

167 FERC ¶ 61,238
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Midcontinent Independent System Operator, Inc.
Ameren Illinois Company

Docket No. ER17-2323-002

ORDER ON REHEARING

(Issued June 20, 2019)

1. On July 2, 2018, Southwestern Electric Cooperative, Inc. (Southwestern) requested rehearing of the Commission's May 31, 2018 order in this proceeding.¹ In that order, the Commission accepted the income tax-related proposed revisions to the formula rate templates for Ameren Illinois Company (Ameren Illinois), Ameren Transmission Company of Illinois (Ameren Transmission), and Union Electric Company (Ameren Missouri) included in Attachment O of the Midcontinent Independent System Operator, Inc. (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). In this order, we deny Southwestern's request for rehearing.

I. Background

2. In this proceeding, Ameren Services Company, as agent for Ameren Illinois, Ameren Transmission, and Ameren Missouri, (collectively, Ameren) and MISO (together, the Filing Parties)² proposed to add two income tax-related items to the formula rate templates of Ameren Illinois, Ameren Transmission, and Ameren Missouri, included in Attachment O of the MISO Tariff.³ Attachment O sets forth the formula rate

¹ *Midcontinent Indep. Sys. Operator, Inc.*, 163 FERC ¶ 61,163 (2018) (May 2018 Order).

² MISO submitted the filing in its role as administrator of the Tariff, but MISO took no position on the substance of the filing. *See* MISO Aug. 17, 2017 Tariff Filing at n.1 (August 2017 Filing).

³ The May 2018 Order provides detailed background on this proceeding. *See* May 2018 Order, 163 FERC ¶ 61,163 at PP 2-49.

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templates and protocols under which Ameren Illinois, Ameren Transmission, Ameren Missouri, and other MISO transmission owners recover their respective annual transmission revenue requirements, and through which they establish charges for transmission service for facilities they own that are under MISO's functional control.

3. Under Commission ratemaking policies, income taxes included in rates are determined based on the return on net rate base that is calculated using straight-line depreciation.⁴ In calculating the actual amount of income taxes due to the Internal Revenue Service (IRS), however, companies generally are able to take advantage of accelerated depreciation. This means that a company's income taxes due and payable in a period will differ from its income tax expense in the same period for ratemaking purposes. This difference is reflected in an account called Accumulated Deferred Income Taxes (ADIT).

4. Under a tax normalization policy, tax savings and increases that result from different treatment for ratemaking and income tax purposes are not immediately flowed through to customers, but are recognized in rates over time. In Order No. 144, the Commission amended its regulations to require companies to determine the income tax allowance included in jurisdictional rates on a fully normalized basis.⁵ The Commission recognized that the adoption of full normalization, as well as tax rate changes, might result in excesses or deficiencies in the deferred tax accounts, and required rate applicants to make provision in the income tax component of their cost of service for any such excess or deficiency.

5. In 1992, the Financial Accounting Standards Board issued Financial Accounting Standards Board Statement No. 109 (FAS 109), which, among other things, required recognition of: (1) changes in tax laws or tax rates in deferred tax accounts during the period that the change is enacted; (2) a deferred tax liability for the equity component of Allowance for Funds Used During Construction (AFUDC) depreciation expense (AFUDC Equity); and (3) a deferred tax liability for timing differences under normalization even if the deferred tax liability was previously flowed through to ratepayers prior to adopting normalization. Addressing the implementation of FAS 109,

⁴ See, e.g., *Pub. Serv. Co. of Colo.*, 155 FERC ¶ 61,028, at P 2 (2016); *PJM Interconnection, L.L.C. and Va. Elec. and Power Co.*, 154 FERC ¶ 61,126, at P 2 (2016).

⁵ See 18 C.F.R. § 35.24 (2018); see also *Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes*, Order No. 144, FERC Stats. & Regs. ¶ 30,254 (1981) (cross-referenced at 15 FERC ¶ 61,133), *order on reh'g*, Order No. 144-A, FERC Stats. & Regs. ¶ 30,340 (1982) (cross-referenced at 18 FERC ¶ 61,163).

