156 FERC ¶ 61,213
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Occidental Chemical Corporation — Docket No. EL13-41-001

v.

Midwest Independent Transmission System Operator, Inc.

ORDER DENYING REHEARING

(Issued September 22, 2016)

1. In an order dated April 21, 2016,[1] the Commission denied a complaint and petition for declaratory order filed by Occidental Chemical Corporation (Occidental) against the Midwest Independent Transmission System Operator, Inc. (MISO).[2] The Commission found that MISO's treatment of qualifying facilities (QF) in the Entergy[3] service

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[1] *Occidental Chem. Corp. v. The Midwest Indep. Sys. Operator, Inc.*, 155 FERC ¶ 61,068 (2016) (April 21 Order).

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

[3] The Entergy Operating Companies are Entergy Arkansas, Inc., Entergy Gulf States Louisiana, L.L.C., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., and Entergy Texas, Inc. Below, we will refer to the Entergy Operating Companies collectively and also Entergy Services, Inc. (which has submitted filings in this proceeding on behalf of the Entergy Operating Companies) as "Entergy," unless necessary to distinguish between them.

territory does not violate the Public Utility Regulatory Policies Act of 1978 (PURPA)[4] or sections 205 and 206 of the Federal Power Act (FPA).[5] The Commission also found that QFs operating as market participants could participate in the MISO market while continuing to exercise their rights pursuant to PURPA, and that MISO does not need to modify its Tariff.

2. On May 23, 2016, Occidental filed a request for rehearing of the April 21 Order. As discussed below, we deny Occidental's request for rehearing.

Background

3. In anticipation of Entergy's December 18, 2013 integration into MISO, MISO held informational meetings with QFs located within the Entergy service territory concerning the QFs' registration in MISO and the QFs' participation in MISO's organized markets. As a part of this process, MISO distributed a document titled "Qualifying Facilities ('QF') Generator Readiness for MISO Reliability Coordination and Market Integration" (MISO QF Integration Plan),[6] which includes an associated "Qualifying Facilities FAQ" (FAQ).[7]

4. The MISO QF Integration Plan provides two options for QFs across the entire MISO footprint to sell their output: the "Behind-the-Meter" option and the "Hybrid" option. The MISO QF Integration Plan prohibits QFs from participating simultaneously in both options, and restricts them from changing between the two options more than once per quarter.[8] MISO's QF Integration Plan also discusses MISO's right to dispatch

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[4] 16 U.S.C. § 824a-3 (2012).

[5] *Id.* §§ 824d, 824e.

[6] Complaint, Attachment A, MISO QF Integration Plan.

[7] Complaint, Attachment B, FAQ. MISO had not filed the contents of the MISO QF Integration Plan or FAQ as proposed tariff revisions.

[8] *See* MISO QF Integration Plan at 19 ("Changes to Commercial model arrangements can be made on a quarterly basis per MISO modeling practices."). A QF's participation in the Behind-the-Meter and Hybrid options is not entirely an "either-or" choice. A QF may:

> choose to register a portion of its generation, to participate in the MISO markets, while also maintaining a portion as behind-the-meter generation . . . . In order to do so, however,

(continued ...)

down (i.e., curtail) QFs to manage congestion and constraints, and identifies options available to QFs to avoid being curtailed.

Behind-the-Meter Option

5. The Behind-the-Meter option allows a QF to maintain its right to "put" unscheduled, as-available energy to the QF's host utility pursuant to that utility's tariff.[9] The Behind-the-Meter option prohibits a QF, however, from participating in the MISO market simultaneously. MISO will model a QF choosing the Behind-the-Meter option as behind-the-meter generation whose net injection would be placed into a commercial pricing node that is owned by the particular Entergy Operating Company host utility and MISO will settle with each Entergy Operating Company utility according to the MISO Tariff.[10]

Hybrid Option

6. The Hybrid option allows a QF to become a market participant subsequent to Entergy's integration into MISO. A QF, under the Hybrid option, may sell its excess energy into the MISO market.[11] The Hybrid option allows a QF generator participating in the market (Hybrid QF) to submit offers or self-schedule in both Day-Ahead and Real-Time MISO markets up to that QF generator's maximum capacity (minus expected host

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> the QF must: identify physical generating units that will maintain behind-the-meter generation status and portion of physical generating units that will be used to participate in the MISO markets; separate and appropriately meter such generation including SCADA measurements on the physical units and a net revenue quality meter on the portion of physical generating units that will be used to participate in the MISO markets also known as the hybrid unit; and register as a [Market Participant] with respect to the portion of its generation that will be used to participate in the MISO markets.

