

the tariff schedules and the FAC rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect sixty (60) days after the tariff schedules were filed.

4. MIEC does not allege that the FAC adjustment tariff is not in compliance with the FAC tariff, with Section 386.266, or with the Commission's FAC rules. Consequently, the Commission has the authority to do one of two things and one of two things alone: issue no order approving the FAC adjustment tariff, in which event it will take effect by operation of law on September 24, 2013, or approve it because it is compliance with the FAC tariff and the Commission's FAC rules.

5. The Commission's FAC rules intentionally establish a process that does not allow FAC adjustments to be modified during the review process because of a party's objection to the adjustment unless the objection is properly based upon a circumstance where the FAC adjustment tariff that was filed was in actual violation of the FAC tariff, statute or rules. As noted, there is no such violation. In summary, the FAC rules intentionally provide the Commission to order an appropriate adjustment, and to do so within 60 days, but again *only* if the adjustment that was filed is not in compliance with the tariff, statute and rules.²

6. The appropriate FAC prudence adjustment arising from Case No. ER-2012-0074 will be made in due course, with interest as required by the FAC statute and the Commission's rules. Because of the timing of the Commission's Report and Order in that case and the required timing of the FAC adjustment made on July 26, 2013, the adjustment was not included in the FAC adjustment tariff at issue here.

² MIEC requests an "immediate hearing," if its recommendation is not followed, but there is no authority in any statute or rule for hearing to be held, nor is there anything to hold a hearing about. The FAC rules make clear that MIEC's recommendation is not well taken.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served via e-mail on all counsel of record this 4th day of September, 2013.

/s/ James B. Lowery