

150 FERC ¶ 61,127
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay.

DTE Electric Company

Docket No. ER15-90-000

ORDER GRANTING REQUEST FOR WAIVER

(Issued February 20, 2015)

1. On October 14, 2014, DTE Electric Company (DTE Electric) filed a request for limited waiver of certain provisions of Midcontinent Independent System Operator, Inc.'s (MISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) in connection with DTE Electric's retirement of its Trenton Channel Unit 7 (Trenton Channel) to comply with environmental requirements.¹ As discussed below, the Commission finds good cause to grant the requested waiver.

I. Background

2. DTE Electric states that it is a public utility that provides retail electric service to approximately two million customers throughout portions of southeastern Michigan.² DTE Electric plans to suspend the operations of Trenton Channel on April 16, 2016. DTE Electric states that it evaluated the possibility of retrofitting Trenton Channel, but determined that it would not have been justified as reasonable and prudent based on the information available at that time.³

3. DTE Electric represents that Trenton Channel was required to meet emissions limitations imposed by the United States Environmental Protection Agency (EPA) Mercury and Air Toxics Standards (MATS) requirements within three years of the

¹ Trenton Channel is a coal-fired unit located in Trenton, Michigan and has a nameplate capacity of 120 megawatts (MW). DTE Electric Request for Waiver at 4.

² *Id.*

³ *Id.*, Attachment A (Testimony of Shawn D. Burgdorf) at 7 (Burgdorf Test.).

April 16, 2012 MATS effective date.⁴ DTE Electric states that it sought and received a one-year extension from the Air Quality Division of the State of Michigan's Department of Environmental Quality so that DTE Electric may continue to operate Trenton Channel until April 16, 2016.⁵ DTE Electric states that, on August 12, 2014, it submitted an Attachment Y Notification of Potential Generation Resource Change of Status (Attachment Y Notification) to request retirement of Trenton Channel effective April 16, 2016.⁶ DTE Electric states that, on September 30, 2014, MISO informed DTE Electric that Trenton Channel was not needed for reliability beyond April 15, 2016.⁷ DTE Electric states that MISO's determination effectively precluded DTE Electric from seeking an administrative order from the EPA to extend operation of Trenton Channel past April 16, 2016 because EPA policy states that administrative orders may only be granted to extend operation beyond the MATS compliance date if the unit is critical to maintaining electric reliability.⁸

4. DTE Electric notes that MISO's 2015-2016 Planning Year runs from June 1, 2015 to May 31, 2016, which leaves approximately 6.5 weeks between the EPA MATS compliance date and the end of the MISO Planning Year.⁹ DTE Electric asserts that it may not withhold Trenton Channel from offering into the MISO Planning Reserve Auction for the 2015-2016 Planning Year or declare a forced or scheduled outage for the 6.5 week period.¹⁰ According to DTE Electric, the MISO Tariff does not provide a mechanism that ensures that DTE Electric will be able to purchase replacement capacity

⁴ *Id.* at 5 & n.8.

⁵ *Id.* at 5 & Ex. A.

⁶ *Id.* at 7 & Ex. F. Section 38.2.7 of the MISO Tariff requires that any Market Participant planning to retire or suspend a Generation Resource must notify MISO by submitting an Attachment Y Notification at least 26 weeks prior to retirement or suspension. MISO then completes an Attachment Y Reliability Study to determine whether the Generation Resource is necessary for the reliability of the Transmission System. MISO, FERC Electric Tariff, Module C, § 38.2.7 (31.0.0).

⁷ DTE Electric Request for Waiver at 7 & Ex. G.

⁸ *Id.* at 5, 7 & n.21.

⁹ *Id.* at 2.

¹⁰ *Id.*

through the auction to cover the 6.5 week period.¹¹ Further, DTE Electric asserts that MISO provides no guarantees that bilateral replacement capacity would be available at any price.¹² Instead, DTE Electric states that it could have to purchase replacement capacity in the auction for the entire 2015-2016 Planning Year at an estimated cost ranging from \$1.7 million to \$7.9 million.¹³ Without Trenton Channel, DTE Electric projects having 10,984 MW of available generation against a peak load of 5,853 MW in April and 8,039 MW in May of 2016, equating to reserve margins of 87.7 percent and 36.6 percent, respectively.¹⁴ As such, DTE Electric argues that purchasing replacement capacity will do nothing to improve the reliability of service to its customers.¹⁵

DTE Electric Request for Waiver

5. DTE Electric proposes two alternative options in its waiver request. As its first option, DTE Electric requests that the Commission waive the portion of the MISO Tariff that would bar DTE Electric from declaring Trenton Channel to be on outage for the 6.5 week period at the end of the 2015-2016 Planning Year.¹⁶ DTE Electric suggests that this is the best option available to obtain the benefits of Trenton Channel's continued operations until it is forced to suspend operations by the EPA MATS rule. DTE Electric states that this approach would recognize that Trenton Channel will be supplying capacity for 45.5 weeks of the 2015-2016 Planning Year, including during summer and winter peaks, and exempt Trenton Channel from the must-offer obligation after its retirement.¹⁷

6. If the Commission determines it is not appropriate to consider Trenton Channel to be on outage for the 6.5 week period, DTE Electric requests that the Commission waive

¹¹ *Id.*

¹² *Id.* at 11-12.

¹³ *Id.* at 14 & Burgdorf Test. at 10. DTE Electric developed this range to estimate the cost of 87 MW of replacement capacity for 365 days. DTE Electric used \$55 per MW-day to calculate the low end and \$248 per MW-day (roughly the 2015-2016 Cost of New Entry for Zone 7) to calculate the high end. *See id.* at Burgdorf Test. at 10.

¹⁴ *Id.* at 14 (citing Burgdorf Test. at 9).

¹⁵ *Id.* at Burgdorf Test. at 9.

¹⁶ *Id.* at 3, 13-14.

