168 FERC ¶ 61,210
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Louisiana Public Service Commission Docket No. EL18-201-000

v.

Entergy Services, Inc.
Entergy Arkansas, Inc.
Entergy Louisiana, LLC
Entergy Mississippi, LLC
Entergy New Orleans, LLC
Entergy Texas, Inc.

ORDER ON COMPLAINT

(Issued September 30, 2019)

1. On September 19, 2018, the Louisiana Public Service Commission (Louisiana Commission) filed a complaint (Complaint) against Entergy Services, Inc. (Entergy Services) and the Entergy Operating Companies[1] (collectively, Entergy) pursuant to sections 206, 306, and 309 of the Federal Power Act (FPA)[2] and Rule 206 of the Commission's Rules of Practice and Procedure.[3] The Louisiana Commission contends that the Entergy Operating Companies' failure to assign to wholesale transmission rates 100 percent of the costs of two Transmission Control Centers (Control Centers) owned

[1] The Entergy Operating Companies at the time of the filing of the complaint were: Entergy Arkansas, Inc. (Entergy Arkansas), Entergy Louisiana, LLC (Entergy Louisiana), Entergy Mississippi, Inc. (Entergy Mississippi), Entergy New Orleans, Inc. (Entergy New Orleans), and Entergy Texas, Inc. (Entergy Texas). Since that time, Entergy Arkansas, Entergy Mississippi, and Entergy New Orleans have reorganized as Entergy Arkansas, LLC, Entergy Mississippi, LLC, and Entergy New Orleans, LLC, respectively, and Entergy Services has reorganized as Entergy Services, LLC.

[2] 16 U.S.C. §§ 824e, 825e, 825h (2018).

[3] 18 C.F.R. § 385.206 (2019).

by Entergy Services is unjust, unreasonable, and unduly discriminatory because it requires native load customers to subsidize the use of the transmission system by third party wholesale transmission customers. In this order, we grant in part and dismiss in part the Complaint, as discussed further below.

I. Background

2. The Louisiana Commission regulates certain public utilities operating in Louisiana, including the retail rates and services of Entergy Louisiana. Entergy Services, a Delaware corporation and service subsidiary of Entergy Corp. with its principal office in New Orleans, Louisiana, provides accounting, legal, regulatory, and other services to other Entergy Corp. subsidiaries, including the Entergy Operating Companies.[4]

3. Entergy Services, a centralized service company[5] that provides support services to the Entergy Operating Companies, owns and operates the two Control Centers, which are located in Jackson, Mississippi and Little Rock, Arkansas.[6] Personnel at the Control Centers "monitor the status of the Entergy Operating Companies' transmission system, coordinate line outages for maintenance or repair, and remotely operate switches and breakers at substations, subject to [the Midcontinent Independent System Operator, Inc.'s (MISO)] authority as transmission provider and regional reliability coordinator under North American Electric Reliability Corporation (NERC) rules."[7]

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[4] Complaint at 2.

[5] The Commission's regulations define "centralized service company" as a "service company that provides services such as administrative, managerial, financial, accounting, recordkeeping, legal, or engineering services, which are sold, furnished, or otherwise provided (typically for a charge) to other companies in the same holding company system. Centralized service companies are different from other service companies that only provide a discrete good or service." 18 C.F.R. § 367.1(a)(7) (2019).

[6] Entergy Services Oct. 29, 2018 Transmittal, Docket No. ER19-211-00 at 2.

[7] Entergy Services Transmittal, Docket No. ER17-2029-000, at 2 (filed June 30, 2017). Prior to the Control Centers being placed into service in 2016 and 2017, Entergy Services operated, and the Entergy Operating Companies owned, five transmission operations centers and a systems operations center, which Entergy Services elected to replace with the two Control Centers because of the "need to modernize, standardize, and improve the reliability of the transmission and system operational facilities for the Entergy Transmission System." *Id.* at 3.

