

146 FERC ¶ 61,132
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 26, 2014

In Reply Refer To:
Midcontinent Independent System
Operator, Inc.
Docket No. ER14-705-000

Midcontinent Independent System Operator, Inc.
Attention: Michael Kessler
Erin M. Murphy
720 City Center Drive
Carmel, Indiana 46032

The Holsclaw Group, LLC
Attention: Jim Holsclaw
Christopher D. Supino
2680 E. Main St.
Suite 400
Plainfield, IN 46168

Reference: Tariff Waiver, Schedule 44

Dear Ms. Murphy and Messrs. Kessler, Holsclaw and Supino:

1. On December 18, 2013, the Midcontinent Independent System Operator, Inc. (MISO) submitted a request for a limited, one-time waiver of certain provisions of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) concerning the data to be used for its studies to support Voltage and Local Reliability (VLR) mitigation.¹ The waiver is requested due to the absence of certain historical data for the recently integrated MISO southern region.² Specifically, MISO requests a

¹ MISO December 18, 2013 Request for Waiver at 1 (Request for Waiver).

² The MISO southern region (MISO South) consists of the Entergy Operating Companies, Louisiana Energy and Power Authority, Lafayette Utilities System, the South Mississippi Electric Association, and Cleco Power LLC. *See* Request for Waiver at n.3.

one-year waiver from the Tariff provisions in Part B of Schedule 44 that require MISO to: (1) use its own data to conduct certain VLR studies; and (2) use data covering a full 12-month period to conduct these studies.³ MISO requests that the waiver be effective for one year beginning on December 19, 2013, coincident with MISO South integration.

2. MISO states that its Tariff provides a mechanism for MISO to issue resource commitments (VLR Commitments) in addition to, or in lieu of, the Security Constrained Unit Commitment in the day-ahead markets, in order to mitigate issues associated with transmission system VLR concerns.⁴ MISO explains that it may designate a VLR Commitment as “commercially significant,” which allows MISO to use a more granular cost allocation mechanism to better align costs among local balancing authorities (LBA) that benefit from the VLR Commitment.⁵ MISO states that it must evaluate historical data prior to designating a VLR Commitment as commercially significant, and that Schedule 44 of its Tariff requires MISO to study VLR Commitments quarterly to determine whether they warrant this designation (the Commercially Significant VLR Issue Study). Furthermore, MISO states that Part B of Schedule 44 requires that these quarterly studies “us[e] data from the prior twelve months.”⁶

3. MISO explains that it will need to invoke the VLR provisions of its Tariff in the MISO South region, as the data obtained by MISO in its role as Reliability Coordinator prior to integration indicates commercially significant VLR Commitments in the Amite South and West of the Atchafalaya Basin load pockets in the MISO South region.⁷ However, MISO states that it does not currently have 12 months of its own data for the MISO South region required under the Tariff to determine commercial significance, because it only began to administer the MISO South region on December 19, 2013, and it

³ *Id.* at 11.

⁴ *Id.* at 3-4. MISO’s Tariff defines a VLR Commitment as: “[a] Transmission Provider issued Resource commitment in addition to, or in lieu of, commitments resulting from the Security Constrained Unit Commitment in the Day-Ahead Energy and Operating Reserve Market or any Reliability Assessment Commitment, in order to mitigate issues with Transmission System voltage or other local reliability concerns. These Resource commitment requirements are established prior to or during an Operating Day and are based on projected system reliability requirements, operational considerations, and generation and transmission outages....” *See* MISO, FERC Electric Tariff, Module A, § 1.V (0.0.0).

⁵ Request for Waiver at 4.

⁶ *Id.* at 5.