FAQ at 4.

[9] MISO QF Integration Plan at 12.

[10] *Id.*

[11] *Id.*

load). If this QF generator will not serve host load, then the QF may submit or self-schedule all of its maximum generation capacity.[12]

7. Under the Hybrid option, in order "to ensure that net injection of QF energy is consistent with market dispatch," MISO prohibits a Hybrid QF from "'put[ting]' energy to the incumbent Entergy Operating Company," but allows the QF "to deliver unscheduled energy into the MISO real-time market subject to the rules that apply within that market."[13] According to MISO, there are multiple strategies available to Hybrid QFs to enable each resource to meet its contract obligations and maintain its PURPA rights, including using financial schedules to essentially accomplish a PURPA "put."[14]

Financial Schedules

8. Financial schedules are bilateral financial arrangements to transfer the financial responsibility for energy between a buyer and seller within and across the MISO footprint.[15] Each financial schedule is a "financial arrangement between two Market Participants designating a Source Point, Sink Point, and Delivery Point establishing the obligations of the buyer and seller for the payment of Cost of Congestion and Cost of Losses."[16] Financial Schedules can be used in both the Day-Ahead and Real-time market.[17] The price for the "Cost of Congestion" is the difference between the Marginal Congestion Component of the Day-Ahead or Hourly Real-time Ex Post LMP at the Point of Delivery and the Marginal Congestion Component of the Day-Ahead or Hourly Real-time Ex Post LMP at the Point of Receipt.[18] The price for the "Cost of Losses" is the difference between the Marginal Losses Component of the Day-Ahead or Hourly Real-

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[12] *Id.* at 12-13.

[13] *Id.* at 13.

[14] FAQ at 4.

[15] *See* MISO Energy and Operating Reserve Markets Business Practice Manual BPM-002-r14 § 4.1.2.

[16] MISO, FERC Electric Tariff § 1.F (36.0.0) (defining "financial schedule").

[17] *Id.* § 39.1.3 (32.0.0).

[18] *See* MISO Energy and Operating Reserve Markets Business Practice Manual BPM-002-r14 § 4.1.2.3.

time Ex Post LMP at the Point of Delivery and the Marginal Losses Component of the Day-Ahead or Hourly Real-time Ex Post LMP at the Point of Receipt.[19]

9. A financial schedule may be submitted and approved prior to 12:00 EST of the sixth day after the Operating Day.[20] A financial schedule must include: (1) identification of the market participants included in the transaction; (2) "the Commercial Pricing Nodes identified as the Source Point, the Sink Point and the Delivery Point;" (3) "the Energy and Operating Reserve Market in which the Financial Schedule will be settled, using either the Day-Ahead Ex Post LMPs or Hourly Ex Post LMPs;" and (4) the scheduled volume in MWh for each hour of the financial schedule.[21] Entergy's rate schedules approved by the Louisiana Public Service Commission (Louisiana Commission) require Entergy to agree to any financial schedule with QFs that are set at each QF's state-determined avoided cost rate pursuant to PURPA and that meet certain criteria.[22]

Curtailment

10. As part of MISO's Day-Ahead and Real-Time Energy and Operating Reserves Markets, MISO's Security Constrained Economic Dispatch system redispatches

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[19] *See id.* § 4.1.2.4.

[20] MISO, FERC Electric Tariff § 40.2.8A (32.0.0).

[21] *Id.*

[22] Supplement to Petition for Declaratory Order and Complaint of Occidental (April 7, 2014), Attachment C at 9 (citing Entergy Services, Inc., Motion to Intervene and Protest, Docket No. EL14-28-000 at 9 (filed Feb. 26, 2014)). These rate schedules bind Entergy to accept sales from QFs via financial schedules as long as:

> (a) the source, sink, and delivery point are all set equal to the Hybrid QF generator node, (b) the financial schedule is used to transfer ownership of energy in the real-time market, [and] (c) the amount does not exceed the difference between the Hybrid QF's actual injection measured by MISO and its day ahead schedule . . . .

