

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>Midcontinent Independent System Operator, Inc.</b>	) ) ) )	<b>Docket No. EL14-19-002</b>
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**UNOPPOSED JOINT MOTION FOR AUTHORIZATION  
TO IMPLEMENT SETTLEMENT RATES ON AN INTERIM BASIS  
PENDING COMMISSION APPROVAL AND REQUEST FOR  
SHORTENED COMMENT PERIOD AND EXPEDITED ACTION**

**To: The Honorable Carmen A. Cintron  
Acting Chief Administrative Law Judge**

**The Honorable John P. Dring  
Presiding Administrative Law Judge**

Pursuant to Rule 212<sup>1</sup> of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), and section 375.307(a)(1)(iv)<sup>2</sup> of the Commission’s regulations, Associated Electric Cooperative, Inc., The Empire District Electric Company, Kansas City Power & Light Company (“KCP&L”) and KCP&L Greater Missouri Operations Company, Southern Company Services, Inc., by and on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Power Company, Missouri Joint Municipal Electric Utility Commission, the City of Carthage, Missouri, the City of Malden, Missouri, the City of Piggott, Arkansas, East Texas Electric Cooperative, Inc., the NRG Companies,<sup>3</sup> the City of Poplar Bluff, Missouri, the MISO

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<sup>1</sup> 18 C.F.R. § 385.212 (2015).

<sup>2</sup> 18 C.F.R. § 375.307(a)(1)(iv) (2015).

<sup>3</sup> For purposes of this filing, the NRG Companies are Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, Cottonwood Energy Company LP, Louisiana Generating LLC, NRG Power Marketing LLC, NRG Sterlington Power LLC, NRG Wholesale Generation LP, and GenOn Energy Management, LLC.

Transmission Owners,<sup>4</sup> the Midcontinent Independent System Operator, Inc. (“MISO”), and Entergy Services, Inc. (“Entergy Services”), as agent for the Entergy Operating Companies,<sup>5</sup> (collectively, “Moving Parties”) respectfully request authorization for MISO to implement settlement rates on an interim basis effective as of January 1, 2016, pending Federal Energy Regulatory Commission (“FERC” or “Commission”) approval of the settlement.

Concurrently with this Motion, a Settlement Agreement and Offer of Settlement (“Settlement Agreement”) is being filed with the Commission in Docket Nos. ER13-948-004, EL14-19-002, ER14-649-001, and ER14-1645-001. The Settlement Agreement is intended to smooth certain rate impacts associated with the transition of certain long-term firm point-to-point transmission service agreements entered originally with the Entergy Operating Companies but which have since become service agreements under the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (“MISO Tariff”) in connection with Entergy Operating Companies becoming transmission owning members of MISO. To that end, the Settlement Agreement defines settlement rates for Schedules 7, 8, and 26 of the MISO Tariff that will apply over a fixed period to long-term firm point-to-point transmission service agreements that satisfy the applicability criteria set forth in the Settlement Agreement. The Moving Parties hereby request:

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<sup>4</sup> The MISO Transmission Owners for this filing consist of: American Transmission Company LLC; Big Rivers Electric Corporation; City Water, Light & Power (Springfield, IL); Dairyland Power Cooperative; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indianapolis Power & Light Company; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power, Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; and Wabash Valley Power Association, Inc.

<sup>5</sup> The Entergy Operating Companies are Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc. and Entergy Texas, Inc.

- a. authorization for MISO to implement the settlement rates on an interim basis effective January 1, 2016, pending Commission approval of the Settlement Agreement;
- b. approval to implement Section II.B(5) of the Settlement Agreement in the event that interim rate relief has been implemented but the Commission neither accepts nor approves the Settlement Agreement or the Settlement Agreement is terminated pursuant to Settlement Agreement Section II.C(6)(c); and
- c. shortened comment periods and expedited approval of this Motion no later than March 7, 2016.

