

Articles + Publications | April 11, 2018

FERC Holds that MISO Interconnection Process Need Not Ensure that Interconnection Customers Receive PTC Benefits

Renewable Energy Insights

RELATED PROFESSIONALS

Christine Byrnes | Stuart A. Caplan | Todd R. Coles | Craig M. Kline | Vaughn H. Morrison | Emily Prince Thomason | Sasha G. Robertson | Andrew D. Schifrin | Craig E. Stearns | D. Charles "Charlie" Suessmith | John J. Leonti | Brian C. Harms | Scott M. Rickard | Hayden S. Baker | Justin Boose | Xuan Li | Jessica M. Lynch | Robert D. Schmicker | Matt Sides

Originally posted on [Troutman Sanders' Washington Energy Report](#)

On April 2, 2018, FERC denied a complaint alleging that the interconnection process under Midcontinent Independent System Operator, Inc.'s ("MISO") tariff was unjust and unreasonable because certain wind generators were experiencing delays in the process, such that those customers would not receive a Generator Interconnection Agreement ("GIA") in time to receive Federal Production Tax Credit ("PTC") benefits. In doing so, FERC found that there was no evidence that MISO was not making reasonable efforts to meet interconnection deadlines, as required by its tariff. FERC added that prior precedent does not require MISO to ensure wind generators receive their GIA in time to receive full PTC benefits.

On January 3, 2017, FERC approved reforms to MISO's interconnection process, including a new Definitive Planning Phase ("DPP") process. The new DPP involves three sequential phases, where system impact studies are completed at each phase. Under the revised DPP timeline, the three DPP phases are expected to take approximately 460 days until MISO is prepared to issue a GIA. In addition, FERC approved MISO's proposed transition plan to the new DPP, in which different regional study clusters in MISO are provided with distinct transition timelines.

In a January 4, 2018 complaint, EDF Renewable Energy, Inc. ("EDF") argued that the new process and transition plan are not just and reasonable because MISO is not meeting the deadlines for the DPP process in its tariff. EDF argued that MISO's tariff provides that the process from commencing DPP to the issuance of a GIA should take approximately one year. EDF claimed that MISO's timeline is so delayed that many wind generators will be unable to achieve commercial operation by December 31, 2020, and thus will be ineligible for the full benefits under the PTC. Although EDF acknowledged that MISO's tariff permits interconnection customers to enter into a provisional GIA before the study process is complete and a full GIA is obtained, EDF contended that provisional GIAs are not attractive to financing parties. Lastly, EDF proposed a fast track DPP mechanism for eligible interconnection customers that would ensure PTC benefits are not forfeited.

FERC denied EDF's complaint, finding that EDF did not show that delays experienced by interconnection

customers made MISO's tariff or MISO's performance thereunder unjust and unreasonable. FERC reasoned that the tariff requires MISO to make reasonable efforts to meet the interconnection deadlines, given that there are many factors impacting the interconnection process outside of MISO's control. FERC also concluded that EDF did not show that MISO is violating its obligation to make such reasonable efforts. Furthermore, FERC was not persuaded that MISO is required to create carve-outs from its interconnection process to accommodate parties seeking to benefit from an expiring PTC. Lastly, FERC found that most transition plan interconnection customers will receive their GIAs in time to qualify for the PTC in any event, and with respect to provisional GIAs, FERC noted that intervening parties provided evidence that provisional GIAs can be a successful solution for certain other customers.

A copy of FERC's order is available [here](#).

RELATED INDUSTRIES + PRACTICES

- Energy
- Renewable Energy