161 FERC ¶ 61,004
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. ER17-2246-000

ORDER ACCEPTING TARIFF REVISIONS SUBJECT TO CONDITION

(Issued October 3, 2017)

1. On August 4, 2017, Midcontinent Independent System Operator, Inc. (MISO) and the MISO Transmission Owners (jointly, Applicants) filed, pursuant to section 205 of the Federal Power Act (FPA)[1] proposed revisions to Attachment FF and Attachment FF-6 of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to establish a method for assigning costs within the MISO region for Targeted Market Efficiency Projects (TMEPs) between PJM Interconnection, L.L.C. (PJM) and MISO (Proposed Revisions). As discussed below, in this order, we accept Applicants' Proposed Revisions, subject to condition, and direct Applicants to make a compliance filing within 30 days of the date of this order.

I. Background

2. On December 30, 2016, PJM, Applicants, and PJM on behalf of the PJM Transmission Owners filed, pursuant to section 205 of the FPA, proposed revisions to the MISO-PJM Joint Operating Agreement (JOA) to create TMEPs, a new category of interregional transmission project intended to address historical congestion along the MISO-PJM seam that does not appear in MISO's or PJM's regional transmission planning processes (TMEP Filings).[2] The TMEP Filings propose a planning process for TMEPs, including the criteria a transmission project must meet to qualify as a TMEP, and a method for allocating the costs of a TMEP between MISO and PJM. The TMEP

[1] 16 U.S.C. § 824d (2012).

[2] The TMEP Filings were submitted in Docket Nos. ER17-718-000, ER17-721-000, and ER17-729-000.

Filings also explain that, if the Commission approves the TMEP Filings, MISO and PJM already have identified five potential TMEPs that they will recommend to MISO's and PJM's respective boards of directors. On June 26, 2017, pursuant to the authority delegated by the Commission's February 3, 2017 Order Delegating Further Authority to Staff in Absence of a Quorum,[3] the proposed revisions to the JOA were accepted for filing, suspended for a nominal period, to become effective June 28, 2017, as requested, subject to refund and further Commission order.[4] In an order issued concurrently with this order, the Commission accepts the TMEP Filings, subject to condition.[5]

3. As explained further below, MISO's ongoing integration of Entergy Corporation and its operating companies (collectively, Entergy) as transmission-owning members of MISO is relevant to this filing in a number of respects. On April 19, 2012, the Commission accepted revisions to the MISO Tariff to, among other things, establish a transmission planning and cost allocation framework that would apply during a five-year transition period for integrating Entergy into MISO.[6] To facilitate the transition, MISO created two planning areas in MISO: the First Planning Area[7] and a new Second Planning

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

[4] *Midcontinent Indep. Sys. Operator, Inc.*, 159 FERC ¶ 62,332 (2017) (delegated letter order); *PJM Interconnection, L.L.C.*, 159 FERC ¶ 62,331 (2017) (delegated letter order).

[5] *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,005 (2017). This order provides additional information regarding the TMEP Filings.

[6] *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,056 (2012), *order on reh'g*, 141 FERC ¶ 61,128 (2012), *order on reh'g*, 144 FERC ¶ 61,020 (2013).

[7] The First Planning Area is defined as: "The Transmission System of the [MISO] Region as it existed immediately before the effective date of the Second Planning Area." MISO, FERC Electric Tariff, Module A, § II.1.F (Definitions – F) (40.0.0).

Area.[8] The Commission also accepted Attachment FF-6 of the MISO Tariff, which outlines, among other things, the cost allocation methods that MISO will apply to transmission projects identified in the MISO Transmission Expansion Plan (MTEP) during the Second Planning Area's Transition Period (Transition Period), which ends in December 2018.[9]

II. **Proposed Revisions**

4. The Proposed Revisions establish a method for allocating, within MISO, MISO's share of the costs of a TMEP. Applicants propose to assign MISO's share of TMEP costs to MISO Transmission Pricing Zones in proportion to each Transmission Pricing Zone's share of the relative positive congestion contribution benefits from that TMEP as measured during the TMEP study period.[10] Applicants explain that the formula used to calculate the benefits of a TMEP identifies the nodal congestion contribution for each