¹⁷ *Id.* at 3 (citing MISO, FERC Electric Tariff, Module E-1, § 69A.5 (31.0.0)).

the must-offer requirement for Trenton Channel relative to the energy and ancillary services market under section 69A.5¹⁸ and the requirement to purchase replacement capacity under section 69A.3.1.h¹⁹ for the 6.5 week period between April 16, 2016 and May 31, 2016.²⁰ DTE Electric states that this proposal would capture the same benefits as identified under its first option; that is, this second option would take advantage of Trenton Channel's available capacity for 45.5 weeks of the 2015-2016 Planning Year and recognize that DTE Electric expects to maintain a planning reserve margin of 36.6 percent or more during the 6.5 week period without Trenton Channel.²¹

7. DTE Electric argues that its request for waiver meets the Commission's standard for granting waiver: (1) DTE Electric has been unable to comply with the Tariff provision at issue in good faith; (2) the waiver is of limited scope; (3) a concrete problem will be remedied; and (4) the waiver does not have undesirable consequences, such as harm to third parties.²²

¹⁸ Under section 69A.5 of the MISO Tariff, capacity used to meet a Planning Resource Margin Requirement (unless replaced pursuant to section 69A.3.1.h) must offer into the day-ahead energy market and contingency reserve market for each hour of each day for the entire Planning Year. MISO, FERC Electric Tariff, Module E-1, § 69A.5 (31.0.0). The MISO Planning Year runs from June 1st of one year to May 31st of the following year. MISO, FERC Electric Tariff, Module A, § 1.P (31.0.0).

¹⁹ Section 69A.3.1.h of the MISO Tariff provides that, if a Planning Resource is retired or suspended prior to the end of the Planning Year, the Market Participant must procure replacement capacity. MISO, FERC Electric Tariff, Module E-1, § 69A.3.1.h (33.0.0).

²⁰ DTE Electric Request for Waiver at 4, 15.

²¹ *Id.* at 4.

²² *Id.* at 16 & n.39 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,132, at P 8 (2014); *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); *ISO New England Inc.-EnerNOC, Inc.*, 122 FERC ¶ 61,297 (2008); *Central Vermont. Pub. Serv. Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008)).

8. Specifically, DTE Electric represents that it has acted in good faith by timely submitting its Attachment Y Notification to MISO to undergo a reliability analysis of Trenton Channel.²³ Additionally, DTE Electric argues that it will be resource sufficient without Trenton Channel and maintain reserve margins of 87.7 percent and 36.6 percent during April and May of 2016, respectively.²⁴ Further, DTE Electric notes that, as a member of the MISO Supply Adequacy Working Group, it worked with MISO to pursue a Tariff amendment to resolve the 6.5 week issue.²⁵

9. DTE Electric argues that the 6.5 week period is limited in scope and brought on by the timing differential between a particular EPA compliance deadline and the MISO Planning Year.²⁶

10. Next, DTE Electric argues that the 6.5 week problem is concrete, as it addresses a specific issue with respect to the relationship of the MATS compliance deadline and the MISO Planning Year that, absent waiver, would cause DTE Electric's Trenton Channel to be treated inequitably. DTE Electric argues that, absent a waiver, it could be subject to significant and unreasonable penalties that would not improve or supplement resource adequacy but would only require its customers to pay for expenses not needed to ensure resource adequacy or reliability.²⁷

11. Regarding undesirable consequences, DTE Electric argues that treating the 6.5 week period as an outage or granting the waiver of the must-offer and replacement capacity requirements for Trenton Channel will not harm third parties because: (1) DTE Electric will meet all of its planning reserve requirements by keeping Trenton Channel on-line during the summer 2015, fall 2015, and winter 2015-2016 peak seasons; (2) DTE Electric will have sufficient capacity during the 6.5 week period; and (3) the waiver of the must-offer requirement for the 6.5 week period will allow DTE Electric's generation to be treated equitably relative to all other generators in the auction and will prevent unnecessary costs to be imposed on DTE Electric.²⁸ According to DTE Electric, the

²³ *Id.* at 16.

²⁴ *Id.* at 16-17.

²⁵ *Id.* at 17.

²⁶ *Id.* at 18.

²⁷ *Id.*

²⁸ *Id.*

substantial reserve margin for the 6.5 week period makes the requirement to purchase replacement capacity an unnecessary and unwarranted cost that would be unjust and unreasonable because an additional purchase of replacement capacity merely increases DTE Electric's expenses with no benefits to its customers.²⁹ Further, DTE Electric states that it will use Trenton Channel as a source to meet its MISO Resource Adequacy Requirements for the 2015-2016 Planning Year and argues that granting it a waiver does not mitigate its responsibility to maintain adequate resources and reserves to meet its reliability obligations at any time, but merely protects DTE Electric from what would be an unjust and unreasonable expense to procure unneeded additional capacity for the 6.5 week period.³⁰

II. Notice and Responsive Pleadings

12. Notice of DTE Electric's request for waiver was published in the *Federal Register*, 79 Fed. Reg. 63,113 (2014), with interventions and protests due on or before November 4, 2014.

13. The following entities filed timely motions to intervene: Alliant Energy Corporate Services, Inc.; and American Electric Power Service Corporation. Organization of MISO States filed a notice of intervention. The Michigan Public Service Commission (Michigan Commission) submitted a notice of intervention and comments. The following entities filed timely motions to intervene and comments or protests: Consumers Energy Company (Consumers Energy); MISO; Dynege Companies, Calpine Corporation, and Exelon Corporation (together, Suppliers); and NRG Companies.³¹ Duke Energy Corporation submitted a motion to intervene out-of-time. On November 19, 2014, DTE Electric filed an answer.

14. The Michigan Commission and Consumers Energy filed comments in support of DTE Electric's waiver request. The Michigan Commission stresses that the waiver request should be managed in a manner that is practical to both ensure reliability concerns and minimize the cost implications for ratepayers. The Michigan Commission states that the mismatch between the EPA MATS deadline and the MISO 2015-2016 Planning Year has created the potential for unnecessary cost increases. Therefore, the

²⁹ *Id.* at 19.

³⁰ *Id.*

³¹ For purposes of this filing, the Dynege Companies are Dynege Marketing and Trade, LLC and Illinois Power Marketing Company. NRG Companies in this proceeding are NRG Power Marketing LLC and GenOn Energy Management, LLC.

