

150 FERC ¶ 61,144
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

February 27, 2015

In Reply Refer To:
Midcontinent Independent System
Operator, Inc.
Docket No. ER15-747-000

Midcontinent Independent System
Operator, Inc.
P.O. Box 4202
Carmel, IN 46082-4202

Attention: Kari A.E. Bennett, Senior Corporate Counsel

Dear Ms. Bennett:

1. On December 29, 2014, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² Midcontinent Independent System Operator, Inc. (MISO) submitted proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) in order to clarify how MISO accounts for sub-regional constraints in administration of resource adequacy requirements (December 29 Filing). As discussed below, we accept for filing the December 29 Filing, to become effective March 1, 2015, as requested.

2. On January 28, 2014, Southwest Power Pool, Inc. (SPP) filed with the Commission an unexecuted non-conforming service agreement for non-firm transmission service between SPP and MISO to assess charges for MISO's use of the SPP transmission system as a result of MISO's real-time energy transfers between the MISO Midwest and MISO South regions (SPP Agreement).³ In an order issued on March 28, 2014, the Commission, among other things, accepted the SPP Agreement for filing and

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2014).

³ SPP, Application, Docket No. ER14-1174-000, at 1 (filed Jan. 28, 2014).

suspended it for a nominal period, subject to refund and hearing and settlement judge procedures.⁴

3. On April 11, 2014, MISO filed proposed revisions to its Tariff to include Sub-Regional Power Balance Constraints, Sub-Regional Power Balance Constraint Demand Curves, as well as other related modifications to manage intra-regional flows.⁵ On June 10, 2014, the Commission conditionally accepted the Power Balance Filing, effective April 12, 2014, as requested.⁶

4. MISO states that the Tariff revisions proposed in the December 29 Filing are clarifications to facilitate clear understanding and implementation of sub-regional constraints and other issues related to resource adequacy requirements. According to MISO, it has been engaged in stakeholder discussions concerning appropriate application of sub-regional constraints related to the SPP Agreement Order for the 2015-2016 Planning Year. MISO states that it has determined that Tariff changes are warranted to provide clarity and improve upon the resource adequacy requirement provisions of the Power Balance Filing.⁷

5. MISO explains that the Tariff provisions that were accepted in the Power Balance Order allow MISO to consider additional adjustments to requirements necessary to reflect any intra-regional flow ranges established under applicable seams, coordination, or transmission service agreements in the administration of resource adequacy requirements.⁸ In order to better define how sub-regional constraints will be applied within resource adequacy requirements, MISO proposes to establish the following terms: Sub-Regional Resource Zone, Sub-Regional Import Constraint, and Sub-Regional Export Constraint. MISO states that each of these terms relates to how MISO administers sub-regional constraints related to applicable seams agreements, coordination agreements, or transmission service agreements. MISO explains that it will publish Sub-Regional Resource Zones, Sub-Regional Export Constraints, and Sub-Regional

⁴ *Southwest Power Pool, Inc.*, 146 FERC ¶ 61,231, at P 89 (2014) (SPP Agreement Order).

⁵ MISO, Application, Docket No. ER14-1713-000, at 1 (filed Apr. 11, 2014) (Power Balance Filing).

⁶ *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,194, at P 46 (2014) (Power Balance Order).

⁷ December 29 Filing at 2-3.

⁸ *Id.* at 3.

Import Constraints no later than the first business day of March for the upcoming Planning Year.⁹

6. MISO also proposes to clarify certain language in section 69A.7.1 of its Tariff. MISO explains that the first clarification concerns the multi-zone optimization methodology used to evaluate and address network loading violations related to the clearing of the Planning Resource Auction. MISO proposes revisions to clarify that it will use the auction clearing iteration with the fewest megawatts of network violations as the final auction results for the simultaneous feasibility test. MISO next proposes to clarify that all zero price offers of Zonal Resource Credits will clear the Planning Resource Auction. MISO states that section 69A.7.1 incorrectly references Zonal Resource Credits associated with the Capacity Deficiency Charge and thus proposes to replace references to Zonal Resource Credits with Planning Reserve Margin Requirements as it applies to the Capacity Deficiency Charge. MISO explains that corresponding revisions are also proposed in section 69A.7.6.¹⁰