Id., Attachment A, (Entergy Gulf States, Inc., Electric Service Louisiana, Schedule LQF-PO, Rate for Purchases from Post-PURPA Qualifying Facilities Larger than 100 kW), § V (effective Dec. 19, 2013); *Id.*, (Entergy Louisiana, LLC, Electric Service Schedule PPS-1, Purchased Power Service Rate Schedule), § VI.

resources to alleviate congestion on transmission elements. The MISO QF Integration Plan states that, where there is congestion on MISO's system, MISO may dispatch a QF down in order "to mitigate the constraint."[23] The MISO QF Integration Plan states that, if a Hybrid QF offers dispatch flexibility, MISO's security constrained economic dispatch algorithm "instructs QF net injection into the grid to change as may be necessary to balance load and/generation, to manage transmission congestion, and the hybrid QF is expected to follow dispatch instructions."[24] But if a QF "needs to continue to inject power to the grid (e.g., based on physical reasons associated with [the QF's] processes), [the QF] can reflect this in [its] offers by making the economic minimums and maximums the same or by offering their resource as 'Must Run.'"[25] MISO expects "[t]he amount the QF is paid for real-time unscheduled energy . . . to be the same whether they inject via a Put to Entergy [behind Entergy's meter] or via the MISO Market [under the Hybrid option]."[26] MISO also reserves the ability to manually curtail resources on a non-discriminatory basis to preserve system reliability.[27]

11. The Commission found the MISO QF Integration Plan did not violate PURPA or sections 205 or 206 of the FPA.

Discussion

12. In its rehearing request, Occidental makes three main claims. As discussed below, we will deny Occidental's request for rehearing.

Whether MISO's Behind-the-Meter Option is Unduly Discriminatory

13. Occidental claims that the Commission failed to address Occidental's argument that MISO's Behind-the-Meter option is unduly discriminatory in violation of sections 205 and 206 of the FPA. Specifically, Occidental claims that the MISO QF Integration Plan unduly discriminates against QFs using the Behind-the-Meter option because these

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[23] MISO QF Integration Plan at 24.

[24] FAQ at 4.

[25] *Id.* at 5.

[26] *Id.*

[27] MISO, FERC Electric Tariff, §§ 33.7 (30.0.0), 33.8.1 (30.0.0).

QFs are prohibited from participating in MISO's markets unless they waive their PURPA rights.[28] We disagree.

14. Occidental appears to want MISO to permit QFs with existing PURPA obligations or contracts[29] to toggle between the Hybrid and Behind-the-Meter options more frequently than MISO permits other resources to do, simply for the purpose of allowing these QFs to retain these existing PURPA obligations or contracts. But the April 21 Order explained, and below we further explain, how the MISO QF Integration Plan allows QFs to exercise their PURPA rights. The Commission also found that the once-per-quarter limitation on switching between Behind-the-Meter and Hybrid options does not unduly discriminate against Behind-the-Meter QFs because it is consistent with MISO's business practices and its treatment of other resources.[30] Rather, providing QFs the right to arbitrage between the two options on a near-instantaneous basis could unduly discriminate against other resources who lack the ability to decide on market participant registration no more than once per quarter and could disturb MISO's market dispatch.[31] Occidental, moreover, has not shown how a once-per-quarter limitation infringes on the "special rate and regulatory treatment" PURPA bestows on QFs.[32]

[28] Rehearing Request at 2-7 & n.13.

[29] The Commission has terminated, in part, the requirement that Entergy Operating Companies enter into new obligations or contracts with QFs with net capacity in excess of 20 MW. *Entergy Servs., Inc.*, 154 FERC ¶ 61,035, at P 2, *order on reh'g*, 155 FERC ¶ 61,069 (2016).

[30] April 21 Order, 155 FERC ¶ 61,068 at P 72.

[31] *See* MISO QF Integration Plan at 13 (limiting QFs to one or the other option is "required to ensure net total injection of the QF resource to the market is consistent with market dispatch"), 19 ("Changes to Commercial model arrangements can be made on a *quarterly* basis per MISO modeling practices" (emphasis added)).

[32] *Cal. Indep. Sys. Operator, Inc.*, 141 FERC ¶ 61,176, at P 2 n.2 (2012) ("One of the ways PURPA set out to accomplish its goals . . . was through the establishment of a new class of generating facilities which would receive *special rate and regulatory treatment*." (emphasis added)).