4. On June 30, 2017, as amended on July 20, September 29, and December 21, 2017 in Docket Nos. ER17-2029-003, ER17-2030-003, ER17-2031-003, ER17-2033-003 and ER17-2034-003, Entergy filed with the Commission reimbursement agreements between each Entergy Operating Company and Entergy Services (Reimbursement Agreements). In those filings, Entergy stated that Entergy Services incurred design, engineering, permitting, materials acquisition, rental, supervision and management, administration, overhead, construction and related support costs in connection with the Control Centers. Entergy stated that, pursuant to the Reimbursement Agreements, the Entergy Operating Companies agreed to pay an allocated share of these costs through a reimbursement payment.

5. On February 16, 2018, the Commission accepted the Reimbursement Agreements for filing, subject to refund, and consolidated the five dockets for purposes of hearing and settlement judge procedures.[8] The Commission stated that, among other things, the Reimbursement Agreements raised issues about "whether Entergy Services' and the Entergy Operating Companies' accounting and reporting of the costs and income tax effects associated with the Control Centers will result in just and reasonable rates for transmission service provided by the" Entergy Operating Companies.[9] On August 1, 2018, the Chief Administrative Law Judge terminated the settlement judge procedures because, on July 27, 2018, the Entergy Operating Companies filed separate notices of cancellation of the Reimbursement Agreements.[10] The notices of cancellation were accepted by delegated letter order on September 19, 2018.[11]

II. Complaint

6. The Louisiana Commission states that Entergy Services bills the costs of the Control Centers to the Entergy Operating Companies under centralized service company agreements subject to the Commission's jurisdiction.[12] It argues that these costs relate to the provision of transmission services, but that the Entergy Operating Companies account for the costs in a manner that permits only a portion of the costs to enter the Entergy

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[8] *Entergy Ark., Inc.*, 162 FERC ¶ 61,133, at PP 1, 34 (2018).

[9] *Id.* P 33.

[10] *Entergy Ark., Inc., et al.*, Docket No. ER17-2029-003, *et al.*, (Aug. 1, 2018) (Order of Chief Judge Terminating Settlement Judge Procedures).

[11] *Entergy Servs., Inc.*, Docket No. ER18-2079-000, *et al.* (Sept. 19, 2018) (delegated order).

[12] Complaint at 4. The agreements are Rate Schedule Nos. 435-A through 435-L.

Operating Companies' MISO Attachment O formula transmission rate, which "provides the basis for billing the costs of transmission owners to wholesale transmission customers."[13]

7. The Louisiana Commission states that, in response to a deficiency letter issued by Commission staff in the Reimbursement Agreements proceeding, Entergy provided information concerning billings for the Control Centers "prior to and during the period in which the reimbursement proposals were pending," which stated that $1,203,193.12 in depreciation had been billed to the Entergy Operating Companies "as of an unspecified date in 2017."[14] The Louisiana Commission states, however, that Entergy Services revealed that only $23,485 had been recovered by the Entergy Operating Companies through billings under Attachment O of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), which the Louisiana Commission contends amounts to wholesale transmission customers being responsible for roughly two percent of the Control Centers' depreciation costs.[15] The Louisiana Commission argues that, if Entergy had allocated depreciation costs for the Control Centers fully to the transmission function under Attachment O of the MISO Tariff, wholesale transmission customers would have been responsible for a significantly higher percentage of the depreciation costs in 2015 through 2017.

8. The Louisiana Commission further argues that in the Reimbursement Agreements, Entergy Services proposed to allocate roughly 46 percent of the Control Center costs to Entergy Louisiana pursuant to a proposed "Peak Load allocation method."[16] The Louisiana Commission estimates that, while the exact depreciation cost percentage allocation is not public information, at least 35 percent of the depreciation costs were allocated to Entergy Louisiana.[17] The Louisiana Commission further asserts that, as of Entergy's deficiency letter response, Entergy Services reported accumulated depreciation of $1,203,193 for the Control Centers, of which $390,000 or more would have been allocated to Entergy Louisiana per the Louisiana Commission's estimate and that additional depreciation was billed to the Entergy Operating Companies in 2017. The Louisiana Commission states that Entergy Louisiana's 2017 FERC Form No. 1 showed that Entergy Louisiana received $77.9 million in transmission revenues from third parties

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[13] Complaint at 2-4.

