

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI



In the Matter of Entergy Arkansas, Inc.'s Notification of )  
Intent to Change Functional Control of Its Missouri Electric )  
Transmission Facilities to the Midwest Independent )  
Transmission System Operator Inc. Regional Transmission )  
System Organization or Alternative Request to Change )  
Functional Control and Motions for Waiver and Expedited )  
Treatment )

**File No. EO-2013-0431**

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## REPORT AND ORDER

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**Issue Date:** October 9, 2013

**Effective Date:** November 8, 2013

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## REPORT AND ORDER

### APPEARANCES

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**REGULATORY LAW JUDGE:**    **Ronald D. Pridgin, Senior Regulatory Law Judge**

## **Procedural History**

On March 11, 2013, Entergy Arkansas, Inc., (“EAI”) filed a Notification of Intent to change function control of its Missouri electric transmission facilities to The Midcontinent Independent Transmission System Operator, Inc., (“MISO”)<sup>1</sup>. The Commission allowed The Empire District Electric Company (“Empire”), the Missouri Joint Municipal Electric Utility Commission (“MJMEUC”), Kansas City Power & Light Company (“KCP&L”), and KCP&L Greater Missouri Operations Company (“GMO”) to intervene. The Commission convened an evidentiary hearing on June 18, 2013.

## **The Issues**

Being unable to agree on how to phrase many issues, the Joint Applicants worked from one list of issues, whereas the other parties worked from a separate list of issues. The Commission phrases and resolves the issues as follows:

**Issue 1 - Does the Commission have jurisdiction in this case?**

**Issue 2 – Should the Commission find and conclude that the proposed MISO integration is not detrimental to the public interest in Missouri?**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law. The positions and arguments of all of the parties have been considered by the Commission in making this decision.

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<sup>1</sup> Formerly known as The Midwest Independent System Operator, Inc.

## **Findings of Fact**

1. EAI is a corporation organized and existing under the laws of the State of Arkansas and holds a certificate of convenience and necessity from the Commission.<sup>2</sup>

2. EAI has limited high voltage transmission facilities in the following Missouri counties: Dunklin, New Madrid, Oregon, Pemiscot, and Taney.<sup>3</sup>

3. Those facilities make up approximately 87.34 miles of transmission line in Missouri.<sup>4</sup>

4. EAI decided to join MISO after an extensive analysis and review begun in 2005, after determining that EAI should terminate its participation in the Entergy System Agreement effective December 18, 2013.<sup>5</sup>

5. The Entergy Operation Companies chose MISO because that would provide the greatest benefits and least risk to their retail customers.<sup>6</sup>

6. Those benefits include nearly \$1.4 billion in estimated production cost savings (\$263 million to EAI's retail customers).<sup>7</sup>

7. All five state regulatory agencies having jurisdiction over the retail rates of the Entergy Operation Companies have now granted, subject to conditions, the request to integrate EAI's respective transmission assets into MISO.<sup>8</sup>

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<sup>2</sup> Notification of Intent filed by EAI on March 21, 2013, paragraph 5.

<sup>3</sup> Riley Direct, Ex. 3, Page 7, Lines 8 through 12. See also Notification of Intent filed by EAI on March 21, 2013 (Ex. A).

<sup>4</sup> Tr. Page 64., Lines 13-18.

<sup>5</sup> Riley Direct, Ex. 3, Page 9, Line 21 through Page 10, Line 4.

<sup>6</sup> *Id.* at page 11, Lines 13-16.

<sup>7</sup> Tr. p. 87, lines 9-22.

<sup>8</sup> Riley Direct, Ex. 3, Page 11, Line 16 through Page 12, Line 3.

