

129 FERC ¶ 61,261
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Midwest Independent Transmission
System Operator, Inc.

Docket No. ER10-86-000

ORDER ON RESOURCE ADEQUACY FILING

(Issued December 18, 2009)

1. As discussed below, we conditionally accept, in part, and reject, in part, the proposed improvements and clarifications to Module E (Resource Adequacy) of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff),¹ subject to a compliance filing as discussed below.

I. Background

2. As part of a two-phased approach, the Midwest ISO filed its proposed resource adequacy plan in Module E of its Tariff.² Although several of the Midwest ISO's compliance filings are still pending Commission review in that proceeding,³ the Midwest

¹ Midwest ISO, FERC Electric Tariff, Fourth Revised Vol. No. 1. Midwest ISO uses the term "Ancillary Services Market" or "ASM" to refer collectively to the markets for Energy and Operating Reserves established in the Tariff.

² The Midwest ISO filed Phase I of its resource adequacy plan, its proposed Ancillary Services Market, on February 15, 2007, and it was conditionally accepted on February 25, 2008. *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,172, *order on reh'g*, 123 FERC ¶ 61,297 (2008). Phase II of its plan was accepted in two orders issued on October 20, 2008, subject to additional compliance filings. *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,060 (2008), *order on reh'g*, 127 FERC ¶ 61,054 (2009); *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,062 (2008), *order on reh'g*, 126 FERC ¶ 61,144 (2009).

³ For example, the Commission is reviewing and considering several compliance

(continued...)

ISO files the instant proposals to “facilitate and enhance the RAR [resource adequacy] process.”⁴ According to the Midwest ISO, it has worked with stakeholders to identify aspects of Module E that: (1) may be improved or refined based on the experience gained by the Midwest ISO and stakeholders during the initial implementation of the resource adequacy markets; (2) may contain grammatical errors and/or typographical errors; and (3) may reflect section numbering issues or require some reorganization. The Midwest ISO proposes an effective date of December 21, 2009, for these proposed revisions.

II. Notice of Filing and Responsive Pleadings

3. Notice of the Midwest ISO’s filing was published in the *Federal Register*, 74 Fed. Reg. 56602 (2009), with interventions and protests due on or before November 10, 2009.

4. Timely motions to intervene were filed by: the Coalition of Midwest Transmission Customers (CMTC); Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.; Consumers Energy Company; Detroit Edison Company; Exelon Corporation; Hoosier Energy Rural Electric Cooperative, Inc. and Southern Illinois Power Cooperative; Illinois Municipal Electric Agency; Indianapolis Power & Light Company; Integrys Companies⁵; Madison Gas & Electric Company; MidAmerican Energy Company; and Wisconsin Electric Power Company.

5. In addition, timely motions to intervene and comments and/or protests were filed by Ameren Services Company; American Municipal Power- Ohio, Inc. (AMP-Ohio); Duke Energy Corporation (Duke); Dynegy Power Marketing, Inc. (Dynegy); Manitoba Hydro; RRI Energy, Inc. (RRI Energy); and Xcel Energy Services, Inc. (Xcel).

6. Answers to the comments and protests were filed by CMTC, AMP-Ohio, and the Midwest ISO.

filings in Docket No. ER08-394, addressing financial settlements procedures, resource deliverability and the calculation of the Cost of New Entry are currently before the Commission.

⁴ Midwest ISO October 20, 2009 Filing at 2.

⁵ The Integrys Companies include Wisconsin Public Service Corporation, Upper Peninsula Power Company, and Integrys Energy Services, Inc.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

8. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest, unless otherwise ordered by the decisional authority. We will accept the answers filed by CMTC, AMP-Ohio, and the Midwest ISO.

B. Substantive Matters

1. Treatment of External Resources

9. The Midwest ISO proposes a series of changes to Module E in order to address issues related to External Resources (i.e., resources located beyond the Midwest ISO's metered boundaries). Specifically, the Midwest ISO proposes: (1) a new section 69.3.1.c allowing Load Serving Entities to receive planning credit for resource adequacy purposes when capacity is obtained from a power purchase agreement with an External Resource; and (2) various revisions to clarify the unique must-offer requirements for External Resources in the Day-Ahead Energy Market.

10. With respect to section 69.3.1.c, the Midwest ISO states that the new section is necessary to update Module E's treatment of External Resources for resource adequacy purposes. The Midwest notes that while section 69.2.1.2.e of Module E contains a discussion of how Planning Resources associated with power purchase agreements can qualify to meet resource adequacy obligations, this section was prepared and approved prior to the concept of fungible Planning Resource credits and prior to the development of the Module E Capacity Tracking Tool (Tracking Tool), which tracks capacity from all internal generation resources.

