157 FERC ¶ 61,182
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, and Colette D. Honorable.

Coalition of MISO Transmission Customers v. Midcontinent Independent System Operator, Inc. — Docket No. EL16-112-000

ORDER DENYING IN PART AND GRANTING IN PART COMPLAINT

(Issued December 6, 2016)

1. On September 8, 2016, Coalition of MISO Transmission Customers (Customer Coalition)[1] filed a complaint (Complaint) against Midcontinent Independent System Operator, Inc. (MISO) pursuant to sections 206, 306, and 309 of the Federal Power Act (FPA).[2] Customer Coalition alleges that MISO misapplied provisions of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) when conducting the Planning Resource Auction (Auction) for the 2016/17 Planning Year.[3] As discussed in more detail below, we deny the Complaint in part, finding that MISO did not violate its Tariff and that MISO's approach for calculating the Sub-Regional Export Constraint for the 2016/17 Auction was just and reasonable, and decline to direct MISO to provide refunds. We also grant the Complaint in part, finding that current provisions in the Tariff associated with calculating Sub-Regional Export Constraints[4] and Sub-Regional Import

[1] Customer Coalition is an ad hoc association of large industrial customers with facilities located throughout the MISO region. Complaint at 5.

[2] 16 U.S.C. §§ 824e, 825e, 825h (2012).

[3] Each Planning Year begins on June 1 and ends on May 31 of the following year. MISO, FERC Electric Tariff, Module A, § 1.P (36.0.0). Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Tariff.

[4] The Sub-Regional Export Constraint is "[t]he amount of [capacity] modeled in the [Auction] within an applicable [sub-region] that can be cleared in excess of the total individual [capacity requirement of the Local Resource Zones (Zones)] comprising the

(continued ...)

Constraints[5] are no longer just and reasonable for prospective application in that they do not specify the methodology for the calculations. We therefore direct MISO to propose a specific methodology to be used for those calculations for inclusion in its Tariff. Further, we direct MISO to modify its Tariff to provide further detail regarding going-forward costs used for mitigation purposes.

I. Background

A. MISO's Resource Adequacy Requirements and Planning Resource Auction

2. Module E-1 of the Tariff sets forth MISO's currently effective annual resource adequacy construct. Module E-1 requires load serving entities in each Zone to procure sufficient capacity to meet their respective annual capacity requirements, so that in aggregate, each Zone meets its capacity requirement.[6] A load serving entity can satisfy its capacity requirements in any of four ways, one of which is by purchasing capacity through the Auction.[7]

3. MISO conducts its Auction annually in the first ten business days of April and posts results approximately six weeks prior to the Planning Year. The Auction selects the least-cost set of capacity needed to meet each Zone's capacity requirement, while respecting local and sub-regional constraints, and establishes the auction clearing price for each Zone for the upcoming Planning Year.[8]

[sub-region] in accordance with applicable seams agreements, coordination agreements, or transmission service agreements." MISO, FERC Electric Tariff, Module A, § 1.P (36.0.0).

[5] MISO currently has two sub-regions: MISO Midwest (Zones 1-7) and MISO South (Zones 8-10). Therefore, the Sub-Regional Export Constraint for MISO South equals the Sub-Regional Import Constraint for MISO Midwest, and vice versa.

[6] MISO, FERC Electric Tariff, Module E-1, § 68A.7 (31.0.0).

[7] MISO, FERC Electric Tariff, Module E-1, § 69A (30.0.0). The other three ways a load serving entity can satisfy its capacity requirements are to submit a Fixed Resource Adequacy Plan to demonstrate that it has designated capacity to meet all or a portion of its capacity requirement, self-schedule capacity and bid it into the Planning Resource Auction at a price of zero, and/or pay the Capacity Deficiency Charge.

[8] MISO, FERC Electric Tariff, Module E-1, § 69A.7.1 (34.0.0).

4. The 2016/17 Auction results were as follows: Zone 1 cleared at $19.72/MW-day, Zones 2-7 cleared at $72.00/MW-day, and Zones 8-10 cleared at $2.99/MW-day. Two binding market parameters caused price separation among the Zones: the Capacity Export Limit for Zone 1, and the Sub-Regional Export Constraint for MISO South.[9]

B. SPP-MISO Settlement Agreement

5. Pursuant to a settlement agreement among MISO, Southwest Power Pool, Inc. (SPP), and other parties (Settlement Agreement),[10] MISO established a transfer limit of 2,500 MW from MISO South to MISO Midwest.[11] The Settlement Agreement lists NRG Energy Inc.'s (NRG) total firm MISO South to MISO Midwest transmission reservations for the 2015/16 through 2018/19 Planning Years, and provides that NRG will pay SPP and other parties for NRG's firm transmission service in excess of 1,000 MW during those Planning Years.[12] On January 21, 2016, the Commission approved the Settlement Agreement.[13]

II. Summary of the Complaint

6. Customer Coalition asserts that MISO improperly calculated the Sub-Regional Export Constraint from MISO South to MISO Midwest used in the 2016/17 Auction. Customer Coalition, therefore, asks the Commission to direct MISO to recalculate the 2016/17 Auction results, and to provide refunds to customers while preserving revenue streams for resources that justifiably relied on offers above the revised lower clearing

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[9] MISO, *2016/2017 Planning Resource Auction Results* (Apr. 2016), https://www.misoenergy.org/Library/Repository/Report/Resource%20Adequacy/AuctionResults/2016-2017%20PRA%20Summary.pdf.

[10] *See* SPP, Offer of Settlement, Docket No. EL14-21-000, *et al.* (Settlement Agreement).

[11] *Id.*, Attachment A at 26.

[12] Settlement Agreement at 18-19. NRG's total firm transmission reservations are as follows: 1,849 MW for the 2015/16 Planning Year, 1,624 MW for the 2016/17 Planning Year, 1,516 MW for the 2017/18 Planning Year, and 1,304 MW for the 2018/19 Planning Year. The rate paid by NRG equals $730/MW-month for the 2015/16 and 2016/17 Planning Years, and $3,066/MW-month for the 2017/18 and 2018/19 Planning Years. *Id.* at 19.

