

150 FERC ¶ 61,025
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

Midcontinent Independent System Operator, Inc. Docket Nos. ER13-2379-002
ER13-2379-003

ORDER ON COMPLIANCE FILINGS

(Issued January 22, 2015)

1. On May 19, 2014, in compliance with the Commission's March 20, 2014 order,¹ Midcontinent Independent System Operator, Inc. (MISO) and the MISO Transmission Owners² (collectively, the MISO Transmission Owners) filed in Docket No. ER13-2379-

¹ *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,212 (2014) (March 2014 Order).

² For the purpose of this proceeding, the MISO Transmission Owners consist of: Ameren Services Company, as agent for Union Electric Company, Ameren Illinois Company, and Ameren Transmission Company of Illinois; American Transmission Company LLC; Big Rivers Electric Corporation; City Water, Light & Power (Springfield, Illinois); Cleco Power LLC; Dairyland Power Cooperative; Duke Energy Business Services, LLC acting as agent for Duke Energy Indiana, Inc.; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Gulf States Louisiana, L.L.C.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; Michigan Public Power Agency; 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 Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc. The MISO Transmission Owners state that the City of Columbia Water and Light Department

(continued ...)

003 proposed revisions to Attachment O of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)³ to modify the existing formula rate protocols (MISO Transmission Owners Filing).⁴ MISO⁵ and the Central Minnesota Municipal Power Agency (Central Minnesota) separately filed proposed revisions in Docket No. ER13-2379-002 to modify Central Minnesota's Attachment O formula rate protocols under MISO's Tariff in compliance with the March 2014 Order (Central

(Columbia, Missouri); the Municipal Electric Utility of the City of Cedar Falls, Iowa; Montezuma Municipal Light & Power, Iowa; Tipton Municipal Utilities; Atlantic Municipal Utilities of Atlantic, Iowa; Eldridge, Iowa; Glencoe, Minnesota; the Iowa Public Power Agency; Pella, Iowa; and East Texas Electric Cooperative, Inc., on behalf of Tex-La Electric Cooperative of Texas, Inc., have authorized the MISO Transmission Owners to state that they will follow the proposed formula rate protocols being submitted in this proceeding.

³ The Tariff sections are designated as MISO, FERC Electric Tariff, FERC Electric Tariff, [2, MISO Formulaic Rates, 31.0.0](#), [9, ATCLLC's Methodology for Calculating AFUDC and Weighted Aver, 31.0.0](#), [13, Annual True-Up, Information Exchange, and Challenge Procedure, 31.0.0](#), [16, ANNUAL RATE CALCULATION AND TRUE-UP PROCEDURES, 31.0.0](#), [18, ITCM Annual Rate Calculation and True-Up Procedures, 31.0.0](#), [20, NSP ANNUAL RATE CALCULATION AND TRUE-UP PROCEDURES, 31.0.0](#), [21, SMMPA Rate Formula Template, 31.0.0](#), [23, GRE ANNUAL RATE CALCULATION AND TRUE-UP PROCEDURES, 31.0.0](#), [26A, Annual True-Up Procedures, 31.0.0](#), [28, MidAmerican Network Customers Section 30.9 Credits Calculation, 31.0.0](#), [32, Allete Annual Rate Calculation and True-Up Procedures, 31.0.0](#), [34, OTP ANNUAL RATE CALCULATION AND TRUE-UP PROCEDURES, 31.0.0](#), [36A, ATXI ANNUAL RATE CALCULATION AND TRUE-UP PROCEDURES, 31.0.0](#), [40, AIC Annual Rate Calculation and True-Up Procedures, 31.0.0](#), [44, MDU Annual Rate Calculation and True-Up Procedures, 31.0.0](#), [51A, Cleco Annual Update, Info Exchange & Challenge Procedure, 31.0.0](#), [54, DPC Annual Rate Calculation and True-Up Procedures, 31.0.0](#)

⁴ MISO states that it joins this filing as the administrator of its Tariff, but takes no position on the substance of the filing.

⁵ MISO states that it joins this filing as the administrator of its Tariff, but takes no position on the substance of the filing.

Minnesota Filing).⁶ In this order, we conditionally accept, subject to further compliance, the MISO Transmission Owners Filing and the Central Minnesota Filing, to become effective January 1, 2014.

I. Background

2. On May 17, 2012, the Commission instituted an investigation, pursuant to section 206 of the Federal Power Act (FPA),⁷ to determine whether the formula rate protocols under Attachment O of the Tariff were sufficient to ensure just and reasonable rates.⁸ In the Hearing Order, the Commission identified three areas of concern: (1) scope of participation (i.e., who can participate in the information exchange); (2) the transparency of the information exchange (i.e., what information is exchanged); and (3) the ability of customers to challenge transmission owners' implementation of the formula rate as a result of the information exchange (i.e., how the parties may resolve their potential disputes).

3. In an order on May 16, 2013, the Commission found that the formula rate protocols under the Tariff were insufficient to ensure just and reasonable rates, and directed MISO and its transmission owners to file revised formula rate protocols.⁹

4. On September 13, 2013, in compliance with the Commission's May 2013 Order, the MISO Transmission Owners filed proposed revisions to Attachment O of MISO's Tariff to modify the existing formula rate protocols. In the March 2014 Order, the Commission conditionally accepted the compliance filing, to become effective January 1, 2014.¹⁰ The Commission found that the revised Attachment O formula rate protocols

⁶ Central Minnesota's Attachment O Tariff filings are designated as MISO, FERC Electric Tariff, FERC Electric Tariff [37A, CMMPA Annual True-Up, Information Exchange, And Challenge Procedures, 32.0.0](#).

⁷ 16 U.S.C. § 824e (2012).

⁸ *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127 (2012) (Hearing Order). In order to address whether MISO's *pro forma* formula rate protocols and the formula rate protocols of independent transmission owners are sufficient to ensure just and reasonable rates, the Commission established paper hearing procedures.

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013) (May 2013 Order).

¹⁰ March 2014 Order, 146 FERC ¶ 61,212 at P 1. The Commission also accepted compliance letters filed by Montezuma Municipal Light & Power and Tipton Municipal

appropriately defined the scope of participation in each transmission owner's annual rate update.¹¹ However, the Commission required several adjustments to the protocols provisions related to the transparency of the information exchange process and the ability of customers to challenge the transmission owners' implementation of the formula rate, including requiring application of the enhanced protocols to the process for establishing a transmission owner's net projected revenue requirement.¹²

5. On May 19, 2014, in compliance with the Commission's March 2014 Order, the MISO Transmission Owners filed proposed revisions to Attachment O of MISO's Tariff to modify the formula rate protocols. Consistent with the effective date adopted by the Commission in the May 2013 Order, the MISO Transmission Owners request that the Commission accept the Tariff revisions effective January 1, 2014.¹³ The MISO Transmission Owners state that they worked collectively to develop consistent procedures for all transmission owners, regardless of which form (i.e., FERC Form No. 1, Rural Utilities Service Form No. 12, or Energy Information Administration Form No. 412) they use to develop their rates or whether their revenue requirement is based on historical or projected cost data.¹⁴ The MISO Transmission Owners state that, in order to avoid confusion and duplication of effort, the proposed protocols adopt a combined information exchange period and review period that applies both to the annual true-up and the projected net revenue requirement posting. The MISO Transmission Owners state that because all transmission owners, regardless of whether they use historic cost data or projected costs data, have an obligation to post rate information on or about June 1 of each year, all subsequent deadlines are tied to the June 1 publication date.¹⁵ The MISO Transmission Owners include with the filing revised versions of the generally applicable historical and forward-looking rate protocols as Attachment A and B, respectively, and explain that the revisions in Attachment A and B have been incorporated into the formula rate protocols of each transmission owner in accordance

Utilities; The Board of Water, Electric and Communications Trustees for the City of Muscatine, Iowa d/b/a Muscatine Power & Water; Michigan South Central Power Agency; and Entergy Services, Inc.

