

155 FERC ¶ 61,254
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System Operator, Inc.

Docket No. EL16-61-000

ORDER TO SHOW CAUSE

(Issued June 16, 2016)

1. In this order, pursuant to section 206 of the Federal Power Act (FPA)¹ and Rule 209(a) of the Commission's Rules of Practice and Procedure,² we direct Midcontinent Independent System Operator, Inc. (MISO) to either: (1) revise its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to ensure that a generation or non-generation resource owner will no longer receive compensation for Reactive Supply and Voltage Control Service (Reactive Service) after it has deactivated its unit(s) or after it has transferred its unit(s) to another owner and to clarify the treatment of Reactive Service revenue requirements for said unit(s); or (2) show cause why it should not be required to do so. We also direct MISO to post to its website and maintain a chart that lists all resource owners whom receive compensation for Reactive Service along with their respective current Reactive Service revenue requirements.

I. Background

2. MISO determines the amount of reactive power necessary to maintain transmission voltages on its transmission system within acceptable limits. Schedule 2 of its Tariff, which governs the provision and compensation for Reactive Service, contains eligibility criteria necessary for a generator to receive reactive power compensation.³ Schedule 2 of the Tariff states, in relevant part:

If a Qualified Generator fails to comply with the
Transmission Operator's voltage control requirements three

¹ 16 U.S.C. § 824e (2012).

² 18 C.F.R. § 385.209(a) (2015).

³ MISO, FERC Electric Tariff, Schedule 2, §§ II.A-B (31.0.0).

or more times in a calendar month for reasons other than planned or unscheduled outages, the Transmission Provider shall determine whether the generation resource should continue to be a Qualified Generator based on the criteria established in Section II.B of this Schedule 2.⁴

3. On November 20, 2014, the Commission issued an order to show cause directing PJM Interconnection L.L.C. (PJM) to revise its Open Access Transmission Tariff (OATT) to provide that a generation or non-generation resource owner will no longer receive reactive power capability payments after it has deactivated its unit and to clarify the treatment of reactive power capability payments for units transferred out of a fleet, or to show cause why it should not be required to do so.⁵ The Commission stated that it was taking action in light of PJM's intervention in two proceedings,⁶ as well as postings on the PJM website⁷ that suggested PJM continued to pay generation and non-generation resources for Reactive Service after units had deactivated.⁸ The Commission stated that it was concerned that PJM's OATT may be unjust and unreasonable, or unduly discriminatory or preferential, given the lack of clarity concerning termination of, or change in payments for, Reactive Service when generating units are no longer capable of providing reactive power or have been transferred out of a fleet.⁹ Given that it appeared

⁴ MISO, FERC Electric Tariff, Schedule 2, §§ IV.A.1 (31.0.0). The criteria in Section II.B set forth specific technical requirements that a generation resource must be capable of providing to qualify for compensation for Reactive Service under the Tariff, including the ability to respond to voltage control specified by the Transmission Provider or Transmission Operator immediately and a specific leading/lagging reactive power range the generation resource must be capable of providing, among other things.

⁵ *PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,132, at P 1 (2014) (PJM Show Cause Order).

⁶ Sunbury Generation LP September 24, 2014 Notice of Cancellation of Reactive Supply and Voltage Control Tariff, Docket No. ER14-2936-000; FirstEnergy Corp. May 2, 2014 Filing at 5-7, Docket Nos. ER14-1882-000, ER14-1883-000, and ER14-1886-000.

⁷ PJM Interconnection, L.L.C., Planning, Generator Deactivation, Generator Deactivation Summary Sheets, PJM Generator Deactivations, <http://www.pjm.com/~media/planning/gen-retire/generator-deactivations.ashx> (Nov. 3, 2014).

⁸ PJM Show Cause Order, 149 FERC ¶ 61,132 at P 7.

⁹ *Id.* P 8.

that some generation and non-generation resource owners apparently continued to receive compensation for Reactive Service after their units were no longer capable of providing that service, the Commission also referred this concern to the Commission's Office of Enforcement for further examination and inquiry as may be appropriate.¹⁰

4. On March 2, 2016, pursuant to Schedule 2 of the MISO Tariff, Consumers Energy Company (Consumers Energy) filed with the Commission a revision to its Rate Schedule No. 116, which includes Consumers Energy's revenue requirement for the provision of Reactive Service.¹¹ Consumers Energy sought to update its Reactive Service revenue requirement because it had either acquired, retired, sold, or planned to retire certain generating plants since the Commission last approved its revenue requirement.¹² Consumers Energy stated that the reduction in its reactive power revenue requirement reflects the decommissioning of its Big Rock Point Nuclear Plant, the sale of the Palisades Nuclear Plant, as well as the planned retirement in April 2016 of seven coal-fired generating units.¹³ On April 28, 2016, the Commission accepted the revisions, instituted a section 206 proceeding, established hearing and settlement proceedings, and referred to the Office of Enforcement its concern that "Consumers Energy may have continued to receive payments for Reactive Supply Service based on a revenue requirement that included the retired units, after it retired those units, and, thus, after 'their units were no longer capable of providing that service.'"¹⁴

5. On March 3, 2016, pursuant to Schedule 2 of the MISO Tariff, MidAmerican Energy Company (MidAmerican) filed with the Commission a revision to Schedule 2 of

¹⁰ *Id.* P 10.