[13] *Sw. Power Pool, Inc.*, 154 FERC ¶ 61,021 (2016).

price.[14] Customer Coalition asks the Commission to direct MISO to revise its Tariff prospectively to prevent improper calculation of the Sub-Regional Export Constraint for future Auctions.[15] Customer Coalition also argues that the Commission should conduct an audit of the Market Monitor's approval of facility-specific offers in the 2016/17 Auction, and/or to conduct periodic audits for subsequent Auctions to ensure that the mitigation provisions of the Tariff are being applied consistent with an objective function to minimize overall capacity costs.[16]

III. Notice of Filings and Responsive Pleadings

7. Notice of the Complaint was published in the *Federal Register*, 81 Fed. Reg. 63,756 (2016), with protests and interventions due on or before September 28, 2016.

8. The Appendix to this order lists entities that filed notices of intervention, motions to intervene, protests, comments, and answers. The order will use the entity abbreviations listed in the Appendix.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2016), 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) (2016), the Commission will grant the late-filed motions to intervene given the interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

10. Rule 213(a)(2) of the Commission's Rule of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2016), prohibits an answer to a protest or answer unless otherwise

[14] Customer Coalition argues that the Commission should set a just and reasonable rate for the 2016/17 Auction pursuant to section 206 of the FPA and provide refunds pursuant to its broad, remedial authority under section 309 of the FPA. Complaint at 11-12.

[15] *Id.* at 19-21.

[16] *Id.* at 21-23.

ordered by the decisional authority. We accept the answers to protests or answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Sub-Regional Export Constraint

a. Background

11. On February 27, 2015, the Commission accepted MISO's proposal to clarify how MISO accounts for sub-regional constraints in its capacity construct through the introduction of Sub-Regional Resource Zones, Sub-Regional Import Constraints, and Sub-Regional Export Constraints.[17] In response to arguments that the proposed Tariff language provides MISO with too much discretion to identify and interpret applicable contracts, the Commission found the level of discretion appropriate for the effective management of the resource adequacy plan and consistent with discretion permitted in the determination of Local Resource Zones, Capacity Export Limits, and Capacity Import Limits, but nonetheless encouraged MISO to provide additional transparency in its stakeholder process and in its business practices manual for resource adequacy.[18]

12. For the 2016/17 Auction, MISO relied on the Settlement Agreement when calculating the Sub-Regional Export Constraint for MISO South. MISO determined that the Sub-Regional Export Constraint should equal 876 MW by subtracting NRG's 1,624 MW of firm transmission reservations from the 2,500 MW transfer limit. MISO later published this approach in its business practices manual for resource adequacy, effective July 15, 2016.[19]

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[17] *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,144, at P 5 (2015) (Sub-Regional Constraint Order). The Tariff requires MISO to establish and post these values no later than the first business day of March for the following Planning Year. MISO, FERC Electric Tariff, Module E-1, § 68A.3.1 (31.0.0).

[18] Sub-Regional Constraint Order, 150 FERC ¶ 61,144 at P 20.

[19] MISO, Resource Adequacy Business Practices Manual, BPM-011-r16, § 5.2.1.4.1. Prior to July 15, 2016, MISO's business practices manual for resource adequacy provided no detail regarding the calculation of Sub-Regional Export Constraints.

b. Calculation of Sub-Regional Export Constraint

i. Complaint

13. Customer Coalition contends that MISO misapplied its Tariff when conducting the 2016/17 Auction by failing to properly calculate the Sub-Regional Export Constraint for MISO South.[20] Customer Coalition cites to statements by the Market Monitor, which assert that MISO overstates the impact of firm transmission reservations in a way that sub-optimizes the use of the transmission system.[21]

14. Customer Coalition argues that there is no evidence that NRG is using its firm transmission reservation during the 2016/17 Planning Year to actually flow energy from MISO South to MISO Midwest in such a way that NRG's entire firm transmission reservation should be deducted from the 2,500 MW power transfer limit.[22] Customer Coalition contends that, at a minimum, MISO should have considered counterflows created by the 206 MW of firm transmission reservations that MISO approved from MISO Midwest to MISO South when calculating the Sub-Regional Export Constraint.[23]

15. Customer Coalition asks the Commission to direct MISO to clarify its Tariff prospectively to prevent improper calculation of Sub-Regional Export Constraints and Sub-Regional Import Constraints for future Auctions. Customer Coalition asserts that Sub-Regional Export Constraints and Sub-Regional Import Constraints should be based on the actual physical inter-regional power flows and should recognize the following factors: (1) existing and planned transmission and resource additions; (2) transmission import and export capability; and (3) North American Electric Reliability Corporation contingencies.[24]

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[20] Complaint at 12.

[21] *Id.* at 15 (citing Potomac Economics, *2015 State of the Market Report for the MISO Electricity Markets* (June 2016), https://www.potomaceconomics.com/uploads/midwest_reports/2015_SOM_Main_Body_Final_Rev.pdf (2015 State of the Market Report)).

[22] *Id.*

[23] *Id.* at 16.

[24] *Id.* at 24.

ii. Comments and Answers

16. MISO argues that it abided by its Tariff when calculating the Sub-Regional Export Constraint for the 2016/17 Auction, explaining that the parameters for determining the Sub-Regional Export Constraint allow for the consideration of transmission service agreements. MISO also argues that it is reasonable to take a conservative approach to matters of reliability, such as respecting the firm flow rights of entities in each direction. MISO argues that energy sales from MISO Midwest to MISO South would likely not be economic during peak periods, making such sales and any associated counterflow unlikely. MISO, therefore, argues that relying on the assumption that sales from MISO Midwest to MISO South will be scheduled during peak periods would increase operational risk and degrade reliability. Thus, MISO argues, it cannot reasonably rely on the 206 MW of counterflow that Customer Coalition argues should be added to the Sub-Regional Export Constraint calculation.[25]

17. MISO contends that it went beyond the Tariff requirements by conducting a still ongoing inclusive stakeholder process where MISO explained its views on how the MISO South to MISO Midwest Sub-Regional Export Constraint should be determined, advised stakeholders about the inputs MISO would use for the calculation, and solicited stakeholders' comments. MISO explains that during the stakeholder process, a majority of stakeholders asked for a more, rather than a less, restrictive Sub-Regional Export Constraint and notes that Customer Coalition did not raise any of the concerns that it raises in its Complaint during the stakeholder meetings. MISO argues that the Commission should not grant Customer Coalition's request to amend the Tariff going forward because this would circumvent an ongoing MISO stakeholder process and ignore the interests of the majority of other stakeholders.[26] MISO also argues that the Complaint is procedurally flawed.[27]

[25] MISO September 28 Answer at 4-11.

