

161 FERC ¶ 61,060
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Internal MISO Generation

Docket Nos. EL16-12-002
ER16-1817-002

v.

Midcontinent Independent System Operator, Inc.

ORDER ON REHEARING

(Issued October 19, 2017)

1. On November 14, 2016, the American Wind Energy Association and Wind on the Wires (AWEA/WOW) requested rehearing of the Commission's October 13, 2016 order which, among other things, found that Midcontinent Independent System Operator, Inc. (MISO) failed to show cause why the M2 Milestone Payment should not be applied to all classes of interconnection customers and directed revisions to MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).¹ In this order, we deny the rehearing request.

I. Background

2. On September 4, 2015, pursuant to section 206 of the Federal Power Act (FPA)² and Rule 206 of the Commission's Rules of Practice and Procedure,³ Internal MISO

¹ *Midcontinent Indep. Sys. Operator, Inc.*, 157 FERC ¶ 61,021 (2016) (October 13 Order). Unless indicated otherwise, all capitalized terms shall have the same meaning given them in the MISO Tariff.

² 16 U.S.C. § 824e (2012).

³ 18 C.F.R. § 385.206 (2017).

Generation⁴ filed a complaint alleging that MISO gives preferential treatment in its interconnection process to generators located outside of the MISO footprint versus generators located internal to MISO, by permitting that external generation to enter and be studied in MISO's interconnection queue without making the M2 Milestone Payment⁵ or Initial Payment.⁶

3. On March 29, 2016, the Commission issued an order in Docket Nos. EL15-99-000 and EL16-12-000 granting the complaint in part and denying it in part, instituting a section 206 proceeding, commencing paper hearing procedures and establishing a refund effective date.⁷ In its partial grant of the complaint, the Commission found that MISO's Tariff was unjust, unreasonable, unduly discriminatory, or preferential because the terms and conditions governing the provision of External Network Resource Interconnection Service (E-NRIS) should be included in the Tariff.⁸ The Commission directed MISO to file within 60 days revisions to the Tariff to provide language that addresses its E-NRIS

⁴ Internal MISO Generation is comprised of EDF Renewable Energy, Inc. E.ON Climate & Renewables North American LLC, and Invenergy LLC.

⁵ A project is eligible to enter the definitive planning phase (DPP) of MISO's interconnection process after the interconnection customer has provided the cash payment DPP entry milestone (M2 Milestone Payment), technical data requirements, and DPP study deposit. MISO, FERC Electric Tariff, Attachment X (70.0.0), § 3.3. Together, these requirements are commonly referred to as the M2 Milestone.

⁶ Internal MISO Generation Complaint, Docket No. EL15-99-000 (filed Sept. 4, 2015). An interconnection customer is required to make either an Initial Payment equal to 10-20 percent of the total cost of its network upgrades or provide security equal to the total cost of its network upgrades within a prescribed time period following the execution of the Generation Interconnection Agreement (GIA) or the filing of an unexecuted GIA with the Commission. *See* MISO, FERC Electric Tariff, Attachment X, Appendix 6 (36.0.0), § 11.5.

⁷ *Internal MISO Generation v. Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,248 (March 29 Order), *order on reh'g and clarification*, 157 FERC ¶ 61,020 (2016).

⁸ The provision of Network Resource Interconnection Service (NRIS) allows that customer to interconnect its Generating Facility to the MISO transmission system or distribution system, as applicable, and integrate its Generating Facility with the transmission system to deliver its output over that system in the same manner as for any Generating Facility designated as a network resource. MISO, FERC Electric Tariff, Attachment X (70.0.0), § 1. *See also* March 29 Order, 157 FERC ¶ 61,021 at P 4 n.8.

protocol, including the details of the Service Agreement for E-NRIS customers, as well as the requirement for an Initial Payment and the details related thereto.⁹

4. The Commission also found that MISO's Tariff may be unjust, unreasonable, unduly discriminatory, or preferential because the Tariff did not specify in sufficient detail which interconnection customers must make the M2 Milestone Payment.¹⁰