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[8] The Second Planning Area is defined as: "The area of the [MISO] Region where Entergy Corporation and its Operating Companies that own and/or operate transmission facilities (i.e., located in Arkansas, Louisiana, Mississippi, or Texas) that are conveyed to the functional control of [MISO] to provide Transmission Service pursuant to Module B of the Tariff. The Second Planning Area shall be formed when the first Entergy Operating Company conveys functional control of its transmission facilities to [MISO], and may be expanded if other Entergy Operating Companies or adjacent utilities in Arkansas, Louisiana, Mississippi or Texas, join MISO later in the Second Planning Area's Transition Period." MISO, FERC Electric Tariff, Module A, § II.1.S (Definitions – S) (45.0.0).

[9] The Second Planning Area's Transition Period is defined as: "The period: (i) commencing when the first Entergy Operating Company conveys functional control of its transmission facilities to [MISO] to provide Transmission Service under Module B of this Tariff; (ii) consisting of at least five consecutive (5) years, plus the time needed to complete the MTEP approval cycle pending at the end of the fifth year; (iii) ending on the day after the conclusion of such MTEP approval cycle, which in no case shall be more than six years after the start of that period; and (iv) during which [MISO] shall review and compare the current states of the transmission systems in the First Planning Area and the Second Planning Area and, if a lack of comparability is found, shall identify transmission projects necessary to achieve comparability. The processes for identifying transmission projects necessary to achieve comparability and allocating costs associated with the projects that are so identified during the Second Planning Area's Transition Period are set forth in Attachment FF-6." *Id.*

[10] MISO Transmittal at 4-5 (citing JOA § 9.4.4.1.5).

load node as the product of the Shadow Price[11] at the Reciprocal Coordinated Flowgate being considered,[12] the shift factor[13] of the load node to the Reciprocal Coordinated Flowgate, and the amount of load served at that node. Applicants further explain that this formula will be applied for all hours in the day-ahead market and all five-minute dispatches in the real-time market during which the Reciprocal Coordinated Flowgate experienced congestion during the TMEP study period.[14] The positive congestion contribution benefits from a TMEP for each Transmission Pricing Zone will equal the sum of all positive nodal congestion contributions in the intervals described above and will establish the relative benefits of the TMEP to each load zone.[15]

5. Applicants also propose to establish minimum benefit thresholds for allocating the costs of a TMEP to a Transmission Pricing Zone. Specifically, they propose that no costs of a TMEP will be allocated to a Transmission Pricing Zone if the zone's positive congestion contribution benefits are calculated (1) to be less than or equal to $5,000 or (2) less than one percent of MISO's share of the cost of a TMEP.[16] Applicants explain that any costs that would not be allocated to a Transmission Pricing Zone because they

[11] The Shadow Price is the marginal value of relieving a particular constraint. *See* MISO Tariff, Module A, § II.1.S, Definitions-S (45.0.0).

[12] A flowgate is, generally speaking, one or more transmission lines, transformers, or other transmission facilities monitored for overload during normal operations or contingencies. A Coordinated Flowgate is a flowgate that is subject to MISO's operational control and through which flows are affected by transmission over transmission facilities within its operational control, or with respect to which MISO serves as a Reliability Authority. *See* MISO, FERC Electric Tariff, Module A, § II.1.C, Definitions-C (37.0.0). A Reciprocal Coordinated Flowgate is a Coordinated Flowgate to which a reciprocal agreement has been written and to which reciprocal coordination applies. *See* MISO, FERC Electric Tariff, Module A, § II.1.R, Definitions-R (48.0.0).

[13] A shift factor is the calculation used to measure load's contribution to congestion in the day-ahead and real-time markets. *See* MISO Transmittal, Attachment A at 19 (Thoms Declaration).

[14] MISO Transmittal, Attachment A at 11 (Thoms Declaration); MISO, FERC Electric Tariff, Attachment FF, proposed § III.A.2(h)(ii) (55.0.0).

[15] MISO Transmittal at 5-6; MISO, FERC Electric Tariff, Attachment FF, proposed § III.A.2(h)(ii) (55.0.0).

