142 FERC ¶ 61,182
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 8, 2013

In Reply Refer To:
Midwest Independent Transmission
System Operator, Inc.
Docket No. ER12-817-001

Midwest Independent Transmission
System Operator, Inc.
Attention: Matthew R. Dorsett, Attorney
720 City Center Drive
Carmel, IN 46032

Andrews and Kurth LLP
Attention: Richard A. Drom
1350 I Street, NW
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Washington, DC 20005

Dear Mr. Dorsett:

1. On December 27, 2012, the Midwest Independent Transmission System Operator, Inc. (MISO) submitted the instant compliance filing (December 2012 Filing) to meet the requirements of the November 2012 order[1] with respect to Module E (Resource Adequacy) of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).[2] As discussed below, we will accept MISO's proposed Tariff revisions to be in compliance with that order and to be effective February 27, 2013, but require an additional compliance filing as discussed below.

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[1] *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,152 (2012) (November 2012 Order).

[2] MISO, FERC Electric Tariff, Fourth Revised Volume No. 1.

2. On December 15, 2011, the Commission issued an order requiring MISO to propose procedures that would allow external resources to participate in its monthly capacity auction.[3] Under Module E, certain external resources had been excluded from the monthly auction because those resources did not meet MISO's universal deliverability requirement.[4]

3. MISO subsequently filed a compliance filing on January 17, 2012 (January 2012 Filing). Rather than complying with the December 2011 Order, MISO claimed that the issue was addressed in a July 2011 filing in which MISO proposed a new resource adequacy construct (Module E-1). That new construct was approved by the Commission to take effect in June 2013.[5]

4. In the November 2012 Order, the Commission found that the January 2012 Filing failed to comply with the December 2011 Order. The Commission therefore required MISO to submit a compliance filing to revise its Tariff to allow external resources to participate in the Module E monthly auctions before MISO transitions to Module E-1.[6]

5. In the December 2012 Filing , MISO proposes to allow an external resource to participate in the Module E monthly auction when the external resource has arranged Network Resource Interconnection Service (NRIS) through one of the following two deliverability study options: (1) the external resource is located in the footprint of a neighboring transmission provider with an approved market-to-market congestion management seams agreement with MISO that provides for a single joint deliverability study (market-to-market agreement option); or (2) the external resource is located in the footprint of a neighboring transmission provider without such an agreement, and MISO determines that the external resource is deliverable based on MISO's deliverability studies performed in accordance with the generation interconnection criteria in Attachment X. MISO also proposes a tariff revision to clarify that capacity associated with external resources with NRIS can be converted into aggregate planning resource credits that can be offered into the monthly auction. MISO requests an effective date of February 27, 2013.

[3] *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,213 (2011) (December 2011 Order).

[4] *Id.* P 117.

[5] *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,199 (2012).

[6] November 2012 Order, 141 FERC ¶ 61,152 at P 10.

6. Notice of MISO's December 2012 Filing was published in the *Federal Register*, 78 Fed. Reg. 8 (2013), with interventions or protests due on or before January 17, 2013. Timely motions to intervene were filed by FirstEnergy Services Company and Ameren Services Company. Timely notices of intervention were filed by the Illinois Commerce

Commission and the Public Service Commission of Wisconsin. American Electric Power Service Corporation (AEP) filed a timely motion to intervene and protest. MidAmerican Energy Company (MidAmerican) filed a timely comment. The Electric Power Supply Association (EPSA) filed a motion to intervene and comment. On January 28, 2013, Calpine Corporation filed an out-of-time motion to intervene. On January 28, 2013, Manitoba Hydro filed an answer. On February 1, 2013, MISO submitted an answer.

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely notices of intervention and unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

8. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), the Commission will grant Calpine Corporation's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest or answers unless otherwise ordered by the decisional authority. We will accept MISO's and Manitoba Hydro's answers because they have provided information that assisted us in our decision-making process.

10. In its protest, AEP argues that the market-to-market agreement option in MISO's proposal should be rejected because it is outside the scope of the compliance directive. AEP also notes that the market-to-market agreement option is being addressed in the Capacity Portability proceeding in Docket No. AD12-16 and, thus, it would be inappropriate to accept the market-to-market agreement option in this proceeding. AEP believes that MISO can use its current deliverability study process to allow certain external resources to participate in the Module E monthly auctions.

11. MidAmerican recommends that the Commission reject the filing as moot since the timelines for Commission approval of market-to-market agreements will not allow any time for conducting a joint deliverability study for the monthly auctions under Module E. EPSA argues that MISO's proposal is unduly discriminatory to internal generators because the proposal would exempt external resources from deliverability studies to load within MISO that are required for internal resources.

12. In its answer, Manitoba Hydro claims that the December 2012 Filing will have little practical significance with the impending deployment of Module E-1 in June 2013. However, in its answer, MISO asserts that it can complete the necessary studies for external resources to participate in the final Module E monthly auction for May 2012. Responding to AEP and EPSA, MISO notes that the market-to-market agreement option does not limit the initiatives underway in the Capacity Portability proceeding in Docket No. AD12-16. MISO also responds to EPSA that its deliverability analysis for internal and external resources is identical and therefore there is no basis for a claim of discrimination.

13. We accept MISO's proposal to allow external resources to participate in the final Module E monthly auction when MISO determines that the external resource is deliverable based on MISO's deliverability studies, performed in accordance with the generation interconnection criteria in Attachment X. Inasmuch as the deliverability analysis for internal and external resources is identical, as MISO notes in its answer,[7] we find no basis for EPSA's claim that MISO's proposal is unduly discriminatory vis-à-vis internal resources.

14. However, we will not accept MISO's market-to-market agreement option. The concept of market-to-market agreements providing for joint deliverability studies is being discussed by MISO and PJM Interconnection, L.L.C. stakeholders in the Joint and Common Market Initiative meetings, as well as the Capacity Portability proceeding in Docket No. AD12-16. We find it premature for MISO to incorporate reference to this concept in its Tariff at this time;[8] nor is such reference necessary for MISO to comply with the November 2012 Order. Accordingly, we reject MISO's proposed reference to the market-to-market agreement option as premature and outside the scope of this proceeding.

15. For these reasons, we accept the December 2012 Filing, to be effective February 27, 2013, conditioned on the removal of the market-to-market agreement option without prejudice. We also require that the remaining option be revised to delete any reference to market-to-market agreements, thereby ensuring that it allows for participation of external resources from all neighboring transmission providers, including those with seams

[7] MISO Answer at 7.

[8] *See, e.g.*, *Midwest Indep. Transmission Sys. Operator, Inc.*, 112 FERC ¶ 61,281, at P 14 (2005) (finding it premature to reference a new cost allocation methodology that had not yet been adopted in the MISO Tariff); *Midwest Indep. Transmission Sys. Operator, Inc.*, 113 FERC ¶ 61,048, at P 15 (2005).

agreements. We require MISO to submit these revisions in a compliance filing within 30 days of the date of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.