146 FERC ¶ 61,180
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midcontinent Independent System Operator, Inc. Docket No. ER14-990-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued March 14, 2014)

1. On January 14, 2014, pursuant to section 205 of the Federal Power Act (FPA),[1] Midcontinent Independent System Operator, Inc. (MISO) filed proposed revisions to Module E-1 of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).[2] The proposed revisions address capacity crediting and related resource adequacy requirements implementation issues with respect to Demand Resource and Energy Efficiency (EE) Resources. In this order, the Commission conditionally accepts MISO's proposed Tariff revisions, effective March 15, 2014, as requested. We also direct MISO to submit a compliance filing within 30 days of the date of this order, as discussed further below.

I. Background

2. MISO states that its filing is intended to improve the administration of the resource adequacy requirement procedures specified in Module E-1 of its Tariff. In general, MISO's Tariff provisions are intended to ensure that load serving entities (LSEs) serving load in the MISO region have sufficient Planning Resources[3] to meet their

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[1] 16 U.S.C. § 824d (2012).

[2] Midcontinent Independent System Operator, Inc., FERC FPA Electric Tariff, FERC Electric Tariff, 68A.8, Calculation of Transmission Losses, 31.0.0; 69A.1.1, Forecasted Demand Identification, 31.0.0; 69A.1.2, Daily Assignment of Coincident Peak Demand Obligations, 31.0.0; 69A.3.1.h, Mothballing, Decommissioning or Retirement of Resources, 31.0.0; 69A.3.2, Energy Efficiency Resources, 31.0.0; 69A.3.3, Load Modifying Resources, 31.0.0.

[3] A Planning Resource can be used by LSEs to satisfy their resource adequacy requirements.

anticipated peak demand requirements, plus an appropriate reserve margin.[4] Under this process, MISO establishes a Planning Reserve Margin that must be sufficient to cover: (1) planned maintenance; (2) unplanned or forced outages of generating equipment; (3) deratings in the capability of Generation Resources and Demand Response Resources; (4) system effects due to reasonably anticipated weather variations; and (5) load forecast uncertainty.[5] The Planning Reserve Margin is the percentage above the forecasted Coincident Peak Demand (the demand in MW coincident with the forecasted annual peak demand in MISO's region) of Planning Resources needed in the region to meet expected losses in load and transmission losses.[6] MISO establishes the Planning Reserve Margin for Local Resource Zones[7] in the MISO region for each Planning Year.[8]

3. Each LSE's total resource adequacy obligation is referred to as the Planning Reserve Margin Requirement. The LSE can meet its Planning Reserve Margin Requirement by: (1) self-scheduling; (2) submitting a Fixed Resource Adequacy Plan; (3) participating in the Planning Resource Auction; or (4) paying a charge for deficient capacity.[9] Each LSE must have a sufficient number of Zonal Resource Credits to meet its Planning Reserve Margin Requirement. Zonal Resource Credits are MW units of Planning Resources that have been converted into a credit that is eligible to be offered by a market participant into the Planning Resource Auction,[10] or to be sold bilaterally, or to

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[4] MISO Resource Adequacy Business Practice Manual, BPM-011-r12 § 1.2 (effective Aug. 1, 2013) (Resource Adequacy BPM).

[5] *Id*. § 2.

[6] MISO, FERC Electric Tariff, Module A, § 1.P (0.0.0).

[7] A Local Resource Zone is a geographic area within the MISO region that is prescribed to address congestion that limits Planning Resource deliverability. *See* MISO, FERC Electric Tariff, Module A, § 1.L (0.0.0).

[8] Resource Adequacy BPM § 3.5.1. The Planning Year is the period of time from June 1 of one year to May 31 of the following year that is used for developing resource plans. *See* MISO, FERC Electric Tariff, Module A, § 1.P (0.0.0).

[9] Resource Adequacy BPM § 5.1.

[10] If an LSE participates in the Planning Resource Auction, the auction is conducted by MISO to determine the clearing price associated with the Zonal Resource Credit offers needed to satisfy 100 percent of the Planning Reserve Margin Requirement for each existing load serving entity in each Local Resource Zone, up to the total volume of offered Zonal Resource Credits.

be submitted through a Fixed Resource Adequacy Plan.[11] When an LSE meets its Planning Reserve Margin Requirement, it has demonstrated that it has acquired enough capacity (represented by Zonal Resource Credits) to meet its Coincident Peak Demand forecast minus netted Planning Resources, plus transmission losses, plus the Planning Reserve Margin.[12] Planning Resources that clear in the Planning Resource Auction or that are designated in a Fixed Resource Adequacy Plan will be obligated to provide capacity the entire Planning Year.[13]

