145 FERC ¶ 61,044
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Midcontinent Independent System Operator, Inc. — Docket No. ER13-2124-000

ORDER ACCEPTING AND SUSPENDING PROPOSED TARIFF REVISIONS SUBJECT TO THE OUTCOME OF A TECHNICAL CONFERENCE AND FURTHER COMMISSION ORDER

(Issued October 16, 2013)

1. On August 7, 2013, Midcontinent Independent System Operator, Inc. (MISO) submitted a filing (August 7 Filing), pursuant to section 205 of the Federal Power Act, proposing revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), regarding the allocation of real-time Revenue Sufficiency Guarantee (RSG) costs.[1] In this order, we accept and suspend for five months MISO's August 7 Filing, subject to the outcome of a technical conference and further Commission order.

I. Background

2. Under the existing MISO Tariff, a generation or demand response resource receives real-time RSG credits if MISO commits it through the Reliability Assessment Commitment or Look-Ahead Commitment processes after the close of the day-ahead energy and operating reserve markets and if the resource then receives insufficient real-time energy and operating reserve revenues to cover its as-offered production costs. To fund these RSG credits, MISO assesses real-time RSG charges to certain market participants, pursuant to section 40.3.3 of the Tariff.[2]

[1] 16 U.S.C. § 824d (2006).

[2] MISO, FERC Electric Tariff, 40.2.19, Real-Time Revenue Sufficiency Guarantee, 1.0.0, 40.3.3, Real-Time Energy and Operating Reserve Market Settlement Cal, 12.0.0, § 40.3.3.b.vi.

3. MISO states that it currently allocates real-time RSG costs in two steps or "passes." According to MISO, in the RSG First Pass Distribution, MISO allocates real-time RSG costs directly to market participants that cause the incurrence of these costs based on four major reasons for unit commitments: (1) to manage an Active Transmission Constraint (recovered via Constraint Management Charges); (2) to manage a voltage or local reliability concern (recovered via Voltage and Local Reliability Charges); (3) to address deviations from Day-Ahead Schedules (recovered via Day-Ahead Schedule Deviation Charges); and (4) to address the need for headroom (recovered via Headroom Charges).[3] MISO states that, in the RSG Second Pass Distribution, it allocates any remaining real-time RSG costs to all Market Participants *pro rata* based on their market load-ratio share.

4. In the August 7 Filing, MISO proposes several revisions to the allocation of real-time RSG costs via Constraint Management, Day-Ahead Schedule Deviation, and Headroom Charges. According to Dr. Patton, MISO's current cost allocation methodology allocates a disproportionate share of real-time RSG costs to Day-Ahead Schedule Deviation and Headroom Charges, rather than Constraint Management Charges.[4] Dr. Patton maintains that this occurs because the share of real-time RSG costs allocated to Constraint Management Charges cannot exceed the Constraint Contribution Factor of the resource committed to manage the active transmission constraint, which generally ranges from three to 15 percent.[5] He argues that the residual real-time RSG

[3] MISO states that it allocates Headroom Charges to all market participants based on market load-ratio share. August 7 Filing at 2-3.

[4] MISO attached an affidavit of David B. Patton of Potomac Economics, MISO's Independent Market Monitor, as Tab C to the August 7 Filing (Patton Test.). Dr. Patton maintains that MISO allocated 90 percent of the real-time RSG costs incurred during 2012 to market-wide deviations, even though such deviations caused only 50 percent of the costs. Patton Test. at 5-6.