[14] *Id.* at 5.

[15] *Id.* at 5-6.

[16] *Id*. at 6.

[17] *Id.*

in 2017, which equals roughly 21 percent of Entergy Louisiana's annual transmission revenue requirement.[18] The Louisiana Commission thus argues that at least 21 percent of Entergy Louisiana's transmission costs should be recovered through Attachment O of the MISO Tariff and that $82,000 of depreciation expense for Entergy Louisiana would have been collected from wholesale requirements customers if all the reported depreciation had been included in Attachment O of the MISO Tariff, reflecting 21 percent of Entergy Louisiana's $390,000 share.

9. The Louisiana Commission states that, with regard to Entergy Louisiana, third party wholesale transmission customers only paid $7,352 of the Control Centers' depreciation costs. Consequently, it argues that Entergy Louisiana's native load customers had to, and will continue to, cross-subsidize wholesale requirements customers' use of the Entergy transmission system, which, over the Control Centers' lives, will amount to an under-collection of millions of dollars of depreciation from wholesale transmission customers.[19]

10. The Louisiana Commission further argues that, for all the Entergy Operating Companies, $23,485 of the total of $1,203,193 depreciation expense billed through part of 2017 for the Control Centers was recovered through Attachment O of the MISO Tariff, which is only 2 percent of the Control Centers' depreciation cost for that period. The Louisiana Commission estimates that, in contrast, the wholesale customer load usage of the Entergy transmission system amounts to 20 percent or more.[20]

11. The Louisiana Commission argues that, even though the Control Centers are "devoted exclusively to serving the transmission function," only a small portion of depreciation expense is collected from wholesale transmission customers. It argues that the failure to allocate all the costs of the Control Centers to the transmission function requires native load retail customers to cross-subsidize wholesale requirements customers' use of the transmission system, a result which is unjust, unreasonable, and unduly discriminatory.[21] For this reason, the Louisiana Commission asks the Commission to order the Entergy Operating Companies, particularly Entergy Louisiana, to account for the Control Centers' costs in transmission function accounts or provide for

[18] *Id.* at 7.

[19] *Id.* at 7-8.

[20] *Id.*

[21] *Id.* at 9.

a direct assignment of all the Control Center costs to Attachment O of the MISO Tariff.[22] It also asks the Commission to set the Complaint for hearing, establish a refund effective date pursuant to FPA section 206(b), and after due proceedings, require the inclusion of all Control Center costs in Attachment O of the MISO Tariff.[23]

III. Notice and Responsive Pleadings

12. Notice of the Complaint was published in the *Federal Register*, 83 Fed. Reg. 48,815 (2018), with answers, interventions, and comments due on or before October 9, 2018. Notices of intervention were filed by the Mississippi Public Service Commission (Mississippi Commission), the Arkansas Public Service Commission, the Public Utility Commission of Texas, and the Council of the City of New Orleans, Louisiana. Cooperative Energy, Cleco Power LLC, and Arkansas Electric Cooperative Corporation filed timely motions to intervene. On October 9, 2018, Entergy filed a joint motion to dismiss and answer to the Complaint. Additionally, on October 9, 2018, the Mississippi Commission and Mississippi Public Utilities Staff (collectively, Mississippi Intervenors) filed comments in support of the Complaint. On October 24, 2018, the Louisiana Commission and Mississippi Intervenors filed answers to Entergy's answer.

A. Entergy's Answer

13. Entergy argues that the Louisiana Commission's requested relief would be contrary to the Commission's accounting rules.[24] It argues that Entergy Services, not the Entergy Operating Companies, owns the Control Centers and, as a centralized service company, is subject to the Uniform System of Accounts for Centralized Service Companies. Entergy further argues that these accounts do not include any transmission plant accounts, and that the Balance Sheet Chart of Accounts for Centralized Service Companies identifies several accounts for Service Company Property, including Service Company Property Account 390, Structures and Improvements, in which Entergy Services accounts for the Control Centers as general plant.[25] Entergy also argues that Entergy Services records depreciation expense with respect to that property and allocates it, together with its expenses for owning and operating the Control Centers, to the Entergy Operating Companies through the centralized service agreements on file with the

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[22] *Id.*

[23] *Id.* at 11.