II. Description of Filing

4. In its filing, MISO states that it has identified an issue not directly addressed by its current resource adequacy requirements Tariff provisions. MISO states that LSEs may currently request that MWs associated with a Demand Resource[14] or EE Resource[15] be netted from their forecasted Coincident Peak Demand prior to MISO establishing the Planning Reserve Margin Requirement. This netting process reduces the Coincident Peak Demand, thereby reducing that entity's Planning Reserve Margin Requirement for a Planning Year prior to participating in the Planning Resource Auction or submitting a Fixed Resource Adequacy Plan.[16] MISO states that, as a result, the netted resource is not cleared in the auction or included in a Fixed Resource Adequacy Plan, and this can create issues in accounting for performance obligations and resource substitution requirements in circumstances where a shift in load occurs during the applicable Planning Year. MISO explains that, if load switches from one LSE to another during the Planning Year, there is no way to account for the netted resources, because accounting for both wholesale and

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[11] *See* MISO, FERC Electric Tariff, Module A, §§ 1.L, 1.P (0.0.0).

[12] Resource Adequacy BPM § 3.1.

[13] *Id*. § 2.3. LSE's that serve load during the Planning Year will be obligated to pay for capacity from such Planning Resources pursuant to the relevant auction clearing price for the Local Resource Zone where the load is located, unless the Planning Resource was designated in a Fixed Resource Adequacy Plan.

[14] Demand Resources are resources that can reduce demand during emergencies, such as interruptible load or direct control load management. MISO, FERC Electric Tariff, Module A, § 1.D (0.0.0).

[15] EE Resources are resources consisting of installed measures on retail customer facilities that achieve a permanent reduction in electric energy usage while maintaining a comparable quality of service. MISO, FERC Electric Tariff, Module A, § 1.E (0.0.0).

[16] MISO January 14 Filing, Transmittal Letter at 2.

retail load switching relies on Zonal Resource Credits that cleared the Planning Resource Auction or were included in a Fixed Resource Adequacy Plan.

5. Furthermore, MISO states that there can be confusion about which LSE holds performance obligations for the resource after load has been switched. For instance, MISO explains that it is unclear which entity must make the Demand Resource or EE Resource available to address system reliability issues throughout a Planning Year, as required under the Tariff.[17] In addition, MISO states that it is unclear whether a market participant gaining load that was not accounted for in the Planning Reserve Margin Requirement (i.e., load reduced by netting of Demand Resources or EE Resources) can meet its obligations to either pay daily resource capacity costs in accordance with Tariff section 69A.1.2 (Daily Assignment of Coincident Peak Demand Obligations) or substitute Zonal Resource Credits that have not cleared the Planning Resource Auction per section 69A.3.1.h (Mothballing, Decommissioning or Retirement of Resources), as intended by that provision.[18]

6. MISO proposes to address these problems by revising section 69A.3.3 of its Tariff to eliminate the ability of LSEs to net Demand Resources and EE Resources from forecast Coincident Peak Demand, and instead require these resources to be credited with equivalent Zonal Resource Credits, in the same manner as all other Planning Resources.[19] In order to adjust for the fact that Demand Resources and EE Resources are not subject to transmission losses or forced outage rates, MISO also proposes revisions to Tariff sections 69A.3.2 and 69A.3.3 that would incrementally increase, or gross up, the Zonal Resource Credit value of Demand Resources and EE Resources to include the Planning Reserve Margin and transmission loss amounts.[20] MISO states that this approach is fundamentally equivalent to current pre-auction netting, because the market participant receives the same amount of capacity credit as if it had netted the resource from its forecasted Coincident Peak Demand prior to the Planning Resource Auction and Fixed Resource Adequacy Plan processes.[21] MISO proposes to make this capacity credit

[17] *Id*.

[18] MISO January 14 Filing, Vannoy Test. at 6-7.

[19] MISO January 14 Filing, Transmittal Letter at 4. MISO notes that Zonal Resource Credits are an efficient method of tracking Planning Resources because they are fungible and can be transferred by market participants through MISO's capacity tracking tool.

[20] MISO proposes to clarify the existing Tariff language in section 68A.8.b to specify the gross up for Demand Resources and EE Resources.

