

DIRECT TESTIMONY

OF

SETH W. BROWN

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I. INTRODUCTION AND BACKGROUND

Q. Please state your name, title, and business addresses.

A. My name is Seth W. Brown. I am a Principal and Vice President at GDS Associates, Inc. My business address is 1850 Parkway Place, Suite 800, Marietta, Georgia, 30067.

Q. Mr. Brown, are you sponsoring any exhibits with your direct testimony?

A. No.

Q. Please summarize your educational background and professional experience.

A. I earned a bachelor's degree in Electrical Engineering, with an emphasis in Power Systems, from the Georgia Institute of Technology, and am a registered professional engineer in Georgia and Florida. I began my career in 1980 as a cooperative student with Florida Power & Light Co. (FP&L). Upon graduation, I worked as a testing engineer at FP&L and eventually as a Substation Supervisor. In 1987, I joined Southern Engineering Co. as a substation design engineer. In 1988, I joined Oglethorpe Power Corp. as a Substation O&M Engineer. I spent 14 years at Oglethorpe and, upon its reorganization, Georgia Transmission Corp. At GTC, the largest transmission cooperative in the nation, I served in several roles including Manager of Transmission O&M, Manager of Bulk System Planning and Manager of Tariff Services. I joined GDS Associates in 2002. I perform consulting services in a wide range of areas for transmission and distribution cooperatives and municipal electric systems. This includes consulting on Power Supply and Natural Gas Procurement, Bond and Rural Utilities Service Financing, Regional Transmission Organization integration and participation, NERC and Regional Entity Standards compliance, transmission contracts for services, analysis of system impact

1 studies, transmission queue issues and developing policies on complex issues such as
2 ancillary services and generator operations. I have appeared as an expert witness before
3 the Federal Electric Regulatory Commission (FERC) and the states of Virginia, Texas
4 and Michigan.

5 **Q. On whose behalf are you filing this compliance testimony?**

6 A. I am testifying on behalf of the City of Henderson and City of Henderson, Kentucky,
7 Utility Commission, d/b/a Henderson Municipal Power & Light (jointly “Henderson”).

8 **II. PURPOSE OF TESTIMONY**

9 **Q. What is the purpose of your testimony?**

10
11 A. The purpose of my testimony is to discuss the Midcontinent Independent System
12 Operator (“MISO”) fees Big Rivers has assessed to Henderson, including Tariff
13 Schedules 17 and 23, for the period beginning in December 2010 and ending in May
14 2016. I intend to explain why there was no basis for Big Rivers to charge Henderson for
15 costs under the MISO Tariff Schedule 23.

16 **Q. What documents did you review and evaluate in preparing your testimony?**

17 A. I reviewed the Direct Testimony of Mark J. Eacret; Big Rivers’ response to Item No. 48
18 of Henderson’s First Request for Information; and Exhibit Eacret-3. I also reviewed Big
19 Rivers’ responses to Henderson’s Supplemental Request for Information dated June 29,
20 2020. In addition, I reviewed the MISO FERC-filed Tariff and its associated service
21 schedules. I use the terms “Tariff” and “MISO Tariff” to refer to the MISO Open Access
22 Transmission, Energy and Operating Reserve Markets Tariff. The Tariff establishes the
23 rates, terms and conditions necessary to take and receive MISO transmission service and
24 participate in the MISO energy market.

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III. DISCUSSION OF MISO TARIFF SCHEDULE 17 CHARGES

Q. Please describe your experience with MISO in your capacity with GDS.

A. GDS on an ongoing basis assists its municipal utility and electric cooperative clients with integration of their facilities into the MISO footprint along with power supply procurement, generator offers, load forecasting and demand bids, billing and settlement reviews, transmission planning and resource adequacy functions within the MISO market.

Q. Please identify the MISO fees Big Rivers assessed against Henderson for the time period beginning in December 2010 and ending in May 2016.

A. BREC assessed fees associated with, among other things, MISO Tariff Schedule 17 and MISO Tariff Schedule 23. For the time period from December 2010 through May 2016, these fees totaled \$272,801.97 and \$753,538.92 respectively.