8. Upon integration into MISO, EAI would take transmission service under the MISO Tariff and MISO would be responsible for scheduling service and perform any security functions, such as transmission outage scheduling.<sup>9</sup>

9. Greater economies of scale resulting from the integration of the Entergy Operating Companies into MISO would have a positive impact of more than \$100 million annually on existing MISO members, including Ameren Missouri.<sup>10</sup>

10. Ameren Missouri, and thus its customers, could experience \$9 million of these annual benefits.<sup>11</sup>

11. The benefits would result from more efficient commitment and dispatch, lower reserve margin requirements, lower ancillary service requirements, and lower administrative fees.<sup>12</sup>

12. GMO has four firm point-to-point transmission service reservations on Entergy's Open Access Same-time Information System ("OASIS"). These reservations are for 75 megawatts ("MW") each, for a total of 300 MW, sourcing at the Crossroads generation station in Clarksdale, Mississippi, within the Entergy footprint, and sinking at the American Electric Power Central and Southwest Balancing Area ("CSWS"), where it is picked up on Southwest Power Pool Inc.'s ("SPP") transmission service and sinks at GMO. This transmission service uses, among other facilities, the Entergy to SPP interconnections at the Omaha switching station to Ozark Beach. These Missouri facilities are part of the assets EAI plans to transfer to ITC.<sup>13</sup>

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<sup>9</sup> *Id.* at Page 18, Line 19 through Page 19, Line 3.

<sup>10</sup> Riley Surrebuttal, Ex. 4, Page 24, Line 14 through Page 27, Line 4.

<sup>11</sup> Tr. Page 74, Lines 14-24.

<sup>12</sup> *Id.* at p. 25, line 14 through p. 26, line 3.

<sup>13</sup> Carlson Rebuttal, Ex. 18 NP, Pages 3-4.

13. The estimated financial impact to GMO for the increases in transmission service as a result of EAI moving to the MISO Tariff is a cost of \$6,095,917.<sup>14</sup>

14. Empire is a co-owner of the Plum Point Energy Station, a 670 MW coal-fired generating facility near Osceola, Arkansas. Empire owns approximately a 7.52% interest in Plum Point, or approximately 50 MW, and also has a 30-year purchase power agreement for an additional 7.5% of Plum Point Capacity.<sup>15</sup>

15. Empire also has a critical 161kV bulk electric system interconnection with EAI at Empire's Powersite Substation, located near the Ozark Beach Hydro Plant near Forsyth, Missouri.<sup>16</sup>

16. Delivery of Plum Point capacity and energy relies directly on the service availability of this 161 kV interconnection that is one of the facilities subject to the pending application.<sup>17</sup>

17. Because Plum Point is physically located on EAI's transmission system, Empire has long-term point to point transmission service under Schedule 7 of Entergy's OATT. Once EAI's transmission assets are transferred to MISO, Empire will be forced to convert its Plum Point transmission service to service under the MISO tariff. Empire estimates that its Missouri customers will see an annual increase in rates of approximately \$1 million due to this conversion.<sup>18</sup>

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<sup>14</sup> *Id.* at pp. 5-6.

<sup>15</sup> Warren Rebuttal, Ex. 20, Page 8.

<sup>16</sup> *Id.* at pp. 5-6; Warren Surrebuttal, Ex. 21, pp. 6-7.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at Page 10.



18. ITC Midsouth estimates that in 2013, wholesale transmission rates will increase by approximately 8.1% over projected wholesale transmission rates for the Arkansas pricing zone, which includes Missouri facilities.<sup>19</sup>

19. But this 8.1% figure is merely the incremental percentage increase in ITC Arkansas zonal transmission service rates after Entergy is under the MISO Tariff and the facilities are transferred to ITC.<sup>20</sup>

20. The Commission must look instead at the overall cost increases of Entergy moving to the MISO Tariff, which is over a 100% price increase. For certain transmission paths, KCP&L and GMO's transmission rates are expected to more than double.<sup>21</sup>

21. Further, the increases in transmission rates when transmission service is moved to the MISO Tariff will result in counterparties offering lower prices for the same energy, in order to recover their increased transaction costs.<sup>22</sup>

22. Ratemaking for KCP&L includes a credit for off-system sales, which is embedded in the overall rates for KCP&L's retail customers, and serves to reduce those overall costs. Because those customers get a credit for off-system sales any reduction in those sales will have a direct and negative effect on Missouri retail rates.<sup>23</sup>

23. An estimate of the potential impact is greater than \$2 million.<sup>24</sup>

24. Rate mitigation has been proposed in the context of a similar case pending in Arkansas.<sup>25</sup>

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<sup>19</sup> Bready Surrebuttal, Ex. 17, Pages 8-9.

<sup>20</sup> Tr. at 184.