[21] MISO January 14 Filing, Vannoy Test. at 3, 9.

treatment available to both LSEs and aggregators of retail customers in order to ensure that LSEs and aggregators of retail customers are treated comparably.[22]

7. MISO also proposes Tariff revisions to clarify the obligations that market participants assume when load switching.[23] First, MISO proposes to revise section 69A.1.2 to address MISO's allocation of daily resource capacity costs.[24] MISO states that currently, when LSEs participate in retail load switching, its Tariff provides that the measured load for each entity would be increased to reflect any reductions, requested by MISO under emergency conditions, made by Demand Resources. Under the proposed Tariff language, MISO contends that such reductions are already being given credit directly by the Zonal Resource Credits.[25] MISO proposes Tariff language that avoids double-counting of the reduction by clarifying that MISO's allocation of resource capacity costs shall account for amounts credited to an LSE for a Demand Resource called on during an emergency that has Zonal Resource Credits that cleared in the Planning Resource Auction during the current Planning Year. MISO also proposes to amend Tariff section 69A.3.1.h to clarify that the performance obligations of all Planning Resources (which include Demand Resources and EE Resources) that are converted into Zonal Resource Credits and cleared in the Planning Resource Auction or submitted in a Fixed Resource Adequacy Plan must be met during the entire Planning Year, unless these Zonal Resource Credits are substituted for the Zonal Resource Credits associated with a Planning Resource that is no longer able to perform for the particular market participant. The substitute Zonal Resource Credits would then carry the performance obligation.

8. MISO states that it discussed the proposed Tariff changes with stakeholders at several Supply Adequacy Working Group meetings, and conducted a special meeting to vote on a motion advising MISO to proceed with the Tariff filing.[26] MISO notes that this motion passed by a vote of 37 in favor, 11 opposed and seven abstentions. In order to address stakeholder requests, MISO also proposes to amend Tariff sections 68A.8.a and 69A.1.1 to move up the date by which MISO will provide transmission loss values annually for the following Planning Year, from the first business day in December to October 1. MISO requests an effective date of March 15, 2014 for its proposed Tariff changes.

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[22] *Id*. at 10.

[23] *Id*. at 7.

[24] MISO January 14 Filing, Transmittal Letter at 5.

[25] *Id*.

[26] *Id*. at 4.

III. Notice of Filing and Responsive Pleadings

9. Notice of MISO's filing was published in the *Federal Register*, 79 Fed. Reg. 3585 (2014), with interventions or protests due on or before February 4, 2014. Timely motions to intervene were filed by Northern Indiana Public Service Company, DTE Electric Company, Wisconsin Electric Power Company, NRG Companies,[27] Ameren Services Company, Exelon Corporation, Hoosier Energy Rural Electric Cooperative, Inc., the Wisconsin Industrial Energy Group, the Illinois Industrial Energy Consumers, the Coalition of MISO Transmission Customers, the Louisiana Energy Users Group, Cleco Power LLC, Madison Gas & Electric Company, WPPI Energy, and American Municipal Power, Inc. The Illinois Commerce Commission filed a timely notice of intervention. Motions to intervene and comments/protests were filed by: MidAmerican Energy Company (MidAmerican); Consumers Energy Company (Consumers Energy); and the Illinois Industrial Energy Consumers and the Coalition of MISO Transmission Customers (collectively, the Industrial Customers). On February 19, 2014, MISO filed an answer to the comments/protests.

A. Comments/Protests

1. MidAmerican

10. MidAmerican does not oppose the general elements of MISO's filing, but contends that MISO should remove or clarify the proposed Tariff change in section 69A.3.1.h related to performance obligations, as the language appears vague.[28]

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[27] 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.

[28] MidAmerican Comments at 4. MISO's proposed language states:

> Market Participants that convert Unforced Capacity into a [Zonal Resource Credit] that clears in the [Planning Resource Auction] <u>or was submitted in a [Fixed Resource Adequacy Plan] (including a [Zonal Resource Credit] that was substituted for such cleared [Zonal Resource Credit])</u> will not be eligible to Retire or Suspend <u>or otherwise be absolved of any performance obligations</u> for such Planning Resource, until the year following the Planning Year for which such [Zonal Resource Credit] cleared in the [Planning Resource Auction] <u>or was used in a [Fixed Resource Adequacy Plan]</u>, unless the Market Participant substitutes another [Zonal Resource Credit] within the same [Local Resource Zone] that did not clear in the [Planning Resource Auction] <u>or was not used in a [Fixed Resource Adequacy Plan]</u>.

MidAmerican states that it cannot determine what behavior is being addressed by the new language, and argues that the language appears unrelated to the Demand Resource/EE Resource netting provisions.[29] MidAmerican states that the proposed language may duplicate other language in the Tariff, and specifically section 69A.3, which provides that MISO will notify market participants if MISO becomes aware that any Planning Resource fails to meet the requirements of section 69A.3 of the Tariff. MidAmerican contends that this language appears to address MISO's concerns over Planning Resources that cease to meet their requirements, and it does so more clearly than the proposed language in section 69A.3.1.h, which is limited to a discussion of System Support Resources and decisions to retire or suspend resources.[30]

11. MidAmerican also notes that section 69A.3.9 of the Tariff contains two lingering references to netted load modifying resources, and states that these references should presumably be deleted.[31]