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the Commission's Chief Accountant explained that if, as a result of action by a regulator, it was probable that a tax deficiency would be recovered from customers or any tax excess would be returned to customers in rates, an asset or liability must be recognized in the appropriate account.⁶

6. In their August 17, 2017 filing, the Filing Parties proposed Tariff changes that they stated would "more closely align" customer contributions for tax expense with the "reality" of changes in tax rates and laws, and address the non-deductibility of depreciation expense associated with AFUDC Equity.⁷ Specifically, the Filing Parties proposed: (1) a modification to return to (or recover from) customers excess (or deficient) ADIT resulting from tax law or rate changes; and (2) an adjustment to recognize the effects of permanent differences between tax accounting and financial reporting, such as the non-deductibility of the component of book depreciation expense related to AFUDC Equity.⁸ To implement these changes, the Filing Parties proposed revisions to the existing company-specific formula rates for Ameren Illinois (Attachment O-AIC) and Ameren Transmission (Attachment O-ATXI), and filed a new company-specific Attachment O for Ameren Missouri (Attachment O-AMO).⁹

7. In the May 2018 Order, the Commission accepted the proposed revisions, finding that they are just and reasonable because they would provide for more accurate annual transmission revenue requirement for Ameren and are appropriate in light of changes in both state and federal income taxes.¹⁰ With respect to the proposal to return to (or recover from) customers excess (or deficient) ADIT, the Commission rejected Southwestern's arguments related to Ameren's treatment of Account 190, the timing of the proposed Tariff revisions, their applicability, and Southwestern's proposal that Ameren use a five-year amortization period for unprotected ADIT.¹¹ The Commission also considered and rejected Southwestern's other arguments concerning the Filing

⁶ See Chief Accountant's Guidance, Docket No. AI93-5-000, at 9 (Apr. 23, 1993) (*Accounting for Income Taxes*).

⁷ August 2017 Filing at 3, 6.

⁸ *Id.* at 1-2.

⁹ *Id.* at 2.

¹⁰ May 2018 Order, 163 FERC ¶ 61,163 at P 52 n.62.

¹¹ *Id.* PP 53-56.

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Parties' proposal to recognize the effects of permanent differences between tax accounting and financial reporting.¹²

II. Related Proceedings

8. On March 15, 2018, the Commission initiated an inquiry seeking industry-wide comment on the effects of the Tax Cuts and Jobs Act on Commission-jurisdictional rates.¹³ Specifically, the Commission sought comment on whether, and if so how, the Commission should address changes related to ADIT, including how quickly excess or deficient unprotected ADIT should be flowed back to or recovered from customers.¹⁴

9. On November 15, 2018, following the Notice of Inquiry, the Commission issued a Notice of Proposed Rulemaking in which the Commission observed that “[t]he Tax Cuts and Jobs Act does not specify what method public utilities must use for excess or deficient unprotected ADIT.”¹⁵ The Commission “agree[d] with commenters . . . that, because such a determination depends on the specific facts and circumstances for each public utility, a case-by-case approach to amortizing excess or deficient unprotected ADIT remains appropriate.”¹⁶

III. Rehearing Request

10. In its rehearing request, Southwestern claims that the May 2018 Order preempts the Notice of Inquiry or otherwise forecloses alternative outcomes in the Commission's

¹² *Id.* PP 57-63 (finding that Southwestern's arguments are without merit).

¹³ *Inquiry Regarding the Effect of the Tax Cuts and Jobs Act on Commission-Jurisdictional Rates*, 162 FERC ¶ 61,223 (2018) (Notice of Inquiry).

¹⁴ *Id.* P 19 (“commenters should address whether a regulatory asset or regulatory liability recorded by a public utility or interstate natural gas pipeline associated with non-plant based excess or deficient ADIT should be amortized over a shorter (e.g., five-year) period”).