¹¹ Consumers Energy Company March 2, 2016 Filing, Docket No. ER16-1058-000 (Consumers Filing).

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ *Consumers Energy Company*, 155 FERC ¶ 61,104, at P 20 (2016) (citing *Duke Energy Conesville, LLC*, 150 FERC ¶ 61,229, at P 8 (2015); *see also PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,132, at P 10 (2014) (referring to the Office of Enforcement the matter of the resource owner possibly receiving payments for Reactive Service after its units had retired and thus were no longer capable of providing that service); *Desoto Cnty. Generating Co., LLC*, 151 FERC ¶ 61,009, at P 14 (2015) (referring to the Office of Enforcement the matter of the resource owner possibly receiving payments for Reactive Service while its facility was incapable of providing that service)).

its Services Tariff to reflect the retirement of four MidAmerican generating units.¹⁵ MidAmerican stated that it retired two generating units on April 1, 2015 and that it sought to retire two additional units on April 16, 2016. Similar to the Consumers Energy proceeding, on May 2, 2016, the Commission accepted the revisions, instituted a section 206 proceeding, established hearing and settlement proceedings, and referred to the Office of Enforcement its concern that MidAmerican may have received payment for services for units that were not capable of providing that service.¹⁶

II. Discussion

6. In this order, pursuant to section 206 of the FPA¹⁷ and Rule 209(a) of the Commission's Rules of Practice and Procedure,¹⁸ we direct MISO to either: (1) revise its Tariff to ensure that a generation or non-generation resource owner will no longer receive compensation for Reactive Service after it has deactivated or transferred its unit to another owner and to clarify the treatment of Reactive Service revenue requirements for said unit(s); or (2) show cause why it should not be required to do so. We also direct MISO to post to its website and maintain a chart that lists all resource owners whom receive compensation for Reactive Service along with their respective current Reactive Service revenue requirements.

7. We take this action in light of the Consumers Filing and the MidAmerican Filing, which suggest that MISO may be continuing to pay generation and non-generation resources for Reactive Service after units have deactivated. The MISO Tariff neither explicitly states that compensation for Reactive Service will cease when a generation or non-generation resource owner has deactivated a unit such that the unit is no longer capable of providing the service, nor does the MISO Tariff explain whether or how compensation for Reactive Service is adjusted when a unit is transferred from a fleet.

8. The Commission is concerned that the MISO Tariff may be unjust and unreasonable, or unduly discriminatory or preferential, given the lack of clarity concerning the termination of or change in compensation for Reactive Service when generating units are no longer capable of providing that service or have been transferred out of a fleet to another owner. Paying for a service required under the Tariff where, as

¹⁵ MidAmerican Energy Company March 3, 2016 Filing, Docket No. ER16-1062-000 (MidAmerican Filing).

¹⁶ *MidAmerican Energy Company*, 155 FERC ¶ 61,122, at P 13 (2016).

¹⁷ 16 U.S.C. § 824e (2012).

¹⁸ 18 C.F.R. § 385.209(a) (2015).

in the cases discussed above, the generation or non-generation resource owner is no longer capable of providing that service¹⁹ is unjust and unreasonable.²⁰ In *Tennessee Gas Pipeline Co.*,²¹ for example, the Commission held that, once a pipeline chooses to terminate a shipper's service, the customer no longer has an obligation to pay under its contract for that service.²²

9. Based on the foregoing, pursuant to section 206 of the FPA, we direct MISO to either: (1) revise its Tariff to ensure that a generation or non-generation resource owner will no longer receive compensation for Reactive Service after it has deactivated or transferred its unit to another owner and to clarify the treatment of Reactive Service revenue requirements for said unit(s); or (2) show cause why it should not be required to

¹⁹ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,192, at P 19, *order on reh'g*, 116 FERC ¶ 61,283 (2006) ("Contrary to what the [MISO transmission owners] contend, the fact that the reactive power which a generator is capable of producing is not used at some particular given time does not render the generator's filed rates based on reactive power capability unjust or unreasonable. Consistent with North American Electric Reliability Council (NERC) and Regional Reliability Council criteria and Good Utility Practice, Order No. 2003 requires generators to be capable of providing reactive power within a specified range when called upon. It is this *capability* for which generators are compensated under the Midwest ISO's Schedule 2. Accordingly, a generator is 'used and useful' if the generator is capable of providing reactive power.") (citations omitted) (emphasis in original); see also *Calpine Oneta Power, L.P.*, 119 FERC ¶ 61,177, at P 11 (2007) ("The Commission also explained that it has previously held that a generator is 'used and useful' if the generator is *capable* of providing reactive power. Based on the record in these proceedings, the Commission found that, because the Oneta Facility is capable of producing reactive power, it meets the 'used and useful' test.") (citations omitted) (emphasis in original).