## **I. BACKGROUND TO MOTION**

On February 20, 2014, the Commission instituted a Federal Power Act (“FPA”) Section 206 proceeding in Docket No. EL14-19-000 to investigate the justness and reasonableness of MISO’s “proposed [Regional Through-and-out-Rate (“RTOR”)] for service over the transmission system in the MISO South region.”<sup>6</sup> It also consolidated the proceeding for purposes of settlement, hearing, and decision with Docket No. ER13-948-000.<sup>7</sup>

On July 31, 2015, Entergy Services filed an Offer of Partial Settlement in Docket Nos. ER13-948-000, *et al.*, and on October 5, 2015, the presiding judge, Judge Dring, certified the Offer of Partial Settlement.

The Offer of Partial Settlement defined settlement rates for the Entergy Operating Companies’ Transmission Formula Rate Templates under Attachment O to the MISO Tariff, and Schedules 41, 42A, 42B, and 47 to the MISO Tariff. On August 7, 2015, Entergy Services filed a Motion for Authorization to Implement Settlement Rates on an Interim Basis Pending

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<sup>6</sup> *Id.* at P 76.

<sup>7</sup> *Id.*

Commission Approval, seeking approval to implement the Entergy Operating Companies' revised transmission formula rate templates effective November 1, 2015 pending Commission approval of the Offer of Partial Settlement. On August 18, 2015, Chief Judge Wagner granted the motion for interim rate relief.<sup>8</sup> Currently, the Offer of Partial Settlement remains pending before the Commission; and consistent with the relief granted in Chief Judge Wagner's August 18, 2015 Order, the Entergy Operating Companies have implemented the rates defined in the Offer of Partial Settlement on an interim basis. The instant joint motion is not intended to affect the relief previously granted by Chief Judge Wagner.

On December 14, 2015, the Moving Parties<sup>9</sup> reached a settlement-in-principle concerning issues set for hearing in EL14-19-000. Today, the Moving Parties filed a Settlement Agreement memorializing the agreement. Section II.B(1) explains that "[t]he Settling Parties desire to implement the Year 3 rate provisions of this Settlement Agreement—applicable to calendar year 2016—as early as possible and in advance of the Settlement Effective Date," and provides that "[s]imultaneously with the filing of the Settlement Agreement, . . . the Settling Parties shall file a joint motion requesting that, pending the Commission's consideration and acceptance or approval of the Settlement Agreement, the Commission allow implementation of Year 3 rate provisions (including associated MISO Tariff revisions) effective January 1, 2016."

## **II. MOTION**

### **a. Motion to Implement Settlement Rates on an Interim Basis Pending FERC Action on the Settlement Agreement**

As provided in the Settlement Agreement, the settlement rate transition for Schedule 7 rates occurs over a period of ten years, and the settlement rate transition for Schedule 26 occurs

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<sup>8</sup> *Entergy Services, Inc.*, 152 FERC ¶ 63,018 (2015).

<sup>9</sup> The Moving Parties are identical to the Settling Parties to the contemporaneously-filed Settlement Agreement.

over a period of thirteen years, with each transition period beginning December 19, 2013.<sup>10</sup> The Moving Parties make this motion to permit the settlement rates to become effective on an interim basis pending FERC action on their Settlement Agreement.

Good cause exists to grant this Motion. The settlement approval process under Part 602 of the Commission's Rules of Practice and Procedure can be lengthy. To avoid further delay in the affected transmission customers' ability to experience the intended rate-smoothing effect of the Settlement Agreement, the Moving Parties seek authorization as promptly as possible for MISO to implement the settlement rates for Schedules 7 and 26 on an interim basis effective as of January 1, 2016, pending Commission approval of their Settlement Agreement. Granting the motion and avoiding a long delay in the effectiveness of the settlement rates will allow the affected transmission customers to more fully enjoy the benefits of the Settlement Agreement and will avoid the need for additional refund calculations for time spent waiting on approval of the Settlement Agreement.

Granting the motion will also allow MISO to more evenly distribute its workload associated with the Settlement Agreement. Instead of requiring MISO to simultaneously calculate and implement both the going-forward settlement rate and the refund for the expired portion of the settlement transition period upon Commission approval of the Settlement Agreement, the relief sought in this motion would allow MISO to phase the implementation of settlement rates and refunds.