[5] *Id.* MISO explains that the Constraint Contribution Factor for a resource committed to manage an active transmission constraint represents the amount by which a 1 MW change in output will help alleviate the flow on that constraint (e.g., if a resource with a ten percent Constraint Contribution Factor increases its output by 10 MWs, it will provide 1 MW of relief on the flow of the active transmission constraint). August 7 Filing at 7.

costs are collected via Day-Ahead Schedule Deviation and Headroom Charges or the RSG Second Pass Distribution.[6]

5. MISO maintains that the Constraint Contribution Factor should no longer be used as a cap to limit the amount of real-time RSG costs allocated via Constraint Management Charges because this factor does not accurately indicate the amount of real-time RSG costs attributable to an active transmission constraint.[7] MISO proposes to instead determine the amount of real-time RSG costs that should be allocated via Constraint Management Charges using a new Constraint Management Charge Allocation Factor. MISO proposes to determine this Constraint Management Charge Allocation Factor by conducting a quarterly study using the prior year's data to evaluate unit commitments associated with all active transmission constraints, as described in new Schedule 46 of the Tariff. MISO maintains that the Constraint Management Charge Allocation Factor will serve as a better indicator of the real-time RSG costs that should be attributed to active transmission constraints.[8] To the extent that real-time RSG costs attributed to active transmission constraints by the Constraint Management Charge Allocation Factor cannot be collected via Constraint Management Charges due to the existing rate cap portion of the formula,[9] MISO proposes to allocate the residual real-time RSG costs via the RSG

[6] Dr. Patton states that Constraint Management Charges were reduced by $8 million in 2012 due to the application of the Constraint Contribution Factor, which inflated Day-Ahead Schedule Deviation and Headroom Charges and the RSG Second Pass Distribution by the same amount. Patton Test. at 6.

[7] MISO explains, for example, that if there is congestion to manage on the system and the least-cost, available resource has a Constraint Contribution Factor of -0.1 for a given active transmission constraint, MISO could allocate to the Constraint Management Charge only ten percent of the real-time RSG costs associated with that resource. August 7 Filing at 6-7.

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

[9] MISO states that, in order to avoid charging a given deviation an exorbitant Constraint Management Charge rate, the rate formula caps the rate by using as the denominator of the rate the greater of the MW amount of the deviations that caused the need for the commitments or the MW amount of capacity that was committed. *Id.* at 9-10.

Second Pass Distribution, so that they are not allocated via Day-Ahead Schedule Deviation Charges.[10]

6. MISO proposes to net deviations on a market-wide basis, rather than only by asset owner or by administrative netting between asset owners through financial schedules, when determining Day-Ahead Schedule Deviation and Headroom Charges. MISO states that its current practice of netting deviations across a single asset owner has a very minor impact on these charges, and the administrative netting through financial schedules has never been used. MISO explains that market-wide deviations are often allocated real-time RSG costs in hours when deviations from day-ahead schedules are not likely to cause any additional unit commitments.[11] In particular, MISO explains that when the sum of market-wide net deviations and headroom need are negative, they do not cause any real-time RSG costs. MISO states that when the sum of market-wide net deviations and headroom need are positive but less than the amount of economically-committed capacity, they cause only a portion of any associated real-time RSG costs. MISO maintains that only when the sum of market-wide net deviations and headroom need is greater than or equal to the economically-committed capacity will they be entirely responsible for any associated real-time RSG costs. MISO maintains that its proposal to net market-wide deviations will allow the allocation of real-time RSG costs to reflect the incurrence of the underlying costs.[12]

7. MISO proposes to exempt from the allocation of real-time RSG costs deviations that occur after the four-hour notification deadline for the real-time market and increase available capacity (i.e., supply-increasing deviations). MISO argues that these deviations may "impact the pricing circumstances of the market (because of a shift to the left along the aggregate supply curve)," but do not cause the need for additional unit commitments, which are the "most relevant causes" of real-time RSG costs.[13] Because these "helping" deviations do not necessitate unit commitments, MISO argues that they should not be

[10] MISO explains that, if a resource's 1 MW deviation necessitates a 100 MW commitment that resulted in a $1,000 real-time RSG credit and the Constraint Management Charge Allocation Factor is 90 percent, then $100 ($1,000 x (1-.90)) will be allocated to the real-time Day-Ahead Schedule Deviation Charge, and only $9 ($900 / (maximum of 1 or 100 MW)) of the remaining $900 will be allocated to the resource via Constraint Management Charges. Under MISO's proposal, it will allocate the remaining $891 via the RSG Second Pass Distribution. *Id.* at 10.