[26] *Id*. at 7-8, 11-13.

[27] MISO argues that the Complaint is procedurally flawed because Customer Coalition: (1) did not seek dispute resolution or adequately explain why it did not do so; (2) exaggerated the discussions it had with MISO's General Counsel; (3) moved from stakeholder discussions directly to a premature complaint without a showing of harm; and (4) failed to make a good faith effort to quantify the financial impact or burden created for the complainant as a result of action or inaction, as required by 18 C.F.R. 385.206(b)(4) (2016). MISO September 28 Answer at 15.

18. Several parties argue that clarification is needed regarding the methodology for calculating the Sub-Regional Export Constraint for MISO South.[28] NRG Companies state that the Tariff provides MISO too much discretion on how to calculate the Sub-Regional Export Constraint.[29] Illinois Attorney General argues that MISO should adopt a Sub-Regional Export Constraint calculation methodology similar to that presented by Customer Coalition, based on expected flows or probabilistic assessment of such flows and that includes counterflow.[30] WPPI Energy also states that the Sub-Regional Export Constraint should reflect the transmission capacity that can be reasonably expected to be available to MISO during high demand conditions.[31]

19. Illinois Attorney General also supports Customer Coalition's suggestion to consider counterflow in calculating the Sub-Regional Export Constraint. Illinois Attorney General explains that the Commission recently directed MISO to consider counterflow in the calculation of Capacity Import Limits and argues that the Commission should adopt similar reasoning in the instant proceeding.[32] In contrast, the Market Monitor does not believe that counterflow should be included in the Sub-Regional Export Constraint calculation and notes that it proposed a prospective alternative approach to the calculation in its 2015 State of the Market Report.[33] Dynegy asserts that counterflow was already taken into consideration in the modeling and establishment of the transfer limits established in the Settlement Agreement.[34]

20. NRG Companies contend that there are economic, engineering, and market flaws in MISO's approach to calculating the Sub-Regional Export Constraint and, therefore, the Commission should require MISO to revise its Tariff to place parameters on the

[28] *See, e.g.*, Illinois Attorney General Comments at 10; WPPI Energy Comments at 5; NRG Companies Protest at 11.

[29] NRG Companies Protest at 1, 5.

[30] Illinois Attorney General Comments at 5-6.

[31] WPPI Energy Comments at 4.

[32] *Id.* at 7-8 (citing *Public Citizen, Inc. v. Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,385, at PP 145, 148 (2015) (December 31 Order), *order on reh'g and compliance*, 154 FERC ¶ 61,224 (2016)).

[33] Market Monitor Protest at 4-6.

[34] Dynegy Protest at 8.

calculation. NRG Companies assert that the Commission should direct MISO to implement market mechanisms to address these inefficiencies, such as requiring that the holder of firm transmission rights from MISO South to MISO Midwest be treated as a local resource to MISO Midwest and be paid the MISO Midwest clearing price or, alternatively, allowing for more efficient use of transmission.[35]

21. Illinois Attorney General argues that the limitations on MISO South to MISO Midwest transfers in the Settlement Agreement conflict with MISO's reliability goal and should be revisited. Illinois Attorney General contends that the Commission should direct MISO, and SPP if necessary, to revise their tariffs, other policies governing the Auction, and the Settlement Agreement so that transfer limitations are based solely on physical engineering constraints.[36]

22. Dynegy argues that, contrary to Customer Coalition's contentions, MISO's existing Sub-Regional Export Constraint calculation may overstate the amount of available transfer capability.[37] NRG Companies disagree with Dynegy and argue that, to the extent the Commission grants the Complaint, the Commission should require MISO to deduct only pseudo-tied resources from the 2,500 MW transfer limit when calculating the Sub-Regional Export Constraint.[38]

23. MISO South Regulators argue that Customer Coalition's request for MISO to clarify its Tariff unreasonably circumvents the ongoing stakeholder process, which MISO South Regulators assert is the proper forum. MISO South Regulators note that MISO's Resource Adequacy Subcommittee is expected to make a proposal for the treatment of the transfer limits established in the Settlement Agreement as they affect future Auction assumptions.[39]

iii. Other Responsive Pleadings

24. Customer Coalition asserts that MISO either admits or does not dispute many of the essential facts underlying the Complaint and that, as a result, the dispute is limited to

[35] NRG Companies Protest at 6-8.

[36] Illinois Attorney General Comments at 4-5.

[37] Dynegy Protest at 13.

[38] NRG Companies Protest at 8-10.

[39] MISO South Regulators Protest at 5-6.

determining whether MISO should have recognized the effects of counterflow when setting the Sub-Regional Export Constraint and whether the Tariff requires such recognition.[40] Customer Coalition states that the Tariff does not provide a precise formula for how MISO calculates the Sub-Regional Export Constraint values and, therefore, argues that there is a clear need for the Commission to direct MISO to clarify its Tariff.[41]

25. Customer Coalition asserts that MISO's calculation of the Sub-Regional Export Constraint used in the 2016/17 Auction assumed a 100 percent probability that firm transmission reservations from MISO South to MISO Midwest would be fully scheduled to flow energy, but a 0 percent probability that firm transmission reservations from MISO Midwest to MISO South would be scheduled to flow energy. Customer Coalition, therefore, argues that MISO acted inconsistently in applying its Tariff and in fulfilling its objective function to minimize the overall costs of capacity procurement.[42]

26. Customer Coalition disagrees with MISO's claims that reliance on scheduled counterflow transactions could create reliability risk. Customer Coalition notes that, even if the 206 MW of firm transmission reservations from MISO Midwest to MISO South is not scheduled in real-time, that capacity is then available to be dispatched to serve load in MISO Midwest and the need to import energy facilitated by the associated counterflow of the 206 MW of firm transmission reservations would not exist.[43]

27. Customer Coalition also disagrees with arguments that economic signals might cause the 206 MW of firm transmission reservations from MISO Midwest to MISO South to not be scheduled in real-time if the prices in MISO Midwest exceed the prices in MISO South. Customer Coalition asserts that, under those circumstances, MISO will dispatch the system to approach the 2,500 MW transfer limit. Customer Coalition also states that, if energy is scheduled from pseudo-tied units in MISO South to PJM Interconnection L.L.C. (PJM), MISO would likely meet the energy transfer requirement to PJM by dispatching units in MISO Midwest.[44]

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[40] Customer Coalition Answer at 4-5.