Michigan Commission argues that DTE Electric's waiver request is reasonable and should be approved.³²

15. In its comments, Consumers Energy states that it supports the relief requested by DTE Electric, noting that the request for waiver is limited in scope, addresses a concrete problem, and will not cause undesirable consequences.³³ Consumers Energy represents that MISO's Zone 7 Maintenance Margin Charts indicate that the Planning Reserve Margin is still sufficient in MISO Zone 7 during the 6.5 week period, even taking into account the suspension of operations of Trenton Channel and seven of Consumers Energy's own units.³⁴ Consumers Energy explains that MISO's Zone 7 Maintenance Margin Charts indicate that 5,929 MW to 10,030 MW and 621 MW to 8,520 MW of additional outages could occur in April and May of 2016, respectively, without impacting reliability.³⁵

16. In its protest, MISO states that it is unable to support DTE's waiver request based on the same resource adequacy concerns MISO raised in its answers to the Indianapolis Power & Light Company (Indianapolis Power) filing in Docket No. EL14-70-000 and the Consumers Energy filing in Docket No. ER14-2622-000.³⁶ MISO asserts that, by 2016, the MISO North and MISO Central regions may face a capacity deficit below the Planning Reserve Margin and that a shortfall would increase the risk of a loss of load event. MISO argues that a broader perspective is warranted to protect against the opportunity for a confluence of factors to undermine the region's expectations for resource adequacy. MISO notes that, to date, several companies have made waiver requests for the same 6.5 week period, implicating a total of 1,772 MW, and it is possible that other companies will make similar waiver requests.³⁷

³² Michigan Commission Comments at 2.

³³ Consumers Energy Comments at 3.

³⁴ *Id.* Consumers Energy has seven coal-fired power plants totaling 940.7 MW (Classic Seven). *See* Consumers Energy, Request for Waiver, Docket No. ER14-2622-000, at 5 (filed Aug. 7, 2014).

³⁵ *Id.* (citing MISO's Maintenance Margin Charts *available at*: https://www.oasis.oati.com/woa/docs/MISO/MISODOCS/MM_Oct2014_update.zip).

³⁶ MISO Protest at 4 and n.12.

³⁷ *Id.* at 4-5.

17. MISO clarifies that its Attachment Y Reliability Study determines whether the requested change of operating status would result in transmission reliability issues and does not include a review of resource adequacy impacts related to a resource retirement or suspension. Further, MISO states that the EPA describes two different types of circumstances that could be used to support an administrative order: “failure to operate the unit would (a) result in a violation of at least one reliability criteria . . . or (b) cause reserves to fall below the required system reserve margin.”³⁸ Thus, MISO clarifies that its Attachment Y Reliability Study determinations have not foreclosed the opportunity for DTE Electric or any other entity to seek an administrative order from the EPA.³⁹

18. MISO states that analysis based on the projected reserve margins for April 2016 and May 2016 included in DTE Electric’s request for waiver is not the type of assessment MISO uses for making resource adequacy determinations and states that unit retirements are fundamentally different from scheduled maintenance or a planned outage since there is no opportunity to reschedule a retired unit.⁴⁰ MISO argues that relying on units that will not be available for the duration of the Planning Year to meet Planning Reserve Margin Requirements contributes to erosion of the resource adequacy planning process.⁴¹

19. MISO acknowledges its engagement in a MISO stakeholder process to explore options related to the timing difference between the MATS compliance deadline and the end of the Planning Year; however, MISO explains that it very carefully considered a variety of proffered options and ultimately decided not to propose Tariff revisions and expressed to stakeholders that “[t]oday there is an obligation to provide capacity, or buy it from other participants who have it. Removing that obligation does in fact provide preference for those customers to supply at the expense of other [Market Participants].”⁴²

³⁸ *Id.* at 6-7 (citing EPA’s Enforcement Response Policy for use of Clean Air Section 113(a) Administrative Orders in Relation to Electricity Reliability and the Mercury and Air Toxics Standard, at 7 (Dec. 16, 2011), *available at* <http://www2.epa.gov/sites/production/files/documents/mats-erp.pdf>).

³⁹ *Id.* at 6-7.

⁴⁰ *Id.* at 7-8.

⁴¹ *Id.* at 8.

⁴² *Id.* at 7-8 (citing minutes of the December 13, 2013 Supply Adequacy Working Group meeting, *available at* <https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/SAWG/2014/20140109/20140109%20SAWG%20Item%2001c%20Minutes%2020131205.pdf>).

MISO argues that waiver of its Tariff requirements related to resource adequacy should not be considered unless and until it can be demonstrated that no other Tariff-compliant route is available. MISO contends that it is premature to conclude that DTE Electric will have no other means to address the capacity deficit created by the retirement of Trenton Channel and that the viability of other options, such as demand response, should be fully explored.⁴³

20. In their protest, Suppliers point out that DTE Electric's filing is only one of a series of filings requesting waiver of MISO's resource adequacy rules for the same 6.5 week period and suggest that these requests, together, present a significant threat to MISO's resource adequacy structure. Suppliers argue that, individually and together, these requests would create an uneven and discriminatory playing field for Capacity Resources, suppress prices in MISO's capacity market, and threaten reliability. Suppliers characterize DTE Electric's waiver request as an attempt to avoid having to make the investments necessary to comply with MATS and state that this type of financial motivation should not be considered a valid reason to relieve DTE Electric of its resource adequacy obligations under the Tariff. Suppliers argue that DTE Electric fails to satisfy the Commission's standards for waiver and that the request should therefore be denied.⁴⁴

21. First, Suppliers contend that DTE Electric cannot show that there is a concrete problem that must be addressed.⁴⁵ Suppliers state that DTE Electric will have had more than four years since the promulgation of the MATS rule to plan for the suspension of Trenton Channel's operations. Suppliers argue that DTE Electric has made no showing that replacement capacity is not available for the 6.5 week period, noting that more than 12 gigawatts (GW) of capacity did not clear the most recent 2014-2015 Planning Resource Auction.⁴⁶ Further, Suppliers note that the Commission approved MISO's proposed Tariff modifications in Docket No. ER14-2113-000, which allow for the inter-zonal replacement of capacity and broaden the bilateral opportunities for replacement capacity available to DTE Electric.⁴⁷ Next, Suppliers argue that capacity is currently trading bilaterally at levels at or below DTE Electric's low-end estimate of \$55 per MW-day. Suppliers support this claim by representing that Dynegy Companies recently

⁴³ *Id.* at 8-9.