[11] *Id.* at 11-12.

[12] *Id.* at 12-15.

[13] *Id.* at 17-18.

considered when allocating real-time RSG costs via Day-Ahead Schedule Deviation Charges.[14]

8. According to MISO, under the current Tariff, the calculation of load deviations that occur after the notification deadline for the real-time market accounts for net energy withdrawals but not net energy injections. However, MISO asserts that these net energy injections impact the management of congestion and may result in deviations that cause real-time RSG costs. Accordingly, MISO proposes to allocate RSG costs to load zones based on both net energy withdrawals and injections.[15] In addition, MISO proposes several Tariff changes to correct inadvertent deletions and typographical errors.[16]

9. MISO requests that its proposed Tariff revisions be made effective on October 17, 2013. MISO also requests Commission action on the August 7 Filing by October 7, 2013, because MISO needs approximately ten days to "finalize system adjustments that would enable MISO to include the proposed Tariff revisions in the first billing cycle for the October 17, 2013 effective date."[17]

II. Notice of Filing and Responsive Pleadings

10. Notice of MISO's August 7 Filing was published in the *Federal Register*, 78 Fed. Reg. 49,742 (2013), with interventions and protests due on or before August 28, 2013. Motions to intervene were filed by Ameren Services Company (Ameren);[18] American Municipal Power, Inc.; Consumers Energy Company; DC Energy Midwest, LLC; NRG

[14] *Id.* at 18-19.

[15] *Id.* at 19-20.

[16] In particular, MISO proposes to: (1) restore references to "net" in section 40.3.3.a.i, which were inadvertently omitted in a previous filing; (2) capitalize Load "Zone" in section 40.3.3.a.iii(4); (3) refer to "Dispatchable Intermittent Resources" in section 40.3.3.a.ii; and (4) refer to "Transmission Provider," rather than "MISO," in section 40.3.3.d. *Id.* at 20.

[17] *Id.* at 21.

[18] Ameren filed on behalf of Ameren Energy Generating Company, Ameren Energy Marketing Company, Ameren Illinois Company, AmerenEnergy Resources Generating Company, and Union Electric Company.

Companies;[19] SESCO Enterprises, LLC; and Wisconsin Electric Power Company. Timely motions to intervene and comments were filed by MidAmerican Energy Company (MidAmerican) and Xcel Energy Services Inc. (Xcel).[20] A timely motion to intervene and protest was filed by Madison Gas & Electric Company (Madison). MISO filed an answer to the comments and protest. Madison filed an answer to MISO's answer.

11. Madison contends that MISO's proposal to exempt from the allocation of real-time RSG costs supply-increasing deviations that occur after the notification deadline for the real-time market is based on the erroneous premise that only the unit commitment process should be considered in determining the causation of real-time RSG costs. Madison contends that these deviations can reduce locational marginal prices, thereby increasing the likelihood that generators will be unable to recover their production costs via market revenue and necessitating real-time RSG credits. In response to MISO's assertion that the key factor in determining the cause of real-time RSG costs is unit commitment, rather than market prices, Madison argues that unit commitment must be paired with a market price below the profitability threshold of the generator; otherwise, MISO will not need to provide real-time RSG credits.[21]

12. MidAmerican does not oppose MISO's proposed Tariff revisions but requests clarification or further revisions to address potential inconsistencies in the August 7 Filing. MidAmerican argues that certain proposed revisions in section 40.3.3.a.v conflict with existing Tariff provisions indicating that any residual real-time RSG costs that are not allocated via Constraint Management Charges are not allocated solely via Day-Ahead Schedule Deviation and Headroom Charges (e.g., MISO allocates some real-time RSG costs via Voltage and Local Reliability Charges and the RSG Second Pass Distribution). MidAmerican concludes that these proposed revisions to section 40.3.3.a.v are unnecessary because existing sections 40.3.3.a.vi through 40.3.3.a.ix of the Tariff outline the components of the Day-Ahead Schedule Deviation and Headroom Charges. In addition, MidAmerican requests several Tariff revisions to use consistent terms and section references.[22]

---

[19] For the purposes of this proceeding, NRG Companies include Bayou Cove Peaking Power LLC; Big Cajun I Peaking Power LLC; Cottonwood Energy Company LP; GenOn Energy Management, LLC; Louisiana Generating LLC; NRG Power Marketing LLC; NRG Sterlington Power LLC; and NRG Wholesale Generation LP.