[41] *Id.* at 14-15.

[42] *Id.* at 6, 8.

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

[44] *Id.* at 7.

28. Customer Coalition argues that the Commission should not defer issues raised in the Complaint regarding the establishment of the Sub-Regional Export Constraint to the outcome of MISO's stakeholder process because: (1) doing so will have no effect on the 2016/17 Auction results; (2) there is no certainty that the stakeholder process will produce a recommendation; (3) MISO has not confirmed that it will file Tariff revisions to reflect the stakeholder outcome; and (4) the Commission is well-position to resolve the issues raised in the Complaint.[45]

29. Customer Coalition and MISO disagree with Dynegy's arguments that MISO's existing Sub-Regional Export Constraint calculation may overstate the amount of available transfer capability from MISO South to MISO Midwest.[46] Customer Coalition argues that Dynegy relies on limited data observations that should not be afforded any weight and that a more recent MISO presentation refuted Dynegy's claims.[47] MISO also argues that the operational data that Dynegy uses to suggest that the transfer capacity between MISO South and MISO Midwest is less than 1,000 MW is not indicative of larger trends. MISO argues that the operational data Dynegy refers to shows that the real time directional flow was able to deliver power where dictated by load needs and economics, often above 2,000 MW in either direction.[48]

30. Customer Coalition states that it is neither mounting a collateral attack on the Settlement Agreement nor seeking to reopen the proceeding that approved the Settlement Agreement. Rather, Customer Coalition asserts that it is merely applying the Settlement Agreement in the context of evaluating MISO's performance under the Tariff.[49]

31. MISO and SPP argue that Illinois Attorney General's argument that the terms of the Settlement Agreement should be modified is beyond the scope of the proceeding.[50]

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[45] *Id.* at 11-12.

[46] Customer Coalition Answer at 9; MISO October 21 Answer at 10-11.

[47] Customer Coalition Answer at 9 (citing https://www.misoenergy.org/Library/Repository/Meeting%20Material/Stakeholder/RASC/2016/20161005/20161005%20RASC%20Item%2004%20SRPBC%20Discussion.pdf at p. 5, Appendix).

[48] MISO October 21 Answer at 12.

[49] Customer Coalition Answer at 9-10.

[50] MISO October 21 Answer at 3-5; SPP Answer at 4-5.

MISO and SPP contend that the physical transfer limits established in the Settlement Agreement were not put at issue in the Complaint and, instead, the Complaint specifically acknowledged that the transfer limits in the Settlement Agreement are controlling.[51] MISO and SPP also note that the Settlement Agreement specifies that any changes to the Settlement Agreement proposed by the Commission or a third-party shall be subject to the most stringent standard of review under *Mobile-Serra*.[52]

32. MISO argues that the Sub-Regional Export Constraint calculation differs from the Capacity Import Limit and the Capacity Export Limit calculations in many respects, and contends that commenters and protesters are mistaken when they argue that these constraints and limitations should be calculated in the same manner. MISO asserts that, unlike Capacity Import Limits and Capacity Export Limits, which are representations of a physical constraint, the Sub-Regional Export Constraint is a calculation based on relevant negotiated agreements with other parties.[53] MISO argues that it has prudently exercised its discretion by conducting an open and transparent stakeholder process to discuss the calculation of the Sub-Regional Export Constraint and has incorporated the specifics of the calculation into its business practices manual for resource adequacy.[54]

33. MISO disagrees with the arguments that counterflow should be incorporated in the Sub-Regional Export Constraint calculation, because doing so would require MISO to assume that market participants will schedule flows counter to their economic interests. MISO contends that the inclusion of counterflow creates operational risk that could require MISO to reduce internal market flows to avoid violating the limits of the Settlement Agreement.[55]

34. MISO also disagrees with arguments that expected flows, rather than firm transmission reservations in the prevailing direction, should be deducted from the 2,500 MW transfer limit in the calculation of the Sub-Regional Export Constraint. MISO

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[51] *Id.* at 3-4; SPP Answer at 4-5.

[52] SPP Answer at 5-7 (citing *United Gas Pipeline Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (*Mobile-Sierra*)); MISO October 21 Answer at 4-5.

[53] MISO October 21 Answer at 6.

[54] *Id.* at 14 (citing MISO, Resource Adequacy Business Practices Manual, BPM-011-r16, § 5.2.1.4.1).

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

argues that Customer Coalition provides no solution as to how to calculate expected flows.[56]

35. MISO similarly disagrees with NRG Companies' argument that MISO should only deduct pseudo-tied resources in the calculation of the Sub-Regional Export Constraint. MISO asserts that it cannot resell, redirect, or otherwise infringe upon firm transmission reservations – regardless of whether the associated resource is pseudo-tied. MISO argues that, because non-pseudo-tied reservations may continue to flow, only deducting pseudo-tied reservations increases the risk that MISO internal market flows must be reduced to avoid violating the 2,500 MW transfer limit.[57] NRG Companies disagree with MISO's assumption in its arguments that there is no distinction between pseudo-tied and non-pseudo-tied resources and reiterates its argument that MISO should only deduct pseudo-tied resources from the calculation of the Sub-Regional Export Constraint.[58]

36. MISO argues that NRG Companies' proposal that firm transmission service holders internal to MISO should be treated differently than other internal resources is unduly discriminatory and preferential. MISO disagrees with the suggestion that MISO should create a market mechanism whereby NRG Companies would not resell their transmission reservations but would somehow allow MISO and/or other market participants to use their transmission reservations when NRG Companies are not. MISO argues that such a proposal violates open access principles because it is not clear how such capacity could be made available to all entities seeking such transmission service and that it is too impracticable to be workable due to unacceptable operational risk.[59] NRG Companies argue that MISO has not treated NRG Companies the same as other market participants throughout the MISO region because MISO only decrements for firm transmission reservations across the MISO South to MISO Midwest constraint. NRG Companies reiterate that the Commission should require MISO to develop a mechanism to reduce the inefficiencies created by MISO's current modeling practice.[60]

37. MISO South Regulators argue that Customer Coalition considers MISO's ongoing stakeholder process inadequate because it is not certain to produce Customer Coalition's

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[56] *Id.* at 8-9.

[57] *Id.* at 8-10.

[58] NRG Companies Answer at 4-5.

[59] MISO October 21 Answer at 13-14.