⁷ *Id.* at 7-10.

will not have a full 12 months of data for this region until December 19, 2014.⁸ Therefore, MISO requests a one-year waiver from the Tariff provisions in Part B of Schedule 44 that require MISO to use its data covering a full 12-month period in order to conduct the Commercially Significant VLR Issue Study.⁹

4. As part of the MISO South integration process, MISO asserts that it has collected data from the integrating utilities relating to their own service areas, which is in some cases more specific than MISO's own data for those areas.¹⁰ According to MISO, it must rely on the data provided by the integrating utilities for December 1, 2012 through November 4, 2013, which is less than 12 months.¹¹ MISO has provided a true-up schedule that it proposes to use in its market settlement process until 12 months of data is available in order to ensure that charges are allocated on the basis of the latest and most complete data.¹²

5. According to MISO, the use of comparable data will allow it to implement the more granular cost allocation provisions without having to wait for the required 12 months of prior Transmission Provider data to accumulate before making the commercially significant determination.¹³ Specifically, MISO states that the waiver it seeks would allow it to: (1) use comparable data other than Transmission Provider data to determine commercial significance; (2) use data from a period less than a year to determine the Load Serving Entities in the load pocket; (3) start integration with base LBA Share percentages determined by data currently available to MISO; and (4) true-up LBA Share percentages after-the-fact with post-integration data.¹⁴

6. MISO states that it sought this waiver only after conducting its own rigorous review of possible alternatives to address the situation. MISO argues that the waiver should be granted because it is of a limited scope and narrowly tailored to address the specific and concrete problem of data availability in the MISO South region.¹⁵ MISO

⁸ *Id.* at 3, 10-11.

⁹ *Id.* at 11.

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² *Id.* at 12-13.

¹³ *Id.* at 11.

¹⁴ *Id.* at 12.

¹⁵ *Id.* at 13.

requests that the Commission allow the one-year waiver to be effective one day after filing, or December 19, 2013.¹⁶ MISO states that good cause exists for granting the waiver, as it would facilitate a smooth MISO South integration and better align costs with beneficiaries.

7. On December 19, 2013, notice of the filing was published in the *Federal Register*, 78 Fed. Reg. 79,431 (2013), with interventions or protests due on or before January 8, 2014. Timely motions to intervene were filed by Cleco Power LLC, Consumers Energy Company, Exelon Corporation, Mississippi Public Service Commission, NRG Companies,¹⁷ and Wisconsin Electric Power Company. 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.

8. In granting waivers of tariff provisions, the Commission has generally required that the requested waiver be of limited scope, address a concrete problem that needs to be remedied, and not have undesirable consequences, such as harming third parties.¹⁸ We find that MISO's requested waiver meets the Commission's general requirements. First, the requested waiver is of limited scope, as it will apply only until MISO has accumulated the 12 months of data necessary to conduct the Commercially Significant VLR Issue Study as specified in its Tariff. Second, the requested waiver is narrowly tailored to address the concrete problem of data availability in the new MISO South region. Third, the requested waiver does not have undesirable consequences, as it is designed to place the integrating utilities in roughly the same position they would be in if MISO had its own 12 months of data.

¹⁶ *Id.* at 14.

¹⁷ For purposes of this filing, the NRG Companies are Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, Cottonwood Energy Company LP, Louisiana Generating LLC, NRG Power Marketing LLC, NRG Sterlington Power LLC, NRG Wholesale Generation LP, and GenOn Energy Management, LLC.

¹⁸ See, e.g., *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,069, at PP 8-9 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *California Indep. Sys. Operator, Inc.*, 132 FERC ¶ 61,004, at P 10 (2010); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182, at PP 9-10 (2010); *accord ISO New England Inc.-EnerNOC*, 122 FERC ¶ 61,297 (2008); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008). There is also a fourth criterion sometimes used by the Commission in its analysis of waiver requests (i.e., where there was an underlying good faith error), which is not relevant here.

9. Accordingly, we grant MISO's request for a one-time waiver of the Tariff provisions in Part B of Schedule 44 that would require MISO to use 12 months of Transmission Provider data in making the determination of whether a VLR Commitment should be designated as commercially significant. We find that good cause exists to allow the waiver to be effective one day after filing, on December 19, 2013, in order to coincide with the date of MISO South integration.

By the direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.