

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

REVISED REPORT AND ORDER

Issue Date: November 26, 2013

Effective Date: December 9, 2013

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REPORT AND ORDER

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

Procedural History

On March 11, 2013, Entergy Arkansas, Inc., (“EAI”) filed a Notification of Intent to change functional control of its Missouri electric transmission facilities to The Midcontinent Independent Transmission System Operator, Inc., (“MISO”)¹. 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.

¹ 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 Missouri Public Service Commission.²

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

3. Those facilities make up approximately 87.34 miles of transmission line in Missouri.⁴

4. EAI decided to join MISO after an analysis and review process begun in 2005.⁵

Economic Impact on Missouri MISO Members

5. The Entergy Operation Companies' decision to join MISO was purportedly based on their assessment of benefits and risks to their retail customers.⁶

6. That analysis indicates benefits of nearly \$1.4 billion in estimated production cost savings (\$263 million to EAI's retail customers).⁷

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.⁸

² Notification of Intent filed by EAI on March 21, 2013, paragraph 5.

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

⁴ Tr. Page 64., Lines 13-18.

⁵ Riley Direct, Ex. 3, Page 9, Line 21 through Page 10, Line 4.

⁶ *Id.* at page 11, Lines 13-16.

⁷ Tr. p. 87, lines 9-22.

⁸ 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, among other functions: scheduling service and perform any security functions, such as transmission outage scheduling.⁹

9. EAI will also have access to the MISO wholesale power markets.¹⁰

10. Integration of the Entergy Operating Companies into MISO may result in more than \$100 million annually in positive financial impact on existing MISO members, including Ameren Missouri.¹¹

11. Ameren Missouri, and thus also its ratepayers, could experience \$9 million of these annual benefits.¹²

12. Generally, the benefits of MISO integration results from more efficient commitment and dispatch, lower reserve margin requirements, lower ancillary service requirements, and lower administrative fees for EAI.¹³

Economic Impact on non-MISO Missouri utilities

13. A utility sinks energy by sending it to its ultimate destination point.¹⁴

14. Point-to-point transmission is transmission that sinks within the transmission system.¹⁵

15. Transmission that sinks outside the transmission system is called through and out transmission, and is subject to through and out rates.¹⁶

⁹ *Id.* at Page 18, Line 19 through Page 19, Line 3.

¹⁰ Riley Surrebuttal, Ex. 4, Page 25, Line 16.

¹¹ *Id.* at Page 24, Line 14 through Page 27, Line 4.

¹² Tr. Page 74, Lines 14-24.

¹³ Riley Surrebuttal, Ex. 4, Page 25, line 14 through p. 26, line 3.

¹⁴ Tr. Page 187, Lines 13-25.

¹⁵ Locke Rebuttal, Ex. 19, Page 4, lines 7-10.

¹⁶ *Id.*

16. Through and out rates under the MISO tariff are the result of adding all revenue requirements of all MISO transmission owners and dividing the amount by the total transmission load.¹⁷

17. 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.¹⁸

18. The estimated financial impact to GMO for the increases in transmission service resulting from EAI moving to the MISO Tariff is a cost of \$6,095,917.¹⁹

19. These increased transmission service costs are from MISO's higher through-and-out rate.²⁰

20. 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.²¹

¹⁷ Wrenbeck Surrebuttal, Ex. 15, Page 4, Lines 1-13.

¹⁸ Carlson Rebuttal, Ex. 18 NP, Pages 3-4.

¹⁹ *Id.* at pp. 5-6.

²⁰ Carlson Rebuttal, Ex. 18, Page 5.

²¹ Warren Rebuttal, Ex. 20, Page 8.

21. 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.²²

22. 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.²³

23. 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.²⁴

24. 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.²⁵

25. 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.²⁶

26. For certain transmission paths, KCP&L and GMO's transmission rates are expected to more than double.²⁷

²² *Id.* at pp. 5-6; Warren Surrebuttall, Ex. 21, pp. 6-7.

²³ *Id.*

²⁴ *Id.* at Page 10.

²⁵ Bready Surrebuttall, Ex. 17, Pages 8-9.