[60] NRG Companies Answer at 2-4.

desired outcome. MISO South Regulators disagree with Customer Coalition's assertion that the stakeholder process is unnecessary because parties have had the opportunity to file comments and protests to the Complaint. MISO South Regulators point out that only four protests were filed, while the stakeholder process offers far more opportunities to participate. MISO South Regulators state that MISO and its stakeholders are in the best position to weigh and balance all interests in arriving at an efficient result.[61]

38. Customer Coalition disagrees with MISO and Dynegy that the Complaint was procedurally invalid. Customer Coalition argues that it had no way of knowing in advance of the 2016/17 Auction whether the Sub-Regional Export Constraint would have any bearing on the actual Auction results, and therefore it was proper to determine whether the Tariff misapplication had any material impact on the Auction results before proceeding with the filing of a complaint. Customer Coalition contends that it did not employ any tariff-based dispute resolution mechanisms because resolution of key issues in the Complaint necessitated Tariff clarifications on a going-forward basis. Customer Coalition also argues that, after engaging in good faith discussions with MISO, it concluded that MISO was not able to adequately resolve Customer Coalition's concerns in the absence of a complaint.[62]

c. Refunds for the 2016/17 Planning Year

i. Complaint

39. According to Customer Coalition, because the Sub-Regional Export Constraint in the 2016/17 Auction between MISO South and MISO Midwest does not reflect actual physical inter-regional power flows, MISO has failed to execute the objective function defined in the Tariff that obligates MISO to minimize the cost of capacity in the Auction.[63] Customer Coalition argues that MISO's failure to properly apply the Tariff gives rise to refunds for the 2016/17 Auction under section 309 of the FPA.[64]

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[61] MISO South Regulator Answer at 2-4.

[62] Customer Coalition Answer at 17-19.

[63] Complaint at 13-14 (citing MISO, FERC Electric Tariff, Module E-1, § 69.A.7.1 (31.0.0) ("The objective of the multi-zone optimization methodology shall be to minimize the as-offered overall costs of capacity procurement over the time horizon, subject to network constraints and [Sub-Regional Import Constraints] and [Sub-Regional Export Constraints], if applicable.")).

[64] Complaint at 17.

40. As discussed above, Customer Coalition argues that the auction clearing price for Zones 2-7 for the 2016/17 Auction would be significantly lower if MISO calculated the Sub-Regional Export Constraint using available physical transfer capability between MISO South and MISO Midwest. Customer Coalition contends that, even if MISO used its current Sub-Regional Export Constraint methodology, taking into consideration counterflows associated with firm transmission reservations in the MISO Midwest to MISO South direction would, at a minimum, result in a Sub-Regional Export Constraint of 1,082 MW.[65] Customer Coalition asserts that, had the Sub-Regional Export Constraint been set at 1,082 MW, the auction clearing price for Zones 2-7 would drop from $72/MW-day to $20/MW-day. Customer Coalition, therefore, argues that the Commission is obligated to set the just and reasonable rate at $20/MW-day under section 206 of the FPA. Customer Coalition asks the Commission to direct MISO to recalculate the 2016/17 Auction based upon a revised MISO South to MISO Midwest Sub-Regional Export Constraint of at least 1,082 MW, and to provide refunds to customers while preserving revenue streams for resources that justifiably relied on offers above the revised lower clearing price.[66]

ii. <u>Comments and Answers</u>

41. MISO argues that the Commission should reject Customer Coalition's attempt to revise the 2016/17 Auction nearly five months after the results were published and over three months after the capacity prices became effective.[67] MISO argues that Customer Coalition's proposed solution to lower the 2016/17 Auction clearing price for Zones 2-7 to $20/MW-day while preserving revenue streams for resources that justifiably relied on offers between the original clearing price and the revised lower clearing prices does not explain who should be forced to pay the refunds to customers or how resources' obligations to supply capacity would be affected when additional capacity is procured from MISO South.[68]

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[65] Customer Coalition argues that the 206 MW of firm transmission reservations approved by MISO in the MISO Midwest to MISO South direction create counterflow that should be taken into account in the Sub-Regional Export Constraint calculation. Customer Coalition states that, after taking this counterflow into consideration, the Sub-Regional Export Constraint would equal 2,500 MW minus 1,624 MW plus 206 MW, or a value of 1,082 MW. Complaint at 16.

[66] Complaint at 17-19.

[67] MISO September 28 Answer at 7.

[68] *Id*. at 16.

42. Several parties disagree with Customer Coalition's request that the Commission require MISO to issue refunds for the 2016/17 Auction.[69] Certain parties state that market participants rely on Auction certainty such that granting the Complaint would detract from regulatory certainty, and/or retroactive relief is barred by section 206 of the FPA.[70] NRG Companies contend that Commission precedent is clear that, even where the Commission has found an existing tariff violation, the Commission has denied requests to resettle the market.[71]

43. MISO South Regulators argue that, even if the Commission were to conclude that the Tariff had been violated, refunds would not be appropriate. MISO South Regulators state that Customer Coalition's request for refunds would likely require re-running the 2016/17 Auction and the simultaneous feasibility test, and would require MISO to seek revenues from market participants in the form of uplift. MISO South Regulators argue that Customer Coalition has not presented a reasonable basis for allocating costs to MISO customers and, therefore, the Commission should not grant refunds.[72]

44. Several parties argue that MISO did not violate its Tariff in calculating the Sub-Regional Export Constraint for the 2016/17 Auction.[73] NRG Companies state that the Tariff provides MISO discretion on how to calculate the Sub-Regional Export Constraint.[74] Dynegy asserts that, in compliance with the Tariff, MISO publicly posted the Sub-Regional Export Constraint prior to March 1.[75] Dynegy argues that the fact that Customer Coalition failed to file its Complaint prior to the 2016/17Auction indicates that

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[69] *See, e.g.*, Market Monitor Protest at 4-5; NRG Companies Protest at 10-11; EPSA Protest at 5-7; MISO South Regulators Protest at 3-5.

[70] *See, e.g.*, Market Monitor Protest at 5; NRG Protest at 10-11; Dynegy Protest at 11-12; EPSA Protest at 5-7.

[71] NRG Companies Protest at 10-11 (citing *Dominion Energy Marketing, Inc. v. ISO New England, Inc.*, 155 FERC ¶ 61,121, at P 23 (2016)).

[72] MISO South Regulators Protest at 3-4.