5. Additionally, the Commission found that it appears that MISO's Tariff may be unjust, unreasonable, or unduly discriminatory or preferential because it does not include detailed provisions regarding certain customers who seek to upgrade their interconnection service from Energy Resource Interconnection Service (ERIS)¹¹ to NRIS (referred to as NRIS-only customers).¹² Accordingly, the Commission instituted a proceeding in Docket No. EL16-12-000 pursuant to section 206 of the FPA and commenced a paper hearing. In doing so, the Commission stated that the identified concerns might be addressed by revising MISO's Tariff to: (1) make clear that the M2 Milestone Payment is assessed to *all* interconnection customers, whether new or existing, or internal or external, or a showing by MISO that it should not be required to do so; and (2) clarify the services it provides and the process for receiving that service for every class of interconnection customer to which the Tariff applies.¹³

6. On May 31, 2016, in response to the March 29 Order, MISO made a compliance filing in Docket No. ER16-1817-000, which addressed its E-NRIS protocol, including the details of a Service Agreement and Initial Payment for E-NRIS customers.

7. As related to the instant request for rehearing, AWEA/WOW, and others, filed briefs in the paper hearing (Docket No. EL16-12-000) arguing that MISO's Tariff does not effectively explain several current MISO practices. However, only AWEA/WOW raised the issue of how MISO is processing 3,500 MW of external generation in the Manitoba Hydro region. Specifically, AWEA/WOW alleged that Manitoba Hydro's generation should have been subject to MISO's interconnection procedures, but was

⁹ March 29 Order, 154 FERC ¶ 61,248 at P 30.

¹⁰ *Id.* P 32.

¹¹ ERIS allows an interconnection customer to connect its Generating Facility to the MISO transmission system or distribution system, as applicable, and to be eligible to deliver the Generating Facility's electric output using the existing firm or non-firm capacity of the transmission system on an as-available basis. MISO, FERC Electric Tariff, Attachment X (70.0.0), § 1.

¹² March 29 Order, 154 FERC ¶ 61,248 at P 33.

¹³ *Id.* P 34.

allowed to flow onto the system instead under a Transmission Service Right.¹⁴ In their protest to the compliance filing submitted in Docket No. ER16-1817-000, AWEA/WOW further questioned the relationship between Transmission Service Rights and requests for E-NRIS.¹⁵ In the October 13 Order, the Commission held that MISO failed to show cause why the M2 Milestone Payment should not be applied to all classes of interconnection customer.¹⁶ The Commission directed MISO to make a further compliance filing within 30 days of the date of the order including Tariff revisions that (1) apply the M2 Milestone Payment to all classes of interconnection customer and (2) make clear that the M2 Milestone Payment assessed to any customer is not zero.¹⁷ The Commission also accepted, subject to condition, MISO's compliance filing regarding its E-NRIS protocol in Docket No. ER16-1817-000, which included the details of a Service Agreement and Initial Payment for E-NRIS customers.¹⁸ The Commission also rejected AWEA/WOW's request to investigate issues surrounding Manitoba Hydro and the use of Transmission Service Rights instead of interconnection service, finding them to be outside of the scope of the paper hearing and compliance proceedings.¹⁹

II. Request for Rehearing

8. On rehearing, AWEA/WOW primarily contend that the Commission erred by failing to pursue the answers sought by AWEA/WOW regarding what they believe is MISO's preferential treatment of Manitoba Hydro, that allows Manitoba Hydro to use Transmission Service Rights to make sales into MISO while avoiding making an M2 Milestone Payment.²⁰ AWEA/WOW allege that the Commission erred by "failing to find out why [MISO] is not treating and processing the external generation of Manitoba Hydro the same as all other external generation."²¹ AWEA/WOW further allege that the

¹⁴ AWEA/WOW Initial Brief, Docket No. EL16-12-001, at 37-38 (filed May 5, 2016).

¹⁵ AWEA/WOW Protest, Docket No. ER16-1817-000, at 14-17 (filed June 21, 2016).

¹⁶ October 13 Order, 157 FERC ¶ 61,021 at P 3.

¹⁷ *Id.* P 55.

¹⁸ *Id.* PP 77, 81.

¹⁹ *Id.* PP 64, 106.

²⁰ Request for Rehearing of American Wind Energy Association and Wind on the Wires, at 1 (filed Nov. 14, 2016).

