

153 FERC ¶ 61,029
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

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| Midcontinent Independent System Operator, Inc. | Docket No. ER15-943-002 |
| Illinois Power Marketing Company | Docket No. ER15-948-001 |
| Midcontinent Independent System Operator, Inc. | Docket No. ER15-943-001 (consolidated) |
| | Docket No. ER15-946-001 (not consolidated) |

ORDER DENYING REHEARING AND ACCEPTING COMPLIANCE FILING

(Issued October 15, 2015)

1. On April 30, 2015, Hoosier Energy Rural Electric Cooperative, Inc., Illinois Municipal Electric Agency, Prairie Power, Inc., Southern Illinois Power Cooperative, and Wabash Valley Power Association, Inc. (collectively, Customers) filed a request for rehearing of the Commission’s March 31, 2015 order,¹ in which the Commission, among other things, conditionally accepted a renewal System Support Resource (SSR)²

¹ *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,238 (2015) (Edwards Year 3 SSR Order).

² Midcontinent Independent System Operator, Inc.’s (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) defines SSRs as “Generation Resources or Synchronous Condenser Units [(SCU)] that have been identified in Attachment Y – Notification to this Tariff and are required by the Transmission Provider for reliability purposes, to be operated in accordance with the procedures described in Section 38.2.7 of this Tariff.” MISO, FERC Electric Tariff, Module A, § 1.S, System Support Resource (SSR) (30.0.0). Unless indicated otherwise, all capitalized terms shall have the same meaning given them in the MISO Tariff.

agreement for the Edwards Unit 1 generator³ and a related generator compensation filing, as well as accepted an associated rate schedule, as explained more fully below.

2. On April 13, 2015, as directed by the Commission in the Edwards Year 3 SSR Order, MISO made a compliance filing in Docket No. ER15-943-001, submitting a revised SSR Agreement, as explained more fully below.

3. In this order, we deny Customers' request for rehearing and accept MISO's compliance filing.

I. Background

4. Under MISO's Tariff, market participants that have decided to retire or suspend a Generation Resource or SCU must submit a notice (Attachment Y Notice), pursuant to Attachment Y (Notification of Potential Resource/SCU Change of Status) of the Tariff, at least 26 weeks prior to the resource's retirement or suspension effective date. During this 26-week notice period, MISO will conduct a study (Attachment Y Study) to determine whether all or a portion of the resource's capacity is necessary to maintain system reliability, such that SSR status is justified. If so, and if MISO cannot identify an SSR alternative that can be implemented prior to the retirement or suspension effective date, then MISO and the market participant shall enter into an agreement, as provided in Attachment Y-1 (Standard Form SSR Agreement) of the Tariff, to ensure that the resource continues to operate, as needed.⁴

5. On July 25, 2012, in Docket No. ER12-2302-000, MISO submitted proposed Tariff revisions regarding the treatment of resources that submit Attachment Y Notices. On September 21, 2012, the Commission conditionally accepted MISO's proposed Tariff revisions effective September 24, 2012, subject to two compliance filings due within 90 and 180 days of the date of the order.⁵ On July 22, 2014, the Commission

³ Edwards Unit 1 is a 90 MW coal fired steam generator located in Bartonville, Illinois that was the subject of SSR designation and associated proceedings in calendar years 2013, 2014, and 2015.

⁴ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163, *order on reh'g*, 109 FERC ¶ 61,157 (2004).

⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237 (2012) (2012 SSR Order), *order on compliance*, 148 FERC ¶ 61,056 (2014) (2014 SSR Order).

conditionally accepted MISO's compliance filing made in response to the 2012 SSR Order subject to further compliance.⁶

6. A detailed history of the designation of Edwards Unit 1 as an SSR, including the proceedings that address SSR agreements for Edwards Unit 1 for SSR service in 2013 and 2014,⁷ as well as related proceedings, can be found in the Edwards Year 3 SSR Order.⁸

II. Edwards Year 3 SSR Order

7. On January 30, 2015, in Docket No. ER15-943-000, pursuant to section 205 of the Federal Power Act (FPA),⁹ MISO filed an unexecuted SSR agreement between Illinois Power Marketing Company (Illinois Power) and MISO under MISO's Tariff for Edwards Unit 1, covering a one-year term beginning on January 1, 2015 and terminating on December 31, 2015 (Edwards Year 3 SSR Agreement). Because MISO and Illinois Power were unable to reach an agreement regarding an appropriate level of compensation, the Edwards Year 3 SSR Agreement did not include the monthly fixed compensation and the dollar per MW-hour component for pollution control costs.