¹¹ *Id.* PP 18-19.

¹² *Id.* PP 58-73, 103-115.

¹³ MISO Transmission Owners Compliance Filing, Transmittal at 2.

¹⁴ *Id.* at 4.

¹⁵ *Id.*

with the type of data they use in their formula rates.¹⁶ They further state that each transmission owner with a company-specific forward-looking formula rate template has revised its protocols to remove language that has been rendered redundant or superseded by the proposed revisions, and to make the language consistent with the revised protocols.

6. Also on May 19, 2014, in compliance with the Commission's March 2014 Order, Central Minnesota filed proposed revisions to Attachment O-CMMPA of MISO's Tariff to modify the formula rate protocols. Central Minnesota states that it is applying the MISO Transmission Owners Filing virtually verbatim, except that it incorporates earlier Central Minnesota settlement obligations.¹⁷ Central Minnesota states that it has modified section V.J of its protocols to differ from the MISO Transmission Owners Filing to recognize that as a non-jurisdictional entity, it must file for tariff, rate, and other changes through MISO, another jurisdictional entity, or under section 206 of the FPA.¹⁸ Central Minnesota also explains that its filing modifies the Attachment O-CMMPA protocols as directed in Docket No. ER13-2468-000.¹⁹

II. Notices and Responsive Filings

7. Notice of the MISO Transmission Owners Filing and the Central Minnesota Filing was published in the *Federal Register*, 79 Fed. Reg. 30,115 (2014), with comments due on or before June 9, 2014. The Midwest Municipal Transmission Group²⁰ filed timely

¹⁶ *Id.* at 4-5.

¹⁷ Central Minnesota Filing at 1-2.

¹⁸ *Id.* at 2.

¹⁹ On December 19, 2013, the Commission approved Central Minnesota's request for authorization to amend Attachments O-CMMPA and MM-CMMPA of the MISO Tariff to transition to a forward-looking formula rate and to implement certain requested rate incentives; however, the Commission required that Central Minnesota, on compliance, amend its Attachment O-CMMPA protocols to include certain provisions of a settlement agreement. *See Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,263, at P 63 (2013).

²⁰ The members of the Midwest Municipal Transmission Group for the purposes of this proceeding are: the Municipal Electric Utility of the City of Cedar Falls, Iowa; Central Minnesota; Atlantic Municipal Utilities of Atlantic, Iowa; Eldridge, Iowa; Elk River Municipal Utilities, Minnesota; Glencoe, Minnesota; the Iowa Public Power Agency; Pella, Iowa; Montezuma Municipal Light & Power, Iowa; and Tipton Municipal

(continued ...)

comments noting that the group members have reviewed the MISO Transmission Owners Filing and are committed to comply with the MISO Transmission Owners formula rate protocols. Arkansas Electric Cooperative and the Mississippi Delta Energy Agency and its two member cities, the Clarksdale Public Utilities Commission and the Public Services Commission of Yazoo City (collectively, Joint Customers) filed a timely protest in Docket No. ER13-2379-003. The Organization of MISO States (OMS) filed a motion to file comments out of time and comments in Docket No. ER13-2379-003 on June 13, 2014. The MISO Transmission Owners filed an answer to the protest and comments on July 3, 2014.

III. Discussion

A. Procedural Matters

8. We will accept the late-filed comments by OMS. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answer filed by the MISO Transmission Owners because it provided information that assisted us in our decision-making process.

B. Substantive Matters

9. As discussed below, we conditionally accept the MISO Transmission Owners Filing and the Central Minnesota Filing, subject to further compliance, to be effective January 1, 2014.

1. Transparency

a. March 2014 Order

10. In the March 2014 Order, the Commission required several revisions to the protocols related to the transparency of the information exchange process. The Commission required the MISO Transmission Owners to revise the protocols to: (1) provide electronic notice of the annual update/true-up postings through an email "exploder" list, to be maintained by MISO, within 10 days of posting the annual update/true-up, and that notice of the annual meeting will be provided no less than

Utilities, Iowa. The Midwest Municipal Transmission Group notes that Central Minnesota is making a separate compliance filing.

seven days prior to such meeting;²¹ (2) propose a process for transmission owners with transmission projects that utilize a regional cost sharing mechanism to coordinate and hold joint meetings to enable all interested parties to understand how those transmission owners are implementing their formula rates for cost recovery of such projects;²² (3) change the deadline for holding the meeting for the annual update or annual true-up from October 1 to September 1; (4) provide that any delay in the publication date should result in an equivalent extension of time for submission of information requests;²³ (5) provide that if a certain deadline for interested parties falls on a weekend or holiday recognized by the Commission, then the deadline will be extended to the next business day;²⁴ (6) provide that the proposed forward-looking protocols will apply to the projected net revenue requirement, in addition to the annual update/true-up;²⁵ (7) ensure that interested parties have appropriate time to review the updates to the projected costs;²⁶ (8) provide that informational filings contain information necessary to review the reasonableness of projected costs for transmission owners with forward-looking rates;²⁷ (9) remove the requirement for interested parties to make a good faith effort to consolidate information requests;²⁸ (10) remove language that mandates identification of only any merger or reorganization requiring submission of a filing under section 203 or 205 of the FPA;²⁹ (11) remove the word “material” from all instances of the phrase “material accounting changes;”³⁰ (12) remove the limiting factors for accounting changes

²¹ March 2014 Order, 146 FERC ¶ 61,212 at P 62.

²² *Id.* P 59.

²³ *Id.* P 61.

²⁴ *Id.*

²⁵ *Id.* P 62.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* P 63.

²⁹ *Id.* P 64.