[16] MISO Transmittal at 6; MISO, FERC Electric Tariff, Attachment FF, proposed § III.A.2(h)(iii) (55.0.0).

fall within these thresholds would be reallocated to the remaining benefiting Transmission Pricing Zones in proportion to the share of positive congestion contribution benefits each is calculated to receive from the TMEP.[17] Applicants state that, given that TMEPs will cost less than $20 million, it may prove administratively inefficient to allocate costs to all beneficiaries. MISO notes that its calculations for recently identified TMEPs show that, without the benefit thresholds, a MISO pricing zone could be allocated less than $100 for a project, which would require MISO to track and bill potentially very small increments of costs.[18]

6. In addition, under the Proposed Revisions to Attachment FF, none of the costs of a TMEP that is approved during the Second Planning Area's Transition Period shall be allocated to a Transmission Pricing Zone located in the Second Planning Area if the TMEP terminates: (1) exclusively within the First Planning Area; or (2) wholly outside of MISO. Applicants explain that any resulting costs that are not allocated to a Transmission Pricing Zone in the Second Planning Area shall be reallocated to the remaining benefiting Transmission Pricing Zones in proportion to the share of positive congestion contribution benefits each is calculated to receive from the TMEP.[19] Applicants also propose a similar revision to Attachment FF-6 that incorporate TMEPs in the provisions that address exclusions for cost responsibility during the Second Planning Area's Transition Period.[20]

7. In the transmittal letter for the Proposed Revisions, Applicants request an effective date of October 4, 2017, "to apply for the remainder of the five-year Transition Period," and state that "[n]o aspect of the cost allocation methodology included herein . . . is proposed to apply to the full MISO footprint for any TMEPs after the Transition Period expires."[21] Applicants state that MISO "shall convene stakeholder discussions to consider all appropriate cost allocation proposals that could apply after the Transition Period and, upon the conclusion of those stakeholder proceedings, will submit to the Commission for approval pursuant to FPA section 205, a cost allocation methodology to

[17] MISO Transmittal at 6; MISO, FERC Electric Tariff, Attachment FF, proposed § III.A.2(h)(iii) (55.0.0).

[18] MISO Transmittal at 11-12.

[19] MISO Transmittal at 6; MISO, FERC Electric Tariff, Attachment FF, proposed § III.A.2(h)(iv) (55.0.0).

[20] MISO, FERC Electric Tariff, Attachment FF-6, proposed § IV.A.2.c(iv) (33.0.0).

[21] MISO Transmittal at 2 n.5.

apply to TMEPs after the Transition Period concludes."[22] Applicants represent that MISO "will make best efforts to conclude these stakeholder proceedings by mid-2018 to support a filing to the Commission sufficiently in advance of the end of the Transition Period."[23]

III. Notice and Responsive Pleadings

8. Notice of MISO's filing was published in the *Federal Register*, 82 Fed. Reg. 37,446 (2017) with interventions and protests due on or before August 25, 2017.

9. The following entities filed timely motions to intervene: Alliant Energy Corporate Services, Inc.; Ameren Services Company; American Transmission Company LLC; American Electric Power Service Corporation; American Municipal Power, Inc.; Consumers Energy Company; Cooperative Energy; Exelon Corporation; Michigan Agency for Energy; PJM; PPL Electric Utilities Corporation; Wabash Valley Power Association, Inc.; and Wisconsin Electric Power Company.

10. The following entities filed notices of intervention: Arkansas Public Service Commission; Council of the City of New Orleans, Louisiana; Louisiana Public Service Commission; Illinois Commerce Commission; Indiana Utility Regulatory Commission; Michigan Public Service Commission; Mississippi Public Service Commission; Organization of MISO States; Public Utility Commission of Texas; and Public Service Commission of Wisconsin.

11. On August 25, 2017, Northern Indiana Public Service Company (NIPSCO) filed comments and the Michigan Electric Transmission Company, LLC and ITC Midwest LLC (ITC Companies) filed a motion to intervention, comments, and limited protest.