²⁰ This situation is different from a generator that may be unable to provide the service for a short period of time, such as during maintenance or other outages. These kinds of situations are expected under the MISO Tariff for all generation and, absent a specific tariff provision, would not result in a reduction in monthly compensation.

²¹ 102 FERC ¶ 61,075, *order on reh'g*, 103 FERC ¶ 61,275, *order on reh'g*, 105 FERC ¶ 61,120 (2003); see also *Transcontinental Gas Pipe Line Corp.*, 59 FERC ¶ 61,325, at 62,203 (1992) (authorizing repayment of contractual obligations when doing otherwise would result in demand charges for services that are not utilized).

²² *Tennessee Gas Pipeline Co.*, 102 FERC ¶ 61,075 at P 32 ("When service is suspended, a shipper's service is stopped and that shipper should not be held responsible for future charges.").

do so. Within 30 days of the date of this order, MISO must submit Tariff revisions or to show cause why it should not be required to do so. In its filing, MISO should address compensation related to deactivated or transferred units that do not comprise the entirety of the generation fleet under the applicable Reactive Service tariff.

10. Given that some generation and non-generation resource owners apparently continued to receive compensation for Reactive Service after their units were no longer capable of providing that service, we have referred such concern to the Office of Enforcement for further examination and inquiry as may be appropriate.

11. In addition, neither the MISO Tariff nor the MISO website contains a publicly available compilation of effective revenue requirements for Reactive Service. The Commission has directed PJM to include such information in its tariff, noting a lack of clarity and directing PJM, “in future filings governing reactive power service to amend Schedule 2 of its OATT to show each generator and the generator’s monthly revenue requirement associated with the provision of reactive power.”²³ In 2007, the Commission accepted PJM’s proposal to keep a chart of revenue requirements and recipients on its website rather than refiling its Schedule 2 every time a revenue requirement is updated.²⁴ We find that the availability of such information would increase the transparency of Reactive Service compensation under the MISO Tariff. We therefore direct MISO to post to its website and maintain a chart that lists all resource owners whom receive compensation for Reactive Service along with their respective Reactive Service revenue requirements.

12. In cases where, as here, the Commission institutes a proceeding on its own motion under section 206 of the FPA, section 206(b) requires that the Commission establish a refund effective date that is no earlier than the date of the publication by the Commission of notice of its intention to initiate such proceeding nor later than five months after the publication date. Section 206(b) permits the Commission to order refunds for a 15-month period following the refund effective date. Consistent with our general policy of providing maximum protection to customers,²⁵ we will set the refund effective date at the earliest date possible in this docket, i.e., the date of publication by the Commission of notice of its intention to initiate such a proceeding in the *Federal Register*.

²³ *PJM Interconnection, L.L.C.*, 96 FERC ¶ 61,338, at 62,281 (2001).

²⁴ *PJM Interconnection, L.L.C.*, Docket No. ER08-339-000 (Feb. 13, 2008) (delegated letter order).

²⁵ See, e.g., *Seminole Elec. Coop., Inc. v. Fla. Power & Light Co.*, 65 FERC ¶ 61,413, at 63,139 (1993); *Canal Elec. Co.*, 46 FERC ¶ 61,153, at 61,539, *reh’g denied*, 47 FERC ¶ 61,275 (1989).

13. Section 206(b) also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. Assuming that MISO files Tariff revisions, we estimate that we would be able to issue our decision within approximately three months of the filing of tariff revisions.

The Commission orders:

(A) Pursuant to section 206 of the Federal Power Act, within 30 days of the date of this order, MISO is hereby directed to either: (1) revise its Tariff to ensure that a generation or non-generation resource owner will no longer receive compensation for Reactive Service after it has deactivated its unit(s) or after it has transferred its unit(s) to another owner and to clarify the treatment of Reactive Service revenue requirements for said unit(s); or (2) show cause why it should not be required to do so, as discussed in the body of this order.

(B) MISO is hereby directed to post to its website and maintain a chart that lists all resource owners whom receive compensation for Reactive Service along with their respective current Reactive Service revenue requirements, as discussed in the body of this order.

(C) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of this section 206 proceeding in Docket No. EL16-61-000.

(D) The refund effective date established pursuant to section 206(b) of the Federal Power Act will be the date of publication in the *Federal Register* of the notice discussed in Ordering Paragraph (C) above.

(E) Any interested person wishing to become a party to this proceeding (Docket No. EL16-61-000) must file a notice of intervention or motion to intervene, as appropriate, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214) within 21 days of the date of issuance of this order. The Commission encourages electronic submission of interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit

an original and three copies of the protest or interventions to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.