8. On January 30, 2015, in Docket No. ER15-946-000, pursuant to section 205 of the FPA, MISO submitted a proposed Rate Schedule 43C under its Tariff addressing allocation of the costs associated with the Edwards Year 3 SSR Agreement (Edwards Year 3 Rate Schedule 43C).

9. On January 30, 2015, in Docket No. ER15-948-000, pursuant to section 205 of the FPA, Illinois Power filed an unexecuted version of the Edwards Year 3 SSR Agreement under the Illinois Power Marketing Company/Ameren Energy Marketing Company General Tariff which sets forth its proposed Monthly SSR Payment and the pollution control costs component for 2015 (Illinois Power Restated 2015 SSR Agreement).¹⁰

⁶ 2014 SSR Order, 148 FERC ¶ 61,056 at P 1.

⁷ The SSR agreements for 2013 and 2014 SSR service by Edwards Unit 1 are referred to in the Edwards Year 3 SSR Order as the Edwards Year 1 SSR Agreement and the Edwards Year 2 SSR Agreement, respectively.

⁸ Edwards Year 3 SSR Order, 150 FERC ¶ 61,238 at PP 7-13.

⁹ 16 U.S.C. § 824d (2012).

¹⁰ Edwards Year 3 SSR Order, 150 FERC ¶ 61,238 at PP 1-3.

10. In the Edwards Year 3 SSR Order, the Commission conditionally accepted the Edwards Year 3 SSR Agreement and the Illinois Power Restated 2015 Agreement, suspended them for a nominal period, to become effective January 1, 2015, as requested, subject to refund and compliance, set the proposed rates in the Illinois Power Restated 2015 SSR Agreement for hearing and settlement judge procedures, and consolidated the Edwards Year 3 SSR Agreement proceeding in Docket No. ER15-943-000 and the Illinois Power Restated 2015 SSR Agreement proceeding in Docket No. ER15-948-000 with the ongoing hearing and settlement judge procedures in Docket Nos. ER13-1962-000, *et al.* established to evaluate compensation for Edwards Unit 1 under agreements providing for SSR service in 2013 and 2014. The Commission also accepted the Edwards Year 3 Rate Schedule 43C, making it effective January 1, 2015, as requested.

11. As relevant to the instant request for rehearing, in the Edwards Year 3 SSR Order, the Commission found that MISO had demonstrated that there were no significant changes that would lead to a different reliability analysis from that found in the 2013 Attachment Y Study Report, initially conducted for the Edwards Year 1 SSR Agreement, and determined that the unit is necessary for system reliability, and therefore, Edwards Unit 1 should be designated as an SSR for 2015, consistent with the Tariff.¹¹ The Commission also found that MISO had provided sufficient information supporting its review of feasible SSR alternatives and found reasonable MISO's interpretation and application of the Ameren transmission planning criteria.¹²

12. The Commission also directed MISO to submit a compliance filing within 30 days of the date of the Edwards Year 3 SSR Order to conform the rates in the Edwards Year 3 SSR Agreement to reflect the rates in the Illinois Power Restated 2015 SSR Agreement. The Commission directed MISO and Illinois Power to submit compliance filings in Docket Nos. ER15-943-000 and ER15-948-000, respectively, to conform the non-rate terms and conditions in the Edwards Year 3 SSR Agreement and the Illinois Power 2015 Restated SSR Agreement to reflect the non-rate terms and conditions accepted by the Commission in Docket No. ER14-1210-001, to the extent that the Commission requires further action regarding the proposed revisions in Docket No. ER14-1210-001.¹³ The Commission also noted that if any further revisions to the rates in the Illinois Power Restated 2015 SSR Agreement are subsequently accepted by the Commission, MISO

¹¹ *Id.* P 55.

¹² *Id.* P 61 (citing MISO Answer at 11-12).

¹³ *Id.* P 68. A compliance filing has not yet been made regarding this directive.

must submit a filing to conform those rates in the Edwards Year 3 SSR Agreement to reflect those rates in the Illinois Power Restated 2015 SSR Agreement.¹⁴

III. Discussion

A. Procedural Matters

13. Notice of the compliance filing in Docket No. ER15-943-001 was published in the *Federal Register*, 80 Fed. Reg. 21,716 (2015), with protests and interventions due on or before May 4, 2015. None was filed.