2. <u>Consumers Energy</u>

12. Consumers Energy has several concerns with MISO's proposal. First, Consumers Energy argues that the proposed Tariff revisions should not become effective prior to Planning Year 2015, as LSEs have already provided demand forecasts to MISO for Planning Year 2014 that include netting of Demand Resources and EE Resources.[32] Consumers Energy contends that LSEs will not likely be able to receive Zonal Resource Credits for these resources prior to the March 1, 2014 Planning Resource Auction offer deadline. Thus, Consumers Energy states that the resulting increased demand forecast caused by the absence of otherwise netted Demand Resources and EE Resources without the accompanying offsetting Zonal Resource Credits will cause LSEs to purchase additional credits for Planning Year 2014, even though expense has already been incurred to develop EE Resources and Demand Resources to be effective during that period.

13. Consumers Energy states that under the current netting process, LSEs have the ability to adjust the demand forecast by adding Demand Resources and EE Resources over the course of the affected period.[33] However, under MISO's proposed process, Consumers Energy contends that the LSE will be required to account for the amount of

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[29] MidAmerican Comments at 5.

[30] *Id*. at 6.

[31] *Id*.

[32] Consumers Energy Comments at 3.

[33] *Id*. at 4.

demand avoided by Demand Resources and EE Resources over the historical period that these resources have been in effect, and "grow" the demand forecast to reflect both the measured demand and the amount of demand avoided by the resources. Only then, after forecasting the growth in demand and adjusting by any legacy Demand Resource and EE Resource effects that do not qualify for Zonal Resource Credit treatment in future years, will actual demand to be served be calculated by subtracting the Zonal Resource Credits for the Demand Resources and EE Resources. Consumers Energy argues that this process adds complexity and the potential for systemic error.[34]

14. Consumers Energy asserts that MISO's proposed measurement and verification requirements for Demand Resources and EE Resources are unnecessary for LSEs that provide reliable demand forecast and are also duplicative of the measurement and verification requirements already imposed by state regulatory agencies for calendar year revenue requirement purposes.[35]

15. Consumers Energy takes issue with MISO's proposed Tariff language stating that the performance obligations associated with all Planning Resources apply during the entire Planning Year, arguing that this provision needlessly reduces the value of Demand Resources and EE Resources by approximately six months.[36] Currently, with netting, Consumers Energy asserts that an LSE is able to forecast the period when new Demand Resources and EE Resources are likely to be placed into service and to net the demand effects against the demand forecast for that specific period. Consumers Energy states that MISO's proposed Tariff revisions would require most LSEs to have Demand Resources and EE Resources in service prior to the start of the Planning Year, and probably prior to the Planning Resource Auction. Consumers Energy notes that, given the measurement and verification requirements associated with MISO's program, an LSE might be prudent to only include those Demand Resources and EE Resources that have been placed into service by the end of December or the end of the January preceding the Planning Year. Accordingly, argues Consumers Energy, those resources that would normally be placed into service between January and July and that would otherwise likely be netted against demand will not be available as a Planning Resource and will therefore be of less value.

16. Consumers Energy states that MISO's proposal to eliminate netting will not address the physical risk that exists because of retail load switching.[37] Under MISO's proposal, in the case of Demand Resources and EE Resources sold as Zonal Resource

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[34] *Id*. at 4-5.

[35] *Id*. at 6.

[36] *Id*. at 5.

[37] *Id*. at 6-7.

Credits, Consumers Energy argues that it is not clear whether the financial rewards associated with servicing resulting Zonal Resource Credits flow from one capacity supplier to the next capacity supplier coincident with the change in supply. Consumers Energy states that it is possible that a customer being serviced by one supplier will be obligated to reduce demand so that a second supplier can satisfy the obligations as a demand resource host, and that it is not clear how the first supplier is to be compensated for the energy delivered or whether the second supplier has any obligation to provide that compensation.

17. Consumers Energy asks that the Commission convene a technical conference to address the concerns raised in its comments.[38]

3. Industrial Customers

18. Industrial Customers contend that MISO should retain its existing netting Tariff provisions, as they properly reflect the nature of LSE customer load that is taking non-firm or interruptible electric service from the LSE.[39] Specifically, Industrial Customers state that interruptible and non-firm customer load has traditionally been excluded from utility resource planning because the load is required to interrupt its service as necessary; thus, the utility may register as Demand Resources those non-firm and interruptible customer loads that are excluded from resource adequacy determinations.[40] According to Industrial Customers, the existing netting provisions of the MISO Tariff appropriately allow an LSE to register interruptible load as a Demand Resource without forcing the LSE to register the Demand Resource as a supply-side resource that receives Zonal Resource Credits. Additionally, Industrial Customers state that the netting provisions also appropriately allow the LSE to exclude its interruptible load from the Planning Resource Auction. According to Industrial Customers, the existing Tariff properly reflects the fact that Demand Resources do not need to be included in the forecasted peak demand for resource adequacy determinations.