¹⁵ *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, 165 FERC ¶ 61,117, at P 38 (2018) (Notice of Proposed Rulemaking).

¹⁶ *Id.*

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other tax-related proceedings.¹⁷ Southwestern also argues that the May 2018 Order errs by: (1) accepting Ameren’s treatment of Accounts 182.3 and 190;¹⁸ (2) providing too much discretion to Ameren in the application of its formula rate;¹⁹ (3) failing to render a judgment on the Tax Cuts and Jobs Act’s repeal of certain tax carryover provisions;²⁰ (4) accepting Ameren’s treatment of AFUDC Equity, thereby negating Commission staff guidance related to FAS 109;²¹ and (5) rejecting Southwestern’s alternative proposal for a shorter amortization period for unprotected ADIT.²² Additionally, without reference to any particular Commission finding, Southwestern asserts that the May 2018 Order contains incorrect and inconsistent statements, will result in transmission rates that are not just and reasonable, and will establish “incorrect” Tax Cuts and Jobs Act precedent, thereby having a “chilling effect” on future investigations of income tax-related issues.²³

11. In light of the Notice of Inquiry, Southwestern requests that the Commission not issue a “final ruling on the merits” of the Filing Parties’ proposal until the Commission acts on the Notice of Inquiry.²⁴ Alternatively, Southwestern asks the Commission to clarify that the May 2018 Order will be subject to any future Commission action taken in response to the Tax Cuts and Jobs Act that affects Commission-jurisdictional rates.²⁵

¹⁷ Southwestern Rehearing Request at 5, 6 (“In issuing a ruling . . . in this proceeding, the Commission is telegraphing how it will decide these issues in other proceedings, and possibly foreclos[ing] alternative outcomes in those proceedings.”).

¹⁸ *Id.* at 9-11, 13-14.

¹⁹ *Id.* at 11-13.

²⁰ *Id.* at 10-11.

²¹ *Id.* at 16-25.

²² *Id.* at 14-16.

²³ *Id.* at 1-2.

²⁴ *Id.* at 2.

²⁵ *Id.*

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IV. Discussion

A. Procedural Matters

12. On July 17, 2018, Ameren submitted a motion for leave to answer and answer to Southwestern's rehearing request. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure prohibits answers to a rehearing request.²⁶ Accordingly, we deny Ameren's motion for leave to answer and reject its answer.

B. Substantive Matters

13. We deny rehearing. Southwestern's arguments on rehearing are primarily restatements of the arguments it previously made in this proceeding, which the Commission considered and rejected in the May 2018 Order. As discussed further below, Southwestern's reassertion of these arguments on rehearing does not persuade us to reverse the determinations in the May 2018 Order.

1. The Commission did not preempt any other proceedings.

14. Southwestern argues that the May 2018 Order preempts future Commission action in response to the Notice of Inquiry.²⁷ Southwestern also alleges that by accepting the proposed Tariff revisions, the Commission is "telegraphing" future decisions in other cases.²⁸ Southwestern claims that, in light of the "overlap in issues" between the Notice of Inquiry and August 2017 Filing,²⁹ the May 2018 Order forecloses future action, even though Southwestern recognizes that the Commission stated in the May 2018 Order that "this order does not foreclose on any potential further action to address the effects of the Tax Cuts and Jobs Act."³⁰ Further, Southwestern also expresses concern that it may not

²⁶ 18 C.F.R. § 385.713(d)(1) (2018).

²⁷ Southwestern Rehearing Request at 7.

²⁸ *Id.* at 6.

²⁹ *Id.* at 7. Southwestern asserts that the following ADIT-related issues from the Notice of Inquiry are also relevant to the August 2017 Filing: effect on rate base, flow-back or recovery of plant-based ADIT, flow-back or recovery of non-plant based ADIT, and supporting workpapers. *Id.*

³⁰ May 2018 Order, 163 FERC ¶ 61,163 at n.65; *see* Southwestern Rehearing Request at 2, 7-8.