²¹ *Id.*

Commission erred by “failing to find out upon what Tariff basis MISO is allowing the external generation of Manitoba Hydro to be processed as transmission service whereas the 3,500 MW of Exelon Corporation (‘Exelon’) external to MISO is processed as interconnection service and E-NRIS.”²² AWEA/WOW state that MISO has provided no explanation of this inconsistent treatment other than a simple statement that NRIS was not being granted for the Manitoba Hydro project due to the existence of firm Transmission Service Rights.²³ AWEA/WOW argue that MISO did not disclose what it studied and upon what Tariff basis it was proceeding outside of E-NRIS, such as under what provisions of Module B of the Tariff did Manitoba Hydro obtain Transmission Service Rights or to what degree studies were undertaken when such Transmission Service Rights were granted to account for the impact of significant amounts of power that flowed on the MISO system for the first time.²⁴

9. AWEA/WOW argue that, due to the lack of information, there are still factual questions about whether a Transmission Service Right is an exception to how MISO processes all other interconnection requests and how power flows from the Transmission Service Rights from external resources are modeled on MISO’s system.²⁵ AWEA/WOW argue that the Commission did not order MISO to address these questions or provide any Tariff or Business Practices Manual provisions that would allow the disparate treatment of the Manitoba Hydro and Exelon generation. They argue that until this purported gap in the record is resolved, there is no basis to confirm that MISO is employing a robust Transmission Service Rights study process that is comparable in every way to what MISO employs under its DPP, and no basis for the Commission’s determination that all interconnection customers, internal and external, and new and existing, are treated comparably.²⁶

10. AWEA/WOW state that, since the October 13 Order, new information about the Manitoba Hydro project has become available – for instance, unexpected network upgrades are required due to voltage stability issues in the region where the Manitoba Hydro injection is occurring, but those impacts did not appear in the Transmission Service Rights because they were not studied with the same rigor as MISO’s DPP that applies to all E-NRIS requests and internal generation.²⁷ In addition, AWEA/WOW state

²² *Id.*

²³ *Id.* at 4.

²⁴ *Id.* at 5-6.

²⁵ *Id.* at 7.

²⁶ *Id.* at 8.

²⁷ *Id.* at 11.

that MISO has not backed down any of the Manitoba Hydro generation in the model like it does for generation internal to MISO. They argue that this is contrary to how MISO runs its models to assess reliability and deliverability impacts. AWEA/WOW further note that the results from the August 2015 DPP West study indicate that a transmission line originally planned to relieve the limit on the Minnesota-Wisconsin Export Interface will no longer be able to fill this purpose, and they speculate that the Manitoba Hydro project is to blame.²⁸ AWEA/WOW argue that the Commission erred in not finding MISO's compliance filing incomplete until it proposes a Tariff provision that states exactly how all external generation that seeks to sink onto the MISO system will be processed, and that these hidden processes are shifting real costs to internal generation.²⁹

III. Commission Determination

11. We deny AWEA/WOW's request for rehearing. All of the issues AWEA/WOW ask the Commission to address are beyond the scope of this proceeding, which was instituted because the MISO Tariff did not specify in sufficient detail which classes of interconnection customers must make the M2 Milestone Payment or include detailed provisions regarding E-NRIS and NRIS-only customers.³⁰ The concerns raised in AWEA/WOW's protest and briefs filed in this proceeding, and repeated in their request for rehearing, do not address the sufficiency of the Commission's determinations in the October 13 Order as it relates to these matters, but rather raise concerns as to the terms and conditions of transmission service in specific transactions involving MISO and Manitoba Hydro which are outside the scope of this proceeding, which only concerns terms and conditions of NRIS among various classes of interconnection customers.

The Commission explained in the October 13 Order:

AWEA/WOW appears to have given an overbroad interpretation to the Commission's statement that the concerns identified by the Commission might be addressed by revising MISO's Tariff to "clarify the services it provides and the process for receiving that service for every class of interconnection customer to which the Tariff applies." This language was not intended to establish a broad investigation of MISO's [Generator Interconnection Procedures]; the scope of the paper hearing is limited to whether certain categories of interconnection customers may be exempt from the M2

²⁸ *Id.* at 12-13.

²⁹ *Id.* at 13-14.

³⁰ October 13 Order, 157 FERC ¶ 61,021 at P 64 (citing March 29 Order, 154 FERC ¶ 61,248 at PP 30, 32, 33).

Milestone Payment and appropriate clarifications of interconnection procedures applicable to E-NRIS and NRIS-only customers.³¹

We note the opportunity remains for AWEA/WOW to raise their concerns in the MISO stakeholder process or submit a complaint to the Commission.

The Commission orders:

The request for rehearing is denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³¹ *Id.*