⁴⁴ Suppliers Protest at 4-5.

⁴⁵ *Id.*

⁴⁶ *Id.* at 6-7.

⁴⁷ *Id.* at 7.

entered into a bilateral agreement to sell nearly 800 MW of capacity for the final eight months of the 2014-2015 Planning Year at a price that is close to \$16.75 per MW-day, the 2014-2015 Auction Clearing Price.⁴⁸

22. Suppliers argue that, while DTE Electric represents that it could be subject to penalties for physical withholding of Trenton Channel, the Tariff language in section 63.3.a.i suggests that the suspension of Trenton Channel as a result of the verifiable implementation of MATS may not be deemed to be physical withholding.⁴⁹ Further, Suppliers contend that the language in Tariff section 69A.3.1.h suggests that resources that are retiring or suspending operations in the middle of a Planning Year are not obligated to participate in the Planning Resource Auction.⁵⁰ Accordingly, Suppliers question why DTE Electric's waiver request did not include a request for the Commission to find that DTE Electric is not required to offer Trenton Channel into the 2015-2016 Planning Resource Auction. Suppliers argue that such a request would give DTE Electric a guarantee that it would not be found to be in violation of the Tariff, while also avoiding any adverse market effects that would result from the participation of the Trenton Channel in the Planning Resource Auction.⁵¹

23. Second, Suppliers argue that DTE Electric's request is not limited in scope, claiming that DTE Electric's request, combined with the request already granted to Indianapolis Power and other pending requests for waiver, presents a threat to reliability and to the viability of MISO's resource adequacy construct.⁵² Suppliers warn that

⁴⁸ *Id.* at 7-8. Suppliers state that, to the extent that it would be helpful for the Commission's analysis, Dynegy Companies would be willing to file a copy of the bilateral agreement with the Commission on a confidential basis. *Id.* n.28.

⁴⁹ *Id.* at 9-10. The Tariff provides that the following category of conduct may warrant mitigation: "*Physical withholding of an Electric Facility including a Planning Resource . . . [that] may include . . . declaring that an Electric Facility has been derated, forced out of service or otherwise become unavailable for technical reasons that are not true or cannot be verified[.]*" MISO, FERC Electric Tariff, Module D, § 63.3.a.i (30.0.0).

⁵⁰ Suppliers Protest at 9-10. The Tariff provides that a resource "will no longer qualify as a Planning Resource effective as of the actual date that the status of the Planning Resource changes to Retire or Suspend" MISO, FERC Electric Tariff, Module E-1, § 69A.3.1.h (33.0.0).

⁵¹ Suppliers Protest at 10.

⁵² *Id.* at 11-12.

granting DTE Electric's requested relief will send the message that waiver can and should be sought in any situation where the timing of an environmental or other regulatory obligation does not perfectly coincide with the MISO Planning Year. Thus, Suppliers argue, DTE Electric's waiver request should not be considered limited in scope.⁵³

24. Third, Suppliers argue that DTE Electric's request for waiver harms the MISO markets, harms suppliers participating in those markets, and undermines the reliability of the system. Suppliers contend that, since the Commission granted Indianapolis Power's request for waiver, the threat to reliability has only increased given three other waiver requests that have since been filed and the likelihood of other load serving entities filing for similar relief.⁵⁴ Suppliers claim that allowing DTE Electric to use non-functional resources to satisfy its capacity obligation for part of the year will suppress the Auction Clearing Price, thereby depriving other generators that have made substantial investments to comply with MATS of capacity revenues.⁵⁵

25. Suppliers note that, in the Commission's order granting Indianapolis Power's requested relief, the Commission stated that it reviews waiver requests "on a case-by-case basis,"⁵⁶ and that Commissioners Clark and Moeller emphasized in a concurring statement that the Indianapolis Power Order "in no way ties our hands to granting waivers under a different set of circumstances."⁵⁷ Accordingly, Suppliers argue that examination of the specific circumstances here requires the Commission to deny DTE Electric's request for waiver. Specifically, Suppliers note that the capacity of Indianapolis Power's Eagle Valley facility only represents approximately one percent of the demand forecast for MISO Zone 6, whereas the capacity of Trenton Channel, combined with the capacity of the Classic Seven, represents over five percent of the demand forecast for MISO Zone 7.⁵⁸

⁵³ *Id.* at 12.

⁵⁴ *Id.*

⁵⁵ *Id.* at 12-13.

⁵⁶ *Id.* at 13 (citing *Indianapolis Power & Light Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,047, at P 65 (2014) (*Indianapolis Power Order*)).

⁵⁷ *Id.* at 13-14 (citing *Indianapolis Power Order*, 149 FERC ¶ 61,047 (Clark and Moeller, Comm'rs, concurring)).

⁵⁸ *Id.* at 14.

26. Suppliers note that the Commission apparently gave weight to the fact that MISO's Zone 6 Maintenance Margin Charts "indicate that the Planning Reserve Margin is still sufficient in Zone 6 during the 6.5 week period."⁵⁹ Suppliers argue, however, that DTE Electric has not relied on MISO's Maintenance Margin Charts for Zone 7. Moreover, any such reliance would be misplaced given that such charts are only intended to determine whether it is permissible for a resource to be on scheduled maintenance and do not constitute MISO's determination that a resource is not required for reliability reasons.⁶⁰

27. Suppliers claim that the Commission apparently relied on the Indiana Utility Regulatory Commission's support for Indianapolis Power's waiver request.⁶¹ Suppliers also allege that, by relying on the Indiana Utility Regulatory Commission's support for granting Indianapolis Power's waiver request, the Commission failed to recognize that the reserve margins set by state regulators are used to establish the annualized Planning Reserve Margins applied by MISO and that the Tariff does not permit state regulators to modify such reserve margins in the middle of a Planning Year or otherwise excuse specific resources from complying with the requirements under the MISO Tariff.⁶² Suppliers also argue that the spring season, while typically a shoulder season for demand, is also normally a peak season for generation and transmission outages, which can cause unique operating scenarios and stresses on the system.⁶³

28. Suppliers argue that both of DTE Electric's proposed options are short-sighted, unduly discriminatory, and will result in distorted market signals. As for DTE Electric's first option, Suppliers represent that the Tariff makes clear that outages may only be declared in circumstances where there is an unanticipated event or where there is the temporary removal of a resource from service, which, according to Suppliers, does not accurately reflect the status of Trenton Channel.⁶⁴ Suppliers argue that both options should be rejected because they will result in unduly preferential treatment for DTE

⁵⁹ *Id.* at 14 n.50 (citing *Indianapolis Power Order*, 149 FERC ¶ 61,047 at P 67).