15. In addition, contrary to Occidental's assertions,[33] our action was consistent with Commission precedent and neither unlawfully restricts QFs' ability to exercise PURPA rights nor unduly discriminates against QFs. In *WSPP*, an order issued before section 210(m) of PURPA established the mechanism for terminating mandatory purchase obligations from QFs, the Commission found unlawful a requirement that QFs forego their PURPA rights in exchange for participating in a power pool.[34] Here, by contrast, there is no requirement that QFs forego their PURPA rights in order to participate in MISO's markets under the Hybrid option. A QF exercising the Hybrid option could potentially sever an existing, grandfathered PURPA obligation or contract, thereby severing Entergy's requirement to purchase from that QF. But doing so does not directly terminate a utility's obligations to enter into new PURPA obligations. As Occidental acknowledged, only the Commission can terminate that obligation.[35] Nothing in the MISO QF Integration Plan directly severs an existing, grandfathered PURPA agreement, and the Commission has stated that, "[i]f an electric utility and a QF disagree as to the meaning of a termination clause, either the electric utility or the QF may seek a determination regarding its rights under the termination clause in the appropriate state forum since the issue of whether a QF has a continuing right to sell is a matter of contract interpretation."[36] In addition, the Commission's termination of Entergy's obligations to enter into new obligations or contracts with most QFs over 20 MW capacity was predicated on a finding that those QFs had nondiscriminatory access to MISO's markets. Allowing those QFs to participate like other market participants neither infringes on QFs' rights nor unduly discriminates against them.

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[33] Rehearing Request at 3 ("the April 21 Order fails to distinguish the MISO QF Integration Plan from conduct that Commission precedent has found unlawful.") & n.16 (citing *inter alia Entergy Serv. Inc.*, 137 FERC ¶ 61,199 (2011), *order on reh'g*, 143 FERC ¶ 61,143 (2013), *order on reh'g*, 148 FERC ¶ 61,209 (2014); *Sw. Power Pool, Inc.*, 125 FERC ¶ 61,314 (2008) (*SPP*); *W. Sys. Power Pool*, 66 FERC ¶ 61,201, at 61,459 (1994) (*WSPP*)).

[34] *WSPP*, 66 FERC ¶ 61,201 at 61,459.

[35] Complaint at 22-23; *see also* 18 C.F.R. § 292.310 (2016) (describing procedures for requesting that Commission terminate PURPA mandatory purchase obligation).

[36] *New PURPA Section 210(m) Regulations Applicable to Small Power Production and Cogeneration Facilities*, Order No. 688, FERC Stats. & Regs. ¶ 31,233, at P 219 (2006), *order on reh'g*, Order No. 688-A, FERC Stats. & Regs. ¶ 31,250 (2007), *aff'd sub nom. Am. Forest & Paper Ass'n v. FERC*, 550 F.3d 1179 (D.C. Cir. 2008).

16. In the April 21 Order, the Commission discussed how QFs may use financial schedules under the Hybrid option and why requiring a Behind-the-Meter QF to be reflected in MISO's commercial model as an Entergy asset for purposes of MISO market participation does not unduly discriminate against QFs.[37] Occidental has not elaborated why the Commission erred in its rejection of Occidental's arguments that the Behind-the-Meter option is unduly discriminatory. Nor has Occidental explained how the choice of selling into MISO's markets under the Hybrid option, or selling directly to a utility under the Behind-the-Meter option, unduly discriminates against QFs by precluding those QFs who wish to maintain existing, grandfathered PURPA obligations or contracts from participating in MISO markets. Accordingly, we deny rehearing regarding Occidental's arguments that the Behind-the-Meter option unduly discriminates against QFs in violation of sections 205 and 206 of the FPA.[38]

17. As for the Hybrid option specifically, Occidental contends that financial schedules do not preserve a QF's right to sell as-available energy because, "[i]n MISO, once a seller enters into a financial schedule, it must meet the stated fixed volumes in each schedule and adhere to MISO's real time set points, or face penalties."[39] Because MISO's requirements for financial schedules neither require a QF to operate pursuant to a "fixed" schedule nor "to make binding financial decisions ahead of time as to the amount of energy that [the QF] will put to the host utility," we reaffirm the April 21 Order's rejection of Occidental's argument that any notification requirements infringe on a QF's right to make as-available sales.[40] Specifically, Occidental's contention overlooks the Commission's finding that, in order to track the amount of energy sold by a QF, it is reasonable for Entergy's Louisiana subsidiaries' avoided cost tariffs to require that a Hybrid QF either: (a) declare the amount of energy that is "put" to a company within one hour after the operating hour in which the energy is "put" or (b) on a Day-Ahead basis,

[37] April 21 Order, 155 FERC ¶ 61,068 at PP 70-71.