[20] Xcel filed on behalf of Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation.

[21] Madison Protest at 3-5.

[22] MidAmerican Comments at 3-4.

13. Xcel supports acceptance of MISO's proposed Tariff revisions. However, with regard to MISO's request that the Commission act on the proposed revisions ten days prior to the requested effective of October 17, 2013 (i.e., by October 7, 2013), Xcel requests that the Commission consider an effective date 40 days after a Commission order (i.e., November 16, 2013 if the Commission acts on October 7, 2013, as requested by MISO). Xcel maintains that this will provide MISO market participants with sufficient time (up to 40 days) to implement corresponding system changes to reflect operations under the new RSG rules. Xcel notes that MISO often requests up to 90 days to implement market design changes and that a short extension of the effective date of the proposed Tariff changes should have little impact on the overall MISO market.[23]

14. In its answer, MISO argues that the Commission should reject Madison's protest because the proper basis for allocating RSG costs is the direct causation of additional unit commitments in the Reliability Assurance Commitment and Look-Ahead Commitment processes, not the pricing environment in which the additional commitments could result in RSG credits. MISO contends that unit commitment is the rationale that the Commission articulated in finding appropriate the allocation of RSG costs to certain deviations.[24] MISO points out that, according to Dr. Patton, the cost causation principles that underlie the Tariff's RSG cost allocation require costs to be assigned to deviations that directly cause RSG by contributing to MISO's need to commit peaking resources.[25] MISO asserts that Madison unreasonably dissociates direct responsibility for deviations that are the primary cause of additional unit commitments, and the locational marginal price situation that could result in RSG payments to the committed units. MISO further argues that it is inappropriate to attempt to allocate RSG costs to the "myriad of potential actions that could indirectly affect RSG by influencing LMPs" as these are merely "secondary effects," which are "difficult to estimate and unpredictable."[26] MISO maintains that Madison has given no reason why capacity-increasing deviations should be singled out among other price-reducing factors, to be allocated real-time RSG costs. Therefore, MISO argues that post-notification deadline capacity-increasing deviations should not be allocated real-time RSG costs because they do not cause the need for

[23] Xcel Comments at 2-5.

[24] MISO Answer at 5 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,264, at P 103 (2011)).

[25] MISO attached an answering affidavit of David B. Patton of Potomac Economics as Attachment 1 to MISO's Answer (Patton Answering Aff.).

[26] MISO Answer at 7-8 (citing Patton Answering Aff. at P 5).

additional capacity commitments, and their potential secondary price effects are not a valid basis for such allocation.[27]

15. MISO disagrees with MidAmerican's argument that the two proposed paragraphs in section 40.3.3.a.v describing the costs allocated via Day-Ahead Schedule Deviation and Headroom Charges are unnecessary. MISO contends that these paragraphs explain how RSG costs are to be allocated and recovered for a resource that is committed in a Reliability Assurance Commitment and Look-Ahead Commitment process, in light of the proposed adoption of the Constraint Management Charge Allocation Factor. MISO further argues that this principle is not already articulated elsewhere in the Tariff because the Tariff does not yet account for the incorporation of the Constraint Management Charge Allocation Factor. MISO also maintains that the sections to which MidAmerican refers are specific to cost allocation, whereas the proposed new paragraphs refer to cost recovery.[28] In addition, MISO agrees with MidAmerican's suggested corrections of certain section number cross-references and states that it would be amendable to making such corrections if so ordered by the Commission.[29]