³⁰ *Id.* P 65.

that were proposed by the MISO Transmission Owners;³¹ (13) ensure that interested parties' information requests are not unduly constrained;³² (14) include a provision precluding a transmission owner from claiming that responses to information and document requests pursuant to the protocols are subject to any settlement confidentiality provision;³³ (15) require the MISO Transmission Owners to submit informational filings in separate docket numbers, provide notification of the filing through the email "exploder" list to be maintained by MISO, and post the docket number assigned to each transmission owner's informational filing on the MISO website and Open-Access Same-Time Information System (OASIS) within five days of such filing.³⁴

b. MISO Transmission Owners Filing

11. In their May 19 compliance filing, the MISO Transmission Owners state that, in compliance with the Commission's first directive in the March 2014 Order, the protocols have been revised to require that notice of the annual update or annual true-up posting will be provided via the MISO exploder lists within 10 days of posting, and that notice of meetings will be provided seven days prior to such meetings.³⁵

12. In response to the Commission's second directive requiring a process for joint meetings, the MISO Transmission Owners state that they have modified the generic protocols and each company-specific set of protocols to require transmission owners with transmission projects that utilize a regional cost-sharing mechanism to hold a joint informational meeting by November 1 of each year (or the next business day if November 1 is a Commission-recognized holiday or weekend) to enable all interested parties to understand how those transmission owners are implementing their formula

³¹ *Id.* PP 66-67. Specifically, the Commission found that: (1) accounting changes should not be limited to those not previously reported in the Applicable Form; (2) accounting changes should not be limited to the implementation of an accounting standard or policy that is required to be disclosed under the Applicable Form; and (3) accounting changes should not be limited to corrections of errors and prior period adjustments that alter what is reported in the Applicable Form and require resubmittal of the Applicable Form.

³² *Id.* P 67.

³³ *Id.* P 68.

³⁴ *Id.* P 71.

³⁵ MISO Transmission Owners Filing, Transmittal at 10.

rates for cost recovery of such projects.³⁶ The MISO Transmission Owners explain that they chose this date because it falls after each transmission owner with a forward-looking formula rate posts its projected net revenue requirement, but is sufficiently before the end of the information exchange period (December 1). Furthermore, the MISO Transmission Owners state that interested parties will have had an opportunity to review the annual update, annual true-up, and projected net revenue requirement before the joint meeting.³⁷ The MISO Transmission Owners further state that notice of the joint meeting will be provided on the MISO website and OASIS and distributed to the email exploder list no less than seven days prior to the joint meeting.

13. In response to the Commission's third, fourth and fifth directives regarding the formula rate protocols' timeline and associated deadlines, the MISO Transmission Owners propose several revisions. The MISO Transmission Owners state that the proposed revisions: (1) change the deadline for holding the annual update or annual true-up meeting from October 1 to September 1;³⁸ (2) provide that any delay in publication date should result in an equivalent extension of time for submission of information requests;³⁹ (3) provide that the deadline for submitting an information request or informal challenge will roll to the next business day if the deadline falls on a weekend or Commission holiday;⁴⁰ and (4) apply the protocols both to companies using historical rates and those with a forward-looking rate formula.⁴¹ Moreover, the MISO Transmission Owners explain that the revised timeline refers to specific dates instead of time periods following certain events (e.g., 120 days after the publication date) in order to avoid confusion.⁴²

³⁶ *Id.* at 10-11.

³⁷ *Id.* at 11.

³⁸ *Id.*

³⁹ *Id.* at 12.

⁴⁰ *Id.* The MISO Transmission Owners state that they did not include a similar requirement for formal challenges because formal challenges must be filed with the Commission, and Commission regulations provide for a similar extension. *Id.* (citing 18 C.F.R. § 385.2007(a)(2) (2014)).

⁴¹ *Id.* at 7.

⁴² *Id.*

14. In response to the Commission's sixth and seventh directives, the MISO Transmission Owners first explain that several revisions have been made to the formula rate protocols in order to apply the enhanced information exchange and challenge procedures to the projected net revenue requirement for transmission owners with forward-looking rates to provide sufficient time for review.⁴³ First, the MISO Transmission Owners propose a modified timeline (reflected in sections II and III of the revised protocols) which they state allows sufficient time for submission of and responses to information requests, challenges, and annual informational filings, including required dates for the posting of the projected net revenue requirement and each transmission owner's deadline for hosting an annual meeting on the projected net revenue requirement.⁴⁴ The MISO Transmission Owners state that the revised timeline consolidates the process for the annual true-ups and projected net revenue requirements. Second, the MISO Transmission Owners state that the phrases "and/or projected net revenue requirement" have been added throughout the protocols to ensure that the information exchange and challenge procedures apply both to the annual true-up and the projected revenue requirement, as necessary, and that the protocols have been revised to remove references to the "Annual True-Up" or "True-Up" that might be perceived as inappropriately limiting the applicability of the protocol provisions.⁴⁵ Third, the MISO Transmission Owners state that they have adopted a new section II.C that specifies the requirements for the projected net revenue requirement posting. The MISO Transmission Owners note that, although the Commission previously accepted September 1 as the deadline for each transmission owner to hold its annual meeting, many of the transmission owners' projected net revenue requirements are not available sufficiently in advance of September 1 to allow for posting and review. Therefore, the MISO Transmission Owners explain that the revised timeline provides for two meetings – one on September 1 to discuss the annual true-up, and another between September 1 and October 31 to discuss the projected net revenue requirement.⁴⁶ Fourth, the MISO Transmission Owners state that they have adopted a new section II.F specifying the requirements for the projected net revenue requirement posting based on the existing list of items required for the annual true-up posting.⁴⁷ Fifth, the MISO Transmission Owners state that language referring to the "Annual True-Up" or "True-Up" in sections III.D and

⁴³ *Id.* at 5.

⁴⁴ *Id.* at 6-8.

⁴⁵ *Id.* at 7.

⁴⁶ *Id.* at 7-8.

⁴⁷ *Id.* at 8.

VII conflicting with the requirement that the protocols apply to the projected net revenue requirement has been removed.⁴⁸ Sixth, the MISO Transmission Owners state that “each MISO Transmission Owner with a company-specific forward-looking formula rate template has revised Section VII of its protocols to remove language that has been rendered redundant or superseded by the revisions proposed in this filing and to make the language in this section consistent with the revised protocols in Sections I through VI as necessary.”⁴⁹

15. To comply with the Commission’s eighth directive, that the annual informational filing must include information reasonably necessary to determine the reasonableness of projected costs, the MISO Transmission Owners state that the protocols for transmission owners with forward-looking rates have been revised to include such a provision.⁵⁰

16. The MISO Transmission Owners state that they have also removed all language in the formula rate protocols, as required by the Commission in the ninth through twelfth directives, including: (1) removal of the requirement that interested parties make a good faith effort to consolidate information requests to the extent practicable;⁵¹ (2) removal of the phrase “that required submission of a filing under section 203 or 205 of the FPA” from language governing the disclosure of mergers and reorganizations;⁵² (3) removal of the word “material” from all references to “material accounting changes;”⁵³ and (4) removal of the provisions proposed by MISO in the prior compliance filing limiting the disclosure of accounting changes.⁵⁴

17. In response to the Commission’s thirteenth directive, to ensure interested parties’ information requests are not unduly constrained, the MISO Transmission Owners state that they have revised the list of appropriate topics for information requests to include “any other information that may reasonably have substantive effect on the calculation of

⁴⁸ *Id.* at 9.

⁴⁹ *Id.*

⁵⁰ *Id.* at 9.

⁵¹ *Id.* at 12-13.

⁵² *Id.* at 13.