B. Request for Rehearing

14. Customers argue that the Commission erred in finding that MISO's evaluation of the continuing need for Edwards Unit 1 complied with the requirements of the Tariff. Customers contend that MISO failed to re-evaluate the need for Edwards Unit 1 as an SSR Unit and simply relied on a study that was performed to test the need for Edwards Unit 1 in 2013, which used 2010 data. Customers claim that MISO failed to evaluate a number of changes to the transmission system since 2010 that would have an effect on the need for Edwards Unit 1 for 2015. According to Customers, MISO failed to evaluate the effects of the transmission system upgrades since 2010, current system conditions, transformer load tap change capability, the addition of the Fargo 138 kV 40 MVAR capacitor bank, the actual generation capability of the Edwards units, the availability of demand response or other load reduction, and the availability of behind-the-meter generation.¹⁵ Customers take issue with the Commission's determination that "MISO . . . did evaluate the entire 2013 Attachment Y Study, and it was unnecessary to conduct a new analysis because recently completed transmission upgrades, including those identified by [Customers], had been previously identified in that study," because Customers argue this rationale undermines the point of requiring an annual re-evaluation of the need for an SSR Unit.¹⁶

15. Customers argue that the Commission erred in finding that MISO had demonstrated that Edwards Unit 1 continues to qualify as an SSR Unit. Customers contend that MISO failed to perform a sufficient review of the need for Edwards Unit 1 and that the Commission failed to give meaningful consideration to the evidence supplied by Customers in their protest to demonstrate that Edwards Unit 1 was not needed in 2015.

¹⁴ *Id.*

¹⁵ Customers Request for Rehearing at 3.

¹⁶ *Id.* at 4 (citing Edwards Year 3 SSR Order, 150 FERC ¶ 61,238 at P 58).

Customers assert that the Commission's responses to this evidence failed to meet the Commission's obligation to engage in reasoned decision making. Customers reiterate several proposed alternatives to Edwards Unit 1 including: installation of a third parallel Tazewell 345/138 kV transformer; replacement of the existing Tazewell transformers with higher rating transformers; installation of a 345/138 kV transformer at the Edwards plant; or reliance on load-shedding and/or demand response, including utilization of behind-the-meter generation at industrial sites. Customers also repeat an argument made in their protest that the contingency that supposedly required the retention of the Edwards Unit 1 had a probability of occurring only one day in 244 years, and that, if that contingency did occur, having Edwards Unit 1 available would not mitigate the overload conditions that might result.¹⁷

16. Customers also argue that for the alternatives MISO did study, however belatedly, the Commission simply accepted MISO's claims at face value and did not engage in any independent fact-finding. Customers argue that the Commission's determinations are not consistent with the requirement that SSR designation be a "limited, last resort measure."¹⁸ Customers also argue that the Commission is unfairly shifting the burden of suggesting alternatives to SSR designation from MISO to stakeholders, who are not brought into the process until MISO has already made its determination that SSR designation is necessary.¹⁹

C. Commission Determination

17. We deny Customers' request for rehearing. As the Commission stated in the Edwards Year 3 SSR Order, MISO demonstrated that there were no significant changes that would lead to a different reliability analysis from that found in the 2013 Attachment Y Study Report²⁰ initially conducted for the Edwards Year 1 SSR Agreement and determined that Edwards Unit 1 was necessary for system reliability for 2015.²¹ We

¹⁷ *Id.* at 5.

¹⁸ *Id.* at 6 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 109 FERC ¶ 61,257, at P 291 (2004)).

¹⁹ *Id.* at 6-7.

²⁰ The Tariff states that "[t]he filing of a SSR Agreement with FERC shall be accompanied by a corresponding report on the Attachment Y Reliability Study and the Attachment Y Alternatives Study" MISO refers to this report as an Attachment Y Study Report. MISO, FERC Electric Tariff, Module C, § 38.2.7.c, Evaluation of SSR Unit Application (37.0.0).