11. The Midwest ISO also proposes to add a new section, section 69.5 of Module E, to slightly modify the must-offer requirements. The new section, as proposed by Midwest ISO, specifies that External Resources must be available to schedule in the Day-Ahead Energy Market, if necessary. In addition, the Midwest ISO proposes to add language to ensure that market participants provide the necessary reports to the Midwest ISO's outage scheduler, as will be set forth in the Business Practices Manual for outage operations, including reports on partial or full, forced or scheduled, outages or derates of Capacity Resources (except for Demand Response Resources). The Midwest ISO also proposes to modify the must-offer provisions to clarify that must-offer requirements will reflect resource operational limits, including those related to Use Limited Resources and

Intermittent Generation. Finally, the Midwest ISO proposes to clarify the process by which the Midwest ISO will evaluate whether a Capacity Resource is complying with must-offer requirements and will include those changes in its Business Practices Manuals.

12. The October 20 Filing also includes revisions proposed in Docket No. ER08-394 that address how External Resources can qualify as Capacity Resources and Planning Resources, including the requirement that a power purchase agreement from an External Resource be interruptible only as a last resort under Requirement 6.3 of North American Electric Reliability Council (NERC) Standard EOP-002.

a. Comments

13. Several parties, including RRI Energy, Ameren, and Manitoba Hydro, challenge the Midwest ISO's proposal to have separate must-offer requirements for external and internal Capacity Resources. For example, RRI Energy argues that External Resources are being provided an undue preference by only requiring them to be "available to schedule Energy into the Midwest ISO Region if necessary in the Day-Ahead Energy Market."⁶ RRI Energy notes that Generation Resources are required to submit self-schedules or offers for energy, as well as contingency reserves if qualified, for each hour of each day during an operating month, in the Day-Ahead Energy Market, and all pre-Day-Ahead and the first post-Day-Ahead Reliability Assessment Commitment process. RRI Energy claims that these different rules unduly prejudice other Capacity Resources that must comply with more onerous requirements.

14. Ameren argues that the Midwest ISO's must-offer language for External Resources does not address the operational differences between internal resources and External Resources. Ameren notes that an internal resource's offer must include multiple operational parameters,⁷ whereas offers from External Resources are physical tags that only include volume and price. As a result, Ameren contends that the Midwest ISO may mistakenly clear an External Resource's offer even though it would not clear the same offer from an internal resource. Ameren also argues that limitations on the ability of External Resources to submit all of their operation parameters may result in inaccuracies in Midwest ISO's day-ahead projections of real-time conditions. Ameren recommends that External Resources have the same capability to set operational parameters on their

⁶ RRI Energy November 10, 2009 Protest at 14 (quoting Midwest ISO October 20, 2009 Filing at 9-10).

⁷ According to Ameren, these parameters include start-up and no-load costs, ramp rates, maximum and minimum run times, as well as volume and price.

offers as internal resources and require External Resources to secure the proper amount of import ramp capability.

15. Nor does Ameren believe that the disparate treatment is justified because External Resources are permitted to “pseudo tie” into Midwest ISO. Ameren argues that the pseudo tie provisions limit the flexibility of an External Resource because pseudo tie modeling is changed on a quarterly basis, whereas the capacity markets are modeled on a monthly basis. Ameren also requests that the Midwest ISO study the aggregate deliverability of External Resources that are pseudo tied to the Midwest ISO footprint.

16. Manitoba Hydro argues that the Midwest ISO’s proposed section 69.5 creates uncertainty in three areas: (1) whether the revisions apply only to External Resources or also include power purchase agreements for External Resources; (2) who is responsible for submitting the offers or self-schedules into the scheduler entity (i.e., is it the owner of the External Resource, operator of the resource, or the purchaser under a power purchase agreement); and (3) whether External Resources will be deemed to be unavailable because of forced or scheduled outages.

17. Dynegy argues that the procedures by which the Midwest ISO will determine whether a Capacity Resource is complying with the must-offer requirements should be included in the Tariff—not the Business Practices Manuals. Dynegy further questions the Midwest ISO’s decision, as set forth in the proposed section 69.3.1.c, to excuse an External Resource from being recallable when the balancing authority for an External Resource declares an emergency. Dynegy argues that this language jeopardizes system reliability and conflicts with Tariff provisions.

18. With regard to the Midwest ISO’s proposal to permit the interruption of External Resources, as set forth in the proposed section 69.3.1.c, Ameren is concerned that such a proposal conflicts with NERC policy. Ameren proposes the following revisions to that section:

“[a] PPA from an External Resource may qualify as a Planning Resource, ~~in part,~~ if it has been designated as a network resource for the Midwest ISO Balancing Authority ~~is only interruptible as a last resort~~ under Requirement 6.3 of NERC Standard EOP-002;” and

“energy from the PPA cannot be interrupted for economic reasons and will continue to flow into the Midwest ISO Balancing Authority area ~~only be interrupted for force majeure type conditions as a last resort~~ during Emergency conditions consistent with the requirements of EOP-002.”