⁶⁰ *Id.*

⁶¹ *Id.* (citing *Indianapolis Power Order*, 149 FERC ¶ 61,047 at P 67).

⁶² *Id.*

⁶³ *Id.* at 15.

⁶⁴ *Id.* at 17.

Electric and undue discrimination against other resources that will continue to be subject to the must-offer obligation and the obligation to purchase replacement capacity.⁶⁵

29. Suppliers suggest that, to the extent that the Commission is inclined to grant some form of relief, the Commission could clarify that DTE Electric will not be found to have engaged in physical withholding if it does not offer Trenton Channel into the 2015-2016 Planning Resource Auction or, alternatively, the Commission could adopt Commissioner Bay's recommendation in the Indianapolis Power Order and require DTE Electric to "purchase replacement capacity for the 6.5 weeks on the condition that it be available at a just and reasonable rate."⁶⁶

30. In their protest, NRG Companies represent that, thus far, the Commission has been asked to waive compliance with the resource adequacy requirements associated with 1,772 MW of generation.⁶⁷ NRG Companies argue that such waiver requests call into question whether DTE Electric's waiver request is limited in scope, has no undesirable consequences, or remedies a problem for which no good-faith solution is available.⁶⁸

31. First, NRG Companies argue that DTE Electric's waiver request is not limited in scope, but rather extremely broad. NRG Companies state that, of the total resources affected by the EPA MATS rule, 7.8 GW have announced their intent to permanently retire, and the status of an additional 2.4 GW remains unclear.⁶⁹

⁶⁵ *Id.* at 18.

⁶⁶ *Id.* at 19 (citing *Indianapolis Power Order*, 149 FERC ¶ 61,047 (Bay, Comm'r, dissenting)).

⁶⁷ NRG Companies Protest at 2 (citing *Indianapolis Power, Request for Waiver and Complaint*, Docket No. EL14-70-000 (filed June 20, 2014); *Consumers Energy, Request for Waiver*, Docket No. ER14-2622-000 (filed Aug. 7, 2014); *MidAmerican Energy Company, Request for Waiver*, Docket No. ER15-199-000 (filed Oct. 27, 2014) (MidAmerican)).

⁶⁸ *Id.*

⁶⁹ *Id.* at 3 (citing MISO, *Long-Term Resource Adequacy Update* (Oct. 2014), available at <https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/BOD/System%20Planning%20Committee/2014/20141022/20141022%20System%20Planning%20Committee%20of%20the%20BOD%20Item%2004%20Long%20Term%20Resource%20Adequacy%20Assessment.pdf>).

32. Second, NRG Companies contend that DTE Electric's waiver request potentially harms both consumers and generators. NRG Companies point out that MISO projects a 2.3 GW reserve shortfall in 2016 and argue that it is difficult to believe that granting additional waivers of resource adequacy requirements will have no adverse impact on reliability. NRG Companies argue that the fact that the Attachment Y Reliability Study performed by MISO did not identify any reliability problems does nothing to address the overall decrease in system reliability associated with the loss of Trenton Channel.⁷⁰

33. NRG Companies also note that there is currently more than 6 GW of merchant generation that is un-contracted in the MISO footprint. NRG Companies state that the Commission's statutory mandate under the Federal Power Act (FPA) is to ensure just and reasonable rates for all Market Participants, including merchant generators. NRG Companies also state that the Commission has found the existing MISO Resource Adequacy construct provides rates that are just and reasonable for both generators and load.⁷¹ NRG Companies further state that the Commission has repeatedly recognized that prices under a vertical demand curve are susceptible to even small changes in the supply/demand balance.⁷² NRG Companies argue that excusing DTE Electric and other load serving entities from meeting their resource adequacy obligations deprives merchant generators of any meaningful ability to earn just and reasonable rates. Further, NRG Companies argue that it is the consumers who will ultimately pay higher capacity prices as merchant generation either flees the MISO market to PJM Interconnection, L.L.C. (PJM) or retires.⁷³

34. Third, NRG Companies argue that DTE Electric has not demonstrated its good faith compliance with the Tariff. NRG Companies note that \$55 per MW-day, DTE Electric's lower end of its estimated range of replacement capacity costs, is well within the \$16 per MW-day to \$120 per MW-day clearing price that the PJM Reliability Pricing Model returned for the unconstrained Regional Transmission Owner zone. NRG Companies contend that, at a minimum, the Commission should require DTE Electric to

⁷⁰ *Id.* at 4-5.

⁷¹ *Id.* at 5-6 (citing *Midwest Indep. Sys. Operator, Inc.*, 139 FERC ¶ 61,199 (2012)).

⁷² *Id.* at 6 (citing, e.g., *ISO New England, Inc. and New England Power Pool Participants Committee*, 147 FERC ¶ 61,173 (2014)).