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benefit from any future action due to the Commission's "hasty and erroneous" decision here.³¹

15. We find no merit in these arguments. The May 2018 Order did not preempt the Notice of Inquiry, nor did it foreclose alternative outcomes in other tax-related proceedings by accepting the proposed Tariff revisions.³² While the Filing Parties' proposal raised issues linked to the Tax Cuts and Jobs Act that the Commission is also considering in other proceedings, this type of overlap is a common occurrence, as there are often issues that are relevant to multiple Commission proceedings. Despite any overlap, the Commission's consideration of tax-related issues elsewhere does not mean that the Commission must refrain from acting on the proposal in this proceeding. As stated in the May 2018 Order, the Filing Parties have satisfied their burden under Federal Power Act (FPA) section 205³³ by demonstrating that the proposed Tariff revisions are just and reasonable because they will provide for more accurate annual transmission revenue requirements for each Ameren company in light of significant changes to both state and federal income taxes.³⁴ In addition, the Commission noted that the changes are consistent with the Commission's precedent in *Columbia Gulf Transmission Company*,³⁵ as they properly include a provision for permanent tax differences in the calculation of the tax provision.³⁶ The existence of other generic proceedings in which the Commission is also examining income tax issues does not persuade us to change this finding.

16. As Southwestern acknowledges, the Commission stated in the May 2018 Order that its action in this case did not "foreclose" any future Commission action.³⁷ The

³¹ Southwestern Rehearing Request at 8.

³² *Id.* at 5 (stating that the May 2018 Order "pre-empts the Commission's findings in Docket No. RM18-12 which is the Commission's" Notice of Inquiry related to the Tax Cuts and Jobs Act); *see also id.* at 7-8.

³³ 16 U.S.C. § 825d (2012).

³⁴ May 2018 Order, 163 FERC ¶ 61,163 at P 52.

³⁵ *Columbia Gulf Transmission Company*, Opinion No. 173, 23 FERC ¶ 61,396, at 61,850, 61,852 (*Columbia Gulf*), *reh'g denied*, 24 FERC ¶ 61,258 (1983), *aff'd sub nom. City of Charlottesville, Va. v. FERC*, 774 F.2d 1205 (D.C. Cir. 1985), *cert. denied*, 475 U.S. 1108 (1986).

³⁶ May 2018 Order, 163 FERC ¶ 61,163 at P 58.

³⁷ *Id.* n.65.

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Commission expressly reserved the right to consider relevant tax issues elsewhere. Southwestern had the opportunity to comment in the Notice of Inquiry and Notice of Proposed Rulemaking proceedings, and remains free to participate in other proceedings addressing tax-related issues. The Commission has broad discretion in determining how best to handle related, yet discrete issues, especially in terms of procedure.³⁸ It was therefore appropriate for the Commission to accept the proposed Tariff provisions, and no other proceeding has been rendered moot as a result of the Commission's action.³⁹

17. Finally, the Commission's existing regulations and guidance regarding income taxes⁴⁰ were not suspended as a result of the Notice of Inquiry; they remained in full force and effect. As relevant here, the May 2018 Order was issued in conformance with regulations and precedent effective at that time.

2. Southwestern's objections to the Filing Parties' proposed Tariff revisions are without merit.

18. With respect to Filing Parties' proposed treatment of Accounts 182.3 and 190, Southwestern claims that it "demonstrated that Ameren's proposed revisions inappropriately reduce the Excess ADIT balance by amounts booked to Accounts 190 and 182.3."⁴¹ In the May 2018 Order, however, the Commission found that Ameren adequately addressed the impact of income tax rate changes on its ADIT Account 190 balance.⁴² In reaching this determination, the Commission relied on Exhibit A attached to Ameren's September 22, 2017 answer (an illustrative workpaper). This workpaper made clear that the proposed Tariff revisions are not limited to just Accounts 282 and