19. Finally, RRI Energy states that it is concerned that the renumbering and revised wording of section 69.3.1.c.vii might create the impression that a firm power purchase agreement with liquidated damages provisions could qualify as a Capacity Resource by virtue of it being interruptible only for reasons of *Force Majeure*. RRI Energy argues that such a requirement would be contrary to Commission policy.⁸ Thus, RRI Energy suggests that the Commission require the Midwest ISO to add “so long as it satisfies the other applicable requirements of this section 69.3.c and Module E” to the last sentence of section 69.3.1.c.vii.

b. Answer

20. In response to the claims of disparate treatment, the Midwest ISO responds that External Resources are not required to make explicit offers in the pre-Day-Ahead and the first post-Day-Ahead Reliability Assessment Commitment process. Rather, the Midwest ISO states that its Reliability Assessment Commitment process has manual procedures for the commitment of External Resources during emergencies. The Midwest ISO also disagrees with Ameren’s concerns regarding the operational characteristics of External Resources. The Midwest ISO argues that External Resources can participate and have their operational characteristics modeled in pseudo ties. The Midwest ISO considers the option to pseudo tie External Resources to be sufficient to address the needs of market participants.

21. With regard to Manitoba Hydro’s request for clarification, the Midwest ISO states that the must-offer obligations associated with power purchase agreements from External Resources “are the same as for any Market Participant that converts Unforced Capacity to PRCs [Planning Resource Credits] for an External Resource that qualifies as a Capacity Resource.” It further states that the must-offer reporting requirements apply to the market participants that convert Unforced Capacity from Capacity Resources to planning reserve credits—that is, the resource operator or the purchaser of power from a Capacity Resource. The Midwest ISO agrees to clarify that the must-offer requirement for External Resources will take into account partial, full, forced and scheduled outages. It also agrees to clarify that power purchase agreements sourced from External Resources have the same must-offer obligations as other External Resources.

22. Responding to Dynegy, the Midwest ISO asserts that the process for monitoring must-offer compliance should not be included in the Tariff because it is not a rate, term or condition of service. The Midwest ISO also recommends that the Commission reject Dynegy’s proposal to modify the provision regarding the ability to recall an External

⁸ RRI Energy November 10, 2009 Protest at 7-8 (citing *Midwest Independent Sys. Operator, Inc.*, 125 FERC ¶ 61,062 at P 62).

Resource during a declared emergency by an external balancing authority. The Midwest ISO notes that Dynegy's proposed modification represents a substantive change to a provision that was previously approved by the Commission and should not be changed in this proceeding.

23. Finally, with regard to RRI Energy's concerns regarding power purchase agreements with liquidated damages provisions, the Midwest ISO agrees to make those changes if directed by the Commission.

c. Commission Determination

24. We conditionally accept, in part, and reject, in part, the Midwest ISO's proposed revisions related to External Resources. We reject without prejudice the Midwest ISO's proposed language regarding must-offer provisions, as set forth in section 69.5 of Module E. The Commission has repeatedly emphasized in the Midwest ISO resource adequacy proceeding (i.e., Docket No. ER08-394) that Capacity Resources, including externally-sourced and internally-sourced resources, need to be treated in a comparable manner.⁹ Despite this, the Midwest ISO's must-offer proposal treats External Resources differently than internal Capacity Resources. The Midwest ISO does not dispute this fact. Nor does it provide a justification for the disparate treatment. Rather, it simply asserts that External Resources can use pseudo tie scheduling as an alternative to the must-offer requirements. Pseudo tie scheduling, however, does not justify the disparate treatment, but instead allows an External Resource to designate the amount of MWs scheduled at a particular transmission location. Moreover, such scheduling, as noted by Ameren, impacts the flexibility of an External Resource to participate in the capacity markets.

25. Ultimately, the Midwest ISO has not adequately demonstrated that its proposed must-offer provisions are just and reasonable. We reject without prejudice the Midwest

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,062 at P 176 (“We also do not understand the exclusion of external capacity resources from the outage exemption, in light of the clarification. Based on the Midwest ISO's clarification, we understand the must-offer requirement to apply to the Installed Capacity of each Capacity Resource, including each resource in the multiple resources for non-unit specific power purchase agreements. Therefore, entities with non-unit specific power purchase agreements must offer the entire Installed Capacity of all their Capacity Resources into the Midwest ISO market on every day. If one of the resources has a full or partial or scheduled outage, then the entity must offer the entire Installed Capacity of all its Capacity Resources minus the outage amount. We would expect that this process would apply to both internal and external non-unit specific power purchase agreements in the same way, and we can find no basis to differentiate them.”).

ISO's proposed must-offer provisions and require the Midwest ISO to remove these provisions from its Tariff. The revised Tariff sheets should be filed as part of its compliance filing due within 30 days of the date of this order.