[73] *See, e.g.*, Market Monitor Protest at 3-4; NRG Companies Protest at 5-6; Dynegy Protest at 5-6.

[74] NRG Companies Protest at 1, 5.

[75] Dynegy Protest at 9-10 (citing MISO, FERC Electric Tariff, Module E-1, § 68A.3.1 (31.0.0)).

there was no Tariff violation and that the Complaint stems from Customer Coalition's dissatisfaction with the 2016/17 Auction results.[76] The Market Monitor contends that Customer Coalition disputes the Sub-Regional Export Constraint itself, but does not dispute that the Sub-Regional Export Constraint was implemented properly in clearing the Auction and setting capacity prices. The Market Monitor adds that it independently verified that the Auction clearing process was properly subject to the Sub-Regional Export Constrain value that MISO provided.[77]

45. EPSA and the Market Monitor argue that the Sub-Regional Export Constraint and the Sub-Regional Import Constraint were discussed at previous stakeholder meetings and posted in accordance with the Tariff where Customer Coalition had the opportunity to comment.[78]

iii. <u>Other Responsive Pleadings</u>

46. Customer Coalition asserts that section 206 of the FPA does not bar its request for refunds. Customer Coalition argues that, because MISO misapplied the Tariff, section 309 of the FPA provides the Commission with ample authority to effectuate refunds, even if directing refunds would require the implementation of uplift charges.[79]

47. MISO argues that Customer Coalition suggests MISO did not violate its Tariff in its answer when it recognizes that the MISO Tariff requires MISO to calculate the Sub-Regional Export Constraint by a certain time and respect all applicable agreements that may impact constraints. Since the Tariff does not provide a precise formula for calculating the Sub-Regional Export Constraint, MISO argues that Customer Coalition implicitly admits that MISO has not violated the terms of its Tariff.[80]

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[76] *Id*. at 10.

[77] Market Monitor Protest at 3-4.

[78] EPSA Protest at 7-9; Market Monitor Protest at 5.

[79] Customer Coalition Answer at 12-14.

[80] MISO October 21 Answer at 14-15.

d. Commission Determination

i. 2016/17 Auction

48. We find that MISO did not violate its Tariff in conducting the 2016/17 Auction and that its calculation of the Sub-Regional Export Constraint for the 2016/17 Auction was just and reasonable. Therefore, we decline to direct MISO to provide refunds, as requested by Customer Coalition.

49. MISO calculated the Sub-Regional Export Constraint for the 2016/17 Auction by subtracting the firm transmission reservations from MISO South to MISO Midwest (i.e., NRG's 1,624 MW firm transmission reservation) from the 2,500 MW transfer limit in the MISO South to MISO Midwest direction established in the Settlement Agreement.[81] Despite claims that MISO should have calculated the Sub-Regional Export Constraint using various other approaches (e.g., recognizing counterflows or incorporating a probabilistic analysis), nothing in the Tariff requires that MISO use those calculation techniques. Rather, the Tariff's only specification as to the manner by which MISO calculates the Sub-Regional Export Constraint is that the approach must be in accordance with applicable seams agreements, coordination agreements, and transmission service agreements.[82] Customer Coalition's argument that MISO failed to fulfill the objective function of the 2016/17 Auction is incorrect, because the requirement that MISO minimize the as-offered overall costs of capacity procurement is "subject to network constraints and [Sub-Regional Import Constraints] and [Sub-Regional Export Constraints], if applicable."[83] MISO's approach considered the Settlement Agreement and the transmission service reservations in the prevailing direction found therein. Despite claims that other approaches could, or even should, have been used, there is no evidence to suggest that MISO's calculation of the Sub-Regional Export Constraint was inconsistent with its Tariff provisions.

50. The Tariff also requires that MISO must establish and publish the value of the Sub-Regional Export Constraint by the first business day of March prior to the Planning Year.[84] MISO established and published the final Sub-Regional Export Constraint value

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[81] The Settlement Agreement lists NRG's total firm transmission reservations on the MISO system for the 2015/16 through 2018/19 Planning Years. Settlement Agreement at 18-19.

[82] MISO, FERC Electric Tariff, Module A, § 1.P (36.0.0).

[83] MISO, FERC Electric Tariff, Module E-1, § 69.A.7.1 (31.0.0).

[84] MISO, FERC Electric Tariff, Module E-1, § 68.3.1 (31.0.0).

for the 2016/17 Auction on February 4, 2016 – nearly an entire month earlier than the deadline required by the Tariff. Thus, it is indisputable that MISO complied with this Tariff requirement as well.

51. We also find that MISO's calculation of the Sub-Regional Export Constraint for the 2016/17 Auction was just and reasonable. MISO's capacity construct clears an annual product and, therefore, MISO must consider peak load days both at the local and/or system-wide level when determining its market parameters. Although certain parties to this proceeding may believe this consideration to be unnecessarily conservative, the record demonstrates otherwise. For instance, during two of the six days with high load conditions in the summer of 2016, the maximum energy flow in the MISO South to MISO Midwest direction approached the 2,500 MW transfer limit established in the Settlement Agreement.[85] Accordingly, we find that MISO acted reasonably in considering the applicable Settlement Agreement and transmission service reservations in the prevailing direction when calculating the Sub-Regional Export Constraint for the 2016/17 Auction.

52. Further, with respect to the 2016/17 Auction, we find that it was reasonable for MISO to have excluded potential counterflows from its calculation of the Sub-Regional Export Constraint. Such inclusion would require MISO to assume that some or all of the potential counterflows resulting in transmission of energy from MISO Midwest to MISO South would occur on peak load days. However, there is no evidence in the record of any specific commitments to sell energy from MISO Midwest to a neighboring region outside of MISO that require use of the 206 MW of MISO Midwest to MISO South transmission reservations. The mere existence of transmission reservations is not demonstrative of actual power flows from MISO Midwest to MISO South during peak periods of the Planning Year. Such an assumption could imperil reliability given the uncertainty regarding if and when such MISO Midwest to MISO South flows might occur. We also disagree with Customer Coalition's contention that, if no MISO Midwest to MISO South flows occurred, it would free up capacity resources in MISO Midwest. Again, Customer Coalition assumes, but has not demonstrated that there is a generation resource in MISO Midwest that is committed to sell energy from MISO Midwest to a neighboring region outside of MISO that would utilize the 206 MW of transmission reservations. Consequently, without evidence in the record demonstrating that a market participant has sold generation capacity to a neighboring region that requires the use of the 206 MW MISO Midwest-to-MISO South transmission reservation, there is no assurance of

[85] *See* MISO September 28 Answer, Attachment G at 8 (demonstrating that the maximum flow in the MISO South to MISO Midwest direction equaled 2,255 MW and 2,166 MW on July 22 and August 8, respectively).

corresponding unused generation capacity in MISO Midwest. Additionally, we note that MISO convened an inclusive stakeholder process and that Customer Coalition had the opportunity to raise its concerns during that process. Customer Coalition also has the opportunity to participate in ongoing stakeholder meetings to assist MISO in further developing the methodology, if necessary, for future auctions.