Q. Please describe the designation of grandfathered agreements by BREC on behalf of HMPL.

A. BREC designated Contract No. 510 and Contract No. 511 as Grandfathered Agreements Carved-Out (“GFCAO”) as exhibited in MISO Tariff Attachment P - Electric Tariff List of Grandfathered Agreements. Contract No. 510 is the Agreement for Transmission and Transformation Capacity dated April 11, 1975. Contract No. 511 is the Letter Agreement for Scheduling Southeastern Power Administration energy.

Q. Please provide your interpretation of the MISO tariff Schedule 17 and how this applies to Contract No. 510.

1 A. MISO Schedule 17 is titled “Energy and Operating Reserve Markets Support
2 Administrative Service Cost Recovery Adder.” The associated service is deemed to be
3 provided to all MISO Market Participants that “...participate in Transactions using the
4 Transmission System or Energy and Operating Reserve Markets...”¹. Schedule 17 further
5 states: “A Market Participant acting as a Grandfathered Agreements (“GFA”)
6 Responsible Entity will be assessed Schedule 17 charges for associated injection and
7 withdrawal schedules submitted by the Market Participant in association with service
8 taken pursuant to Option A, Option B, Option C or Carve-Out GFA Tariff provisions as
9 ordered by the Commission” As I previously stated, Contract No. 510 was designated by
10 Big Rivers as a GFACO as shown in prior versions of MISO Tariff Attachment P. ²

11 **Q. Please describe the appropriateness of this charge relative to Contract No. 510.**

12 A. Schedule 17 lists six (6) services for which MISO intends to recover associated costs
13 from the Market Participant, including those Market Participants acting as a GFA
14 Responsible Entity. These services include, but are not limited to 1) market modeling and
15 scheduling functions; 2) market bidding support; 3) locational marginal pricing support;
16 4) market settlements and billing; 5) market monitoring functions; and, 6) simultaneous
17 co-optimization for the scheduling and enabling of the least-cost, security-constrained
18 commitment and dispatch of Generation Resources to serve Load and provide Operating
19 Reserves in the MISO Balancing Authority Areas while establishing a spot energy
20 market. Since Station Two and Henderson’s load were registered in the MISO Network
21 and Commercial Model, some of these six services and their associated costs may be
22 recoverable from HMPL.

¹ MISO FERC Electric Tariff, Schedule 17 Energy and Operating Reserve Markets Support Administrative Service Cost Recovery, Section I, Effective June 1, 2020.

² Federal Energy Regulatory Commission Docket No. ER11-03276-000 , filed 4/1/2011.

1 **IV. DISCUSSION OF MISO TARIFF SCHEDULE 23 CHARGES**

2 **Q. Please provide your interpretation of the MISO Tariff Schedule 23.**

3 A. MISO Schedule 23 is entitled Recovery of Schedule 10 and Schedule 17 Costs from
4 Certain GFAs. The stated purpose is to recover costs applicable to customers under
5 Carved-Out GFAs. Included in these costs is the recovery of actual Schedule 10 and 17
6 costs assessed to the Transmission Owners for or on behalf of such Carved-Out GFA
7 Customers by the Transmission Provider. The Transmission Provider, MISO, bills the
8 Carved-Out GFA Customers an amount equal to the amount absent Schedule 23 *it would*
9 *have billed the Transmission Owner under Section 7 of the Tariff for Schedules 10 and 17*
10 *charges associated with Carved-Out GFAs*³. Further, the Transmission Owner (Big
11 Rivers) shall provide the Transmission Provider with the necessary billing information
12 for the Carved-Out GFA Customer (including...any credits received by the Transmission
13 Owner under the Tariff relating to Schedule 10 and 17 charges applicable to Carved-Out
14 GFAs on Schedule 23, Attachment 1) *prior to invoicing such Carved-Out Customer*
15 *pursuant to this Schedule 23*⁴.

16 **Q. Did Henderson request supporting documentation from Big Rivers regarding**
17 **reporting to MISO of Schedule 17 charges levied against Henderson?**

18 A. Yes. See Big Rivers' response to Item No. 38 of Henderson's Supplemental Data Request
19 dated June 29, 2020. Big Rivers claims Big Rivers has received no credits associated with
20 Schedule 17 when, in fact, Big Rivers billed Henderson in the amount of \$272,802 for the
21 period beginning in December 2010 and May 2016.