26. With regard to the Midwest ISO's other revisions regarding External Resources, we accept those revisions subject to the outcome of a compliance filing, in which we will require the Midwest ISO to clarify several issues. We find the Midwest ISO's answer is responsive to Manitoba Hydro's concerns regarding must-offer obligations associated with power purchase agreements and which entity is responsible for submitting the offers or self-schedules. We will, however, require the Midwest ISO to provide clarifying language regarding the availability of External Resources in the event of full or partial forced or scheduled outages. The Midwest ISO has agreed to make this clarification and we find such clarification to be necessary. Therefore, the Midwest ISO should make this clarification as part of its compliance filing. In addition, to ensure that the must-offer requirement does not provide an undue preference for External Resources, as Ameren alleges, we require the Midwest ISO to explain in its compliance filing how it evaluates operational parameters in offers from internal resources and External Resources.

27. We will not require the Midwest ISO to include its process for monitoring must-offer compliance in the Tariff. We agree with the Midwest ISO that provisions for monitoring the must-offer requirement do not significantly affect rates, terms or conditions of service, and are, therefore, better placed in the Midwest ISO's Business Practices Manuals.

28. With regard to Dynegy's concern regarding the recall of External Resources during an emergency event, we note that this issue is under review in Docket No. ER08-394-020. We will not prejudge our decision in that proceeding by making a finding here. We will address that issue in Docket No. ER08-394-20.

29. Nor will we order the Midwest ISO to modify section 69.3.1.c, as requested by Ameren. We note that the NERC policy cited by Ameren, which serves as the basis for its proposed revision, is still under consideration at NERC. We also are currently reviewing this same language in Docket No. ER08-394-020. Again, we will not prejudge the outcome of that proceeding in this order. We will address the Midwest ISO's proposed language in Docket No. ER08-394-020.

30. Finally, we will order the Midwest ISO to revise section 69.3.c.vii, which could be misinterpreted to create the impression that a firm power purchase agreement with liquidated damages provisions could qualify as a Capacity Resource. RRI Energy has proposed clarifying language and the Midwest ISO has agreed to make the proposed revision if ordered by the Commission. We find the proposed language to be just and reasonable and will order the Midwest ISO to make the revision as part of its compliance filing.

2. Intermittent Resources/Generation

31. The Midwest ISO proposes to modify the definition of Intermittent Generation, as set forth in Module A of the Tariff, to reflect that such generation includes External Resources.¹⁰ The Midwest ISO proposes to modify the definition of Intermittent Generation to include: “a Resource or an External Resource that cannot be scheduled and controlled to produce the anticipated Energy.” The Midwest ISO asserts that this revision is necessary to include External Resources so that such resources can serve as Intermittent Generation. Additionally, Midwest ISO proposes to require Intermittent Generation to provide historical performance data regarding the type of testing data required for Intermittent Generation to participate in Module E as a Capacity Resource.

32. The Midwest ISO also proposes a new section 69.3.1.d to clarify the definition of Use Limited Resource.¹¹ The new definition would allow Use Limited Resources to qualify as Capacity Resources so long as they operate for a minimum of four consecutive operating hours during the Midwest ISO’s peak.

a. Comments

33. Xcel requests that the Commission reject the proposed modification of Intermittent Generation. While Xcel does not challenge the Midwest ISO’s goal of allowing External Resources to provide intermittent service, it argues that the Midwest ISO’s decision to add the words “External Resources” to the definition of Intermittent Generation will cause confusion. Xcel notes that the term Intermittent Generation only appears in Module F of the Tariff (Coordination Services), and only applies to entities located outside of the Midwest ISO. Xcel believes that changing the term Intermittent Generation would greatly expand the original meaning of the term, as it relates to Module F and the entities impacted by this part of the Tariff.

34. In addition, Xcel notes that the expanded definition of Intermittent Generation may cause confusion because the Tariff also contains the defined term “Intermittent

¹⁰ Midwest ISO, FERC Electric Tariff, Fourth Revised Vol. No. 1, Proposed First Revised Sheet No. 183, Section 1.328.

¹¹ A Use Limited Resource is a “Generation Resource or External Resource that due to design considerations, environmental restrictions on operations, cyclical requirements, such as the need to recharge or refill, or for other non-economic reasons, is unable to operate continuously on a daily basis, but are able to operate for a minimum set of consecutive operating Hours.” *Id.*, Proposed First Revised Sheet No. 305, Section 1.690.

Resource.”¹² While Xcel believes that the Midwest ISO may be trying to draw a distinction for those intermittent resources that are external to the Midwest ISO (Intermittent Generation, by its location in Module F, can only apply to External Resources), Xcel asserts that it would be more appropriate to use the term “Intermittent Resources.”

35. AMP-Ohio and Ameren question whether the Midwest ISO’s definition of Intermittent Generation may be overly expansive. Ameren notes that while the Midwest ISO presumably intended to revise that definition to make clear that External Resources could serve as Intermittent Generation, the revisions would allow all External Resources to be Intermittent Generation, even if they are not intermittent in nature. AMP-Ohio similarly assumes that the Midwest ISO did not intend that all Generation Resources be registered as Intermittent Generation. Both parties request that the Midwest ISO clarify its proposed revision to Intermittent Generation.