7. Notice of MISO's filing was published in the *Federal Register*, 80 Fed. Reg. 500 (2015), with interventions and protests due on or before January 20, 2015. Notices of intervention were filed by Illinois Commerce Commission; Council of the City of New Orleans, Louisiana; Mississippi Public Service Commission; Organization of MISO States; Michigan Public Service Commission; and Arkansas Public Service Commission. Timely motions to intervene were filed by Midcontinent MCN, LLC; Wisconsin Electric Power Company; Ameren Services Company; American Municipal Power, Inc.; Exelon Corporation; Madison Gas & Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, and WPPI Energy; and Consumers Energy Company. NRG Companies¹¹ filed a timely motion to intervene and protest. On February 4, 2015, MISO filed an answer. On February 9, 2015, NRG Companies filed an answer.

8. NRG Companies argue that MISO provides no evidence or reasoning to demonstrate that its Tariff changes are just and reasonable and, therefore, MISO has failed to meet its threshold burden of proof under FPA section 205. NRG Companies state that MISO proposes three new terms in an attempt to clarify its administration of sub-regional constraints related to "applicable seams agreements, coordination agreements, or transmission service agreements."¹² NRG Companies contend that the

⁹ *Id.* at 3-4.

¹⁰ *Id.* at 4-5.

¹¹ For purposes of this proceeding, the NRG Companies consist of NRG Power Marketing LLC and GenOn Energy Management.

¹² NRG Companies Protest at 4 (citing December 29 Filing at 3).

proposed definitions provide no concrete guidance on which contracts will be considered applicable agreements to be used in establishing Sub-Regional Resource Zones, Sub-Regional Import Constraints, and Sub-Regional Export Constraints. NRG Companies argue that MISO's failure to identify concrete terms and parameters for evaluating, establishing, and implementing Sub-Regional Resource Zones, Sub-Regional Import Constraints, and Sub-Regional Export Constraints under applicable agreements proves to be ambiguous and overly broad and therefore the proposed Tariff revisions are unjust and unreasonable.¹³

9. NRG Companies argue that under the proposed Tariff revisions, MISO would have unilateral decision-making to identify which applicable agreements should be considered in determining Sub-Regional Resource Zones, Sub-Regional Import Constraints, and Sub-Regional Export Constraints. Furthermore, NRG Companies argue that the proposed Tariff revisions lack transparency in how MISO will apply the various agreements in determining Sub-Regional Resource Zones. NRG Companies insist that the proposed Tariff revisions place too much discretion in the hands of MISO and therefore are unjust, unreasonable, and unduly discriminatory.¹⁴

10. NRG Companies note that MISO indicates that Sub-Regional Resource Zones, Sub-Regional Import Constraints, and Sub-Regional Export Constraints could change every year. NRG Companies argue that this possibility undermines market certainty. NRG Companies contend that, if MISO is free to consider artificial constraints, market participants will be unable to model the likelihood of changes based on physical grid constraints.¹⁵ Further, NRG Companies argue that MISO's proposal to post established and implemented Sub-Regional Resource Zones, Sub-Regional Import Constraints, and Sub-Regional Export Constraints one month prior to the annual Planning Resource Auction is unreasonable. According to NRG Companies, the one-month time frame provides insufficient and inadequate notice to market participants that have a responsibility to perform long-term planning and analysis, and therefore limits a market participant's ability to adequately manage risks. NRG Companies state that, to the extent that MISO's proposed revisions are adopted, the one-month notice is unduly burdensome and should be rejected.¹⁶

¹³ *Id.* at 4-5.

¹⁴ *Id.* at 5-6.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 6-7.

11. In its answer, MISO argues that the language that references “applicable seams agreements, coordination agreements, or transmission service agreements” is not new to the December 29 Filing; instead, it was accepted by the Commission in the Power Balance Order and currently exists in section 68A.4 of the Tariff. MISO clarifies that the December 29 Filing does not change the intent or purpose of the Power Balance Filing, but instead merely clarifies and improves upon the existing Tariff language. MISO contends that the proper time for NRG Companies to make their concern known was in the Power Balance Filing.¹⁷

12. MISO addresses NRG Companies’ concern that the proposed Tariff revisions give MISO unfettered discretion in establishing sub-regional zones and limits. MISO acknowledges that the proposed Tariff provisions allow MISO discretion in establishing sub-regional zones and limits based on applicable agreements, but contends that such discretion is appropriate in this context and exists in current Tariff provisions accepted by the Commission. MISO argues that this filing actually provides MISO less discretion than currently exists because it defines and thus limits the process, scope, and applicability.¹⁸