⁵³ *Id.*

⁵⁴ *Id.*

the charge pursuant to the formula.”⁵⁵ The MISO Transmission Owners also state the proposed revisions also include a provision precluding a transmission owner from claiming that responses to information and document requests pursuant to the protocols are subject to any settlement provision in response to the Commission’s fourteenth directive.⁵⁶ Finally, the MISO Transmission Owners assert that they plan to comply with the Commission’s fifteenth directive, that all transmission owners submit their informational filings in separate dockets, and have revised the protocols to require MISO to provide notification of the filing through the email exploder list to be maintained by MISO, and by posting the docket number assigned to each transmission owner’s informational filing on the MISO website and OASIS within five days of such filing.⁵⁷

c. Protests

18. OMS challenges certain aspects of the proposed information exchange procedures in the revised formula rate protocols. OMS asserts that the MISO Transmission Owners deleted existing Tariff language requiring the provision of information, including expected construction schedules and in-service dates.⁵⁸ Specifically, OMS asserts that the MISO Transmission Owners deleted the following language from section VII of the forward-looking company specific protocols:

No later than September 1 of the current year, [MISO Transmission Owner] shall determine its projected net revenue requirement and load for the following year, in accordance with the Rate Formula Template in this Attachment O [MISO Transmission Owner]. [MISO Transmission Owner] shall make available to customers its projected net revenue requirement, including information in workpapers regarding projected costs of plant in forecasted rate base, expected construction schedules and in-service dates, load and resultant rates incorporating a True-Up Adjustment. All inputs shall be provided in sufficient detail to identify the components of [MISO Transmission Owner’s] net revenue requirement. Upon request, [MISO Transmission Owner] will provide a description of the basis on which projects were planned either by the Transmission Provider or [MISO

⁵⁵ *Id.* at 14.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ OMS Comments at 9.

Transmission Owner]. [MISO Transmission Owner] will hold a customer meeting(s) to explain the formula rate input projections and cost detail

OMS states that it understands that certain modifications must be made to conform to the Commission's directives in the March 2014 Order, but argues that deletion of this paragraph, including its reference to "construction schedules and in-service dates," was not required by the March 2014 Order.⁵⁹ Although OMS notes that the Commission did not require transmission owners that do not have the language on "construction schedules and in-service dates" to include it, neither did the Commission direct any transmission owners to remove this language. OMS requests that the Commission direct all MISO transmission owners whose Attachment O contained the deleted paragraph to restore it as follows:

[MISO Transmission Owner] shall make shall make available its projected net revenue requirement, including information in workpapers regarding projected costs of plant in forecasted rate base, expected construction schedules and in-service dates, load and resultant rates incorporating a true-up adjustment.

d. Answer

19. In response to OMS's assertion that the Commission did not direct the deletion of certain language in section VII of the protocols, the MISO Transmission Owners argue that OMS has misconstrued the March 2014 Order and prior orders.⁶⁰ The MISO Transmission Owners assert that the Commission made clear what information is required in an annual update or true-up when it accepted the MISO Transmission Owners' initial proposal and directed them to apply the same procedures, with additional modifications, to projected rates. The MISO Transmission Owners state that this directive rendered much of the language in section VII of certain companies' protocols in conflict with and superseded by revisions made in compliance with the March 2014 Order. The MISO Transmission Owners argue that the Commission did not require transmission owners to post the type of information OMS requests. Rather, the MISO Transmission Owners continue, the Commission determined that the disclosure provisions in the revised protocols, on which the provisions for projected rates are based, are just and reasonable. Lastly, the MISO Transmission Owners state that information on construction schedules and in-service dates for all transmission owners is available on

⁵⁹ *Id.* at 10.

⁶⁰ MISO Transmission Owners Answer at 16-19.

MISO's website. Thus, according to the MISO Transmission Owners, requiring a subset of transmission owners to provide this information is unnecessary.

e. Commission Determination

20. We find that the provisions in the MISO Transmission Owners' proposed protocols relating to transparency comply with the requirements of the March 2014 Order. We therefore accept them, effective January 1, 2014, as discussed below. As described in the March 2014 Order, "[t]he [May 2013 Order] required the [MISO Transmission Owners] to post their revenue requirements and relevant information, and to hold an annual meeting where transmission owners and interested parties can discuss the calculations."⁶¹ The March 2014 Order then required the MISO Transmission Owners to apply this directive to projected revenue requirements as well.⁶² We find that the revisions made to the forward-looking formula rate protocols regarding projected revenue requirements now provide the transparency initially contemplated by May 2013 Order.

21. We disagree with OMS's assertion that certain language deleted from section VII of some of the MISO Transmission Owners' protocols should be restored. Consistent with the Commission's eighth directive, informational filings submitted by transmission owners with forward-looking rates must contain information necessary to review the reasonableness of projected costs, which includes the expected construction schedules and in-service dates identified by OMS.⁶³ Therefore, we find that the deleted section VII language is redundant with respect to the proposed informational filing requirements in section VI and its restoration unnecessary.

2. Challenge Procedures

a. March 2014 Order

22. In the March 2014 Order, the Commission found generally that the proposed challenge procedures afforded interested parties the opportunity to raise informal challenges for a reasonable period of time after the transmission owner initially proposes its annual update and enabled interested parties to raise a formal challenge in which the

⁶¹ March 2014 Order, 146 FERC ¶ 61,212 at P 62 (citing May 2013 Order, 143 FERC ¶ 61,149 at P 86).

⁶² *Id.*

⁶³ *Id.*

transmission owner bears the burden of demonstrating the correctness of its update or true-up.⁶⁴ However, the Commission required several adjustments to the protocols provisions related to the ability of customers to challenge transmission owners' implementation of the formula rate.

23. First, the Commission found that the proposed deadline for interested parties' submission of informal challenges raised concerns because it preceded the date by which transmission owners are required to respond to information requests, and required additional revisions that enable interested parties to present an informal challenge after an opportunity to evaluate all responses to information requests.⁶⁵ Second, the Commission further directed the MISO Transmission Owners to revise the proposed limitations governing the range of issues that interested parties may raise through the challenge process in section IV.D of the protocols, in order to allow interested parties to raise all issues "that may be necessary to determine: (1) the extent or effect of an accounting change; (2) whether the annual true-up fails to include data properly recorded in accordance with the protocols; (3) the proper application of the formula rate and procedures in the proposed protocols; (4) the accuracy of data and consistency with the formula rate of the calculations shown in the annual true-up; (5) the prudence of actual costs and expenditures; and (6) the effect of any change to the underlying Uniform System of Accounts or applicable form; or any other information that may reasonably have substantive effect on the calculation of the charge pursuant to the formula."⁶⁶ Third, the Commission directed the MISO Transmission Owners to revise their formula rate protocols "to permit interested parties to raise substantive issues in a formal challenge that they did not raise in their preceding informal challenge."⁶⁷

24. Fourth, the Commission rejected the finality provision in section IV.I of the proposed protocols, which would deem a transmission owner's annual update or true-up final, and therefore "no longer subject to challenge pursuant to the[] protocols or by any other means by [the Commission] or any other entity...", if no formal challenge is filed.⁶⁸

⁶⁴ *Id.* P 103.

⁶⁵ *Id.* P 104.

⁶⁶ *Id.* P 107.