36. Xcel requests that the Midwest ISO specify testing procedures for resources that are intermittent in nature, which would be similar to the proposed testing procedures for other types of resources. Xcel also requests that the Midwest ISO include a new section describing how Unforced Capacity for a Capacity Resource that is an intermittent resource is determined.

37. With regard to the Midwest ISO’s modification of Use Limited Resource, Xcel and AMP-Ohio request that the proposed definition be modified to indicate that the resource is “able” to operate over four continuous hours. They assert that the Midwest ISO proposal, which indicates that the resource must operate continuously over four hours, fails to recognize that the actual operation of these units is a function of economic dispatch. Therefore, the question should not be whether they actually operate continuously for four hours, but whether they are able to operate continuously over a four-hour period.

b. Answers

38. The Midwest ISO maintains its proposed modification of Intermittent Generation addresses Xcel’s concerns by expressly stating that all Resources, including External Resources, would be able to qualify as a Capacity Resources. The Midwest ISO asserts that the definition of Resource includes Generation Resources, but does not include

¹² An Intermittent Resource is a “Resource that is not capable of being committed or decommitted by, or following Set-Point Instructions of the Transmission Provider in the Real-Time Energy and Operating Reserves Market.” *Id.*, First Revised Sheet No. 184, Section 1.329.

External Resources. Thus, by adding the term “External Resources” to the definition of Intermittent Generation and by allowing Intermittent Generation to serve as a Capacity Resource, as set forth in the proposed section 69.3.1, these resources would be included in the definition of Capacity Resources.

39. As suggested by Xcel, the Midwest ISO confirms that it proposes to use the term “Intermittent Generation” because the term is only used in Module F and, thus, can be amended to include both internal and External Resources that are intermittent. According to the Midwest ISO, the term Intermittent Resources is used specifically to refer only to intermittent resources within the Midwest ISO Balancing Authority Area.

40. The Midwest ISO disagrees with Ameren’s position that Intermittent Generation includes all External Resources. It believes that the term Intermittent Generation, by itself, clearly indicates that only those resources that are intermittent in nature are included.

41. Responding to Xcel and AMP-Ohio, the Midwest ISO agrees to revise its proposal to indicate that Use Limited Resources must be able to operate for four consecutive hours. Responding to Xcel, the Midwest ISO notes that the modifications it requests regarding testing for Intermittent Resources and the determination of Unforced Capacity value are already contained in its proposal. The Midwest ISO explains that the testing provisions are included in two sections, one applicable to internal generation and the other for External Resources.

c. Commission Determination

42. While we understand the Midwest ISO’s desire to define Intermittent Generation to include intermittent generators that are external to the Midwest ISO, we agree with Xcel that the Midwest ISO proposal is confusing. We agree with the Midwest ISO that its proposal ensures that the Intermittent Generation definition would apply to all internal and external intermittent generators, but the proposal results in two definitions—Intermittent Generation and Intermittent Resources—that apply to the same resource, *i.e.*, an internal intermittent generator.

43. This redundancy is further confused by the Midwest ISO’s intent that both Intermittent Generation and Intermittent Resources be eligible for Capacity Resource status. The Midwest ISO states in its answer that an Intermittent Resource is eligible to be a Capacity Resource because a Generation Resource is included in the definition of a Resource. However, the definition of Generation Resource explicitly states that a Generation Resource must be capable of complying with set-point instructions. The definition of Intermittent Resource, in contrast, only applies to resources that cannot be scheduled or controlled or cannot follow set-point instructions. In other words, a Generation Resource cannot be an Intermittent Resource because an Intermittent

Resource cannot follow set-point instructions. The Midwest ISO's argument is misplaced.

44. To clarify these ambiguities, we order the Midwest ISO to propose one definition for intermittent resources, which would include both internal and external intermittent resources. We also require that the proposed definition of intermittent resources not be classified as a subset of Generation Resources. In recognition of the fact that the eligibility requirements in Module E do not include a section for intermittent resources, but instead include intermittent resources as a subset of Generation Resources, we require that the Midwest ISO revise its eligibility provisions to set out separate eligibility requirements for intermittent resources that are not a subset of the Generation Resource eligibility requirements. Finally, we require that the Midwest ISO propose a definition of Capacity Resources that explicitly includes intermittent resources. We require these revisions in the compliance filing to be submitted by the Midwest ISO within 30 days of the date of this order.

45. We also require the Midwest ISO to revise the definition of Use Limited Resources to indicate that such resources must be *able* to operate for a minimum of four consecutive hours. The Midwest ISO has agreed to make this revision and we find it to be reasonable in this case. Moreover, while we agree with the Midwest ISO that the Tariff already provides for testing procedures and the process for determining the Unforced Capacity for intermittent resources, we expect that these procedures will be revised to apply to the single definition for intermittent resources, as discussed above.