13. With regard to NRG Companies’ assertion that MISO’s ability to revise sub-regional zones and limits will undermine market certainty, MISO notes that other resource adequacy requirement parameters (i.e., Capacity Import Limits, Capacity Export Limits, and Load Clearing Requirements) change annually leading up to and as part of the Planning Resource Auction. MISO argues that the sub-regional zonal parameters to which NRG Companies now object are of a similar scope and nature of those existing resource adequacy requirement parameters.¹⁹

14. In response to NRG Companies’ contention that the Tariff provision requiring MISO to publish any sub-regional zones and limits no later than one month prior to the Planning Resource Auction is unduly burdensome, MISO argues that the one-month notice provision is an improvement over the existing Tariff language, which sets no deadline for establishing limits based on sub-regional constraints. MISO states that, while the proposed Tariff language sets the deadline to be no later than the first business day of March, it will publish any sub-regional zones and limits as soon as practical. MISO states that the beginning of March deadline establishes a reasonable balance

¹⁷ MISO Answer at 3.

¹⁸ *Id.* at 3-4.

¹⁹ *Id.* at 4.

between allowing time to consider contractual obligations and providing certainty leading up to the Planning Resource Auction.²⁰

15. In their answer, NRG Companies state that their concerns are addressed if all of the proposed Tariff revisions are clarifications and only applicable to the Sub-Regional Power Balance Constraint. However, NRG Companies maintain that if the proposed revisions are not limited to clarifying Tariff language related to the Sub-Regional Power Balance Constraint and the Power Balance Filing, then the proposed revisions are vague, not justified, and unduly burdensome.²¹

16. 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.

17. 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 or answer unless otherwise ordered by the decisional authority. We will accept MISO's and NRG Companies' answers because they have provided information that assisted us in our decision-making process.

18. We accept the December 29 Filing, effective March 1, 2015, as requested. MISO's proposed Tariff revisions reasonably clarify the resource adequacy requirement provisions accepted by the Commission in the Power Balance Order, as discussed herein.

19. Though NRG Companies argue that the proposed Tariff language is vague, we find that the December 29 Filing introduces newly-defined terms that identify the specific sub-regional constraints which MISO will respect when conducting annual Planning Resource Auctions and Transitional Planning Resource Auctions. As for NRG Companies' concern that the proposed Tariff language fails to provide concrete guidance on which contracts will be applicable, we find it reasonable that the Tariff language apply to any and all seams agreements – and changes to those agreements – that may impact constraints.²² Nonetheless, the MISO stakeholder process provides MISO the opportunity to inform stakeholders as well as providing market participants with the ability to seek further guidance to determine whether a specific contract will be

²⁰ *Id.* at 4-5.

²¹ NRG Companies Answer at 2.

²² As MISO explains, "Future circumstances could cause MISO to establish different limits to address these flows. Additionally, these Tariff provisions would allow MISO to consider other sub-regional constraints in other areas of the MISO footprint." December 29 Filing at 6.

considered by MISO in its establishment of sub-regional constraints. Accordingly, we encourage MISO and market participants to discuss these issues in the stakeholder proceedings. Additionally, we encourage MISO to provide additional guidance, to the extent that it is available, in its resource adequacy business practices manual.

20. NRG Companies argue that the proposed Tariff language provides MISO too much discretion to identify and interpret applicable contracts, model sub-regional constraints, and establish Sub-Regional Resource Zones. However, as suggested by MISO, such discretion is consistent with the discretion permitted in the determination of Local Resource Zones, Capacity Export Limits, and Capacity Import Limits²³ and is appropriate for the effective management of the resource adequacy plan. Nonetheless, in an effort to provide additional transparency, we encourage MISO to provide additional guidance, to the extent that it is available, in the stakeholder process and in its resource adequacy business practices manual.

21. We disagree with NRG Companies' argument that the proposed Tariff language fails to provide adequate notice to market participants. While it is important to provide market participants with sufficient notice, it is also important that the sub-regional zones be based on the most up-to-date information, thereby ensuring that they accurately represent the regional constraints that will be applicable for the upcoming Planning Year. We find that the deadline proposed by MISO strikes a fair balance and is therefore reasonable.

By direction of the Commission. Commissioner Honorable is not participating.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,199, at P 84 and P 171 (2012).