53. Lastly, we agree with MISO and SPP that Illinois Attorney General's argument that the terms of the Settlement Agreement should be modified is beyond the scope of the proceeding. As MISO and SPP correctly state, the physical transfer limits established in the Settlement Agreement were not put at issue in the Complaint.

ii. Future Planning Years

54. As described above, MISO did not violate the Tariff and its calculation of the Sub-Regional Export Constraint was just and reasonable with respect to the 2016/17 Auction. However, because the Sub-Regional Export Constraint materially affects rates, as demonstrated by the 2015/16 and 2016/17 Auction results, we find that it is no longer just and reasonable for the Sub-Regional Export Constraint calculation methodology to be omitted from the Tariff. The Commission requires that matters that significantly affect rates and services, are readily susceptible of specification, and are not generally understood, must be in the tariff rather than business practice manuals.[86] Therefore, we direct MISO to submit a filing to revise section 68A.3.a of its Tariff to include the methodology MISO intends to use to calculate Sub-Regional Import Constraints and Sub-Regional Export Constraints for future Planning Years.[87] In order to accommodate the ongoing stakeholder process and allow MISO's filing to be informed by it, we direct MISO to file its compliance filing within 55 days of the date of this order.

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[86] *See City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985); *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,171, at P 80 (2012).

[87] Although we determine the methodology used by MISO for the 2016/17 Auction was just and reasonable, we recognize that the current methodology is not necessarily the only just and reasonable methodology. We also recognize that the methodology will be specific to the two current sub-regions and that further revisions may be necessary to the extent that MISO identifies any additional sub-regions. *See supra* note 5.

2. Mitigation of Offers into the Auction

a. Background

55. The Tariff "authorize[s] the mitigation of specific conduct only when the conduct exceeds well-defined conduct thresholds and when the effect on market outcomes of that conduct exceeds well-defined market impact thresholds."[88] In its December 31, 2015 order, the Commission directed MISO to set the Initial Reference Level equal to $0/MW-day, and to revise the conduct and impact tests for offers made into the Auction.[89] The revised conduct test identifies offers that exceed the sum of ten percent Cost of New Entry and the Initial Reference Level.[90] The impact test, as it pertains to zones that are not import constrained, determines whether an offer increases the auction clearing price by ten percent Cost of New Entry.[91] The Tariff provides that when an offer into the Auction exceeds, and thus fails, the applicable conduct and the impact tests, MISO will mitigate that offer to the applicable reference level.[92]

56. A market participant that wishes to offer a generation resource into the Auction at a price above ten percent Cost of New Entry may request a facility-specific reference level by providing documentation of either opportunity costs of selling capacity to a neighboring region or going-forward costs necessary to keep a generation resource in operation. The Tariff states that going-forward costs amount to either (1) certain annual costs, including but not limited to mandatory capital expenditures, that could be avoided

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[88] MISO, FERC Electric Tariff, Module D, § 62 (30.0.0).

[89] December 31 Order, 153 FERC ¶ 61,385 at PP 93, 98-99; *see* MISO, FERC Electric Tariff, Module D, § 64.1.4 (30.0.0).

[90] MISO, FERC Electric Tariff, Module D, § 64.1.2.d (32.0.0). An offer using a facility-specific reference level fails the conduct test if it exceeds that facility-specific reference level by more than $0/MW-day. *Id.* For the 2016/17 Auction, Cost of New Entry ranged from $246.05/MW-day to $264.19/MW-day depending on the zone. *See* MISO, *2016/2017 Planning Resource Auction Results* (April 2016), http://www.misoenergy.org/Library/Repository/Report/Resource%20Adequacy/Auction Results/2016-2017%20PRA%20Summary.pdf.

[91] MISO, FERC Electric Tariff, Module D, § 64.2.1 (34.0.0). An offer made in an import constrained zone fails the impact test if it increases the auction clearing price by more than $0/MW-day. *Id.*

[92] MISO, FERC Electric Tariff, Module D, § 65.2.2 (30.0.0).

if a supplier otherwise capable of providing capacity ceased supplying capacity or energy for a year or permanently; or (2) the net opportunity costs of forgone sales outside of MISO. The Tariff provides that the Market Monitor shall set facility-specific reference levels equal to the annual going-forward costs less the annual net revenues the generation resource would have received in MISO's energy and ancillary services markets.[93]

b. Complaint

57. Customer Coalition argues that the Commission should conduct an audit of the Market Monitor's approval of facility-specific offers in the 2016/17 Auction, and/or conduct periodic audits for subsequent auctions to ensure that the mitigation provisions of the Tariff are being applied consistent with an objective function to minimize overall capacity costs.[94] Customer Coalition argues that the supply curve for the 2016/17 Auction shows significant "step-jumps" near the end of the curve that appear to exceed a reasonable calculation of going-forward costs, and thus warrant an audit by Commission staff.[95]

58. Customer Coalition requests that the Commission direct MISO to modify its Tariff as soon as practical if such audits reveal the need for further details in the Tariff. Customer Coalition asserts that application of the Tariff provisions used to derive supply offers into the 2016/17 Auction remains a black box.[96]

c. Comments and Answers

59. MISO argues that the audits requested by Customer Coalition are unnecessary. MISO asserts that the offer prices reflect the dwindling supply in MISO Midwest, not a misapplication of reference levels by the Market Monitor.[97]

60. The Market Monitor argues that there is no indication that an audit is warranted. The Market Monitor explains that it shared and discussed facility-specific reference level data and calculations with MISO and Commission staff. The Market Monitor states that

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[93] MISO, FERC Electric Tariff, Module D, § 64.1.4 (31.0.0).

[94] Complaint at 22-23.

[95] *Id.* at 2.

[96] *Id.* at 3-4, 22.