12. On August 30, 2017, NRG Power Marketing LLC and GenOn Energy Management, LLC jointly moved to intervene out-of-time.

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[22] *Id.*

[23] *Id.*

13. On September 14, 2017 and September 15, 2017, MISO South Regulators[24] and MISO, respectively, filed answers to the filings of ITC Companies and NIPSCO.

14. On September 27, 2017, the Illinois Commerce Commission filed comments out-of-time.

A. Comments and Protests

15. ITC Companies and NIPSCO generally support MISO's filing and ask the Commission to accept the Proposed Revisions as just and reasonable.[25] However, they oppose what they interpret to be an automatic termination of the method for allocating, within MISO, MISO's share of the costs of a TMEP following the Transition Period. ITC Companies contend that MISO's proposal should remain in effect until another cost allocation method for MISO's share of the costs of TMEPs goes into effect.[26] Similarly, NIPSCO urges the Commission to approve as-filed MISO's method for allocating, within MISO, the costs of TMEPs, but to remove the "sunset provision" and the requirement that MISO file another method for allocating, within MISO, MISO's share of the costs of TMEPs that will apply after the conclusion of the Second Planning Area's Transition Period.[27]

B. Answers

16. MISO and MISO South Regulators urge the Commission to accept the Proposed Revisions as filed. MISO explains that it has committed to stakeholder discussions, currently ongoing in the Regional Expansion Criteria and Benefit Working Group, "to address all possible cost allocation methodologies upon the end of the Transition Period."[28] MISO asserts that its commitment in the transmittal letter to discontinue its use of the method for allocating, within MISO, MISO's share of the costs of TMEPs set forth in the Proposed Revisions once the Transition Period ends "is fully consistent with these broader discussions and the required timing for the conclusion of those

[24] MISO South Regulators are the Arkansas Public Service Commission, Louisiana Public Service Commission, Mississippi Public Service Commission, Public Utility Commission of Texas, and the Council of the City of New Orleans, Louisiana.

[25] ITC Companies Protest at 3; NIPSCO Comments at 2.

[26] ITC Companies Protest at 4.

[27] NIPSCO Comments at 7-8.

[28] MISO Answer at 5.

discussions."[29] MISO reiterates its commitment to conclude those stakeholder proceedings by mid-2018, to enable a comprehensive filing sufficiently in advance of the end of the Transition Period. According to MISO, ITC Companies and NIPSCO did not identify any flaw with the Proposed Revisions that render the proposal unjust or unreasonable.[30]

17. MISO South Regulators assert that they did not protest the filing due to the sunset provision in the Applicants' proposal, which they characterize as "crucial . . . to prevent future harm to the customers of their regulated utilities," and MISO's commitment to discontinue its use of the method at the end of the Transition Period.[31] They contend that the sunset provision "poses no threat of delay to the MISO TMEP review process and creates no harm to, nor imposes any burden upon" NIPSCO or ITC Companies.[32] The Illinois Commerce Commission asks the Commission to "grant MISO's request that the proposed TMEP cost allocations remain in effect only until the end of the second planning area's transition period."[33]

IV. Discussion

A. Procedural Matters

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

19. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2017), we grant NRG Power Marketing LLC and GenOn Energy Management, LLC's late-filed motion to intervene given their interest in this proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

20. 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 or an answer unless otherwise

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[29] *Id.*

[30] *Id.* at 6.

[31] MISO South Regulators Answer at 2, 6-7.

[32] *Id.* at 6-7.

[33] Illinois Commerce Commission Comments at 3.

ordered by the decisional authority. We accept MISO's and MISO South Regulators' answers because they provide information that assisted us in our decision-making process.

B. Substantive Matters

21. We accept Applicants' Proposed Revisions, subject to condition,[34] and direct Applicants to make a compliance filing within 30 days of the date of this order. We find Applicants' proposal to allocate MISO's share of costs of a TMEP to MISO Transmission Pricing Zones in proportion to each Transmission Pricing Zone's share of the relative positive congestion contribution benefits from that TMEP, as well as Applicants' proposed benefit calculation, to be just and reasonable. We find that the method and associated benefits calculation ensure that the costs allocated to each Transmission Pricing Zone are at least roughly commensurate with the benefits that a TMEP provides in the form of avoided congestion costs.[35]

22. We also find Applicants' two proposed benefits thresholds to be just and reasonable.[36] We agree with Applicants that the thresholds can help ensure administrative efficiency without resulting in an allocation of MISO's share of the costs

[34] 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).