In addition, the Moving Parties have circulated the motion to parties to the captioned proceedings in draft form, and no party expressed opposition to the motion, and Commission Trial Staff supports the motion. Granting such a motion is also consistent with precedent.<sup>11</sup>

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<sup>10</sup> The Schedule 8 transition does not extend into 2016, so it is not implicated by this Motion.

## **b. Motion for Approval of Unwinding of Interim Relief**

In the event that the motion to implement interim rate relief is granted, but the Settlement Agreement is neither approved nor accepted by the Commission, or is terminated pursuant to Settlement Agreement Section II.C(3)(c), the Moving Parties seek approval of the unwinding provisions set forth in Settlement Agreement Section II.B(5). Under those provisions, MISO would “calculate the difference between (1) the charges invoiced to Settlement Service Agreement Customers under their respective Settlement Service Agreements at settlement rates and (2) the charges that would have been applicable to the same Settlement Service Agreements at the effective filed rate, for all periods of time in which MISO has issued either invoices or refunds pursuant to the relief [granted pursuant to the motion for interim rate relief], and invoice each Settlement Service Agreement Customer for the resulting amount in the immediate next invoicing cycle in which such charges can be implemented by MISO.” No interest would be charged to the customers, so the unwinding provision would leave parties in substantially the same position as they would have been had the motion to implement interim rate relief been denied. In addition, Settlement Agreement Section II.B(5) is substantially similar to the unwinding provision of Chief Judge Wagner’s order authorizing the implementation of the settlement rates from the Offer of Partial Settlement.<sup>12</sup>

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<sup>11</sup> See, e.g., *Entergy Services, Inc.*, 152 FERC ¶ 63,018 (2015) (granting Motion for Interim Relief pending Commission decision on Offer of Partial Settlement); *Pine Bluff Energy, LLC*, 151 FERC ¶ 63,005 (2015); *Calpine Mid Merit, LLC*, 142 FERC ¶ 63,010 (2013).

<sup>12</sup> See *Entergy Services, Inc.*, 152 FERC ¶ 63,018 at P 7 (2015) (“[i]n the event the Commission does not approve the Settlement, Entergy Services has the right to reinstate its previous rates and surcharge or direct bill the impacted customers retroactive to November 1, 2015, the difference between the settlement rates and the subject to refund rates currently in effect.”).

### **c. Request for Expedited Action and Shortened Comment Period**

The Moving Parties respectfully request that the Acting Chief Judge act expeditiously by Monday, March 7, 2016 to authorize interim implementation of the settlement rates pending Commission approval of the Settlement Agreement. Expedited approval is justified because the no party to the proceeding has indicated opposition to this Motion, Commission Trial Staff supports the Motion, and interim implementation will expeditiously implement the already agreed to rates.

The Moving Parties also request that the Acting Chief Judge shorten the time period for answers to this Motion. *See* 18 C.F.R. § 385.213(d) (2015). Finally, the Moving Parties request a waiver of any applicable requirements to grant this Motion, including a waiver of the 60-day prior notice and filing requirements of FPA section 205(d),<sup>13</sup> and section 35.3 of the Commission's regulations.<sup>14</sup>

### **III. CONCLUSION**

For the foregoing reasons, the Moving Parties respectfully request that the Acting Chief Judge issue an order no later than March 7, 2016: (a) granting this motion for authorization to implement the settlement rates on an interim basis effective January 1, 2016, pending Commission approval of the Settlement Agreement; (b) approving the measures for unwinding the interim rate relief in the event that the Commission does not accept or approve the Settlement Agreement or the Settling Parties terminate the Settlement Agreement; and (c) shortening the period for answers to this Motion and waiving any other requirements for implementation of the rate relief sought in this Motion.

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<sup>13</sup> 16 U.S.C. § 824d(d) (2012).

<sup>14</sup> 18 C.F.R. § 35.3 (2015).

Respectfully submitted,

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Dated: February 25, 2016

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## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service lists compiled by the Secretary in these proceedings, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2015).

Dated at Washington, D.C. this 25th day of February, 2016.

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