²⁶ Tr. at 184.

²⁷ *Id.*

27. 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.²⁸

28. KCP&L may lose revenue from off-system sales. 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.²⁹

29. An estimate of the potential impact of the reduced off-system sales is greater than \$2 million for KCP&L.³⁰

30. Rate mitigation of \$85 million in bill credits for wholesale customers for five years has been proposed in the context of a similar case pending in Arkansas.³¹

Loop Flows

31. A loop flow is an unscheduled flow of energy between electric systems.³²

32. If EAI facilities are integrated into MISO, MISO would then provide network service for EAI, which means that power flows could be substantially altered. MISO would then dispatch all of the EAI generators to meet the loads all across the new MISO footprint, which would include also the EAI system at that point, and which will result in new flows across Missouri facilities.³³

²⁸ Carlson Rebuttal, Ex. 18 NP, Pages 9-10.

²⁹ *Id.*

³⁰ Tr. at 186-87.

³¹ Bready Surrebuttal, Ex. 17, pp. 11-12.

³² Warren Rebuttal, Ex. 21, Page 10.

³³ Tr. at 196-97.

33. Estimates suggest that these new flows could reach as high as 4,000 MW of additional north to south flow.³⁴

34. 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.³⁵

35. 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.³⁶

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 appropriate weight to the testimony of each witness based upon their qualifications, expertise and credibility with regard to the attested to subject matter.³⁷

2. In making its determination, the Commission may adopt or reject any or all of any witnesses' testimony.³⁸

³⁴ *Id.*

³⁵ Warren Rebuttal, Ex. 21, p. 10.

³⁶ Tr. at 198.

³⁷ 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).

³⁸ *State ex rel. Associated Natural Gas Co. v. Public Service Commission*, 706 S.W.2d 870, 880 (Mo. App., W.D. 1985).

3. Testimony need not be refuted or controverted to be disbelieved by the Commission.³⁹

4. The Commission determines what weight to accord to the evidence adduced.⁴⁰

5. “It may disregard evidence which in its judgment is not credible, even though there is no countervailing evidence to dispute or contradict it.”⁴¹

6. The Commission may evaluate the expert testimony presented to it and choose between the various experts.⁴²

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.]”⁴³

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[.]”⁴⁴

Jurisdiction

9. EAI is an electric corporation and a public utility subject to Commission jurisdiction.⁴⁵

³⁹ *State ex rel. Rice v. Public Service Commission*, 220 S.W.2d 61, 65 (Mo. banc 1949).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Associated Natural Gas, supra*, 706 S.W.2d at 882.

⁴³ Section 386.071.

⁴⁴ Sections 386.700 and 386.710.

⁴⁵ Section 386.020(15), (42) RSMo 2006 (all statutory cites to RSMo 2006 unless otherwise indicated).

10. EAI's Missouri facilities, according to its own statements in its application, are used for the transmission and distribution of electricity that is used for "light, heat or power."⁴⁶

11. EAI's Missouri facilities are "electric plant" as defined under Section 386.020(14) RSMo.

12. Every electrical corporation must furnish service that is safe and adequate and in all respects just and reasonable.⁴⁷

13. The Commission has the power to examine or investigate the methods employed by such persons and corporations in manufacturing, distributing and supplying electricity, and in transmitting the same.⁴⁸

14. The Commission has the power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such electricity.⁴⁹

15. A Missouri electric corporation must obtain permission from the Commission to transfer functional control of any part of its electric plant to MISO.⁵⁰

16. A Regional Transmission Organization must have operational authority for all transmission facilities under its control.⁵¹

⁴⁶ *Id.*; see also Section 386.250(1) RSMo.

⁴⁷ Section 393.130.1 RSMo.

⁴⁸ Section 393.140(2) RSMo.

⁴⁹ *Id.*; see also Section 386.310.1 RSMo.

⁵⁰ Section 393.190.1 RSMo; *In re Union Electric Company*, File No. EO-2011-0128, Report and Order (April 19, 2012).

⁵¹ 18 C.F.R. § 35.34(j)(3).