[38] *See ISO New England Inc.*, 119 FERC ¶ 61,161, at P 16, *order on reh'g*, 121 FERC ¶ 61,125 (2007), *denying review*, *Conn. Dep't of Pub. Util. Control v. FERC*, 569 F.3d 477 (D.C. Cir. 2009) ("A party has an obligation to clearly articulate and substantiate the basis for its requested action"); *accord City of Vernon v. FERC*, 845 F.2d 1042, 1047 (D.C. Cir. 1988).

[39] Rehearing Request at 5.

[40] April 21 Order, 155 FERC ¶ 61,068 at P 69.

notify the applicable company that the QF plans to "put" its entire output.[41] The Commission also noted that a financial schedule may also be submitted and approved prior to 12:00 EST of the sixth day after the Operating Day.[42] Occidental also suggests that the MISO QF Integration Plan precludes a QF from selling as-available energy because a Hybrid QF must meet an RTO schedule.[43] Occidental references Entergy's avoided cost rate approved by the Louisiana Commission, which requires that a Hybrid QF's financial schedules "do not exceed the difference between a QF's actual injection measured by MISO and its day ahead schedule."[44] As discussed below,[45] we decline to opine on the validity of Occidental's challenge to this aspect of Entergy's avoided cost rate approved by the Louisiana Public Service Commission (Louisiana Commission).

18. Occidental compares MISO's QF Integration Plan to an unlawful requirement that a QF register as a market participant.[46] In *SPP*, the Commission rejected a tariff provision that allowed a regional transmission organization to register QFs unilaterally as market participants. The Commission reasoned that if a QF "failed to meet its

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[41] *Id.* (citing Entergy March 15, 2013 Answer at 3-4). The April 21 Order referenced a "March 15, 2014" answer from Entergy; that Answer does not exist. Instead, the April 21 Order was referencing a March 15, 2013 answer from Entergy.

[42] *Id.* P 9 (citing MISO, FERC Electric Tariff § 40.2.8A).

[43] Rehearing Request at 5-6.

[44] *See id.* P 9 n.21 (citing Supplement to Petition for Declaratory Order and Complaint of Occidental (Apr. 7, 2014), Attachment A (Entergy Gulf States, Inc., Electric Service Louisiana, Schedule LQF-PO, Rate for Purchases from Post-PURPA Qualifying Facilities Larger than 100 kW), § V (effective Dec. 19, 2013); *id.*, (Entergy Louisiana, LLC, Electric Service Schedule PPS-1, Purchased Power Service Rate Schedule), § VI).

[45] *See infra* P 21.

[46] Although Occidental does not provide a full citation, we assume Occidental is referring to *SPP*, 125 FERC ¶ 61,314. *See* Rehearing Request at 6 n.30 ("In *SPP*, FERC rejected an RTO's proposal to require QFs to register as market participants because 'if [the QF] failed to meet its scheduled generation level by under-generating, it could be forced to purchase power in the Energy Imbalance Market to make up for the shortfall.'" [*SPP*,125 FERC ¶ 61,314 at P] 36. The proposed use of Financial Schedules under the Hybrid option places QFs in the same unlawful position that FERC rejected in *SPP*.").

scheduled generation level by under-generating, it could be forced to purchase power in the Energy Imbalance Market to make up for the shortfall," and this could trigger charges that change what a QF recovers under PURPA's purchase obligation.[47] Occidental has not explained how the Hybrid option changes the full avoided costs paid to Occidental in a manner similar to what the Commission rejected in *SPP*. Accordingly, we reject Occidental's attempt to analogize *SPP* to this proceeding.