[24] Entergy Answer at 6.

[25] *Id.* at 7.

Commission.[26] Entergy also states that, because the Entergy Operating Companies have no Control Center ownership interests, they receive an allocation of Entergy Services' costs associated with the Control Centers' depreciation and Entergy Services' Control Center operating and maintenance expenses.[27] For these reasons, Entergy asserts that the Entergy Operating Companies' responsibility for these costs does not create an asset on their books that they are able to record in a utility plant account. Therefore, Entergy states that the Commission should deny the Louisiana Commission's demand that the Entergy Operating Companies account for the Control Center costs in transmission plant accounts.[28]

14. Entergy also states that the Louisiana Commission's requested cost recovery-related relief would be contrary to the Entergy Operating Companies' filed transmission rates. More specifically, it states that the requested direct assignment of all of the Control Center costs to the Entergy Operating Companies for recovery through their transmission formula rates would violate currently effective provisions in Attachment O of the MISO Tariff.[29] Entergy argues that the wholesale rate relief that the Louisiana Commission seeks would require a change to the Entergy Operating Companies' filed rates, which can only be made effective on a prospective basis, but that the Louisiana Commission does not ask for a formula rate change or identify how the Entergy Operating Companies' transmission formula rate templates should change.[30] Entergy argues that for these reasons, the Louisiana Commission fails to show that Entergy Services' accounting treatment and the Entergy Operating Companies' Attachment O formula rate templates are unjust and unreasonable, so it has failed to identify relief that the Commission may lawfully grant. It therefore asks the Commission to dismiss the Complaint.

15. Entergy also argues that it plans to file an application under FPA section 203[31] for authorization to transfer Entergy Services' ownership interest in the Control Centers to the Entergy Operating Companies (Proposed Transaction) and that the consummation of the Proposed Transaction will give the Louisiana Commission the cost accounting and wholesale rate treatment relief that the Complaint seeks and will therefore render the

[26] *Id.* at 7-8.

[27] *Id.* at 8.

[28] *Id.*

[29] *Id.* at 8-9.

[30] *Id.* at 9.

[31] 16 U.S.C. § 824b (2018).

Complaint moot.[32] Entergy explains that, pursuant to the Proposed Transaction, Entergy Services will transfer undivided ownership interests in each Control Center to the Entergy Operating Companies with the following allocation: 19.32 percent, 46.82 percent, 12.84 percent, 5.11 percent, and 15.91 percent to Entergy Arkansas, Entergy Louisiana, Entergy Mississippi, Entergy New Orleans, and Entergy Texas, respectively.[33] In particular, Entergy states that, pursuant to the Proposed Transaction, the Entergy Operating Companies will account for their ownership interests as transmission plant, place those transmission plant assets in transmission rate base, and recover their Control Center costs through their Commission jurisdictional MISO Tariff Attachment O transmission formula rates.[34]

16. Entergy states that, concurrently with filing its proposed FPA section 203 application, Entergy plans to file a Joint Ownership and Operating Agreement (Ownership Agreement), which identifies the terms and conditions pursuant to which the Entergy Operating Companies will jointly own undivided Control Center interests and pursuant to which Entergy Services will continue to provide Control Center operations and maintenance services.[35] Entergy asks that if the Commission does not deny the Complaint, the Commission hold the Complaint in abeyance pending Commission action on the forthcoming FPA section 203 and FPA section 205 filings.[36]

B. Mississippi Intervenors' Comments

17. Mississippi Intervenors ask the Commission to issue an order requiring the Entergy Operating Companies to revise their MISO Attachment O transmission formula rates to include 100 percent of the Control Center costs such that each Entergy Operating Company receives a revenue credit in proportion to its allocated Control Center costs. Mississippi Intervenors state that they agree with the Louisiana Commission that the failure to allocate all of the Control Center costs to the transmission function and collect those costs from wholesale transmission customers results in native load customers cross-

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[32] *Id.* at 10. Entergy filed this application on October 29, 2018 in Docket No. EC19-18-000.