22 **Q. Was Schedule 23 applicable to Henderson?**

³ MISO Tariff Schedule 23, Section 2.2, Effective November 19, 2013, emphasis added.

⁴ Id. Emphasis added.

1 A. I do not believe Schedule 23 was applicable to Henderson for two specific reasons. 1)
2 Schedule 23 clearly states that Carved-Out GFAs shall be the grandfathered agreements
3 which the Commission carved out from MISO's energy market tariff in its September 16,
4 2004 order in Docket No. ER04-691 and 2) if a Carved-Out GFA Customer is not a
5 Market Participant or a Transmission Customer, or is not otherwise obligated to comply
6 with the Tariff, then MISO is to file a service agreement, executed or unexecuted, with
7 the Commission to allow charges to the Carved-Out GFA Customer under Schedule 23.
8 GFA No. 510, the Agreement for Transmission and Transformation Capacity and GFA
9 No. 511, the SEPA Letter Agreement, do not meet the definition of a Carved-Out GFA as
10 neither agreement was listed in the Commission's Order in Docket No. ER04-691, nor
11 listed in Attachment 1 to Schedule 23. Further, no service agreement was filed, either
12 executed or unexecuted, with the Commission to permit recovery of Schedule 23 costs.
13 Big Rivers states it is unaware that such a filing requirement exists⁵.

14 **Q. Are there specific prohibitions on double recovery of both schedule 17 and 23 from**
15 **the GFA carved-out customers such as HMPL?**

16 A. Yes. The MISO Tariff has an explicit prohibition against double recovery. Schedule 23
17 states that amounts *may not be recovered under Schedule 23 if they are otherwise being*
18 *recovered from the Carved-Out GFA Customer*. Further, the Transmission Owner shall,
19 at the time of initial billing for Schedule 23, provide a breakdown of charges and certify
20 that Schedule 17 charges billed to its Carved-Out GFA Customers are not duplicative of
21 costs already recovered by the Transmission Owner⁶.

22

⁵ BREC's Response to Item No. 39 of HMPL's Supplemental Data Request dated June 29, 2020

⁶ MISO Tariff Schedule 23, Section 2.5, Effective November 19, 2013, emphasis added.

1 V. **CONCLUSION**

2 Q. **What conclusion can you draw based on your review of the facts?**

3 A. First, I conclude that the two GFAs, Nos. 510 and 511, should not have been designated
4 by Big Rivers for Carved-Out treatment and such designation was likely in violation of
5 the MISO Tariff. Secondly, I conclude that even if the two GFAs in question were in fact
6 eligible for Carved-Out treatment, BREC improperly billed HMPL for Schedule 23
7 charges. Such Schedule 23 charges could have only been billed to HMPL by MISO
8 subject to a Schedule 23 Service Agreement filed with FERC and there was no such
9 filing. Finally, BREC billed both Schedule 17 and Schedule 23 charges for the GFAs,
10 which constitutes a violation of the Tariff's prohibition against double recovery.
11 Therefore, it is my opinion that Big Rivers improperly billed Henderson a total of
12 \$753,539 for the period beginning in December 2010 and ending in May 2016.

13 Q. **Mr. Brown, does this conclude your testimony?**

14 A. Yes.

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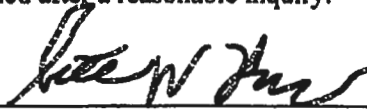
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**BEFORE THE PUBLIC SERVICE COMMISSION
IN THE MATTER OF
BIG RIVERS ELECTRIC CORPORATION
APPLICATION OF BIG RIVERS ELECTRIC CORPORATION FOR
ENFORCEMENT OF RATE AND SERVICE STANDARDS
CASE NO. 2019-269**

VERIFICATION

I, Seth W. Brown, verify, state and affirm that I prepared or supervised the preparation of the Direct Testimony filed with this Verification, and that Direct Testimony is true and accurate to the best of my knowledge, information and belief formed after a reasonable inquiry.



Seth W. Brown

STATE OF GEORGIA)
COUNTY OF COBB)

SUBSCRIBED AND SWORN to before me by Seth W. Brown on this the 14th day of July, 2020.



Notary Public, Georgia State at Large
My Commission Expires: 1/8/2023

