

171 FERC ¶ 61,097  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

May 7, 2020

In Reply Refer To:  
Appalachian Power Company  
American Electric Power Service Corporation v.  
Midcontinent Independent System Operator, Inc.  
Midcontinent Independent System Operator, Inc.  
and PJM Interconnection, L.L.C.  
Docket Nos. ER20-207-000  
EL18-7-001  
ER05-6-125  
ER10-2283-003  
(Not Consolidated)

Step toe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

Attention: Steven J. Ross, Esq.  
Counsel for American Electric Power Service Corporation

Dear Mr. Ross:

1. On October 28, 2019, you submitted, in the above-referenced proceeding, a settlement agreement (Settlement) between American Electric Power Service Corporation (AEP), on behalf of the AEP East Transmission Owners<sup>1</sup> (collectively, AEP), and Exelon Corporation (Exelon), on behalf of its affiliates and subsidiaries, including, without limitation, Constellation NewEnergy, Inc. (collectively, Exelon, and together with AEP, the Settling Parties). The Settlement addresses issues set for hearing in the

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<sup>1</sup> The AEP East Transmission Owners are Appalachian Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company; and Wheeling Power Company.

Commission's September 14, 2018 order<sup>2</sup> on AEP's complaint concerning the identity of the Replacement Shippers for three defunct load-serving entities and how much, if any, additional generally applicable SECA charges<sup>3</sup> should have been assessed and distributed to AEP and other PJM Interconnection, L.L.C. transmission owners. The Settlement states that, within 15 business days of AEP's receipt of the payment provided for in the Settlement, AEP will submit a filing to the Commission withdrawing its complaint in Docket No. EL18-7-000 and requesting that the Commission terminate that proceeding.

2. On November 18, 2019, Commission Trial Staff filed comments supporting the Settlement. The MISO Transmission Owners<sup>4</sup> filed comments raising two concerns about the filing and language of the explanatory statement. The MISO Transmission Owners sought clarification that Commission's approval of the settlement will terminate both Docket Nos. ER20-207-000 and EL18-7-000 and will eliminate the need for the Commission to act on the pending rehearing requests filed by AEP and Midcontinent Independent System Operator, Inc. in Docket No. EL18-7. On November 27, 2019, AEP filed reply comments responding to the MISO Transmission Owners' concerns, stating that the Settlement, "if approved, will terminate both dockets listed in the caption" and that approval of the Settlement "will obviate the need for the Commission to address

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<sup>2</sup> *Amer. Elec. Power Serv. Corp. v. Midcontinent Indep. Sys. Operator, Inc.*, 164 FERC ¶ 61,186 (2018).

<sup>3</sup> SECA stands for Seams Elimination Charge/Cost Adjustments/Assignments.

<sup>4</sup> For purposes of this proceeding, the MISO Transmission Owners are Alliant Energy Corporate Services, Inc. on behalf of Interstate Power and Light Company; Ameren Services Company, as agent for Union Electric Company, Ameren Illinois Company and Ameren Transmission Company of Illinois; American Transmission Company LLC; City Water, Light & Power (Springfield, IL); Duke Energy Business Services, LLC for Duke Energy Indiana, LLC; E.ON U.S. LLC (for Louisville Gas and Electric Company and Kentucky Utilities Company); Hoosier Energy Rural Electric Cooperative, Inc.; Indianapolis Power & Light Company; International Transmission Company; Manitoba Hydro (Coordinating Owner); Michigan Electric Transmission Company, LLC; Minnesota Power (and its subsidiary Superior Water, L&P); MontanaDakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; and Wabash Valley Power Association, Inc.

the pending rehearing requests.”<sup>5</sup> On December 17, 2019, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.<sup>6</sup>

3. With respect to the standard of review, section 4.1 of the Settlement provides that:

The public interest standard of review set forth in *United Gas Pipe Line [Co.] v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County[, Washington]*, 554 U.S. 527 (2008) shall govern the Commission’s consideration of any modification of this Settlement Agreement that is proposed by a Settling Party unilaterally or with the concurrence of less than all Settling Parties. The “ordinary” just and reasonable standard of review, as discussed in *Morgan Stanley*, 554 U.S. 527, 535 (2008), shall govern the Commission’s consideration of any modification to this Settlement Agreement that is proposed by a non-Settling Party or the Commission itself acting sua sponte.

4. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission’s approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Settling Parties state that the Settlement resolves and disposes of all matters between them in Docket No. EL18-7-000; accordingly, we dismiss all of the pending requests for rehearing in Docket Nos. EL18-7-001, ER05-6-125, and ER10-2283-003.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>5</sup> AEP Reply Comments at 2.

<sup>6</sup> *Amer. Elec. Power Serv. Corp. v. Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 63,033 (2019).