3. Generator Verification Testing

46. The Midwest ISO proposes to modify its generation verification testing to determine the capacity of all Planning Resources. While the Midwest ISO provides numerous justifications for this change, it emphasizes that the current NERC Regional Entity standard is no longer appropriate.¹³ The Midwest ISO emphasizes that testing is currently conducted on three different NERC Regional Entity standards because the Midwest ISO resides in three different NERC Regional Entities. It also notes that the current NERC testing standards do not apply to all Planning Resources, but instead apply to those resources that meet certain size thresholds. The Midwest ISO emphasizes that it needs a uniform generation verification test that would apply to all Planning Resources. The Midwest ISO plans to place the new test in its Business Practices Manuals.

¹³ Midwest ISO October 20, 2009 Filing at 5; *id.*, Ex. C at 9-11.

a. Comment

47. Ameren objects to the Midwest ISO's decision to create a new generation verification test. To that end, Ameren notes that stakeholders overwhelmingly rejected the Midwest ISO's proposal to create a uniform standard and voted to use the various NERC Regional Entity standards. Ameren states that there has long been tension between Regional Entity standards and the Midwest ISO's proposed standards, but this tension does not justify the creation of a new verification test. And, while Ameren acknowledges that not all resources will be covered by the NERC testing standards, it proposes that the Midwest ISO should submit a default testing standard for entities not subject to Regional Entity standards.

b. Answer

48. Contrary to Ameren's claims, the Midwest ISO asserts that the Regional Entity testing standards were created to model generator cruise ratings for long-term planning purposes—they were not created to establish generator capability during emergency conditions for resource adequacy purposes. For this reason, as well as those set forth in its filing, the Midwest ISO believes that one uniform set of enforceable requirements for generator testing will create greater confidence and equity and will ensure that all resources have been tested based on the same standards.

49. The Midwest ISO notes that its proposed testing standards have been designed to complement the NERC Regional Entities' generator testing standards, which will avoid the need to perform multiple tests to meet both the Regional Entity and the Midwest ISO test standards. The Midwest ISO also notes that the Commission has allowed other RTOs and ISOs, such as PJM, to establish their own testing standards for verifying capacity.

c. Commission Determination

50. We find that the Midwest ISO proposal to create a uniform generation verification test is reasonable. Such a uniform test will ensure that all resources meet reliability standards under a comprehensive verification program that will ensure uniform treatment of resources participating in resource adequacy markets. As noted by the Midwest ISO, other ISOs and RTOs, such as PJM, have similar uniform standards. We believe that such standards are reasonable here.

51. Moreover, as emphasized by the Midwest ISO, the proposed uniform standard should have little impact on market participants because the standard will be based upon and, if possible, consistent with the NERC Regional Entity test standards. We would note, however, that our approval of this provision is without prejudice to Commission review of the MOD-24 reliability standard. We note that in Order No. 693 the Commission left MOD-024-1 as a pending issue and therefore it has not been approved

by the Commission.¹⁴ We also note that NERC intends to address this issue in a new project creating a continent-wide standard.

4. Planning Resource Credits

52. The Midwest ISO proposes to replace the designation of Planning Resources with the requirement that Load Serving Entities designate Planning Resource Credits to meet resource adequacy requirements.¹⁵ Planning Resource Credits are intended to be a standard, defined capacity product that is fungible and easily transferable and will help a Load Serving Entity to meet its resource adequacy requirements. The Midwest ISO proposes that three categories of Planning Resource Credits be created in recognition of the varying ability of Planning Resources to be deliverable to load, as follows: (1) Aggregate Planning Resource Credits that are universally deliverable throughout the Midwest ISO region; (2) Local Planning Resource Credits that are only deliverable to a local area; and (3) External Planning Resource Credits that are qualified from External Resources.

a. Comment

53. Duke supports the Planning Resource Credit designation based on its belief that the inclusion of Planning Resource Credits in the Tariff will improve the functioning of the Midwest ISO resource adequacy plan. No other party filed comments or objected to the Midwest ISO's proposed revisions.

b. Commission Determination

54. We accept the proposed revision to allow Planning Resource Credits to be the basis for determining a Load Serving Entity's resource adequacy. We note that the

¹⁴ MOD-024 is a reliability standard that requires the regional reliability organization to establish and maintain procedures to address verification of generator gross and net real power capability. *See Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g*, Order No. 693-A, 120 FERC ¶ 61,053 (2007).