⁶⁷ *Id.* P 108. The Commission retained the requirement that an interested party submit an informal challenge in order to be able to raise *any* issue in a formal challenge, finding that this will encourage interested parties to actively engage throughout the process. *Id.* P 109.

⁶⁸ *Id.* P 110.

The Commission further concluded that the provision would preclude the Commission and interested entities from exercising their rights under section 206 of the FPA. The Commission directed the MISO Transmission Owners to revise the proposed protocols to ensure that the Commission and interested entities are not precluded from exercising their statutory rights.

25. Fifth, the Commission found that the MISO Transmission Owners' proposal to require formal challenges to satisfy the filing requirements set forth in Rule 206 of the Commission's Rules of Practice and Procedure could create confusion with respect to the relationship between complaints, filed pursuant to section 206 of the FPA, and formal challenges, filed pursuant to the transmission owner's formula rate protocols.⁶⁹ The Commission directed the MISO Transmission Owners to propose Tariff revisions that (1) make clear that formal challenges are filed pursuant to the proposed protocols, rather than Rule 206, and (2) detail specifically the filing requirements that an interested party must satisfy in submitting a formal challenge to the Commission.⁷⁰ Sixth, the Commission directed the MISO Transmission Owners to propose Tariff revisions to clarify that formal challenges should be filed in the informational filing dockets, noting that the deadlines for filing formal challenges and informational filings, December 30 and January 31, respectively, must be revised to accommodate this change, to provide a reasonable period of time after the filing of the informational filing before formal challenges are due.⁷¹

26. Seventh, the Commission noted that the MISO Transmission Owners' proposed protocols stated that the challenge provisions would be subject to the applicable confidentiality protections under the Tariff, but that the confidentiality provisions under the Tariff only cover the sharing of information by MISO with other Balancing Authorities, Transmission Owners, Market Participants and Regulating Authorities.⁷² Therefore, the Commission directed the MISO Transmission Owners to explain how the protocols' challenge procedures will ensure that customers have access to information that will allow them to effectively challenge the implementation of the formula rate or revise the protocols to ensure that they do.

⁶⁹ *Id.* PP 111-112.

⁷⁰ *Id.* P 112.

⁷¹ *Id.* P 113.

⁷² *Id.* P 114.

b. MISO Transmission Owners Filing

27. In response to the Commission's first directive, the MISO Transmission Owners propose a revised timeline in order to establish a single process for information exchange and challenges on both the annual true-ups and projected net revenue requirement.⁷³ For instance, the MISO Transmission Owners state that they have revised the deadline for submission of informal challenges to January 31 following the publication date, which is more than two weeks after the January 10 deadline for the transmission owner to respond to all information requests.

28. The MISO Transmission Owners state that they have revised section IV.D of the protocols to comply with the Commission's second directive, so that the proposed limitations governing the range of issues that interested parties may raise through the challenge process to all parties to raise any issues that "may reasonably have substantive effect on the calculation of the charge pursuant to the formula."⁷⁴ The MISO Transmission Owners also state that they have revised the protocols to state that a party may not pursue a formal challenge if it did not submit an informal challenge during the review period, as directed by the Commission, in compliance with the Commission's third directive.⁷⁵ They explain that this provision will eliminate the requirement that a party file an informational challenge on an issue as a prerequisite to filing a formal challenge on that same issue.

29. The MISO Transmission Owners state that they have complied with the Commission's fourth directive by deleting the language from the finality provision of the protocols in section IV.I, to ensure that the Commission and interested parties are not precluded from exercising their statutory rights.⁷⁶

30. The MISO Transmission Owners state that they have revised section IV of the protocols in response to the Commission's fifth directive to: (1) make clear that formal challenges are filed pursuant to the proposed protocols rather than Rule 206; and (2) detail the filing requirements that a party satisfy in submitting a formal challenge to the Commission.⁷⁷ Specifically, the MISO Transmission Owners state that they have:

⁷³ MISO Transmission Owners Filing, Transmittal at 15.

⁷⁴ *Id.* at 15-16.

⁷⁵ *Id.* at 16.

⁷⁶ *Id.* at 16-17.

⁷⁷ *Id.* at 17.

(1) deleted the requirement that formal challenges shall be filed under and satisfy all requirements established by 18 C.F.R. § 305.206 (2014); and (2) adopted a new section IV.C, which states that informal challenges are subject to the resolution procedures and limitations in section IV of the protocols and also establishes requirements for filing formal challenges. The MISO Transmission Owners assert that these requirements are based on the relevant provisions of Rule 206. The MISO Transmission Owners argue that these changes are just and reasonable because they are not unduly burdensome and they are necessary for the Commission and the transmission owner to understand the nature of the formal challenge. They state that interested parties filing formal challenges will be required to identify the alleged violation and explain how it violates the filed rate, how it impacts the interested party, and the specific relief requested. They further state that interested parties must include any relevant documents or other information necessary to support their formal challenge. Finally, they state that the revised formal challenge procedures also specify the requirements for serving the formal challenge on the transmission owner.⁷⁸

31. The MISO Transmission Owners state that they have revised the protocols to comply with the Commission's sixth directive by clarifying that formal challenges should be filed in the same docket as the transmission owner's informational filing, and making changes to the timeline to afford interested parties a reasonable period of time after the filing of an informational filing before formal challenges are due, as directed by the Commission.⁷⁹ Specifically, the MISO Transmission Owners state that the revised deadline for informational filings is March 15 and the revised deadline for formal challenges is March 31, following the review period.

32. Finally, the MISO Transmission Owners state that they have complied with the Commission's seventh directive by revising the confidentiality provisions in the protocols to remove the reference to "applicable confidentiality provisions under the Tariff," and replaced it with a statement that all responses to information requests and informal challenges will be posted on the MISO website and OASIS, except when the transmission owner deems such information to be confidential.⁸⁰ In such cases, the revised protocols provide that the transmission owner will execute a confidentiality agreement with the requesting party. The MISO Transmission Owners state that these revisions will enable interested parties that execute a confidentiality agreement to gain access to relevant

⁷⁸ *Id.* at 17-18.

⁷⁹ *Id.* at 18.

⁸⁰ *Id.* at 19.

information, while ensuring that transmission owners are not forced to publicly divulge confidential or competitively sensitive business information.

c. Protests

33. OMS protests the proposed revision to section IV.G of the protocols, which states that “a party may not pursue a [f]ormal [c]hallenge if that party did not submit an [i]nformal [c]hallenge during the applicable [r]eview [p]eriod.”⁸¹ OMS argues that this language does not clearly indicate that a party is not required to submit an informal challenge on a particular issue before submitting a formal challenge on that issue.⁸² OMS recommends that the language be revised to state that “a party may not pursue a [f]ormal [c]hallenge if that party did not submit an [i]nformal [c]hallenge on any issue during the applicable [r]eview [p]eriod.”