<sup>21</sup> *Id.*

<sup>22</sup> Carlson Rebuttal, Ex. 18 NP, Pages 9-10.

<sup>23</sup> *Id.*

<sup>24</sup> Tr. at 186-87.

<sup>25</sup> Bready Surrebuttal, Ex. 17, pp. 11-12.

25. If Entergy facilities are integrated into MISO, MISO would then provide network service for Entergy, which means that power flows could be substantially altered. MISO would then dispatch all of the Entergy generators to meet the loads all across the new MISO footprint, which would include also the Entergy system at that point, and which will result in new flows across Missouri facilities.<sup>26</sup>

26. Estimates suggest that these new flows could reach as high as 4,000 MW of additional north to south flow.<sup>27</sup>

27. Entergy's lack of physical interconnection between MISO/Ameren and Entergy Arkansas will cause loop flows between SPP and MISO to be exasperated to the further detriment of the general public in western Missouri.<sup>28</sup>

28. These new flows should be addressed in revisions to the Joint Operating Agreement between MISO and Southwest Power Pool to provide for more effective coordination.<sup>29</sup>

### **Conclusions of Law**

1. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision. When making findings of fact based upon witness testimony, the Commission will assign the

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<sup>26</sup> Tr. at 196-97.

<sup>27</sup> *Id.*

<sup>28</sup> Warren Rebuttal, Ex. 21, p. 10.

<sup>29</sup> Tr. at 198.

appropriate weight to the testimony of each witness based upon their qualifications, expertise and credibility with regard to the attested to subject matter.<sup>30</sup>

2. In making its determination, the Commission may adopt or reject any or all of any witnesses' testimony.<sup>31</sup>

3. Testimony need not be refuted or controverted to be disbelieved by the Commission.<sup>32</sup>

4. The Commission determines what weight to accord to the evidence adduced.<sup>33</sup>

5. "It may disregard evidence which in its judgment is not credible, even though there is no countervailing evidence to dispute or contradict it."<sup>34</sup>

6. The Commission may evaluate the expert testimony presented to it and choose between the various experts.<sup>35</sup>

7. The Staff of the Commission is represented by the Commission's Staff Counsel, an employee of the Commission authorized by statute to "represent and appear for the commission in all actions and proceedings involving this or any other law [involving the commission.]"<sup>36</sup>

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<sup>30</sup> Witness credibility is solely within the discretion of the Commission, who is free to believe all, some, or none of a witness' testimony. *State ex. rel. Missouri Gas Energy v. Public Service Comm'n*, 186 S.W.3d 376, 389 (Mo. App. 2005).

<sup>31</sup> *State ex rel. Associated Natural Gas Co. v. Public Service Commission*, 706 S.W.2d 870, 880 (Mo. App., W.D. 1985).

<sup>32</sup> *State ex rel. Rice v. Public Service Commission*, 220 S.W.2d 61, 65 (Mo. banc 1949).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Associated Natural Gas, supra*, 706 S.W.2d at 882.

<sup>36</sup> Section 386.071.

8. The Public Counsel is appointed by the Director of the Missouri Department of Economic Development and is authorized to “represent and protect the interests of the public in any proceeding before or appeal from the public service commission[.]”<sup>37</sup>

9. EAI is an electric corporation and a public utility subject to Commission jurisdiction.<sup>38</sup>

10. EAI’s Missouri facilities, according to its own statements in its application, are used for the transmission and distribution of electricity that is certainly used eventually for “light, heat or power.”<sup>39</sup>

11. A Missouri regulated utility must obtain permission from the Commission to transfer functional control of any part of its electric plant to MISO.<sup>40</sup>

12. A Regional Transmission Organization must have operational authority for all transmission facilities under its control.<sup>41</sup>

13. MISO exercises this operational authority through functional control of transmission, but the direct, physical control of transmission facilities is retained by the transmission owners, such as EAI.<sup>42</sup>

14. The Commission must determine whether the proposed transaction is likely to be a net benefit or a net detriment to the public.<sup>43</sup>

15. All of the benefits and detriments in evidence must be considered.<sup>44</sup>

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<sup>37</sup> Sections 386.700 and 386.710.