¹⁵ Planning Resource Credits are defined to be "the equivalent of one MW of Unforced Capacity from a Planning Resource for a given month during a specific Planning Year, pursuant to the requirements set forth in Module E of the Tariff." Midwest ISO, FERC Electric Tariff, Fourth Revised Vol. No. 1, Proposed First Revised Sheet No. 244, Section 1.505a.

designation of Load Modifying Resource¹⁶ Planning Resource Credits as Aggregate Planning Resource Credits is the subject of another proceeding in Docket No. ER08-394-022. We will not prejudge that decision in that proceeding by making a finding here. We will address that issue in Docket No. ER08-394-022.

5. Procedures for Voluntary Capacity Auction

55. The Midwest ISO proposes to add a provision to address the clearing process for the circumstance in which the bids and offers in the voluntary capacity auction do not meet at a single point—that is, when there is a range of prices. In this circumstance, the Midwest ISO proposes to calculate the auction clearing price¹⁷ as the mid-point between the demand bid and supply offer prices. The Midwest ISO asserts that this is the most reasonable and equitable approach in resolving the issue.

56. The Midwest ISO also proposes to modify its Tariff to provide more time between the voluntary capacity auction and the resource plan deadline.¹⁸ Specifically, the Midwest ISO proposes to hold the auction 10 business days (instead of five business days) before the resource plan deadline. It further revises the Tariff to require all bidders and sellers to make their prospective bids or offers at least 12 business days (instead of seven business days) before the resource plan deadline.

a. Comments

57. Ameren raises concerns regarding the Midwest ISO's proposal to clear the voluntary capacity auction. It notes that the proposed revisions do not address the situation in which the MW of offers exceeds the MW of bids at the price associated with the lowest bid price so that the bid and offer curves do not intersect. Ameren recommends in this situation that the auction clearing price reflect the marginal offer associated with the level of the bid.

¹⁶ A Load Modifying Resource is a Demand Resource or Behind-the-Meter Generation Resource. *Id.*, First Revised Sheet No. 192, Section 1.359a.

¹⁷ The auction clearing price is the price associated with the MW-month quantity that clears in the voluntary capacity auction process. *Id.*, First Revised Sheet No. 82, Section 1.29.

¹⁸ The resource plan deadline is the first day of the month prior to the month for which there exists a resource plan obligation.

58. Duke argues that the changes in dates surrounding the voluntary capacity auction will place further stress on the current Midwest ISO resource adequacy design with regard to retail switching. Duke notes that the changes will make it more difficult for retail choice suppliers, like Duke, to utilize the auction to meet their varying customer mix because retail switching transactions could occur after the auction is held, but before the resource plan deadline.

b. Answers

59. In its answer, Midwest ISO states that the clearing process will extend the bid curve vertically downward from its lowest bid price/quantity pair until it crosses the horizontal axis in the same manner requested by Ameren. Therefore, Midwest ISO avers that the auction clearing price will be determined as the price of the marginal Aggregate Planning Resource Credit offer associated with the maximum amount of Aggregate Planning Resource Credit bids.

60. The Midwest ISO responds to Duke by asserting that while its proposal may slightly impede auction participation, the proposal will allow more time for bilateral contracting for Planning Resource Credits after the auction. The Midwest ISO notes that several stakeholders requested this revision. The Midwest ISO also asserts that regardless of the timing of the auction process, parties will still be required to know the amount of their load one month in advance of the resource plan deadline.

c. Commission Determination

61. We consider the Midwest ISO proposal for clearing the auction when there are a range of cleared prices to be reasonable. Since the Midwest ISO answer indicates that it will be pricing the auction in the same way that Ameren requests, we see no need for further revisions.

62. We will not, however, accept the Midwest ISO's proposal to modify the dates surrounding the voluntary capacity auction and resource plan deadline. As emphasized by Duke and acknowledged by the Midwest ISO in its answer, the change in dates will negatively impact participation in the voluntary capacity auction. While the Midwest ISO attempted to justify this change because it will provide more time for bilateral contracting, it has not explained why this purported benefit outweighs the harm to retail choice suppliers and other participants in the voluntary capacity auction. Accordingly, we reject the Midwest ISO's proposed revision to section 69.7 that would modify the date of the voluntary capacity auction, as well as the bid and offer dates prior to the auction. We require the Midwest ISO to revise its Tariff accordingly in the compliance filing.

6. Planning Reserve Margin Requirement and Analysis

63. The Midwest ISO proposes to revise the resource plan provision to state that Load Serving Entities will be required by March 1 of each Planning Year to satisfy their Planning Resource Margin Requirement¹⁹ at each commercial pricing node for each of the Months of the upcoming Planning Year.