19. Industrial Customers state that the elimination of the netting provisions would require LSEs to register their Demand Resources that were previously netted as if they were supply-side resources, which would expose smaller LSEs without supply-side resources in the MISO market to additional MISO minimum market participant requirements.[41] Industrial Customers state that MISO's proposal could also

[38] *Id*. at 7.

[39] Industrial Customers Protest at 3.

[40] *Id*. at 4.

[41] *Id*. at 5.

inappropriately expose smaller LSEs to other MISO Tariff provisions that should only be applicable to supply-side resources, or compel LSEs to clear their customer load associated with the Demand Resources and the resource itself in the Planning Resource Auction. Additionally, Industrial Customers argue that LSEs could be inappropriately held responsible for transmission losses and Planning Reserve Margin for their Demand Resource that was formerly netted. According to Industrial Customers, this would unjustly increase the LSE's cost to serve the customer loads associated with the Demand Resource by unduly increasing the Planning Reserve Margin Requirement of the LSE versus the existing Demand Resource netting provisions.

20. Industrial Customers do not oppose MISO's filing provided that: (1) the Commission accepts the filing, without modification, as a complement to (rather than a replacement of) existing netting provisions; and (2) MISO clarifies that its proposal will not result in the application of any additional minimum MISO market participant requirements for LSEs with Demand Resources, due to such Demand Resources being treated similarly to supply-side resources.[42]

21. Recognizing MISO's need to address customer switching of LSEs during the middle of a Planning Year, Industrial Customers state that they are not opposed to MISO's proposal to require LSEs to use a different approach in a mid-year load switching situation when use of the netting provisions of the MISO Tariff is not feasible, as long as that approach has no net adverse impact on LSEs with Demand Resources that are netted under the existing Tariff.[43] Industrial Customers suggest that this can be done by requiring that interruptible customer load that switches LSEs in the middle of a Planning Year, and that has been registered as a Demand Resource, have both its net Planning Reserve Margin Requirement and Demand Resource registration switched from the old LSE to the new LSE.[44]

B. MISO's Answer

22. MISO does not agree with MidAmerican that the reference to performance obligations proposed in section 69A.3.1.h of the Tariff should be removed, and states that the language was not meant to create new requirements on any type of Planning Resource.[45] Rather, MISO states that the language was intended to clarify that the performance obligations of all Planning Resources converted into Zonal Resource Credits

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[42] *Id*. at 6.

[43] *Id*.

[44] *Id*. at 7.

[45] MISO Answer at 3.

that clear the Planning Resource Auction or are used in the Fixed Resource Adequacy Plan must be met, unless the Zonal Resource Credits are substituted with other credits. Nevertheless, MISO proposes to revise the language to mirror Tariff section 69A, as follows:

> Market Participants that convert Unforced Capacity into a [Zonal Resource Credit] that clears in the [Planning Resource Auction] or was submitted in a [Fixed Resource Adequacy Plan] (including a [Zonal Resource Credit] that was substituted for such cleared [Zonal Resource Credit]) will not be eligible to Retire or Suspend or otherwise be absolved of ~~any performance obligations~~ applicable performance requirements (as described in sections 69A.3.9 and 69A.5) for such Planning Resource….

MISO also agrees that the remaining references to netting in Tariff section 69A.3.9 should be removed, and agrees to do so if directed by the Commission.[46]

23. In response to Industrial Customers' concerns that, by treating Demand Resources as supply-side resources, market participants without other supply-side resources could be exposed to additional MISO minimum requirements, MISO states that it cannot identify any additional requirements that would apply to a market participant solely due to MISO's intent to provide transparency around the actual load and the Demand Resources associated with that load.[47] MISO states that Demand Resources are already subject to eligibility requirements in section 69A.3.5 and penalty provisions in section 69A.3.9. MISO asserts that its proposed Tariff revisions do not alter those obligations, nor do they trigger any additional requirements regarding the ability of market participants to use Demand Resources to meet their Planning Reserve Margin Requirement.

24. In response to Industrial Customers' concerns that the proposed Tariff provisions would compel a market participant to participate in the Planning Resource Auction, MISO notes that the filing clearly extends to the use of Fixed Resource Adequacy Plans.[48] MISO also stresses that the gross up provisions of the proposal will ensure that market participants relying on Demand Resources will not be subject to higher costs to meet their Planning Reserve Margin Requirement. In addition, MISO opposes Industrial Customers' request that the Commission accept its proposed Tariff revisions as a complement to the existing netting provisions. MISO states that it has determined that it

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[46] *Id*. at 3-4.