[33] Entergy Oct. 29, 2018 FPA Section 203 Application at 5 (Docket No. EC19-18-000).

[34] *Id.* at 10-11.

[35] Entergy Answer at 11. Entergy filed the Ownership Agreement on October 29, 2018 in Docket No. ER19-211-000.

[36] *Id.* at 12.

subsidizing the use of the transmission system by wholesale transmission customers. In response to Entergy's answer, Mississippi Intervenors state that the Control Center ownership transfer is not at issue in the Complaint proceeding and should not delay Entergy's revisions to Attachment O.

18. Mississippi Intervenors argue that the Complaint simply asks that the Entergy Operating Companies incorporate as a direct assignment the entire Control Center cost paid by the Entergy Operating Companies in their respective Attachment O formula rates. Additionally, Mississippi Intervenors argue that, while Entergy Services may be correct about the inconsistency of the requested relief with the Entergy Operating Companies' MISO Tariff Attachment O formula rates, the Complaint asks the Commission to direct the Entergy Operating Companies to revise these rates if necessary. Mississippi Intervenors argue that the Commission should direct the Entergy Operating Companies to revise the Attachment O formula rates if necessary to include a line item for "transmission provided by third parties" to provide the relief sought by the Complaint.[37]

19. Mississippi Intervenors also ask the Commission to determine whether Entergy is in violation of the Commission's accounting rules. They state that Entergy's answer suggests that Entergy Services has been collecting Control Center costs in violation of Commission accounting rules as the Entergy Operating Companies may be including the Control Center costs in their rates as if they are transmission plant owned by the Entergy Operating Companies, which they are not. Furthermore, they argue that the construction of the Mississippi Control Center may have violated Mississippi law and the Mississippi Commission's regulations because Entergy Services built these facilities without a certificate of public need and necessity from the Mississippi Commission.[38] Mississippi Intervenors state that they may seek a reduction or prohibition of the recovery of the Mississippi Control Center costs through retail rates.

20. Furthermore, Mississippi Intervenors argue that, because Entergy Services' centralized service company agreements with the Entergy Operating Companies provide no authorization to procure, design, engineer, or otherwise construct the Control Centers, Entergy Services may not be entitled to recover the costs of the Control Centers and may have to return all revenue associated with the Control Centers' costs collected to date.[39]

21. Finally, Mississippi Intervenors ask the Commission to reject Entergy's request to hold this proceeding in abeyance, arguing that Entergy's request provides "no

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[37] Mississippi Intervenors Oct. 24, 2018 Answer at 3-4.

[38] *Id.* at 5-6.

[39] *Id.* at 6.

administrative efficiency" but only delays the outcome of the proceeding.[40] Additionally, Mississippi Intervenors argue that direct assignment of the Control Center costs would provide the relief requested by the Complaint without any transfer of ownership of the Control Centers. Mississippi Intervenors argue that the Complaint focuses solely on recovery of the Control Center costs through the MISO Attachment O formula rates, and that the ownership of the Control Centers is not at issue.[41]

C. Louisiana Commission's Answer

22. In response to Entergy's answer, the Louisiana Commission argues that its requested relief does not violate the Commission's accounting rules. The Louisiana Commission argues that Entergy is incorrect in stating that the Louisiana Commission seeks to have Entergy include the Control Center investment in the Entergy Operating Companies' transmission plant accounts; instead the Louisiana Commission "seeks to have the depreciation, interest and other expenses billed in transmission expense accounts and included in the MISO Attachment O formula rate."[42] Additionally, the Louisiana Commission argues that Entergy does not explain why the fact that the Entergy Operating Companies do not own the Control Centers means that the depreciation and operating expenses of the Control Centers cannot be recorded in transmission function accounts.[43] The Louisiana Commission argues that, even if Entergy's accounting argument were correct, the Commission has the power to order direct assignment of the Control Center costs to the transmission function.[44]

23. The Louisiana Commission states that Entergy's argument that the MISO Tariff Attachment O formula rate does not provide for direct assignment is no answer to the Complaint, which seeks changes to the MISO Tariff.[45] It also argues that Entergy fails to explain why the MISO Tariff prevents direct assignment and that Entergy cites no tariff provision that requires Entergy to allocate a portion of the depreciation expense as an

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[40] *Id.* at 3.