<sup>38</sup> Section 386.020(15), (42) RSMo 2006 (all statutory cites to RSMo 2006 unless otherwise indicated).

<sup>39</sup> *Id.*

<sup>40</sup> Section 393.190.1 RSMo; *In re Union Electric Company*, File No. EO-2011-0128, Report and Order (April 19, 2012).

<sup>41</sup> 18 C.F.R. § 35.34(j)(3).

<sup>42</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 84 FERC ¶ 61,231, at 62,160 (1998).

<sup>43</sup> *Intercon Gas, Inc. v. PSC*, 848 S.W.2d 593, 597-98 (Mo. App. W.D. 1993).

<sup>44</sup> *AG Processing, Inc. v. PSC*, 120 S.W.3d 732 (Mo.banc 2003).

16. In reviewing another utility's application to transfer functional control of its transmission assets to MISO, this Commission stated that it

Is not limited to a simple thumbs up or thumbs down ruling on the transfer as a whole. If it is to adequately protect the public interest, the Commission must be able to impose conditions designed to alleviate specific detriments that would otherwise result from the transfer, even if the transfer overall would not be detrimental to the public.<sup>45</sup>

17. The Commission must engage in a cost-benefit analysis in which all of the benefits and detriments in evidence are considered.<sup>46</sup>

### **DECISION**

The Commission has jurisdiction over the applicants and the proposed migration of the functional control of EAI's transmission assets into MISO. EAI has a certificate of convenience and necessity with the Commission. EAI owns electrical plant in Missouri that is being used to serve the public, and EAI wishes to transfer functional control of that plant to MISO. As such, as stated in Section 393.190.1 RSMo, the Commission has jurisdiction over the transfer.

Such a migration is not detrimental to the public interest if the Commission imposes conditions upon it so that Missouri ratepayers are held harmless and so that safety and reliability of the transmission grid in Missouri is ensured.

Without such conditions, ratepayers of Missouri's non-MISO utilities, namely, ratepayers of Empire, GMO and KCP&L, could suffer financial harm and have their electrical service disrupted. The lack of those conditions would be contrary to the

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<sup>45</sup> See *In re Union Elec. Co.*, Commission File No. EO-2011-0128, Report and Order, p. 20 (April 19, 2012).

<sup>46</sup> See *AG Processing, Inc., v. PSC*, 120 S.W. 32 732 (Mo. banc 2003).

Commission's statutory mandate of ensuring that Missourians receive safe, adequate and reliable utility service at just and reasonable rates.

**THE COMMISSION ORDERS THAT:**

1. Entergy Arkansas, Inc.'s migration of its Missouri transmission assets into The Midcontinent Independent System Operator, Inc., is approved, conditioned upon the negotiation and approval of a revised Joint Operating Agreement between Southwest Power Pool, Inc., and The Midcontinent Independent System Operator, Inc., addressing, at a minimum, the loop flow issues and other altered flows related to the Missouri seam between Southwest Power Pool, Inc., and The Midcontinent Independent System Operator, Inc., and conditioned upon a requirement that Entergy Arkansas, Inc., and/or ITC Midsouth, LLC, hold harmless non-MISO Missouri retail customers from all increased costs due to Entergy's potential transfer of functional control of its transmission assets to The Midcontinent Independent System Operator, Inc.

2. Beginning June 30, 2014, and every year thereafter on or about June 30 until otherwise ordered by the Commission, Entergy Arkansas, Inc., or its successors-in-interest shall file a report with the Commission concerning its participation in The Midcontinent Independent System Operator, Inc. Such report shall include the perspective of Entergy Arkansas, Inc., or its successors-in-interest, in the economic viability of remaining in The Midcontinent Independent System Operator, Inc., the safety and reliability of transmission service Entergy Arkansas, Inc., or its predecessors-in-interest, have provided to its customers, and the status of the Joint Operating Agreement between Southwest Power Pool, Inc., and The Midcontinent Independent System Operator, Inc.

3. This Report and Order shall become effective on November 8, 2013.



**BY THE COMMISSION**

*Morris L. Woodruff*

Morris L. Woodruff  
Secretary

R. Kenney, Chm., Stoll, W. Kenney,  
and Hall, CC., concur.

Dated at Jefferson City, Missouri,  
on this 9th day of October, 2013.