³⁸ See *Stowers Oil and Gas Co.*, 27 FERC ¶ 61,001, at 61,001 (1984) (stating that the Commission has discretion to manage its own proceedings). See also *PJM Interconnection, L.L.C.*, 132 FERC ¶ 61,207, at P 49 n.78 (2010) (citing *Mobil Oil Exploration & Producing Southeast Inc. v. United Distrib. Cos.*, 498 U.S. 211, 230 (1991) ("An agency enjoys broad discretion in determining how to handle related, yet discrete, issues in terms of procedures... [such as] where a different proceeding would generate more appropriate information and where the agency was addressing the question.")).

³⁹ Southwestern Rehearing Request at 15.

⁴⁰ See generally Order No. 144, FERC Stats. & Regs. ¶ 30,254; *Accounting for Income Taxes*, Docket No. AI93-5-000.

⁴¹ Southwestern Rehearing Request at 4.

⁴² See May 2018 Order, 163 FERC ¶ 61,163 at P 53.

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283, which are rate base deductions. Rather, the proposed revisions will adjust for the impact of income tax rate changes on deferred income taxes in Accounts 182.3 and 190, just as they adjust for deferred income taxes in Accounts 282 and 283.⁴³ In addition, to the extent Southwestern remains concerned that the workpaper “relates exclusively” to Ameren Missouri, and not Ameren Illinois, we note that Exhibit A was characterized by the Filing Parties as “illustrative” of how the proposed revisions would work, and did not provide any actual inputs or calculations, which, as discussed below, are more appropriately provided in the annual formula rate protocols process.⁴⁴

19. Next, Southwestern has not raised any concerns on rehearing that convince us to change the determination in the May 2018 Order that the proposed Tariff revisions and workpaper are sufficiently detailed, and Ameren does not have unreasonable discretion in the application of the proposed mechanism to account for permanent book/tax differences.⁴⁵ In the May 2018 Order, the Commission stated that Ameren would need to support any permanent differences included in the Attachment O formula rates during the protocols process, and that such differences are limited to activities included in utility operating income.⁴⁶ The Commission also noted that, although the Filing Parties’ August 2017 Filing provided sufficient detail for the Commission to approve the proposed changes, Ameren must provide in its annual formula rate informational filings sufficient support and explanation for all inputs.⁴⁷ It is in those informational filings that Ameren must submit sufficient details to provide transparency for the calculation of the present or future excess or deficient ADIT. And interested entities may challenge inputs through the established annual formula rate protocols process. As noted in the May 2018 Order,

⁴³ Southwestern Rehearing Request at 13-14 (citing Ameren September 22, 2017 Answer at Ex. A).

⁴⁴ *Id.* at 14; May 2018 Order, 163 FERC ¶ 61,163 at P 56.

⁴⁵ Southwestern Rehearing Request at 11-13; *see also* May 2018 Order, 163 FERC ¶ 61,163 at P 57 (“We disagree with Southwestern’s claim that Ameren has too much discretion in the application of the mechanism to account for permanent book/tax differences.”).

⁴⁶ May 2018 Order, 163 FERC ¶ 61,163 at P 57.

⁴⁷ *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149, at P 86 (2013) (May 2013 Order)).

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this approach is consistent with Commission precedent and neither creates ambiguity nor enshrines uncertain provisions in the formula rate.⁴⁸

20. Further, the Commission did not err when it did not address the Tax Cuts and Jobs Act's repeal of certain tax carryover provisions, as Southwestern contends.⁴⁹ Rather, Southwestern's argument that these tax carryover provisions were repealed by the Tax Cuts and Jobs Act is not relevant here; Southwestern is attempting to propose additional changes to the formulas that are beyond the scope of the instant filing. We clarify, however, that if any amounts related to the carryover provisions at issue are disallowed by the IRS in the future, Ameren must remove any existing deferred tax account balances related to any disallowed amounts, and factor them into its overall computation of regulatory assets or liabilities for excess or deficient ADIT. As discussed above, such a change would be part of the supporting detail requirement in an annual informational filing.