17. 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.⁵²

Standard for MISO Integration

18. The Commission must determine whether the proposed transaction is likely to be “detrimental to the public.”⁵³

19. The Commission must engage in a cost-benefit analysis in which all of the benefits and detriments in evidence are considered.⁵⁴

20. The standard that the Commission must employ in its determination regarding the transfer of functional control is whether or not the transfer of functional control creates a detriment to the state of Missouri on the whole.

Reporting Requirements

21. The Commission has authority to require EAI to file periodic reports, and to answer specific Commission questions.⁵⁵

DECISION

EAI’s claim that the Commission lacks jurisdiction over this transaction is based on the erroneous position that the Commission’s jurisdiction is limited to utilities with retail customers. The Commission finds no such jurisdictional limitation in the language of Section 393.190.1. 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,

⁵² *Midwest Indep. Transmission Sys. Operator, Inc.*, 84 FERC ¶ 61,231, at 62,160 (1998).

⁵³ *Intercon Gas, Inc. v. PSC*, 848 S.W.2d 593, 597-98 (Mo. App. W.D. 1993).

⁵⁴ *See AG Processing, Inc., v. PSC*, 120 S.W. 3d 732 (Mo. banc 2003).

⁵⁵ Section 393.140(6), (9) RSMo.; Commission Rule 4 CSR 240-3.165.

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. The Commission has jurisdiction over the applicants and the proposed migration of the functional control of EAI's transmission assets into MISO.

No Finding of A Net Detriment to the Public Interest

While the Commission can identify specific parties that will experience both benefits and detriments from EAI's MISO integration, the Commission cannot find at this time that the transfer of functional control of EAI's Missouri transmission assets to MISO creates a *net* detriment to the state of Missouri as a whole. Thus, the Commission cannot say that the transfer of functional control is *against* the public interest.

Concerns

But the case at bar exposes larger issues stemming from Missouri's location on the seam between MISO and SPP. These issues are not specific or limited to EAI's MISO integration.

First, the Commission is concerned about the safety and reliability of the electric grid in Missouri in light of unresolved loop-flow issues between MISO and SPP. The integrity of the electrical grid in Missouri largely depends upon how MISO and SPP control and account for their respective power flows. There needs to be uniformity between the RTO's in loop-flow methodology, accounting and communication. Anything less jeopardizes the safety and reliability of the electric grid in the state of Missouri.

Second, the Commission is concerned that the through-and-out rates of the RTO's have a continuing adverse economic impact some on Missouri ratepayers. The Commission recognizes the negative effect these MISO FERC rates have on Empire,

KCP&L and KCP&L GMO. If the Commission were to look solely at the economic impact to non-MISO Missouri ratepayers, the transfer of functional control would not be in the public interest. But given that the Commission is charged with determining the *net* effect on the public interests, it cannot base its decision solely on the effect to these three utilities.

Both the loop-flows and the through-and-out rates are the result of Missouri sitting on a seam between RTO's. These issues are not the result of EAI's desire to join MISO. These issues are part of a bigger problem that must be resolved between MISO, SPP and the state of Missouri regarding how MISO and SPP function and operate. The Commission cannot allow the geographic boundaries of MISO and SPP to perpetually disadvantage the state of Missouri in terms of safety, reliability or economics.

For these reasons, the Commission is concurrently issuing with this order, an order opening a workshop docket to explore these seams issues. This workshop docket invites all interested parties to participate, especially MISO, SPP and seams-affected Missouri utilities.

THE COMMISSION ORDERS THAT:

1. Entergy Arkansas, Inc.'s migration of its Missouri transmission assets into The Midcontinent Independent System Operator, Inc., ("MISO") is approved.
2. Beginning June 30, 2014, and every year thereafter on 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 December 9, 2013.
4. This case shall be closed on December 10, 2013.



BY THE COMMISSION

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is fluid and cursive.

Morris L. Woodruff
Secretary

R. Kenney, Chm., Stoll, W. Kenney,
and Hall, CC., concur and certify
compliance with the provisions of
Section 536.080, RSMo.

Dated at Jefferson City, Missouri,
on this 26th day of November, 2013.