34. OMS also protests the proposed revisions to section IV.C of the protocols, which set forth a proposed list of content requirements for formal challenges.⁸³ First, OMS protests the requirement in section IV.C(h) that a challenging party must state whether they used the informal challenge process to dispute the specific issue raised in their formal challenge, and if not, why not. OMS argues that this goes against the Commission’s directive in the March 2014 Order that, while parties must participate in the informal challenge process before they may submit a formal challenge, they are not required to raise a specific issue in an informal challenge before submitting a formal challenge on that issue.⁸⁴ OMS requests that section IV.C(h) be revised to require the challenging party to state whether the filing party utilized the informal challenge procedures with regard to any issue. Second, OMS protests the requirement under sections IV.C(1)(a) and (b) of the protocols that a party pursuing a formal challenge must identify and explain the action or inaction that violates “the filed rate formula or protocols.” OMS suggests that this language be revised to require the party to identify and explain the action or inaction which is alleged to violate “the application of the rate formula.”⁸⁵ OMS argues that this revision will clarify that the focus of the formal

⁸¹ OMS Comments at 4.

⁸² *Id.* at 5.

⁸³ *Id.*

⁸⁴ *Id.* at 6.

⁸⁵ *Id.* at 7.

challenge is on alleged violations of the protocols or the application of the formula rate, rather than the rate itself.

35. OMS and Joint Customers challenge the language in section IV.A of the protocols, which states that failure to pursue an issue through the challenge process “shall bar pursuit of such issue...”⁸⁶ Joint Customers argue that this language could be interpreted as prohibiting an interested party from raising an issue in a formal challenge because it did not raise the issue in an informal challenge, and request that the language be deleted.⁸⁷ OMS argues that this language could be read to preclude a party’s statutory right to pursue a complaint under section 206 of the FPA. Although OMS acknowledges that section IV.I of the protocols specifically references a party’s section 206 rights, in the interest of avoiding confusion, OMS suggests that the following sentence be added to section IV.A:

Nothing herein shall affect a party’s statutory right to challenge a transmission owner’s true-up adjustment or projected net revenue requirement by filing a separate complaint pursuant to section 206 of the FPA.⁸⁸

36. Joint Customers argue that two of the proposed formal challenge procedures in section IV.C.1 of the protocols are overly burdensome and inappropriate.⁸⁹ First, Joint Customers protest the language in section IV.C.1(e) requiring an entity filing a formal challenge to state whether the issues presented are pending in an existing proceeding where the filing party is a party, and if so, explain why resolution cannot be achieved in that proceeding. Joint Customers state that the existence of other proceedings is irrelevant to whether the annual update or true-up for a given rate year is just and reasonable. Second, Joint Customers protest the language in section IV.C.1(g) requiring a filing party to include with its filing all documents in possession of, or otherwise attainable by, the filing party that support the facts in the formal challenge.⁹⁰ Joint Customers state that this requirement is onerous because at the time a formal challenge is made, there would exist no formal proceedings that would enable the filing party to

⁸⁶ *Id.*; Joint Customers Protest at 2.

⁸⁷ Joint Customers Protest at 3.

⁸⁸ OMS Comments at 8.

⁸⁹ Joint Customers Protest at 3.

⁹⁰ *Id.* at 4.

obtain all such documents, and that given the time constraint within which a formal challenge must be filed, a party would not likely have the ability to obtain all “attainable” documents. Joint Protesters request that these two provisions be deleted from the protocols.

37. Joint Customers state that the deadline for formal challenges to be filed under the revised timeline is March 31, which is only 16 days after the informational filing deadline of March 15.⁹¹ Joint Customers argue that 16 days is not a reasonable period of time to review the informational filing, have discussions with the transmission owner, and prepare and submit a formal challenge. Joint Customers request that the deadline be moved to April 15.

38. Joint Customers note that, in response to the Commission’s directive to explain how the challenge procedures will ensure that customers have adequate access to information, the MISO Transmission Owners have proposed to remove references to “applicable confidentiality provisions under the Tariff” and replaced them with a statement that all response to information requests and informal challenges will be posted on the website and OASIS, except where the transmission owner deems such information confidential.⁹² Joint Customers note that the protocols provide for a confidentiality agreement between the transmission owner and the requesting party in that circumstance. Joint Customers ask the Commission to require that any such confidentiality agreement be modeled on the Commission’s *pro forma* Model Protective Order to ensure that the confidentiality agreement is not so onerous as to allow the transmission owner to unreasonably withhold information from interested parties.⁹³

39. Joint Customers note that in the March 2014 Order, the Commission ordered the MISO Transmission Owners to include, in the description of the issues that may be raised in the challenge process under section IV.D of the protocols, the words “the accuracy of data and consistency with the formula rate of the calculations shown in the annual true-up.”⁹⁴ Joint Customers note that the MISO Transmission Owners substituted the word “charges” for the word “calculations.” Joint Customers ask the Commission to direct the MISO Transmission Owners to explain the use of the word “charges” or to conform to the directive in the March 2014 Order.

⁹¹ *Id.* at 5.

⁹² *Id.* at 6.

⁹³ *Id.* at 7.

⁹⁴ *Id.* (citing March 2014 Order, 146 FERC ¶ 61,212 at P 107).

d. Answer

40. In response to the OMS's request that Commission direct the MISO Transmission Owners to add language to section IV.G of the protocols clarifying that an interested party must submit an informal challenge on any issue to submit a formal challenge, the MISO Transmission Owners state that the request is superfluous but that they are willing to add the requested language.⁹⁵

41. The MISO Transmission Owners argue that basing some of the formal challenge requirements on Rule 206 complies with the Commission's directives, and they emphasize that the Commission found that only "some of Rule 206(b)'s requirements may not be easily applied in the formal challenge context."⁹⁶ To this end, the MISO Transmission Owners state that requiring an interested party filing a formal challenge to explain whether the interested party raised the issue in an informal challenge and, if not, to explain why not, does not bar an interested party from pursuing a formal challenge without first submitting an informal challenge on the issue. Rather, the MISO Transmission Owners assert, the provision preserves the right to file a formal challenge while providing the Commission and transmission owner with more information about the issue. The MISO Transmission Owners contend that, contrary to OMS's assertion, this provision places only a modest burden on an interested party and does not exceed the directives of the March 2014 Order.⁹⁷

42. The MISO Transmission Owners argue that OMS's request to substitute the words "filed rate formula" with "application of the rate formula" in section IV.C(1)(a) and IV.C(1)(b) of the protocols is unnecessary. The MISO Transmission Owners state that any misapplication of the rate formula would be a violation of the filed rate and that OMS's intent is unclear.⁹⁸

43. In response to the Joint Customers' protest that proposed changes in section IV.A of the protocols may limit an interested party's ability to submit a formal challenge, the MISO Transmission Owners assert that Joint Customers have misread the provision. Rather, the MISO Transmission Owners argue, section IV.A states only that a party cannot use the informal and formal challenge processes to submit a challenge on an issue

⁹⁵ MISO Transmission Owners Answer at 21-22.

⁹⁶ *Id.* at 7 (citing March 2014 Order, 146 FERC ¶ 61,212 at P 112).

⁹⁷ *Id.* at 8-10.