[35] *Ill. Comm. Comm'n v. FERC*, 576 F.3d 470, 476-77 (7th Cir. 2009) (holding that the costs of a transmission facility must to be allocated to beneficiaries in a manner that is at least roughly commensurate with the facility's benefits).

[36] MISO Transmittal at 6; MISO, FERC Electric Tariff, Attachment FF, proposed § III.A.2(h)(iii) (55.0.0).

of a TMEP that is not at least roughly commensurate with the benefits that the TMEP provides to MISO Transmission Pricing Zones.[37]

23. Second, we find Applicants' proposal that none of the costs of a TMEP that is approved during the Second Planning Area's Transition Period shall be allocated to a Transmission Pricing Zone located in the Second Planning Area if the TMEP terminates exclusively within the First Planning Area or wholly outside of MISO to be just and reasonable. We find that this proposed limitation is generally consistent with the proposal the Commission accepted for allocating the costs of new transmission facilities within MISO during the Second Planning Area's Transition Period.[38] Given the limited duration of the Transition Period, we conclude that Applicants' proposal will not prevent MISO's share of the costs of TMEPs from being allocated in a manner that is at least roughly commensurate with the benefits.

24. With respect to NIPSCO and ITC Companies' concern that the proposed method for allocating, within MISO, MISO's share of the costs of TMEPs will terminate at the end of the Transition Period, we note that Applicants did not include any termination provision in the Proposed Revisions. The Proposed Revisions, which are primarily outlined in Attachment FF of the MISO Tariff, will continue in effect after the Transition

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[37] *See, e.g., PacifiCorp*, 143 FERC ¶ 61,151, at P 248 (2013) ("We find that excluding from cost allocation beneficiaries that receive *de minimis* benefits from a transmission facility selected in the regional transmission plan for purposes of cost allocation would allocate costs in a manner that is at least roughly commensurate with estimated benefits." (citing *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323, at P 639 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth.* v. *FERC*, 762 F.3d 41 (D.C. Cir. 2014) and *Pub. Serv. Co. of Colo.*, 142 FERC ¶ 61,206, at P 315 (2013))).

[38] *See Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,056 at P 70 ("We find that it is not unjust and unreasonable for MISO and its existing transmission owners to agree to establish a transition period to ensure that new transmission facilities are planned using consistent planning criteria and assumptions, allowing for the identification of beneficiaries in the combined MISO footprint before allocating transmission costs across the two Planning Areas. This implementation of consistent planning in the two Planning Areas will facilitate MISO's application of its transmission planning process and planning criteria to the combined Planning Areas after the transition period has ended.").

Period set forth in Attachment FF-6 of the MISO Tariff expires.[39] Insofar as MISO makes a commitment in the transmittal letter to continue ongoing stakeholder discussions and to make a filing to replace the method for allocating, within MISO, MISO's share of the costs of TMEPs with a different one that will apply following the end of the Transition Period, it is within MISO's rights under FPA section 205 to do so.

25. We note that the version of revised Attachment FF-6 that Applicants included in its filing contains language that was rejected in a previous Commission Order.[40] Therefore, we direct Applicants to submit, within 30 days of the date of issuance of this order, an updated version of the revised Attachment FF-6 tariff record to include only the currently effective language.

The Commission orders:

(A) The Proposed Revisions are hereby accepted, effective October 4, 2017, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[39] Moreover, TMEPs are governed by the provisions of Attachment FF-6 that indicate that, if the Transition Period expires before a new cost allocation method becomes effective, the cost allocation for any transmission projects approved after that expiration will be governed by Attachment FF. *See* MISO, FERC Electric Tariff, Attachment FF-6, § IV.B.7 (33.0.0).

[40] *See Midcontinent Indep. Sys. Operator, Inc.*, 160 FERC ¶ 61,079 (2017).