21. We also reject Southwestern's argument that the May 2018 Order improperly allows Ameren to recover additional amounts related to AFUDC Equity or permanent income tax differences in its annual transmission revenue requirements, in violation of FAS 109.⁵⁰ With respect to Southwestern's arguments that the Commission's normalization practice relates to temporary differences and not permanent differences, we do not disagree. As the Commission explained in the May 2018 Order, however, the Commission has held that the tax effect of the non-deductibility of AFUDC Equity should be treated as a temporary timing difference.⁵¹ In addition, the May 2018 Order cited to an IRS Private Letter Ruling that held that these amounts are subject to the normalization rules.⁵² In noting this, however, the Commission did not suggest that the Private Letter Ruling was an IRS rule, as Southwestern claims.⁵³ Rather, the Commission cited to the IRS Private Letter Ruling as consistent with the Commission's

⁴⁸ Southwestern Rehearing Request at 13; May 2018 Order, 163 FERC ¶ 61,163 at P 57 & n.67 (citing May 2013 Order, 143 FERC ¶ 61,149 at P 86).

⁴⁹ Southwestern Rehearing Request at 10-11.

⁵⁰ *Id.* at 16.

⁵¹ May 2018 Order, 163 FERC ¶ 61,163 at P 59 (citing *Accounting for Income Taxes*, Docket No. AI93-5-000).

⁵² *Id.* (citing I.R.S. Priv. Ltr. Rul. IRS PLR 200811004 (Mar. 14, 2008) (discussing the calculation of the excess AFUDC tax effect in the context of normalization)).

⁵³ Southwestern Rehearing Request at 24.

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determination that these amounts are subject to the normalization rules. The proposed Tariff revisions to recover these amounts are in compliance with normalization policy and do not conflict with the Commission's long-standing precedent.⁵⁴ Accordingly, the May 2018 Order neither negated prior guidance related to FAS 109 nor demonstrated a "lack of appreciation for the intricacies" of tax normalization.⁵⁵

22. In addition, we reject Southwestern's argument that the proposed Tariff revisions would result in double recovery of income taxes associated with AFUDC Equity.⁵⁶ As the Commission stated in the May 2018 Order in response to this argument, the AFUDC Equity included in the deferred income tax liability is related to the depreciation timing difference and is a component of rate base, which reduces the return on rate base over a number of years.⁵⁷ The AFUDC Equity component included in the tax calculation represents the recovery of the increase in taxable income due to the non-recognition of AFUDC Equity as a tax deduction, which increases current income taxes payable.⁵⁸ This tax is a current cost of providing service not already reflected in Ameren's formula rates, and it is therefore recoverable.⁵⁹ Southwestern's concerns regarding the Commission's observation that the matching principle supports this decision are mistaken and do not persuade us to change this determination.⁶⁰ Because there is a tax effect related to the non-deductibility of AFUDC Equity, absent an income tax allowance, a jurisdictional entity will not have the cash flow necessary to pay the income taxes on its income and obtain its authorized regulatory return on equity.⁶¹

⁵⁴ May 2018 Order, 163 FERC ¶ 61,163 at P 59.

⁵⁵ Southwestern Rehearing Request at 18.

⁵⁶ *Id.* at 23-25.

⁵⁷ May 2018 Order, 163 FERC ¶ 61,163 at PP 60-61.

⁵⁸ *Id.* P 60.

⁵⁹ *Id.*

⁶⁰ Southwestern Rehearing Request at 24 (citing May 2018 Order, 163 FERC ¶ 61,163 at P 60).

⁶¹ *See* May 2018 Order, 163 FERC ¶ 61,163 at P 60 (citing Order No. 144, FERC Stats. & Regs. ¶ 30,254 at 31,522 (finding that the primary rationale for tax normalization is matching the costs of plant (i.e., tax benefits from depreciation expense) to the periods that they are allocated to in rates); *Tennessee Gas Pipeline Co.*, 55 FERC ¶ 61,484, at 62,637 (1991) ("The Commission was also correct in adding equity AFUDC to the tax (continued ...)"))