⁹⁸ *Id.* at 20-21.

pertaining to a prior rate year. The MISO Transmission Owners also state that section IV.A does not preclude an interested party from pursuing a complaint pursuant to section 206 of the FPA as OMS suggests. The MISO Transmission Owners argue that nothing in section IV.A impinges upon an interested party's statutory rights and that, as OMS acknowledges, section IV.I already expressly preserves such rights. The MISO Transmission Owners further state that the Commission already approved the language OMS seeks to modify, and thus the request is beyond scope of the March 2014 Order.⁹⁹

44. The MISO Transmission Owners state that the provisions in section IV.C.1(e) requiring an interested party submitting a formal challenge to state whether the issues presented are presently being discussed in an existing proceeding, contrary to Joint Customers' assertions, are limited to the same issue and are limited only to other proceedings in which the interested party is a party. The MISO Transmission Owners argue that the provisions place virtually no additional burden on an interested party and will aid the Commission in identifying overlapping issues pending in multiple proceedings. The MISO Transmission Owners also emphasize that the provisions require only that an interested party provide information of which it is aware and does not require consolidation of formal challenges.¹⁰⁰

45. The MISO Transmission Owners assert that a requirement that interested parties provide all documents to support the facts alleged in a formal challenge is reasonable. The MISO Transmission Owners further argue that the Joint Customers' argument that such a requirement is overly burdensome ignores the purpose of formal challenge procedures – to enable a greater understanding of a transmission owner's implementation of its formula rate and to obtain necessary information to challenge that implementation. The MISO Transmission Owners also assert that Joint Customers exaggerate the time constraint to gather such information, noting that an interested party would have nearly 10 months to submit a formal challenge after the annual publication date.¹⁰¹

46. The MISO Transmission Owners argue that interested parties have a lengthy period of time to submit formal challenges, beginning with the publication date. The MISO Transmission Owners state that Joint Customers ignore this fact and that interested parties need not wait until the submission of the informational filing to issue a formal

⁹⁹ *Id.* at 6-7.

¹⁰⁰ *Id.* at 10-12.

¹⁰¹ *Id.* at 12-13.

challenge. Nevertheless, the MISO Transmission Owners state that they are willing to extend the deadline for filing formal challenges to April 15.¹⁰²

47. The MISO Transmission Owners argue that Joint Customers' complaint regarding the treatment of confidential information is beyond the scope of this proceeding. The MISO Transmission Owners state that the Commission merely directed the MISO Transmission Owners to explain how existing protocols provide interest parties access to confidential information and that the MISO Transmission Owners have complied with this directive. The MISO Transmission Owners argue that Joint Customers' proposed solution, modeling treatment of confidential information on the Model Protective Order, is inappropriate in a formula rate context. The MISO Transmission Owners argue that the Model Protective Order envisions discovery by a presiding Administrative Law Judge, the need for which the Commission previously rejected.¹⁰³ The MISO Transmission Owners additionally argue that the Model Protective Order does not appear to contemplate excluding access to information by entities such as transmission competitors. Thus, the MISO Transmission Owners state, the Model Protective Order is not designed to address unfair gains in competitive advantage.¹⁰⁴ The MISO Transmission Owners contend that Joint Customers' confidence in the Model Protective Order's balance between confidentiality and need for access ignores the fact that "in the post-Order No. 1000 competitive landscape," cost-related information is competitively sensitive and customers may also be competitors.¹⁰⁵

48. The MISO Transmission Owners state that the use of the word "charges" in section IV.D of the protocols for historical formula rates is both appropriate and intentional. The MISO Transmission Owners explain that a forward-looking formula rates "calculates" a true-up adjustment while a historical formula rate produces a charge for a given rate year.¹⁰⁶

¹⁰² *Id.* at 22-33.

¹⁰³ *Id.* at 14-15 (citing May 2013 Order, 143 FERC ¶ 61,149 at P 122).

¹⁰⁴ *Id.* at 15-16.

¹⁰⁵ *Id.* at 16.

¹⁰⁶ *Id.* at 19-20.

e. **Commission Determination**

49. We find that the provisions in the MISO Transmission Owners' proposed protocols relating to challenge procedures generally comply with the requirements of the March 2014 Order. We therefore conditionally accept them, subject to further compliance, as discussed below. However, we grant OMS's request to require the MISO Transmission Owners to add language which states that an interested party must submit an informal challenge *on any issue* to submit a formal challenge. We find that the proposed modification will lend clarity to interested parties that the subject of formal challenges does not need to be the same as an interested party's previous informal challenge. Therefore, we direct the MISO Transmission Owners, as they committed in their answer, to revise section IV.G of their formula rate protocols, in a compliance filing due within 30 days of the date of this order.

50. We reject Joint Customers' proposal to delete "shall bar pursuit of such issue with respect to that Annual Update" in section IV.A of the protocols. In the March 2014 Order, the Commission directed the MISO Transmission Owners to revise their formula rate protocols to permit "interested parties to raise substantive issues in a formal challenge that they did not raise in their preceding informal challenge;"¹⁰⁷ however, the language identified by Joint Customers does not contradict this directive. Rather, the proposed language provides that challenge procedures are available to interested parties only for a given rate year. Accordingly, we will also reject OMS's proposal to add a sentence to section IV.A of the formula rate protocols which would clarify that the protocols do not restrict an interested party's ability to file a complaint pursuant to section 206 of the FPA. We agree with the MISO Transmission Owners that section IV.I sufficiently preserves this right. As the MISO Transmission Owners note, in the March 2014 Order, the Commission accepted the provision contested by both Joint Customers and OMS and did not direct modifications.¹⁰⁸ Therefore, we find the Joint Customers' and OMS's proposals beyond the scope of this proceeding.

51. We accept the MISO Transmission Owners' proposed requirements for interested parties submitting a formal challenge, with one exception, as noted below. In the March 2014 Order, the Commission found that the MISO Transmission Owners' initial proposal to base the filing requirements for a formal challenge on Rule 206 could create confusion and that the filing requirements must, therefore, be specifically detailed in the protocols. However, the Commission also found that Rule 206 could provide a reasonable model for formal challenge filing requirements, noting that Rule 206 "ensure[s] that interested

¹⁰⁷ March 2014 Order, 146 FERC ¶ 61,212 at P 108.

¹⁰⁸ *Id.* P 103.

parties sufficiently explain the matters being challenged without hampering any interested party's right to file a formal challenge" and "does not improperly shift the burden of persuasion to interested parties."¹⁰⁹ We find that the MISO Transmission Owners' proposed formal challenge filing requirements maintain, with one exception, these standards such that any information required promotes an open and transparent proceeding without unduly burdening the interested party.

52. We disagree with Joint Customers' claims that requiring an interested party to state whether an issue raised in a formal challenge is the subject of another proceeding and to provide all available documents supporting a formal challenge exceeds the Commission's directives in March 2014 Order. In meeting both requirements, the interested party submitting the formal challenge faces a minimal burden. We agree with the MISO Transmission Owners that stating whether the subject of a formal challenge is at issue in a separate proceeding is limited to the same issue and only those proceedings to which the interested party is a party. Similarly, the MISO Transmission Owners' proposed revisions require only that an interested party present information supporting its formal challenge which it has already gathered and developed to support its case. Contrary to Joint Customers' claims, MISO's proposed requirements for submitting a formal challenge do not require that interested parties acquaint themselves with any and all information or separate proceedings which might further support the formal challenge.