[41] *Id.* at 7-8.

[42] Louisiana Commission Answer at 3.

[43] *Id.*

[44] *Id.* at 5.

[45] *Id*. at 5-6.

input to the formula rate. It also states that, even if Entergy is correct, the Commission can direct MISO to amend MISO Tariff Attachment O to grant the requested relief.[46]

24. The Louisiana Commission argues that Entergy Services' FPA section 203 application and FPA section 205 filing of the Ownership Agreement would violate service company rules and are beyond the jurisdictional reach of FPA section 205 because regulating the terms of a transfer of *ownership* is not authorized under FPA section 205.[47] The Louisiana Commission argues that Entergy could propose joint ownership agreements to the Entergy Operating Companies' retail regulators which, if the retail regulators approved the joint ownership agreements, would accomplish Entergy's objective. The Louisiana Commission states that Entergy would have to show retail regulators that this ownership allocation among the Entergy Operating Companies was appropriate. However, the Louisiana Commission argues that Entergy should not be allowed to use service company cost allocations to accomplish its objectives through Commission regulation. Finally, the Louisiana Commission argues that holding the Complaint in abeyance pending the outcome of Entergy's FPA section 203 and 205 filings would violate the Regulatory Fairness Act, which provides for refund protection in a complaint proceeding but only for fifteen months.[48] It argues that staying the proceeding would "surely extend" the proceeding beyond the refund period and ensure that ratepayers suffer unjust and unreasonable injury.[49]

IV. Discussion

A. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2019), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

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[46] *Id.* at 6.

[47] *Id.* at 6-7.

[48] *Id.*

[49] *Id.* at 8-9.

B. Substantive Matters

26. We deny Entergy's request to dismiss the Complaint, and we grant in part and dismiss in part the Complaint. While the Uniform System of Accounts for centralized service companies does not provide for transmission plant accounts, we find that this aspect of accounting for centralized service companies does not dictate the accounting and rate treatment that the Entergy Operating Companies have used for the costs of the Control Centers. The Uniform System of Accounts for public utilities such as the Entergy Operating Companies requires that "transactions with associated companies . . . be recorded in the appropriate accounts for transactions of the same nature."[50] Pursuant to this requirement, a public utility must record all transactions with associated companies in the appropriate account based on the nature of the cost incurred. Thus, affiliate transactions that are in the nature of transmission expenses must be recorded by the public utility in transmission expense accounts.

27. Based upon this requirement, we disagree with Entergy's contention that the Entergy Operating Companies "comply with the Commission's accounting rules."[51] The Uniform System of Accounts does not require the public utility to recognize a billing from the centralized service company to the public utility in the same account that the centralized service company used for that expense on its books. Accordingly, the fact that there are no transmission plant accounts for use by a centralized service company is not a valid reason for the Entergy Operating Companies to fail to record the payment of transmission-related costs on their books as a transmission expense. Because the expenses associated with depreciating the Control Centers are transmission expenses, applying the Commission's accounting requirements under the Uniform System of Accounts should result in the Entergy Operating Companies recognizing the payments to Entergy Services related to the Control Centers' operation and depreciation in a transmission expense account.

28. Accordingly, we grant the Complaint to the extent that it asks the Commission to direct the Entergy Operating Companies to account for the depreciation associated with the costs of the Control Centers in transmission functional accounts. We find that the Entergy Operating Companies incorrectly accounted for the costs of the Control Centers allocated from Entergy Services as general plant depreciation instead of including the Control Center costs in transmission expense accounts. This mistaken accounting resulted in incorrect inputs into the Entergy Operating Companies' transmission formula rates. Consequently, we find that the Entergy Operating Companies incorrectly applied

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[50] 18 C.F.R. pt. 101, General Instruction No. 14 (Transactions with Associated Companies) (2019).

