compliance. We also will direct KCP&L/GMO to take all necessary steps to have SPP make a parallel compliance filing to incorporate the same revisions to the KCP&L/GMO protocols in the SPP Tariff.

⁷² *Id.* at 7-8, 9.

⁷³ *Id.*

⁷⁴ *Id.* at 8 (citing July 17 Order, 148 FERC ¶ 61,034 at P 28).

56. KCP&L/GMO do not object to the Missouri Commission's proposal to modify Section III.2(a) to replace "may file a complaint challenging" with "may notify KCP&L/GMO in writing of a Formal Challenge to the Annual Update or True-Up Adjustment."⁷⁵ We agree that the language in Section III.2(a) could be read to conflate formal challenges and complaints under section 206 of the FPA. Accordingly, we will direct KCP&L/GMO to modify Section III.2(a) to replace "file a complaint challenging" with "file a challenge to" to eliminate any confusion between formal challenges and complaints under 206 of the FPA. This would provide more clarity than the language proposed by the Missouri Commission.

57. Section IV(2) of KCP&L/GMO's proposed formula rate protocols states that challenges to the implementation of the formula rate must be made through the challenge procedures described in Section III or in a separate complaint proceeding, and not in response to the informational filing. However, the Commission has previously explained that the formal challenge is the opportunity to file, in the same docket as the informational filing, a protest or comments to the informational filing.⁷⁶ Therefore, we will direct KCP&L/GMO to revise their formula rate protocols to clarify that interested parties can make formal challenges by filing a protest or comments to KCP&L/GMO's annual informational filing.

58. The challenge provisions in KCP&L/GMO's proposed formula rate protocols require informal challenges to be made by October 29 (150 days after June 1) each year, unless a reasonable information request is still outstanding after September 29.⁷⁷ In such a case, the informal challenge deadline would be extended to 30 days after the final response to reasonable information requests. We find the flexibility within this provision to be just and reasonable, as it provides interested parties with additional time to consider KCP&L/GMO's late responses and make informal challenges. However, recognizing our directive that KCP&L/GMO revise their formula rate protocols to provide interested parties at least 60 days to make Annual Update information requests, we will direct KCP&L/GMO to modify their formula rate protocols so the deadline for informal challenges aligns with and follows after the deadline for Annual Update information requests.

⁷⁵ KCP&L/GMO Answer at 5.

⁷⁶ MISO Compliance Order, 146 FERC ¶ 61,212 at P 70.

⁷⁷ KCP&L/GMO Revised Protocols § II.6.

59. In response to Kansas Commission's suggestion that the 60-day KCP&L/GMO review period and the 30-day Senior Management review requirement should be removed from the proposed formula rate protocols, we disagree.⁷⁸ KCP&L/GMO state that these provisions were negotiated in good faith and settled among the parties to the original formula rate case,⁷⁹ and we are not persuaded that they are no longer just and reasonable. These provisions allow reasonable time for review and provide interested parties and KCP&L/GMO a construct to resolve informal challenges. Nonetheless, we note that KCP&L/GMO's proposed formula rate protocols fail to identify the period during which interested parties can file formal challenges. We therefore will direct KCP&L/GMO to modify their formula rate protocols to include a timeframe for formal challenges that aligns with the March 15 deadline by which KCP&L/GMO must file their informational filings with the Commission.

60. We agree with the Kansas Commission's assertion that the proposed challenge provisions are insufficient.⁸⁰ First, while KCP&L/GMO's proposed formula rate protocols include limitations for information and document requests,⁸¹ they do not provide the same for informal and formal challenges. Therefore, consistent with the Commission's directive in the MISO Compliance Order, we will direct KCP&L/GMO to revise their proposed formula rate protocols to specifically state that the limitations found in Section II.3 also apply to informal and formal challenges.⁸² Next, we observe that the proposed challenge provisions provide interested parties with no guidance as to what to include in informal and formal challenges. To avoid unnecessary confusion and potential disputes, we will direct KCP&L/GMO to revise their formula rate protocols to describe the content that interested parties must include in informal and formal challenges.

The Commission orders:

(A) GMO's proposed formula rate protocols are hereby conditionally accepted, effective March 1, 2015, as requested, as discussed in the body of this order.

⁷⁸ Kansas Commission Protest at 6.

⁷⁹ KCP&L/GMO Answer at 7-8.

⁸⁰ Kansas Commission Protest at 6-7.

⁸¹ KCP&L/GMO Revised Protocols § II.3.

⁸² *See* MISO Compliance Order, 146 FERC ¶ 61,212 at P 107.

(B) KCP&L/GMO are hereby directed to submit a further compliance filing revising their formula rate protocols within 60 days of the date of this order, as discussed in the body of this order.

(C) KCP&L/GMO are hereby directed to take all necessary steps to have SPP make a compliance filing to incorporate the same revisions to the KCP&L/GMO protocols in the SPP Tariff, within 60 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.