⁷³ *Id.*

hold an open solicitation for the replacement capacity before it considers waiving MISO's resource adequacy rules.⁷⁴

35. In its answer, DTE Electric responds to Suppliers' assertion that DTE Electric did not attempt to rely on the MISO Zone 7 Maintenance Margin Charts. DTE Electric points out that Consumers Energy referred to the MISO Zone 7 Maintenance Margin Charts, which demonstrate that the Planning Reserve Margin is still sufficient in Zone 7 during the 6.5 week period, even taking into account the suspension of operations of Trenton Channel and the Classic Seven.⁷⁵ Additionally, DTE Electric disagrees with Suppliers' claim that the Commission's reliance on the Maintenance Margin Charts in the *Indianapolis Power* Order is misplaced. DTE Electric reasons that the Commission was correct in the *Indianapolis Power* Order and that the maintenance margin is relevant to the question of reliability since MISO's maintenance margin studies identify the minimum amount of generation that must be available and the maximum amount of generation that can be taken out of service each day to reliably serve load and maintain supply adequacy. DTE Electric therefore avers that, as in the *Indianapolis Power* case, the maintenance margin available during the 6.5 week period should mitigate any reliability concerns regarding the instant waiver request.⁷⁶

III. Discussion

A. Procedural Matters

36. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), we will grant the late-filed motion to intervene of Duke Energy Corporation given its interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

37. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept DTE Electric's answer because it has provided information that assisted us in our decision-making process.

⁷⁴ *Id.* at 6-7.

⁷⁵ DTE Electric Answer at 2-3.

⁷⁶ *Id.* at 3-4.

B. Substantive Matters

38. Based on our review of DTE Electric's request for limited waiver of the must-offer requirement and requirement to purchase replacement capacity in MISO Tariff sections 69A.5 and 69A.3.1.h, respectively, for the period from April 16, 2016 to May 31, 2016, we find good cause to grant the requested waiver.

39. The Commission has previously granted one-time waivers of tariff provisions in situations where, as relevant here: (1) the waiver is of limited scope; (2) a concrete problem needed to be remedied; and (3) the waiver did not have undesirable consequences, such as harming third parties.⁷⁷ Based on the record, we find that DTE Electric's request for waiver satisfies the aforementioned conditions. We conclude that granting the requested waiver, and relieving DTE Electric of the obligation to procure replacement capacity for the Trenton Channel unit for the limited period of time from April 16, 2016 to May 31, 2016, will benefit DTE Electric's customers by reducing the financial impacts of the disconnect between the MISO 2015-2016 Planning Year and deadline for compliance with the EPA MATS requirements without materially impacting reliability or resource adequacy during the 6.5 week period in question.

40. First, we find that this waiver is of limited scope. The requested waiver is limited to the 120 MW Trenton Channel unit for a limited period of time from April 16, 2016 to May 31, 2016 of the 2015-2016 Planning Year. It is uncontested that the EPA mandates begin on April 16, 2016, and that the MISO Planning Year ends on May 31, 2016. We are therefore faced with a clear timing mismatch limited to a 6.5 week period outside of the peak planning period. Suppliers argue that DTE Electric's request is not limited in scope because it presents a cumulative threat to reliability if granted in conjunction with other similar waivers sought from the Commission.⁷⁸ We disagree and find the argument that granting this waiver will contribute to a cumulative threat to reliability to be speculative. MISO conducted an Attachment Y Reliability Study to determine whether Trenton Channel is necessary for reliability and found that the unit is not necessary for reliability beyond April 15, 2016. While entities in the MISO footprint are working to

⁷⁷ See, e.g., *California. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,184, at P 18 (2014); *Sw. Power Pool, Inc.*, 148 FERC ¶ 61,013, at P 13 (2014); *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,041, at P 5 (2014).

⁷⁸ See, e.g., *Indianapolis Power, Request for Waiver and Complaint*, Docket No. EL14-70-000 (filed June 20, 2014); *Duke Energy Indiana, Inc., Request for Waiver*, Docket No. ER15-592-000 (filed Dec. 5, 2014) (Duke Indiana); *MidAmerican, Request for Waiver*, Docket No. ER15-199-000 (filed Oct. 27, 2014); *Consumers Energy, Request for Waiver*, Docket No. ER15-435-000 (filed Nov. 18, 2014).

install assets in order to meet environmental requirements in the long-term, no party to the proceeding has indicated that it intends to install, in the time remaining between now and April 2016, a temporary capacity resource for the 6.5 week period. Moreover, no party has presented a reliability issue for the 6.5 week period, or any evidence that an asset critical to reliability will be placed in service on a different schedule depending on how we act here. We therefore disagree that the waiver is not of limited scope because of its alleged potential impacts on reliability. We reiterate that the Commission does not take waiver requests lightly. The Commission reviews each request for waiver on a case-by-case basis and granting this waiver does not dictate that the Commission will grant other waiver requests that seek the same relief.⁷⁹

41. We also find that DTE Electric's request addresses a concrete problem. DTE Electric's Trenton Channel unit must comply with EPA MATS requirements by April 16, 2016, and DTE Electric, with the support of its state regulators, has made an economic decision to retire the Trenton Channel unit on that date. DTE Electric therefore faces a discrete and concrete problem: how it should treat its Trenton Channel unit, which will remain operational for 45.5 weeks of the 2015-2016 Planning Year, including the peak periods in the summer of 2015 and winter of 2015-2016, for the purpose of meeting its resource adequacy requirements. The requested waiver resolves this problem created by the 6.5 week gap between EPA MATS deadlines and the MISO Planning Year that MISO and its stakeholders recognized and spent over a year attempting to resolve through a Tariff amendment.⁸⁰ We disagree with Suppliers' argument that DTE Electric's request

⁷⁹ For example, in companion orders issued today, the Commission grants relief sought by MidAmerican and Duke Indiana to clarify that those entities need not offer the units at issue in those proceedings into MISO's 2015-2016 Planning Resource Auction. *See MidAmerican Energy Co.*, 150 FERC ¶ 61,124 (2015); *Duke Energy Indiana, Inc.*, 150 FERC ¶ 61,126 (2015). While both MidAmerican and Duke Indiana also sought waiver of sections 69A.5 and 69A.3.1 of the MISO Tariff (i.e., the same relief granted to DTE Electric in this order, and previously granted to Indianapolis Power), the Commission concludes that alternative relief is appropriate under the facts of the cases. Specifically, the Commission finds that MidAmerican and Duke Indiana are in a fundamentally different position than Indianapolis Power, in that the MidAmerican and Duke Indiana units at issue in those proceedings are excess capacity that neither entity needs for its own customers, and therefore that it would be inappropriate to allow MidAmerican and Duke Indiana to sell that excess capacity to third parties through the 2015-2016 Planning Resource Auction and be compensated by third parties for a full year of capacity when neither MidAmerican nor Duke Indiana will be able to deliver that full commitment.

