

Complaint) pursuant to sections 206 and 309 of the Federal Power Act (FPA)² and Rule 206 of the Commission's Rules of Practice and Procedure.³ The load of the City of Minden, Louisiana (Minden), one of SWEPCO's wholesale customers, is pseudo-tied out of MISO into SPP. In the AEP Complaint, AEP asserts that, *inter alia*, Minden is being charged by both MISO and SPP for market-to-market congestion costs resulting from the same congestion impact caused by Minden's pseudo-tied load.⁴

3. On April 5, 2019, the City of Prescott, Arkansas (Prescott) filed in Docket No. EL19-60-000 a complaint against SWEPCO and MISO (Prescott Complaint) pursuant to sections 206, 306, and 309 of the FPA⁵ and Rules 206 and 212 of the Commission's Rules of Practice and Procedure.⁶ Like Minden, Prescott is a wholesale customer of SWEPCO, and its load is also pseudo-tied out of MISO into SPP. Prescott also alleges, *inter alia*, that it is charged by both MISO and SPP for market-to-market congestion costs resulting from the same congestion impact of Prescott's pseudo-tied load.⁷

4. In its answer to the AEP Complaint in Docket No. EL17-89-000, MISO acknowledged that, for pseudo-tied loads, in limited circumstances, some congestion charge overlap occurs on pseudo-tied transactions between MISO's and SPP's markets on certain flowgates that the regional transmission organizations (RTOs) coordinate under the market-to-market process (i.e., market-to-market flowgates).⁸ Specifically, MISO stated that "the overlap arises due to the independent application of the [market-to-market] process under the JOA and the RTOs' congestion management provisions under their respective tariffs."⁹ In testimony submitted by MISO in Docket No. EL17-89-000,

² 16 U.S.C. §§ 824e, 825h (2018).

³ 18 C.F.R. § 385.206 (2019).

⁴ AEP Complaint at 16-17; *see also id.* at 1-2, 4.

⁵ 16 U.S.C. §§ 824e, 825e, 825(h).

⁶ 18 C.F.R. §§ 385.206, 385.212.

⁷ Prescott Complaint at 13-14.

⁸ MISO Answer, Docket No. EL17-89-000 at 5, 8-9 (citing Prepared Direct Testimony of Kevin A. Vannoy on behalf of MISO, at 12-17 (Vannoy Test.)); *see also id.* at 15, 25.

⁹ *Id.* at 5.

MISO witness Vannoy explained how the congestion management procedures can result in a congestion charge overlap for pseudo-tie transactions, as follows:

For pseudo-tied loads, a congestion overlap occurs on the pseudo-tie transaction path between the External Interface and the pseudo-tied load for congestion associated with [Reciprocally Coordinated Flowgates (RCFs)] that are coordinated under the [market-to-market] process. In the Native Balancing Authority, the pseudo-tied load customer is assessed congestion costs between the border and the pseudo-tied load location within MISO. In the Attaining Balancing Authority, on RCFs, congestion charges along the path between the physical load . . . and the Interface, are collected from . . . the pseudo-tie market participant . . . [and] is included in the Market Flow calculation of the Attaining [Balancing Authority]. This may result in congestion payments from the Attaining Balancing Authority to the Native Balancing Authority for congestion management under the existing [market-to-market] settlement rules. Because the [market-to-market] coordination process applies only to RCFs, congestion payments between MISO and SPP under the [market-to-market] process arise only in connection with congestion on RCFs and only when they bind¹⁰

In addition, SPP also acknowledged that “[w]hen [market-to-market] constraints are bound in more than one market, it is reasonable to conclude that some overlap may occur in the congestion settlements by each individual market for pseudo-tied assets.”¹¹

5. In the orders on the AEP and Prescott Complaints issued concurrently with this order, the Commission grants the Complaints in part on the overlapping and/or duplicative congestion charge issue and orders further investigation of this issue through briefing as set forth herein.¹² Accordingly, we direct MISO and SPP to file, within 45 days of the date of this order, initial briefs to address the following:

¹⁰ Vannoy Test., Docket No. EL17-89-000 at 16-17 (internal citations omitted).

¹¹ SPP Answer, Docket No. EL17-89-000 at 4-5.

¹² *Am. Elec. Power Serv. Corp. v. Midcontinent Indep. Sys. Operator, Inc.*, 168 FERC ¶ 61,176 (2019) at PP 35-36; *City of Prescott, Arkansas v. Sw. Elec. Power Co.*, 168 FERC ¶ 61,177 (2019) at PP 46 & 48.

- (1) Please identify any provisions of the MISO and SPP tariffs, the MISO-SPP Joint Operating Agreement (JOA), or any other documents or procedures that may allow for overlapping or duplicative congestion charges to be assessed.
- (2) Please explain the specific circumstances under which congestion charge overlap has occurred or may occur.
 - a. How frequently do such overlapping charges occur?
 - b. Please identify which transactions (including the relevant resources and market participants) have resulted in, and/or are likely to result in, congestion charge overlap.
- (3) What revisions to the MISO and SPP tariffs, JOA, or other documents or procedures could potentially eliminate the potential for overlapping or duplicative congestion charges?¹³
- (4) What existing tools or market products can pseudo-tied loads and resources¹⁴ use to mitigate and/or eliminate the potential for overlapping or duplicative congestion charges? If no such tools or market products currently exist, please explain whether making such tools available would be possible and appropriate.
- (5) What is the status of the discussions that MISO stated that the RTOs and their stakeholders have been conducting on prospective solutions to the congestion overlap issue?¹⁵ Does MISO or SPP plan to address the issue as a result of any such discussions, and if so, when?

¹³ SPP noted that “any final resolution may require express provisions be included in the RTO’s governing documents through, for example, coordinated alternative pricing or other market settlement procedures.” SPP Answer, Docket No. EL17-89-000 at 5.

¹⁴ MISO stated that “[f]or pseudo-tied generators, a congestion overlap occurs on the pseudo-tie transaction path in the Native [Balancing Authority] between the source generation resource and the sink interface.” MISO Answer, Docket No. EL17-89-000 at 8.

¹⁵ MISO stated that “[t]he RTOs and their stakeholders are discussing prospective solutions to the congestion overlap issue. . . .” *Id.* at 5.

(continued ...)

(6) Are there pseudo-tied loads or resources, other than those discussed in the captioned dockets, being assessed overlapping or duplicative congestion charges by MISO and SPP, or are potentially vulnerable to overlapping or duplicative congestion charges by MISO and SPP?

6. In responding to this order, we encourage MISO and SPP to provide any written evidence, documents, affidavits, and/or technical information that are necessary to support their briefs.¹⁶

7. AEP, Prescott, MISO, SPP, and other interested parties to the above-captioned proceedings may submit reply briefs, accompanied by written evidence, documents, affidavits, and/or technical information, if appropriate, within 30 days after the filing of the initial briefs.

The Commission orders:

(A) MISO and SPP are hereby directed to submit initial briefs and any supporting information addressing the issues indicated in the body of this order, within 45 days of the date of this order, as discussed in the body of this order.

(B) Reply briefs, and any supporting information, may be submitted within 30 days after the filing of initial briefs, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁶ Any confidential information can be filed under the terms of 18 C.F.R. § 388.112 (2019).