

FERC Rejects Charges to GFAs for New Regional Transmission Projects

FERC concludes that MISO's proposed tariff revisions do not provide a new service to GFA customers and that MISO failed to meet the public interest standard necessary to modify the services under GFAs.

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On February 28, the Federal Energy Regulatory Commission (FERC) issued an order rejecting proposed tariff revisions to the Midwest Independent Transmission System Operator, Inc. (MISO) Tariff. The revisions would have required grandfathered agreements (GFAs) to pay for regionally allocated costs resulting from transmission projects approved through the MISO Transmission Expansion Planning (MTEP) process.

The proposed tariff revisions were filed on December 30, 2011, by MISO and the MISO Transmission Owners (MISO TOs). The tariff revisions centered on a proposed Schedule 40 that would allow direct cost recovery of charges under Schedules 26 and 26-A (the MISO Tariff provisions that charge MTEP costs to customers) from GFA customers. In support of the proposed revisions, MISO explained that the existing structure of the tariff resulted in a “systematic under-collection” of MTEP costs for the MISO TOs. Specifically, the MISO Tariff exempts GFA customers from paying charges under Schedules 26 and 26-A, yet the charges are developed with MISO load (including GFA customers) in the divisor, and GFA loads constitute approximately 11% of MISO's peak load. Among other things, MISO also contended that the proposed Schedule 40 was a new service that was not provided under any GFA, and a service for which GFA customers could be charged consistent with prior FERC cases that permitted assessment of MISO operating and administrative costs on GFA customers.

In its February 28 order, FERC disagreed with MISO's justifications for the proposed Schedule 40. In particular, FERC found that GFAs either implicitly or explicitly require transmission owners to provide efficient and reliable service, and that transmission expansion and upgrades—the services provided under Schedules 26 and 26-A—are already a necessary component of the service that transmission owners agreed to provide pursuant to the GFAs. Thus, FERC reasoned that Schedule 40 did not represent a new service to GFA customers. FERC distinguished its precedent permitting the recovery of MISO operating and administrative costs from GFA customers on the grounds that the earlier cases addressed MISO services that represented a “monumental transformation” in the way electricity was sold and distributed in the MISO region, whereas the services under Schedules 26, 26-A, and the proposed Schedule 40 did not. FERC concluded that MISO and the MISO TOs had failed to show that Schedule 40 would result in just and reasonable rates, and that they had failed to meet the public interest standard necessary to modify the services under the GFAs.

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