[47] *Id*. at 4.

[48] *Id*.

does not have the legal authority to mandate such an outcome regarding transfers of Demand Resources at the retail level.[49]

25. MISO states that the effective date of the proposed Tariff revisions should not be postponed until Planning Year 2015, as proposed by Consumers Energy, because there is no additional burden placed on market participants.[50] MISO explains that, while its proposal eliminates the ability to net Demand Resources and EE Resources against the forecasted Coincident Peak Demand, it proposes no other changes to how Demand Resources and EE Resources qualify, and is also preserving the capacity credit presently afforded to these resources. In addition, MISO states that LSEs will not have to purchase additional Zonal Resource Credits for Planning Year 2014, because with or without netting, LSEs must submit forecasted Coincident Peak Demand that includes demand served by Demand Resources and EE Resources, whether registered or not registered.

26. MISO states that it does not understand the basis for many of Consumers Energy's concerns of added complexity, the potential for error, or added measurement and verification requirements for Demand Resources. MISO states that it is unclear what complexity or error would be imposed by its filing, as the Tariff already contains measures to account for retail and wholesale load switching, and LSEs are required to include demand served by all Demand Resources and EE Resources, whether registered or not registered with MISO.[51] In addition, MISO asserts that it is not imposing any new qualification, measurement or verifications requirements for any Planning Resources, including Demand Resources and EE Resources. Furthermore, to address Consumers Energy's claim that MISO's measurement and verification requirements would be duplicative to those imposed by state regulatory agencies, MISO notes that the Tariff provides that MISO's procedures shall take into account any applicable state regulatory procedures.[52]

IV. Discussion

A. Procedural Matters

27. 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 and the notice of intervention serve to make the entities that filed them parties to this proceeding.

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[49] *Id*. at 5.

[50] *Id*. at 5-6.

[51] *Id*. at 6.

[52] *Id*. at 7.

28. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 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.

B. <u>Commission Determination</u>

29. We find MISO's proposed Tariff revisions to be just, reasonable, and not unduly discriminatory or preferential. We find that MISO's filing eliminates uncertainty about which LSE holds performance obligations for a resource after load has been switched and clarifies how LSEs obtaining load with Demand Resources or EE Resources can meet their obligations to either pay daily resource capacity costs or substitute Zonal Resource Credits that have not cleared the Planning Resource Auction. We find that, under MISO's proposal, Demand Resources and EE Resources would effectively retain their current value in satisfying resource adequacy requirements, because the market participant receives the same amount of capacity credit as if it had netted the resource from its forecasted Coincident Peak Demand prior to the Planning Resource Auction and Fixed Resource Adequacy Plan processes. In addition, we find that MISO's proposal appropriately accounts for the fact that Demand Resources and EE Resources do not have transmission losses or forced outages by grossing up transmission losses and Planning Reserve Margin when determining the Zonal Resource Credits awarded for such resources. Accordingly, as further discussed below, we conditionally accept MISO's proposed Tariff provisions to become effective March 15, 2014, as requested.

30. Consumers Energy argues that MISO's proposed Tariff revisions should not become effective prior to Planning Year 2015 because LSEs will not be able to qualify Demand Resources and EE Resources to be able to receive Zonal Resource Credits prior to the Planning Resource Auction offer deadline of March 31, 2014 and because eliminating the netting of Demand Resources and EE Resources without offsetting Zonal Resource Credits will result in an increased demand forecast that will cause LSEs to purchase additional credits. We disagree. We find that MISO's Tariff revisions place no additional burden on market participants. Under the current Tariff, LSEs can either qualify Demand Resources or EE Resources or net them against forecasted Coincident Peak Demand. The only change proposed by MISO is to eliminate the option to net such resources against the forecasted Coincident Peak Demand. Therefore, the resources to be identified and qualified in MISO's proposal are the same resources identified in the demand forecast. Hence, we find no basis for Consumers Energy's assertion that LSEs will need to obtain additional resources in order to obtain Zonal Resource Credits.