16. MISO also states that it believes the additional system adjustment period requested by Xcel is appropriate, and is amenable to a later effective date (i.e., 40 days after the acceptance of the proposed Tariff revisions).[30]

17. In its answer, Madison argues that, contrary to MISO's assertion, the Commission did not find unit commitment to be the only factor that causes the incurrence of RSG costs and expressly approved MISO's proposal to allocate a portion of real-time RSG costs to supply-increasing deviations.[31] Madison maintains that MISO has the burden of proof in this proceeding and has failed to demonstrate that supply-increasing deviations should be exempted from real-time RSG charges. According to Madison, MISO's argument that the effects of supply-increasing deviations on the ability of market prices to allow resources to recover their commitment costs are difficult to estimate does not

---

[27] *Id.* at 5-9.

[28] *Id.* at 11-12.

[29] *Id.* at 12.

[30] *Id.* at 13.

[31] Madison Answer at 3-5 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,113, at P 147 (2006)).

justify exempting these deviations from real-time RSG charges, as the Commission found in a previous order regarding the allocation of RSG costs to virtual transactions.[32]

III. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[33] the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,[34] prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We accept Madison's and MISO's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

20. The Commission finds that MISO's proposal to revise its allocation of real-time RSG charges may be unjust, unreasonable, and unduly discriminatory or preferential. Further explanation is needed regarding the calculation of Constraint Management, Day-Ahead Schedule Deviation, and Headroom Charges under the proposed Tariff revisions. In particular, MISO does not explain the determination of Constraint Management Charge Allocation Factors under proposed Schedule 46;[35] why it maintains the use of its existing Constraint Contribution Factor in the calculation of Constraint Management Charges;[36] or how it has adjusted the calculation of Day-Ahead Schedule Deviation and Headroom Charges to permit market-wide netting of deviations (e.g., how it will consider costs attributable to Headroom Charges in the event that market-wide deviations attributable to Day-Ahead Schedule Deviation Charges are negative).[37]

---

[32] *Id.* at 5-7 (citing *Ameren Servs. Co. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,161, at PP 113, 115 (2008)).

[33] 18 C.F.R. § 385.214 (2013).

[34] 18 C.F.R. § 385.213(a)(2) (2013).

[35] MISO, FERC Electric Tariff, SCHEDULE 46, Constraint Management Charge Allocation Factor Study, 0.0.0.

[36] *Id.* 40.3.3, Real-Time Energy and Operating Reserve Market Settlement Cal, 13.0.0, §§ 40.3.3.a.iv-v.

[37] *Id.* § 40.3.3.a.ix.

MidAmerican also raises concerns regarding consistency in the description of the costs that MISO will allocate via real-time RSG Day-Ahead Schedule Deviation and Headroom Charges, including how proposed Tariff language in section 40.3.3.a.v describing the use of the Constraint Management Charge Allocation Factor in determining the costs allocated via these charges is consistent with existing language in other Tariff sections that MISO proposes to retain. In addition, Madison maintains that MISO has not shown that supply-increasing deviations that increase available capacity do not cause the incurrence of real-time RSG costs.

21. To provide an opportunity to expeditiously explore issues related to the allocation of real-time RSG costs under MISO's proposal and to supplement the existing record, we accept and suspend for five months MISO's proposal in the August 7 Filing, subject to a technical conference and further order by the Commission, and we direct Commission staff to convene a technical conference. The details of such conference will follow in a subsequent notice. Parties should be prepared to address the issues raised and to fully support their positions. Following the conference, the parties will have an opportunity to file written comments that will be included in the formal record of the proceeding, which, together with the record developed to date, will form the basis for further Commission action.

<u>The Commission orders</u>:

(A) MISO's proposed Tariff revisions in the August 7 Filing are hereby accepted and suspended for five months to be effective March 17, 2014, subject to a technical conference and further Commission order, as discussed in the body of this order.

(B) Commission Staff is hereby directed to convene a technical conference to be held at a date specified in a subsequent notice, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.