[51] Entergy Answer at 2.

their filed formula rates. The Commission may order recalculation of the transmission formula rates from the beginning of the use of an incorrect input value based on incorrect accounting.[52] We also note that the Entergy Operating Companies' formula rate protocols provide a process for adjustments of formula rate billings to correct such errors.[53] Therefore, we direct the Entergy Operating Companies to correct their prior accounting to record all payments related to the depreciation of the Control Centers in a transmission expense account and recalculate their previously-calculated MISO Tariff Attachment O formula rates to reflect such accounting corrections. We direct the Entergy Operating Companies to submit a compliance filing within 30 days of the issuance of this order showing that they have made the required accounting changes and formula rate recalculations and explaining how the recalculations will be reflected in the annual formula rate true-up pursuant to the formula rate protocols.

29. On the issue of refunds of any transmission expenses unjustly collected through retail customer rates, we note that the Commission cannot require refunds directly to the native load retail customers whose rates may have been affected by the incorrect

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[52] *See Sys. Energy Resources, Inc.*, 48 FERC ¶ 61,321, at 62,066 (1989):

> We will order SERI not only to correct its accounting treatment but also to recompute its billings since the effective date of its tariff, based on the corrected accounting classification. . . . When approving a formula rate, the Commission approves the formula as the rate, but not the actual collections under the formula. When a utility records items in the wrong account, it may recover from its customers more than it is authorized to recover under its rate schedule. Therefore, when we order corrected accounting entries which may affect billings, we may also order refunds.

[53] For example, as provided in Attachment O of the MISO Tariff, the Entergy Operating Companies' annual update process provides for true-up adjustments for each Entergy Operating Company for differences between actual and projected costs for the preceding calendar year, and for other revenue requirement adjustments, which "include, but are not limited to, out-of-period adjustments relating to FERC order, settlement, and corrections." *See* MISO Tariff, Attachment O, section 47A.III.A-B. Another provision states, "[w]ith respect to any change in accounting that affects inputs to the Transmission Formula Rate Template or the resulting charges billed [thereunder]," that the Entergy Operating Companies identify in their annual updates any changes including "[c]orrection of errors and prior adjustments that impact the True-Up Adjustment calculation." *See* MISO Tariff, Attachment O, section 47A.III.F.8.a.iii.

accounting.[54] Nonetheless, we note that here we are ordering recalculation of the Entergy Operating Companies' MISO Tariff Attachment O transmission formula rates. While the recalculation does not provide a direct remedy for affected retail customers, the changes to wholesale transmission revenues collected through the Entergy Operating Companies' formula rates can affect the residual transmission costs to be borne by retail native load.

30. Because we are granting the primary relief requested in the Complaint as it pertains to accounting, we dismiss as moot the alternate relief requested, to provide for a direct assignment of all the Control Center costs in the MISO Tariff Attachment O formula rates. We also note that the Louisiana Commission and Mississippi Intervenors raise various issues in their answers, which were not raised in the Complaint, concerning whether Entergy Services violated service company rules or state law in its construction of or transfer of ownership of the Control Centers. We find that such issues are outside the scope of this proceeding, which is concerned with whether Entergy Services and the Entergy Operating Companies have properly accounted for the costs of the Control Centers.

31. In addition, we agree with Mississippi Intervenors that the potential transfer of ownership of the Control Centers that had been referenced in Entergy's answer to the Complaint is a separate matter that does not affect our consideration of the Complaint.[55]

The Commission orders:

(A) The Complaint is hereby granted in part and dismissed in part, as discussed in the body of this order.

(B) The Entergy Operating Companies are hereby directed to make a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

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[54] *See*, *e.g.*, *PJM Interconnection, LLC*, 137 FERC ¶ 61,251, at P 24 (2011) (". . . the Commission does not have the requested remedial authority to order refunds directly to retail customers. . .").

[55] We note, however, that the Commission is acting on issues related to the potential transfer in orders being issued concurrently in Docket Nos. EC19-18-000 and ER19-211-000.

(C) Entergy's request to hold the Complaint in abeyance is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.