⁸⁰ We acknowledge that, on January 28, 2015, MISO submitted proposed Tariff

(continued...)

for waiver does not address a concrete problem because other supplies may be available for the 6.5 week period, or because other load serving entities resolved this 6.5 week issue through other means.⁸¹ The existence of other possible solutions, besides the requested waiver, does not eliminate DTE Electric's problem.

42. We also find that the requested waiver will not cause undesirable consequences, based on DTE Electric's representation that it will meet all of its planning reserve requirements during the peak periods of the summer 2015 and winter 2015-2016 seasons by having Trenton Channel on-line. We disagree with the contention that granting DTE Electric's request for waiver would undermine system reliability. We again note that MISO found that Trenton Channel is not necessary for reliability beyond April 15, 2016.⁸² Furthermore, we note that the Michigan Commission, which plays a critical role

revisions in Docket No. ER15-918-000 that propose to revise its Tariff provisions regarding application of physical withholding mitigation to generation resources that are retiring or suspending operations during the period of time between the 2015-2016 Planning Resource Auction and the end of the 2015-2016 Planning Year. In granting the relief sought by DTE Electric herein, we do not prejudge the merits of MISO's proposed Tariff revisions; we do note, however, that MISO's filing, if accepted, would go into effect on the next to last day of the offer period for the 2015-2016 Planning Resource Auction.

⁸¹ Furthermore, while Suppliers point out that 12 GW of capacity did not clear the 2014-2015 Planning Resource Auction, we note that this fact does not necessarily mean that 12 GW of capacity will not clear the 2015-2016 Planning Resource Auction and therefore be available to bilaterally procure for the 6.5 week period at issue.

⁸² DTE Electric Request for Waiver at 7 & Ex. G. MISO's Transmission Planning Business Practices Manual (Reliability Evaluation section 6.2.3) states:

System Intact (Category A) and single-element contingencies (Category B) will be considered in the evaluation, which are consistent with [North American Electric Reliability Corporation (NERC)] Planning Standards I.A. Category B includes any single transformer, generator, or transmission line outage. In addition, significant multiple-element contingencies consistent with NERC Category C will be reviewed.

NERC Transmission Planning Standards TPL-001, TPL-002, and TPL-003 effective April 1, 2005 will be applied to test the system. In performing the [System Support Resource] study, Regional, State, and MISO Member (Local) planning criteria will be respected. In addition to NERC Standards, load deliverability will be tested in areas with potential load deliverable

(continued...)

under MISO's resource adequacy construct in ensuring the adequacy and cost-effectiveness of electric service to DTE Electric's customers, supports granting the waiver.⁸³

43. NRG Companies argue that the Attachment Y Reliability Study performed by MISO does nothing to address the overall decrease in system reliability associated with the loss of Trenton Channel. We disagree; the Attachment Y Reliability Study examines both local reliability and system reliability.⁸⁴ Suppliers also argue that reliance on Maintenance Margin Charts is displaced, but we disagree. We find MISO Zone 7 Maintenance Margin Charts to be of particular importance given the level of scheduled maintenance outages typically experienced during shoulder periods. This information provides us with a more granular understanding of the load forecast and scheduled outages in MISO Zone 7 on a daily basis for the 6.5 week period.

44. We disagree with NRG Companies' argument that if the Commission continues to grant load serving entities' requests for waiver then it will deny generators an opportunity to earn a just and reasonable rate. NRG Companies have not demonstrated how granting DTE Electric's requested waiver will eliminate NRG Companies' opportunity to earn a just and reasonable rate of return. With regard to NRG Companies' argument concerning the vertical demand curve, we note that this issue is pending before the Commission in Docket Nos. ER11-4081-001 and ER11-4081-002, and find that this issue is beyond the scope of this proceeding.

45. We are not persuaded by Suppliers' argument that granting the waiver request will harm Dynegy and other suppliers because they will be deprived of capacity revenues. A decrease in capacity revenues, were it to occur in the 2015-2016 Planning Year, could be a function of a number of market factors. These suppliers have other sources of potential revenues in the energy, reserves and capacity markets of MISO and adjoining Regional Transmission Organizations. In any case, DTE Electric's waiver request presents the Commission with a discrete and concrete problem: whether DTE Electric's customers should be required to replace the Trenton Channel unit's capacity during the 6.5 week

deficiency. A 1 day in 10 year [Loss of Load Event] criteria will be applied.

⁸³ For example, under MISO's resource adequacy Tariff provisions, if the Michigan Commission elects to establish a Planning Reserve Margin for DTE Electric, MISO must use that Planning Reserve Margin in its calculation of DTE Electric's Planning Reserve Margin Requirement.

⁸⁴ See *supra* note 82.

period at an unknown and potentially significant cost, even though the capacity would be procured for a shoulder season. In addressing DTE Electric's waiver request, we must weigh any revenue increases for suppliers against the potential increase in costs to DTE Electric's customers. Under the facts of this case, we cannot justify assessing customers potentially significant costs to replace capacity during the 6.5 week period at issue when those costs are unlikely to have a meaningful impact on reliability or resource adequacy during the replacement period in question. We also disagree with assertions that granting this waiver will undermine MISO's resource adequacy construct; to the contrary, we conclude that granting the waiver under the limited circumstances here will help ensure that the timing disconnect between MISO's 2015-2016 Planning Year and the MATS compliance requirement does not unnecessarily increase costs for DTE Electric's customers. As to Suppliers' concern that granting DTE Electric's request for waiver results in undue preference, we find that DTE Electric has adequately demonstrated that waiver is warranted under the facts presented, and our determination here is limited to the specific facts of this proceeding.

46. Suppliers argue that the Commission should clarify that DTE Electric will not be found to have engaged in physical withholding if it does not offer Trenton Channel into the 2015-2016 Planning Resource Auction. However, since this relief was not requested by DTE Electric, we find the requested clarification to be outside the scope of this proceeding. We also decline Suppliers' alternative recommendation to require DTE Electric to purchase replacement capacity to the extent that it is available at just and reasonable rates⁸⁵ and NRG Companies' recommendation to require DTE Electric to hold an open solicitation for the replacement capacity as a condition to the instant waiver. As discussed above, we find that DTE Electric satisfies the Commission's waiver criteria.