23. We also note that FAS 109 specifically requires the recognition of the equity component of AFUDC as a temporary timing difference,⁶² as the Chief Accountant concurred in *Accounting for Income Taxes*.⁶³ As to other permanent differences, the Commission has determined that taxes are no different from other expenses included in the cost of service.⁶⁴ As a result, the Commission applies the same principles to determine the tax allowance and the allowances for other expenses. In both cases we limit the allowance charged to ratepayers to an amount equal to the costs the company incurs in serving them.⁶⁵

24. Finally, the May 2018 Order did not err by failing to adopt Southwestern's proposed five-year amortization period for unprotected ADIT.⁶⁶ Nor did the Commission fail to make an "important distinction between [p]rotected and [u]nprotected ADIT" or "exploit[] past and current customers" by accepting the Filing Parties' proposal.⁶⁷ As

base for purposes of calculating federal and state taxes. The revenue collected by National through rates representing the equity portion of its AFUDC depreciation is taxable; the equity portion of its AFUDC depreciation expense is not deductible. By providing an equity component adjustment to the tax base, the Commission enables National to collect, on an after tax basis, all of its equity AFUDC.”).

⁶² Statement of Financial Accounting Standards No. 109, *Accounting for Income Taxes*, at 29(b)(2) (1992) (stating “specifically, this Statement requires recognition of a deferred tax liability for the equity component of the allowance for funds used during construction”).

⁶³ See *Accounting for Income Taxes*, Docket No. AI93-5-000 at 6 (Question 6, Equity AFUDC).

⁶⁴ *Columbia Gulf*, 23 FERC ¶ 61,396 at 61,850, 61,852.

⁶⁵ *Id.* (“[t]he mechanics of calculating a stand-alone tax allowance are as follows: From the total return allowed on rate base are deducted interest expenses (computed by multiplying the rate base by the weighted cost of long-term debt used in determining the rate of return), permanent tax differences, and the effect of the surtax exemption to arrive at the tax base. The tax base is then multiplied by the [tax gross-up] factor...to produce the tax allowance, which includes recognition of the fact that the tax allowance itself is subject to tax when received by the utility and is not deductible. The amount so calculated is the tax allowance.”).

⁶⁶ Southwestern Rehearing Request at 14-16.

⁶⁷ *Id.* at 15-16.

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discussed above, the Filing Parties satisfied their evidentiary burden by sufficiently demonstrating that the proposal to treat both protected and unprotected ADIT in the same manner is reasonable.⁶⁸ The mere fact that Southwestern has a preference for a shorter amortization period, as it proposes, is not compelling; our inquiry under FPA section 205 is limited to whether the rates proposed by the filing party are just and reasonable. If that burden is met, we need not consider whether alternative rate designs proposed by an intervenor are more or less reasonable.⁶⁹

25. In conclusion, we affirm the Commission's determination that the Filing Parties adequately demonstrated that the proposed Tariff revisions would result in a more accurate calculation of Ameren's annual transmission revenue requirement, and the revisions are therefore just and reasonable.

The Commission orders:

Southwestern's rehearing request is denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶⁸ May 2018 Order, 163 FERC ¶ 61,163 at P 53.

⁶⁹ See, e.g., *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) ("FERC has interpreted its authority to review rates under this provision of the [FPA] as limited to an inquiry into whether the rates proposed by the utility are reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs."); *Louisville Gas and Elec. Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (stating that the just and reasonable standard under the FPA is not so rigid as to limit rates to a "best rate" or "most efficient rate" standard; rather, a range of alternative approaches often may be just and reasonable), *reh'g denied*, *E.ON U.S. LLC*, 116 FERC ¶ 61,020 (2006).