

161 FERC ¶ 61,097
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, and Robert F. Powelson.

Midcontinent Independent System Operator, Inc.

Docket No. ER17-568-000

ORDER ON TARIFF FILING

(Issued October 25, 2017)

1. On December 16, 2016, Midcontinent Independent System Operator, Inc. (MISO) submitted, under section 205 of the Federal Power Act (FPA),¹ proposed revisions to its Generator Interconnection Procedures (GIP) contained in Attachment X of its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (Tariff).² MISO states that the proposed changes improve the efficiency of charging interconnection customers for whom MISO performs Quarterly Operating Limit studies. On February 14, 2017, pursuant to the authority delegated by the Commission's February 3, 2017 Order Delegating Further Authority to Staff in Absence of Quorum,³ MISO's proposed Tariff revisions were accepted for filing, suspended for a nominal period, to become effective February 15, 2017, as requested, subject to refund and further Commission order.⁴
2. As discussed below, in this further order, we accept MISO's Filing, subject to condition, effective February 15, 2017.

¹ 16 U.S.C. § 824d (2012).

² MISO December 16 Filing, Transmittal Letter at 2 (Filing).

³ *Agency Operations in the Absence of a Quorum*, 158 FERC ¶ 61,135 (2017).

⁴ *Midcontinent Independent System Operator, Inc.*, Docket No. ER17-568-000 (Feb. 14, 2017) (delegated letter order).

I. Background

3. Section 5.9 (Limited Operation) of MISO's *pro forma* Generator Interconnection Agreement (GIA), contained in Attachment X of its Tariff,⁵ allows interconnection customers to commence commercial operation of their interconnection projects prior to the completion of certain facilities required by their GIA. MISO states that such operation is limited by studies performed by MISO, termed Quarterly Operating Limit studies.⁶ These studies determine the maximum output of a generating facility until the facilities required in the GIA are complete. Section 5.9 states that interconnection customers are responsible for the costs of these studies, but MISO explains that its Tariff does not currently provide a mechanism for MISO to efficiently collect a study deposit.⁷

II. Filing

4. In its Filing, MISO proposes a new section 11.6 in Attachment X of its Tariff.⁸ In this section, MISO proposes to require a \$10,000 study deposit for interconnection customers that are subject to Quarterly Operating Limit studies. This study deposit must be submitted 60 calendar days "prior to the start of the applicable binding quarter."⁹ MISO estimates the annual cost of these studies to be approximately \$2,500, but MISO states that asking for a larger deposit that covers multiple years of studies will be administratively more efficient for MISO and interconnection customers, rather than asking for a deposit each year. MISO states that it will refund any remaining deposit when the customer is no longer subject to the Quarterly Operating Limit studies.

5. MISO requests an effective date of February 15, 2017 for the proposed Tariff provision.¹⁰ MISO further requests waiver of section 35.15 of the Commission's regulations, 18 C.F.R. § 35.13 (2017), to the extent applicable, and any other applicable

⁵ See MISO Tariff, Attachment X, Section 5.9. Unless indicated otherwise, all capitalized terms shall have the same meaning given them in the MISO Tariff.

⁶ Filing, Transmittal Letter at 1.

⁷ *Id.* at 2.

⁸ *Id.*

⁹ *Id.* at 2-3.

¹⁰ *Id.* at 3.

requirement of 18 C.F.R. pt. 35, if necessary, in order to permit acceptance of the Filing.¹¹

III. Notice and Responsive Pleadings

6. Notice of the Filing was published in the *Federal Register*, 81 Fed. Reg. 93,911 (2016), with interventions and protests due on or before January 6, 2017. Timely motions to intervene were filed by: American Municipal Power, Inc.; NextEra Energy Resources, LLC; Consumers Energy Company; Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., and Entergy Texas, Inc.; Wisconsin Electric Power Company; Wisconsin Public Service Corporation; and Upper Michigan Energy Resources Corporation. MidAmerican Energy Company (MidAmerican) submitted a timely motion to intervene and comments.

7. On January 24, 2017, MISO filed an answer to MidAmerican's comments.

8. MidAmerican states that it does not object to a one-time \$10,000 study deposit, but notes that MISO proposed identical language in a previous queue reform proposal submitted on December 31, 2015 in Docket No. ER16-675.¹² MidAmerican states that, in its answer to protests in that proceeding, MISO stated that this provision "could be clearer," since it could be understood to require deposits of \$10,000 every quarter rather than a one-time deposit of \$10,000.¹³ MidAmerican explains that, in order to remedy this issue, MISO proposed to insert the word "first" before "applicable binding quarter" to clarify that MISO does not intend to require a \$10,000 deposit every quarter. MidAmerican requests that the Commission require the same change here, altering proposed section 11.6 to provide for a \$10,000 study deposit "sixty (60) Calendar Days prior to the start of the *first* applicable binding quarter."¹⁴

9. In its answer, MISO agrees with MidAmerican and proposes to insert the word "first" before "applicable binding quarter," if so directed by the Commission on

¹¹ *Id.* at 4.

¹² MidAmerican January 5 Comments at 4.

¹³ *Id.* (citing MISO Answer, Docket No. ER16-675-000, at 36 (filed Feb. 16, 2016)).

¹⁴ *Id.*

compliance, in order to clarify that it is not MISO's intent to require a \$10,000 deposit every quarter.¹⁵

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO's answer because it has provided information that assisted us in our decision-making process.

B. Commission Determination

12. We accept MISO's Filing, subject to condition, effective February 15, 2017.¹⁶ We agree with MidAmerican and MISO that MISO's proposed Tariff language is unclear and could be read to require a \$10,000 study deposit in every quarter. As such, we direct MISO, in a compliance filing to be submitted within 30 days of the issuance of this order, to make the Tariff revision suggested by MidAmerican and MISO, as follows:

11.6 Quarterly Operating Limit Studies

Interconnection Customers subject to Quarterly Operating Limits shall be responsible for the cost of performing the required quarterly studies.

Interconnection Customers shall submit a Quarterly Operating Limit study deposit in the amount of \$10,000 sixty (60) Calendar Days prior to the start of the first applicable binding quarter. Any difference between the study deposit and the actual cost of the applicable Quarterly Operating Limit studies shall be paid by, or refunded to, the Interconnection Customer.

MISO will refund any difference the quarter following the Interconnection Customer no longer being subject to Quarterly Operating Limits.

¹⁵ MISO Answer at 2.

¹⁶ The Court of Appeals for the District of Columbia Circuit has held that, in certain circumstances, the Commission has "authority to propose modifications to a utility's [FPA section 205] proposal *if the utility consents to the modifications.*" *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017).

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The Commission orders:

(A) MISO's Filing is hereby accepted, subject to condition, effective February 15, 2017, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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