53. In their protest, Joint Customers argue that one of the proposed filing requirements for submitting a formal challenge, to "State whether the filing party utilized the [i]nformal [c]hallenge procedures described in these protocols to dispute the action or inaction raised by the [f]ormal [c]hallenge, and, if not, describe why not,"¹¹⁰ places an unnecessary burden on the filing party. We disagree. Pursuant to proposed sections IV.C.1 through IV.C.2 of the protocols, an interested party must provide a comprehensive set of information with the submission of a formal challenge to allow a transmission owner and the Commission to understand the challenge. Requiring an interested party to explain the extent to which an informal challenge was or was not raised on an issue raised in a formal challenge adds minimal burden and can assist the Commission in deciding what procedures may be appropriate for resolving the challenge.

¹⁰⁹ *Id.* PP 111-112.

¹¹⁰ MISO Transmission Owners Filing, Ex. A (Illustrative Formula Rate Protocols for Transmission Owners Using a Historical Attachment O Rate Formula Template), section IV.C(1)(h); Ex. B (Illustrative Formula Rate Protocols for Transmission Owners Using a Forward-Looking Attachment O Rate Formula Template), section IV.C(1)(h).

54. In its protest, OMS recommends that the MISO Transmission Owners modify their protocols to clarify that an interested party submitting a formal challenge must identify and explain how the subject of a formal challenge violates the “application of the formula rate” rather than the formula rate itself. OMS asserts that its proposed change would clarify that the rate, itself, is not the subject of the challenge. We find that OMS’s request may confuse this point by creating a circular reference. As the MISO Transmission Owners state in their answer, any misapplication of the formula is a violation of the rate. Accordingly, we reject OMS’s request.

55. We accept the MISO Transmission Owners’ offer to extend the deadline for submitting a formal challenge to April 15. We agree with Joint Customers that the proposed formal challenge deadline may not allow adequate review of the information filing and find the MISO Transmission Owners’ proposal to extend the deadline to be an adequate compromise. Thus, we direct the MISO Transmission Owners in a compliance filing due within 30 days of the date of this order to revise their formula rate protocols to state that any interested party will have until April 15 to make a formal challenge with the Commission.

56. We reject Joint Customers’ request that the Commission mandate the exchange of confidential information be modeled on the Model Protective Order. In the March 2014 Order, the Commission directed the MISO Transmission Owners “to explain how the protocols’ challenge procedures will ensure that customers have access to information that will allow them to effectively challenge the implementation of the formula rate or revise the protocols to ensure that they do[,]”¹¹¹ and the MISO Transmission Owners have complied. Joint Customers’ assertion that the MISO Transmission Owners’ confidentiality agreements may go “beyond the Model Protective Order” and prove “onerous” is speculative.¹¹² We encourage the parties to consider the Model Protective Order as a basis for negotiating an appropriate confidentiality agreement under the protocols, but we do not mandate its use. If parties are unable to reach agreement on an appropriate confidentiality agreement, they may seek alternate dispute resolution¹¹³ or raise this before the Commission for formal resolution. Accordingly, we accept the MISO Transmission Owners’ proposed revisions relating to confidential information.

¹¹¹ March 2014 Order, 146 FERC ¶ 61,212 at P 114.

¹¹² Joint Protestors Protest at 7.

¹¹³ See May 2013 Order, 143 FERC ¶ 61,149 at P 122 (noting that parties are free to request the appointment of a settlement judge, or avail themselves of the on-call settlement judge or the Commission’s Dispute Resolution Service, to resolve any discovery disputes that arise under the protocols).

57. With regard to Joint Customers' request that the Commission direct the MISO Transmission Owners to explain the use of the word "charges," we agree with the MISO Transmission Owners' explanation and reject Joint Customers' suggestion that the word "calculation" is a more appropriate term. As the MISO Transmission Owners explain, the word "charges" is properly applied when used in the context of a historical rate.

3. Attachment O-CMMPA

58. On behalf of Central Minnesota, MISO separately filed proposed revisions to Attachment O-CMMPA of MISO's Tariff to modify the formula rate protocols. Central Minnesota states that it is applying the MISO Transmission Owners Filing virtually verbatim, except that it incorporates earlier Central Minnesota settlement obligations.¹¹⁴ Section 3.2 of the Settlement states "On or before April 1st of each year, Central Minnesota will provide to MISO Central Minnesota's Attachment O-CMMPA Agency (incorporating a one year lag)..." and the corresponding Section 3.3 states that April 1 is Central Minnesota's OASIS posting date. By contrast, Central Minnesota proposes in section II.B to provide MISO with its annual True-Up, actual net revenue requirement and True-Up Adjustment and post such information on the MISO website and on OASIS on June 1, the same date required for other MISO Transmission Owners.

59. Central Minnesota proposes two variances from the MISO Transmission Owners' protocols. Central Minnesota explains that it has modified section IV.I from the MISO proposed protocols to reflect that as a non-jurisdictional entity, Central Minnesota must file for tariff, rate and other changes through MISO, another jurisdictional entity, or under section 206 of the FPA.¹¹⁵ Second, unlike the MISO Transmission Owners' proposed protocols, Central Minnesota's proposed protocols contain section VII, which describes the specific mechanics for Central Minnesota's true-up, including the calculation of interest on any over-recovery or under-recovery of the net revenue requirement.

60. Central Minnesota also explains that in Docket No. ER13-2468-000, the Commission directed Central Minnesota to submit a compliance filing making certain changes to the Attachment O-CMMPA protocols.¹¹⁶ Therefore, Central Minnesota states

¹¹⁴ Central Minnesota Filing at 1-2.

¹¹⁵ *Id.*

¹¹⁶ *Id.* (referencing *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,263, at P 63 (2013)).

that its filing contains modification to the protocols required in Docket No. ER13-2468-000.¹¹⁷

61. We find that Central Minnesota's proposed Tariff revisions are just and reasonable and we accept them effective June 1, 2014, as requested. All deviations from the MISO Transmission Owners' proposed protocols are appropriate and specific to Central Minnesota. We also find that Central Minnesota's proposed June 1 deadline for the provision of data to MISO and posting of such data on OASIS is appropriate because it is consistent with the timeline proposed by the MISO Transmission Owners. Additionally, we direct Central Minnesota, in a compliance filing due within 30 days of the date of this order, to file Tariff revisions corresponding to each instance above where the Commission has directed the MISO Transmission Owners to file revisions.

The Commission orders:

(A) The MISO Transmission Owners Filing and the Central Minnesota Filing are hereby accepted, subject to a further compliance filing, to become effective January 1, 2014, as discussed in the body of this order.

(B) The MISO Transmission Owners and Central Minnesota are hereby directed to submit revisions to their protocols in a compliance filing, due within 30 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Honorable is voting present.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹⁷ On October 17, 2014, the Commission accepted Central Minnesota's modifications to its formula rate protocols made in compliance with the Commission's directives in Docket No. ER13-2468-001. *See Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER13-2468-002 (Oct. 17, 2014) (delegated letter order).