31. We find MISO's proposed language in section 69A.3.1.h of the Tariff to be reasonable. That section deals with the restrictions on Planning Resources that are converted into Zonal Resource Credits that clear in the Planning Resource Auction or are submitted in a Fixed Resource Adequacy Plan– such resources will not be eligible for suspension or retirement for the remainder of the Planning Year, unless Zonal Resource

Credits from the same Local Resource Zone are substituted for the Zonal Resource Credits associated with the Planning Resource. It is reasonable that restrictions on Demand Resources and EE Resources that are converted into Zonal Resource Credits and cleared in the Planning Resource Auction be placed in the same section – since such resources cannot be retired or suspended, new Tariff section 69A.3.1.h makes clear that they will not be absolved of applicable performance obligations during the remainder of the Planning Year, unless Zonal Resource Credits from the same Local Resource Zone are substituted for the credits associated with a Planning Resource that is no longer able to perform.[53] We accept MISO's explanation in its answer that the proposed Tariff change in section 69A.3.1.h related to performance obligations was not meant to create new requirements on any type of Planning Resource. We also accept MISO's commitment in its answer to clarify which performance obligations in the Tariff Planning Resources must meet, in response to concerns raised by MidAmerican, and we direct MISO to submit a compliance filing within 30 days of the date of this order to revise section 69A.3.1.h of the Tariff as described in the answer.

32. We find, as MidAmerican noted and MISO agreed in its answer, that section 69A.3.9 of the Tariff contains two lingering references to netted load modifying resources. We direct MISO to remove these references from its Tariff in a compliance filing to be submitted within 30 days of the date of this order, as MISO proposed in its answer.

33. We find no basis for Consumers Energy's concern that MISO's proposed Tariff revisions include performance obligations associated with Planning Resources that apply during the entire Planning Year, and therefore certain resources that are expected to be available after the start of the Planning Year will be less valuable than they were when they could be netted against demand. Whether the Demand Resource or EE Resource is qualified as a resource or identified in the Coincident Peak Demand forecast, the LSE must designate MW availability for these resources prior to the Planning Year.[54] We expect that under MISO's proposal, Consumers Energy would simply provide the MW value of the Demand Resource or EE Resource in the resource qualification process that it used to include in the Coincident Peak Demand forecast. We find no basis in Module E-1 of the Tariff or the Resource Adequacy BPM – nor has Consumers Energy or MISO identified such a provision – for concluding that these resources would be accounted for

[53] MISO January 14 Filing, Transmittal Letter at 5.

[54] Contrary to Consumer Energy's characterization of the demand forecast process as a continual updating of the forecast over the Planning Year, the Tariff requires that demand forecasts (including the impact of Demand Resources) be provided to MISO by November 1 prior to the Planning Year. *See* MISO, FERC Electric Tariff, Module E-1, §§ 69A.1.1.a and b (31.0.0).

differently because the resources are qualified as resources as opposed to netted. Accordingly, we find Consumers Energy's argument to be speculative**.**

34. With respect to Consumers Energy's concern that the proposed revisions will result in increased complexity,[55] we understand Consumers Energy's position to be that MISO's proposal would require LSEs to account more precisely for the amount of Demand Resources and EE Resources to be eligible for Planning Resource status. However, there is no Tariff provision in MISO's proposal requiring more detailed estimation of Demand Resources and EE Resources,[56] and therefore there is no basis for Consumers Energy's position. Nonetheless, to the extent Consumers Energy's concern is addressed to other procedures in the MISO resource adequacy process, we note our support for a rigorous methodology for estimating the MW value of these resources by LSEs. Planning Resources serve a critical reliability function, and therefore the MWs available in peak periods must reflect the best estimate of the MWs available on the peak hour in order to ensure that there are sufficient resources available.

35. Consumers Energy argues further that in retail choice states such as Michigan, MISO's Tariff revisions do not address the physical risk associated with retail load switching, which could allow customers to take their energy from one supplier but then sell their Demand Resources to another supplier. Consumers Energy argues that this scenario could make it unclear as to how the first supplier is to be compensated. On the contrary, we find that MISO's proposed Tariff revisions are simply an accounting measure designed to allow MISO to keep track of which LSE has the Demand Resources, which will ensure a more transparent process. Moreover, Consumers Energy's arguments regarding the difficulties MISO's proposal may cause in the tracking of compensation are outside the scope of these proceedings because MISO's proposed Tariff revisions do not address compensation or the tracking of compensation and, as MISO states in its answer, the Tariff addresses retail load switching in other provisions that are not part of the Tariff revisions proposed in this proceeding.

36. Finally, we disagree with Consumers Energy's assertion that MISO proposes unnecessary measurement and verification procedures.[57] As MISO explained in its answer, MISO has not proposed any additional measurement and verification procedures for qualification as a Demand Resource or EE Resource. Furthermore, Consumers Energy has neglected to explicitly mention a specific Tariff language concern. Thus, we see no need for a technical conference.

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[55] Consumers Energy Comments at 4.

[56] We note that MISO states in its answer that it was unable to identify a Tariff provision with this requirement.

[57] Consumers Energy Comments at 5-6.