19. We also reject Occidental's contention that the MISO QF Integration Plan is invalid because only Entergy is committed to purchase energy at avoided cost rates from certain Hybrid QFs via financial schedules.[48] While the April 21 Order relied on Entergy's commitment to purchase from Hybrid QFs as per Entergy's avoided cost rate methodology approved by the Louisiana Commission, Occidental has not elaborated on whether or how other utilities in MISO still under a mandatory purchase obligation have refused to purchase from QFs at state-determined avoided cost rates. Accordingly, there is no basis to find that the MISO QF Integration Plan denies QFs' PURPA rights to sell to utilities beyond Entergy. We thus reject this aspect of Occidental's rehearing request.

<u>Whether the April 21 Order Improperly Relied on an Unlawful Order of the Louisiana Commission</u>

20. Occidental claims that the April 21 Order improperly relied on an unlawful order of the Louisiana Commission to validate MISO's unlawful treatment of QFs, which Occidental alleges includes denying QFs the avoided cost rate prescribed by PURPA and limiting QFs' ability to make as-available sales under PURPA.[49]

21. While the Commission in the April 21 Order assumed Entergy would make purchases from QFs pursuant to an avoided cost rate approved by the Louisiana Commission,[50] as a procedural matter, the sufficiency of the Louisiana Commission's order approving Entergy's avoided cost rate methodology is not at issue in this proceeding addressing Occidental's complaint against MISO. The Commission declined to initiate an enforcement action in response to Occidental's PURPA

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[47] *SPP*, 125 FERC ¶ 61,314 at PP 36, 38.

[48] Rehearing Request at 6-7.

[49] *Id.* at 2, 7-9.

[50] April 21 Order, 155 FERC ¶ 61,068 at PP 66-67, 78.

section 210(h) petition against the Louisiana Commission,[51] and while Occidental is currently pursuing its own claim in federal district court that avoided cost rate remains in place. Accordingly, we decline to opine on the validity of the Louisiana Commission's order here.

22. Occidental argues that allowing MISO to deduct "Other Market Charges" is inconsistent with *SPP* because this reduces the full avoided costs to which a QF is entitled.[52] But the April 21 Order only referenced these Other Market Charges to explain that QFs using the Hybrid option are "financially in the same place for PURPA sales" that they would be in if they sold under the Behind-the-Meter option.[53] This parity between the Hybrid option and Behind-the-Meter option (which is more directly analogous to PURPA sales) shows that the Hybrid option guarantees a QF's right under PURPA to receive the rates approved by the Louisiana Commission.

<u>Whether the MISO QF Integration Plan Denies QFs' Statutory Curtailment Priority Rights</u>

23. Occidental claims that the April 21 Order allows MISO to deny QFs the curtailment priority guaranteed by section 292.307 of the Commission's regulations[54] by requiring QFs to take specific actions to avoid curtailment in non-system emergencies. Specifically, Occidental asserts that the MISO QF Integration Plan unlawfully imposes "affirmative obligation[s] on a QF as a predicate to receiving curtailment priority."[55] Occidental also claims that "requiring a QF to commit to a sale eviscerates QFs['] right to make unscheduled, as available sales, and exposes QFs to market penalties."[56]

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[51] *See Occidental Chem. Corp.*, 155 FERC ¶ 61,067, at P 2 (2016) (giving notice of intent not to initiate enforcement action against Louisiana Commission); *cf. Policy Statement Regarding the Commission's Enforcement Role Under Section 210 of the Public Utility Regulatory Policies Act of 1978*, 23 FERC ¶ 61,304, at 61,644-45 (1983) (describing Commission discretion to initiate enforcement action pursuant to section 210(h) of PURPA).

[52] Rehearing Request at 7-9.

[53] April 21 Order, 155 FERC ¶ 61,068 at P 78.

[54] 18 C.F.R. § 292.307(b) (2016).

[55] Rehearing Request at 2, 9-10.

[56] *Id.* at 10.

We disagree. As stated above, the MISO QF Integration Plan allows QFs to make unscheduled, as-available sales at avoided cost rates consistent with PURPA and the Commission's regulations implementing PURPA. Accordingly, it is not apparent how the options MISO has provided to ensure a QF's curtailment priority infringe on that curtailment priority. We thus deny Occidental's request for rehearing regarding this issue.

The Commission orders:

Occidental's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.