[97] MISO September 28 Answer at 13-15.

the Commission has the discretion to audit what it chooses, and both Commission staff and MISO had the opportunity to scrutinize any of the facility-specific reference levels.[98]

61. The Market Monitor explains that a portion of the MISO generation fleet is older with higher going-forward costs and sometimes requires substantial capital expenditures to continue operations. The Market Monitor states that these units tend to have much higher facility-specific reference levels, thereby creating the shape of the offer curve described by Customer Coalition. The Market Monitor states that this shape is anticipated and does not, in isolation, raise concerns that would warrant an audit of facility-specific reference levels.[99]

62. Illinois Attorney General supports Customer Coalition's request for a Commission audit of Auction offers noting that the Market Monitor has made comments at a technical conference that, in his opinion, only Zone 4 cleared at a reasonable price in the 2016/17 Auction.[100]

d. Answers to Comments/Answers

63. Customer Coalition reiterates that the offers at the end of the supply curve in the 2016/17 Auction were higher than reasonably anticipated and, because customers do not have access to the underlying data to verify that those offers were consistent with costs, an audit of the offer data is warranted. Customer Coalition acknowledges that the Market Monitor shared information with MISO and Commission staff in advance of the 2016/17 Auction, but states that the Market Monitor failed to provide important details regarding the arrangements under which such information was shared.[101]

e. Commission Determination

i. 2016/17 Auction

64. We deny Customer Coalition's request that we direct Commission staff to audit offers into the 2016/17 Auction. We have no reason to believe that the facility-specific costs were not as the Market Monitor determined them to be. As portions of the MISO generation fleet grow older, the costs to operate and maintain those generation resources

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[98] Market Monitor Protest at 6-8.

[99] *Id.* at 8.

[100] Illinois Attorney General Comments at 8-9.

[101] Customer Coalition Answer at 16-17.

may increase.[102] Additionally, to the extent that capital expenditures are required for continued operation of a generation resource, the relevant market participant can include such capital expenditures in its documentation of going-forward costs. We, therefore, agree with the Market Monitor and conclude that year-to-year changes to the Auction offer supply curve in and of themselves do not demonstrate that facility-specific reference levels were not reasonably calculated for the 2016/17 Auction.

ii. Future Planning Years

65. We do, however, grant Customer Coalition's request that the Tariff be modified to provide further detail regarding going-forward costs and the calculation of facility-specific reference levels. Facility-specific reference levels and underlying going-forward costs directly affect the level at which market participants can offer their generation resources into the Auction without the risk of mitigation and, therefore, have the potential to directly and significantly affect rates. As previously stated, the Commission has held that such matters should be in the Tariff.[103] Therefore, we direct MISO to revise its Tariff to add a formulaic definition of going-forward costs and an amortization schedule for any mandatory capital expenditures included in going-forward costs.[104] This will provide MISO market participants with a sufficient level of transparency into the types of costs that can be included in going-forward costs, facility-specific reference levels, and ultimately offers made into upcoming Auctions.

The Commission orders:

(A) The Complaint is hereby denied in part and granted in part, as discussed in the body of this order.

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[102] *See, e.g.*, Market Monitor Protest at 8 (explaining that a portion of MISO's generation fleet is older, has higher production costs, and sometimes requires substantial capital expenditures to continue operations).

[103] *See supra* note 86.

[104] *See, e.g.*, PJM, Intra-PJM Tariffs, OATT, Attachment DD, § 6 (13.0.0) (providing a formula by which a generation resource's avoidable cost rate shall be determined, a description of each component included in that formula, a limitation to the mandatory capital expenditures that can be included in a generation resource's avoidable cost rate, and details regarding the amortization schedule for the recovery of such mandatory capital expenditures).

(B) MISO is hereby directed to submit a compliance filing within 55 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Motions to Intervene

Alliant Energy Corporate Services, Inc.
Ameren Services Company
American Electric Power Service Corporation
American Municipal Power, Inc.
Consumers Energy Company
DC Energy, LLC
Direct Energy Business Marketing, LLC and Direct Energy – USA
East Texas Electric Cooperative, Inc.
Exelon Corporation
DTE Electric Company
Duke Energy Corporation
Hoosier Energy Rural Electric Cooperative, Inc. and Southern Illinois Power Cooperative
Illinois Municipal Electric Agency
Kentucky Municipal Power Agency
Main Line Generation, LLC
Michigan South Central Power Agency
MISO Transmission Owners (Ameren Services Company; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, LLC; East Texas Electric Cooperative; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Texas, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company d/b/a ITC Transmission; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; MidAmerican Energy Company; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; South Mississippi Electric Power Association; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.)
Retail Energy Supply Association
South Mississippi Electric Power Association
Southwest Power Pool, Inc. (SPP)
Wabash Valley Power Association, Inc.
Wisconsin Electric Power Company and Wisconsin Public Service Corporation

Notices of Intervention

Arkansas Public Service Commission
Council of the City of New Orleans, Louisiana
Illinois Commerce Commission
Indiana Utility Regulatory Commission
Louisiana Public Service Commission
Michigan Public Service Commission
Mississippi Public Service Commission
Missouri Public Service Commission
Organization of MISO States
Public Service Commission of Wisconsin
Public Utility Commission of Texas

Motions to Intervene and Comments and/or Protests

Electric Power Supply Association (EPSA)
Dynegy Marketing and Trade, LLC and Illinois Power Marketing Company (together, Dynegy)
NRG Power Marketing LLC and GenOn Energy management, LLC (together, NRG Companies)
People of the State of Illinois (Illinois Attorney General)
Potomac Economics, Ltd. (Market Monitor)
WPPI Energy

Comments and Protests

Louisiana Public Service Commission, Mississippi Public Service Commission, Arkansas Public Service Commission, Council of the City of New Orleans, Louisiana, and Public Utility Commission of Texas (together, MISO South Regulators)

Answer to Complaint

Midcontinent Independent System Operator, Inc. (MISO)

Out-of-Time Motions to Intervene

Associated Electric Cooperative Inc., Louisville Gas and Electric Company, Kentucky Utilities Company, PowerSouth Energy Cooperative, Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Southern Company Services, Inc., and the Tennessee Valley Authority
Occidental Power Services, Inc.

<u>Answers to Comments and Protests</u>

Coalition of MISO Transmission Customers (Customer Coalition)
MISO
MISO South Regulators
NRG Companies
SPP