47. In granting this waiver, we remain cognizant of the Commission's responsibilities under the FPA for the reliability of the bulk electric system and the oversight of regional

⁸⁵ This proposal is derived from an alternative form of relief sought by Indianapolis Power in its waiver request granted by the Commission on October 16, 2014. *Indianapolis Power Order*, 149 FERC ¶ 61,047 (2014). However, we note that Indianapolis Power did not propose simply that it be required to purchase replacement capacity to the extent that it is available at just and reasonable rates; to the contrary, Indianapolis Power expressly requested that the Commission "place boundaries on the just and reasonable cost [at which] any replacement capacity could be offered." Indianapolis Power Waiver Request, Docket No. EL14-70-000, at 28 (filed June 20, 2014). DTE Electric did not seek this alternative form of relief, and in any event, it is unclear what "boundaries" the Commission would impose if it granted this type of relief.

electric markets to ensure that they sustain reliability at just and reasonable rates.⁸⁶ Ultimately, we find that granting DTE Electric's requested waiver is an appropriate remedy to address the inconsistency between the compliance date of the EPA's MATS requirements for Trenton Channel (i.e., April 16, 2016) and the end of MISO's 2015-2016 Planning Year (i.e., May 31, 2016). We note that the limited waiver granted herein does not implicate the resource adequacy requirements for the summer 2016 peak season, the 2016-2017 Planning Year, or any planning years thereafter. Furthermore, DTE Electric remains obligated to maintain sufficient capacity for the remainder of the 2015-2016 Planning Year, including the peak seasons in summer 2015 and winter 2015-2016. We also note that the Commission continues to monitor resource adequacy in the MISO region, particularly in anticipation of the 2016-2017 Planning Year, and remains committed to working with the states, MISO, and stakeholders to ensure resource adequacy in the MISO region.

48. Under the circumstances presented, we grant DTE Electric's request for waiver of the must-offer requirement and requirement to purchase replacement capacity under the MISO Tariff, as discussed above.

49. Since we are granting waiver of the must-offer requirement and requirement to purchase replacement capacity, we are not addressing DTE Electric's alternative proposal requesting that the Commission consider Trenton Channel to be on outage for the 6.5 week period.

The Commission orders:

DTE Electric's request for waiver is hereby granted, as discussed in the body of this order.

By the Commission. Commissioner Bay is dissenting with a separate statement attached.
Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸⁶ 16 U.S.C. §§ 824d, 824o (2012).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

DTE Electric Company

Docket No. ER15-90-000

(Issued February 20, 2015)

BAY, Commissioner, *dissenting*:

The Commission today compounds the error it first committed in *Indianapolis Power & Light Co. v. Midcontinent Indep. Sys. Operator, Inc.*¹, when it granted Indianapolis Power's request for a waiver of the must-offer requirement and the requirement to purchase replacement capacity for a six-and-a-half week long period.² I noted in my dissent that the waiver was not of limited scope because other resources were presumably similarly situated and would file similar requests. Not surprisingly, this has come to pass. Other resources have seen the *Indianapolis Power* waiver and have decided to seek one for themselves. One can hardly blame them. At last count, six other entities with a nameplate capacity of almost 2,641 megawatts have filed for waivers. MISO has urged the Commission to adopt a broader perspective on reliability and warned that by 2016 the MISO North and MISO Central regions may face a capacity deficit below the Planning Reserve Margin and that a shortfall would increase the risk of a loss of load event.³ The IMM has also noted market-related concerns. Unlike the majority, I would heed those concerns and deny DTE's request for a waiver.

As a legal matter, DTE cannot carry its burden of justifying its waiver request. The Commission does not grant waivers lightly, for waivers, by their nature, tend to diminish regulatory certainty and may frustrate the settled expectations of market participants. I will not repeat the analysis from my dissent in *Indianapolis Power*, but note that it is equally applicable here. DTE cannot show that (1) it is unable to comply with the tariff provision in good faith, (2) the waiver is of limited scope, or (3) the waiver would not have undesirable consequences, such as harming third parties.

¹ 149 FERC ¶ 61,047 (2014).

² *Id.* at P 71.

³ *See* MISO Protest at 5.

Like Indianapolis Power, DTE relies on estimates for the cost of replacement capacity and has made no effort to procure capacity. It has not shown that capacity is unavailable or not cost effective to obtain. Beyond that, the case for denial is stronger here than in *Indianapolis Power* because we now know that other entities have filed requests for waiver, and it is possible that more are on the way. It is difficult to see how this waiver is of limited scope, as it involves 120 megawatts. It is equally difficult to establish that there would not be undesirable consequences resulting from the waiver.⁴

Although the legal analysis is dispositive, granting this waiver, along with the others, has the unfortunate consequence of creating unsound policy as well. It leads to regulatory uncertainty where once there was none, erodes MISO's capacity construct and reliability, undermines the bilateral capacity market, and, ironically, may even increase costs to consumers.

In practical terms, today's decision gives DTE the ability to participate in MISO's energy, capacity, and ancillary services markets for 45.5 weeks out of the 2015-16 planning year. This has the potential to provide significant financial benefit for DTE. But having gotten the benefit of access to the markets for most of the year, DTE will no longer have to cover its capacity obligation for Trenton Channel for the remaining 6.5 weeks. For all those reasons, I would not grant DTE's waiver request.

Accordingly, I respectfully dissent.

Norman C. Bay
Commissioner

⁴ While the majority relies upon Attachment Y study, MISO has explained that Attachment Y only assesses transmission-related reliability issues and does not review resource adequacy impacts. *See* MISO Protest at 6. The majority's reliance on MISO's Maintenance Margin analysis is also unavailing, because that analysis is used for scheduled maintenance purposes, not to assess resource adequacy based on unit retirements. *See* MISO Answer at 7. Despite MISO's repeated attempts to explain what its own studies do, the majority characterizes them as establishing that the waivers pose no risk to local or system-wide reliability.