

145 FERC ¶ 61,209
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 11, 2013

In Reply Refer To:
Midcontinent Independent System
Operator, Inc.
Docket No. ER14-83-000

Midcontinent Independent System
Operator, Inc.
Attention: Michael Kessler, Assistant General Counsel
PO Box 4202
Carmel, IN 46082-4202

Dear Mr. Kessler:

1. On October 14, 2013, pursuant to section 205 of the Federal Power Act,¹ Midcontinent Independent System Operator, Inc. (MISO)² submitted proposed revisions to Module E-1 of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) in order to remove potential barriers to external resources' participation in MISO's annual planning resource auction (October 14 Filing). As discussed below, we conditionally accept MISO's proposal, to become effective December 13, 2013, subject to MISO's submission of a compliance filing.

2. In July 2011, MISO proposed Module E-1 of the Tariff, which sets forth MISO's currently effective resource adequacy construct.³ Under Module E-1, MISO conducts an

¹ 16 U.S.C. § 824d (2012).

² Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

³ Midwest Independent Transmission System Operator, Inc., Application, Docket No. ER11-4081-000 (filed July 20, 2011).

annual planning resource auction in which market participants may qualify external resources as capacity resources, subject to a number of conditions. As relevant to the October 14 Filing, in order to qualify an external resource as a capacity resource, a market participant must demonstrate that there is firm transmission service from the resource to the MISO border and from the border to the pertinent load. The Commission conditionally accepted Module E-1 to become effective October 1, 2012.⁴

3. While Module E-1 was pending before the Commission, the Commission directed MISO in a separate proceeding to file tariff provisions that would allow external resources to participate in the voluntary capacity auction established under MISO's previous resource adequacy construct, set forth in Module E of the Tariff.⁵ In the compliance filing in that proceeding, MISO proposed an "aggregate deliverability" methodology, under which external resources would be permitted to participate in MISO's voluntary capacity auction provided that the resource was determined to be deliverable to network load within MISO. The Commission conditionally accepted MISO's aggregate deliverability methodology in March 2013.⁶

4. MISO notes that the provisions of Module E-1 that address the qualification of external resources do not reflect the aggregate deliverability methodology that was accepted by the Commission with respect to Module E of the Tariff.⁷ Consequently, MISO proposes to revise the Tariff to incorporate the aggregate deliverability methodology, thereby removing potential barriers to the participation of external resource in the annual planning resource auction. Specifically, MISO proposes to modify section 69A.3.1.c of the Tariff to allow external resources to participate in the annual planning resource auction if, among other things, a market participant demonstrates that there is firm transmission service from the resource to the MISO border, and either that firm transmission service has been obtained to deliver capacity from the MISO border to the pertinent load or that the resource is deliverable pursuant to section 69A.3.1.g of the Tariff. MISO, in turn, proposes to modify the heading of section 69A.3.1.g to illustrate its application to external resources. MISO requests an effective date of December 13, 2013.

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,199 (2012).

⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,213 (2011).

⁶ *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,182 (2013), *order on compliance filing, Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER12-817-002 (May 22, 2013) (delegated letter order).

⁷ October 14 Filing at 2.

5. Notice of MISO's filing was published in the *Federal Register*, 78 Fed. Reg. 62,610 (2013), with interventions and protests due on or before November 5, 2013. Timely motions to intervene were filed by NRG Companies,⁸ Consumers Energy Company, DTE Electric Company, Xcel Energy Services Inc., Wisconsin Electric Power Company, Ameren Services Company, and Otter Tail Power Company. MidAmerican Energy Company (MidAmerican) filed a timely motion to intervene and comment. MISO filed an answer to MidAmerican's comment.

6. While MidAmerican does not object to MISO's proposed treatment of external resources, MidAmerican believes that the proposed Tariff language tends to obscure, rather than clarify, the treatment of such resources.⁹ MidAmerican states that while the title of section 69A.3.1.g refers to generation resources, intermittent generation resources, dispatchable intermittent resources, and external resources, the substantive text of that provision inconsistently references those resources and does not refer to external resources at all. MidAmerican believes that MISO's proposal should be reflected in the substantive text of the Tariff, rather than the pertinent title, especially in light of the fact that various attachments to the Tariff forbid the use of headings in interpreting the associated text. MidAmerican thus recommends alternative language that illustrates its interpretation of section 69A.3.1.g.¹⁰ MidAmerican requests that MISO confirm MidAmerican's understanding of the October 14 Filing or suggest alternative language to clarify the application of section 69A.3.1.g to external resources.¹¹

7. In its answer, MISO agrees with MidAmerican that section 69A.3.1.g could be revised to clarify its application to external resources.¹² Therefore, MISO proposes to add the introductory paragraph to section 69A.3.1.g proposed by MidAmerican and to make other corresponding changes, if directed to do so by the Commission.

⁸ For purposes of this proceeding, the NRG Companies consist of Louisiana Generating LLC, NRG Power Marketing LLC, GenOn Energy Management, LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, NRG Sterlington Power LLC, Cottonwood Energy Company LP, and NRG Wholesale Generation LP.

⁹ MidAmerican Comment at 4-5.

¹⁰ *Id.* at 5-6.

¹¹ *Id.* at 5.

¹² MISO Answer at 2.

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO's answer because it has provided information that assisted us in our decision-making process.

10. We will conditionally accept the October 14 Filing, as it reasonably resolves a discrepancy between Module E and Module E-1 of the Tariff in a manner previously accepted by the Commission.¹³ However, we agree with MidAmerican that simply listing external resources in the heading of section 69A.3.1.g with no reference to external resources in the body of the section or in the following subsections—while referencing other types of resources—is confusing and does not clearly reflect its application to external resources. Thus, we condition our acceptance of the October 14 Filing on MISO's submission of a compliance filing within 30 days of the date of this order that clarifies the application of section 69A.3.1.g to external resources, as described in its answer.

By direction of the Commission

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹³ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,182 at PP 5, 13-14.