²¹ Edwards Year 3 SSR Order, 150 FERC ¶ 61,238 at P 55.

reject Customers' arguments that an entirely new study was required to determine whether Edwards Unit 1 was needed for system reliability in 2015. Because there were no significant changes that would lead to a different reliability analysis, MISO's use of the 2013 Attachment Y Study Report, initially conducted for the Edwards Year 1 SSR Agreement, was sufficient for determining the reliability need for Edwards Unit 1 in 2015.²² MISO explained in its answer that it determined it was unnecessary to conduct a new analysis because recently completed transmission upgrades, including those identified by Customers, had been previously identified in the 2013 Attachment Y Study Report. Additionally, MISO reassessed these upgrades and transformer tap adjustments in response to stakeholder comments at the Central Technical Study Task Force meeting on November 4, 2014 and found them to be insufficient to obviate the need for Edwards Unit 1 as an SSR Unit in 2015.²³

18. We disagree with Customers' arguments that the Commission is simply accepting MISO's claims at face value and not engaging in independent fact-finding. After reviewing MISO's filings and other filings in the record, the Commission determined that MISO met its burden to show that designation of Edwards Unit 1 for 2015 was necessary for system reliability, and met the requirements of the Tariff.

19. We also continue to disagree with Customers' arguments that MISO did not properly evaluate feasible alternatives. In the Edwards Year 3 SSR Order, the Commission addressed the alternatives that Customers contend that MISO failed to evaluate, and as such, we affirm the finding in the Edwards Year 3 SSR Order that MISO provided sufficient information supporting its review of feasible SSR alternatives.²⁴ Regarding Customers' concern that stakeholders were not brought into the process until MISO made the determination that SSR designation for Edwards Unit 1 was necessary, we believe that Customers misunderstand the SSR designation process. After MISO completed the Attachment Y Reliability Study for Edwards Unit 1, Illinois Power was notified that Edwards Unit 1 was necessary for the reliability of the transmission system, but the subsequent designation of Edwards Unit 1 as an SSR Unit was qualified based upon the results of the ensuing stakeholder process provided for in the Tariff to determine whether feasible alternatives to an SSR designation existed. MISO convened such a

²² In an order issued on October 15, 2015, the Commission conditionally accepted a tariff provision that specifically allows MISO to rely on a previously filed report when there is an affirmation that the results of a previously filed report remain applicable. *AmerenEnergy Resources Generating Company v. Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,062, at PP 97-98 (2015).

²³ Edwards Year 3 SSR Order, 150 FERC ¶ 61,238 at PP 19, 25.

²⁴ *Id.* P 61.

stakeholder process on November 4, 2014 to review the continued need for Edwards Unit 1 for 2015 and evaluate feasible alternatives. Under the Tariff, notification to a generation owner that one or more of its units are necessary for reliability does not prevent MISO from thereafter determining pursuant to the stakeholder process or otherwise whether there are feasible alternatives to the SSR designation.²⁵ We reiterate our encouragement in the Edwards Year 3 SSR Order that stakeholders raise alternatives with MISO in its Order No. 890-compliant stakeholder process and that MISO engage with stakeholders at the earliest possible time to consider feasible alternatives to the designation of retiring or suspending units as SSRs.²⁶

D. MISO's Compliance Filing

20. On April 13, 2015, in Docket No. ER15-943-001, MISO submitted a revised Edwards Year 3 SSR Agreement (Revised Edwards Year 3 SSR Agreement) that includes the compensation amount proposed by Illinois Power in the Illinois Power Restated 2015 SSR Agreement, in compliance with the Commission directive set forth in the Edwards Year 3 SSR Order.²⁷

E. Commission Determination

21. We accept the Revised Edwards Year 3 SSR Agreement. As required by the Edwards Year 3 SSR Order, the Revised Edwards Year 3 SSR Agreement contains the rates contained in the Illinois Power Restated 2015 SSR Agreement. We observe, however, that “[i]f any further revisions to the rates in the Illinois Power Restated 2015 SSR Agreement are subsequently accepted by the Commission, MISO must also submit a filing to conform the rates in the Edwards Year 3 SSR Agreement to reflect those rates in the Illinois Power Restated 2015 SSR Agreement.”²⁸

The Commission orders:

(A) Customers' request for rehearing is denied, as discussed in the body of this order.

²⁵ See MISO, FERC Electric Tariff, Module C, § 38.2.7.c, Evaluation of SSR Unit Application (37.0.0).

²⁶ See Edwards Year 3 SSR Order, 150 FERC ¶ 61,238 at P 61.

²⁷ MISO Transmittal Letter at 1-2.

²⁸ Edwards Year 3 SSR Order, 150 FERC ¶ 61,238 at P 68.

(B) MISO's compliance filing in Docket No. ER15-943-001 is hereby accepted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.