37. Industrial Customers argue that MISO's proposed Tariff revisions could potentially expose smaller LSEs to MISO minimum market participant requirements as well as other MISO Tariff provisions that are applicable to supply-side resources. Industrial Customers argue further that MISO's proposed Tariff revisions could potentially compel LSEs to clear their load associated with Demand Resource in the Planning Resource Auction. We find that Industrial Customers have not provided sufficient evidence to support such arguments. As MISO notes in its answer, nothing in MISO's proposed Tariff revisions requires LSEs to meet additional MISO minimum market participant requirements and the proposed revisions apply to Demand Resources submitted in both the Planning Resource Auction and Fixed Resource Adequacy Plans.

38. Industrial Customers also argue that MISO's proposed Tariff revisions could hold LSEs responsible for transmission losses and Planning Reserve Margin for their Demand Resources that were formerly netted. We find Industrial Customers' concern to be unfounded, as MISO explicitly explains that its Tariff revisions will "gross up" Zonal Resource Credits that are from Demand Resources and EE Resources "to appropriately reflect the fact that Demand Resources and EE Resources do not have transmission losses or forced outage rates."[58] Industrial Customers concedes this fact in its protest, but argues that this protection "might not be approved by the Commission or be lost at a later date when its importance might be forgotten."[59] We find this argument to be speculative, unpersuasive and without merit. Finally, having found MISO's proposal to be just and reasonable, we need not address the merits of the alternative proposal suggested by Industrial Customers.[60]

39. With respect to MISO's proposed revisions to section 69A.1.2 of its Tariff (Daily Assignment of Coincident Peak Demand Obligations), we note that the daily peak is augmented only by cleared Zonal Resource Credits in the Planning Resource Auction. We assume MISO meant to include Zonal Resource Credits submitted in Fixed Resource Adequacy Plans in the daily peak calculation as well. We direct MISO, in its compliance

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[58] MISO January 14 Filing, Transmittal Letter at 3.

[59] Industrial Customers Protest at 5-6.

[60] *See Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (finding that, under the FPA, as long as the Commission finds a methodology to be just and reasonable, that methodology "need not be the only reasonable methodology, or even the most accurate"). *See also California Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,282, at P 31 (2009) (finding that, because the Commission found the proposal to be just and reasonable, it need not assess the justness and reasonableness of an alternative proposal); *Entergy Servs., Inc.*, 116 FERC ¶ 61,275, at P 32 (2006) (finding that "[a] proposal does not need to be perfect, or the most desirable way of doing things, it need only be just and reasonable").

filing, to revise this section of its Tariff to include Zonal Resource Credits submitted in Fixed Resource Adequacy Plans.

The Commission orders:

(A) MISO's proposed Tariff revisions are hereby conditionally accepted, effective March 15, 2014, as requested, as discussed in the body of this order.

(B) MISO is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Clark is dissenting with a separate statement attached.

(S E A L)

Kimberly D. Bose,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System Operator, Inc. Docket No. ER14-990-000

(Issued March 14, 2014)

CLARK, Commissioner, *dissenting*:

I write separately today to address the Midcontinent Independent System Operator, Inc.'s departure from a practical administration of the resource adequacy construct. While I agree with MISO's mission to properly account for load switching in the region, I disagree on principle with MISO's proposed solution.

Under MISO's current market rules, a Load Serving Entity (LSE) can use Demand Resources[1] (DR) and Energy Efficiency Resources[2] (EE) to reduce its forecasted peak demand and planning reserve margin requirements for a future planning year.[3] The ability of an LSE to net DR and EE from forecasted demand accurately reflects the nature of the demand-side services. By definition, DR and EE reduce the amount of energy usage on the system; they do not supply additional electrons for the grid and do not have performance obligations that are comparable to traditional supply resources. To pretend otherwise by forcing DR and EE to be treated as supply resources, as proposed by MISO, ignores supply-demand dynamics and system operations in the planning year.

While MISO is correct in pursuing a transparent accounting mechanism for these resources and further clarifying performance obligations, MISO's proposal to force LSE's to convert DR and EE into a supply-side resource is a *prima facie* deviation from reality. I would have preferred alternative options for addressing MISO's concerns, such

[1] In MISO, a Demand Resource is defined as Interruptible Load or Direct Control Load Management and other resources that can *reduce Demand* during Emergencies. (emphasis added) MISO, FERC Electric Tariff, Module A, § 1.D.

[2] In MISO, an Energy Efficiency Resource is defined as a Planning Resource consisting of installed measures on retail customer facilities that achieves a permanent *reduction in electric energy usage* while maintaining a comparable quality of service. (emphasis added) MISO, FERC Electric Tariff, Module A, § 1.E.

[3] MISO, FERC Electric Tariff, Module E-1, § 69A.3.3.

as enhanced registration requirements that would have enabled a greater association between DR/EE and the load to which it belongs.

For these reasons, I respectfully dissent from this order.

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Tony Clark
Commissioner