64. The Midwest ISO also proposes to clarify that regardless of whether a state-established Planning Reserve Margin is higher or lower than the Planning Reserve Margin established by the Midwest ISO, the demand under that state authority's jurisdiction will be subject to the state-established Planning Reserve Margin. Finally, the Midwest ISO proposes to modify the Tariff to provide that it will publish the results of its Planning Reserve Margin analysis by the first day of November preceding the applicable Planning Year, in order to accommodate stakeholder requests to provide this information sooner than seven months prior to the applicable Planning Year, as initially stated in Module E.

a. Comments

65. In their respective protests, AMP-Ohio and Duke express concern with the proposed language requiring the Load Serving Entity to have sufficient Planning Resource Credits by March 1 to meet its Planning Resource Margin Requirement for the upcoming year. AMP-Ohio states that it prefers the existing language since it is unambiguous in requiring the Load Serving Entity to provide to Midwest ISO a resource plan, rather than implying that Load Serving Entities must commit resources for the year by March 1. Accordingly, AMP-Ohio states that this provision should be revised to provide that, by March 1 of each Planning Year, each Load Serving Entity shall submit to Midwest ISO "its plan" to satisfy its Planning Resource Margin Requirement at each commercial pricing node for each of the months of the upcoming Planning Year.

66. There were no comments on the Midwest ISO proposal to revise the Planning Reserve Margin provisions.

¹⁹ The Planning Resource Margin Requirement is the number of planning resource credits that a Load Serving Entity must designate in the Tracking Tool to meet its resource adequacy requirement obligations. *Id.*, Proposed First Revised Sheet No. 244, Section 1.504a.

b. Answers

67. The Midwest ISO agrees to clarify that Load Serving Entities must submit their resource plans for satisfying their resource adequacy plan, as requested by Duke and AMP-Ohio, if so directed by the Commission.

c. Commission Determination

68. As it has agreed to in its answer, we require the Midwest ISO to revise the resource plan deadline in the compliance filing to clarify that Load Serving Entities must submit their resource plans for satisfying their resource adequacy requirements by March 1. We find the proposed revisions to the Planning Reserve Margin Requirement process to be reasonable.

69. We find the Midwest ISO's proposed clarification of the applicable Planning Reserve Margin to be consistent with the current Tariff, and accordingly we accept this clarification. We also consider the proposed timeline for the Planning Reserve Margin analysis to be reasonable, and therefore we accept the revision.

7. Calculation of Deficiencies

70. The Midwest ISO proposes to add a new Tariff provision that clarifies that a Load Serving Entity's deficiencies will be separately calculated on a commercial pricing node basis. The Midwest ISO explains that this modification is required because forecasted demand is provided to the Midwest ISO by Load Serving Entities on a commercial pricing node basis and deliverability requirements mandate that deficiencies also be calculated on a commercial pricing node basis.

71. In addition, the Midwest ISO proposes to modify the Tariff to clarify that if there are multiple Planning Reserve Margins for different Planning Reserve Zones, then a Load Serving Entity's deficiencies will be separately calculated on a commercial planning node basis for each Planning Reserve Zone where the Load Serving Entity serves load. The Midwest ISO proposes that in the event that a Load Serving Entity is determined to be capacity deficient, such a Load Serving Entity will be allowed to correct any errors in the Tracking Tool where the Load Serving Entity has sufficient Planning Resource Credits overall, but has failed to designate enough Planning Resource Credits to meet its Planning Reserve Margin Requirement to each commercial pricing node.

a. Comment

72. Xcel recommends that the deadline for the transmission provider to notify the Load Serving Entity of its deficiencies should be revised from one business day to ten calendar days to allow time for the other steps in the deficiency process to be completed.

b. Answers

73. Responding to Xcel, the Midwest ISO indicates that the deficiency calculation is automated within the Tracking Tool, and therefore Planning Resource Credit designation errors should be remedied quickly. Allowing additional time for this process would move the resource plan deadline ten days closer to the planning month, which is contrary to the approved Module E provisions. The Midwest ISO believes that one business day is sufficient in order to provide timely resolution of deficiency charges and distribution of revenues.

c. Commission Determination

74. We consider the proposal to calculate deficiencies on a commercial pricing node basis to be reasonable since forecasted demand is calculated on this basis and deliverability requirements are also calculated on this basis. We agree with the Midwest ISO that the Xcel proposal to extend the deadline for notification of deficiencies is not necessary in light of the automated nature of the Tracking Tool, and therefore we will not require revisions to this provision.

8. Load Modifying Resources Issues

a. Load Modifying Resource Disqualification

75. The Midwest ISO proposes to modify the penalty provision in its Tariff to clarify that penalties will be based on a Load Modifying Resource's achievement of the Midwest ISO's Scheduling Instructions.²⁰

i. Comments

76. AMP-Ohio argues that the proposal results in disparate treatment for a Load Modifying Resource that has failed to be available the first time when called upon by the Midwest ISO. Additionally, AMP-Ohio argues that if a Load Modifying Resource is to be disqualified for failing to follow dispatch orders from the Midwest ISO, any such disqualification should take effect on a prospective basis to allow the market participant the time and opportunity to replace the affected amount of capacity. AMP-Ohio requests that the Commission require the Midwest ISO to provide clarification regarding the

²⁰ Scheduling instructions are directives issued by the transmission provider to market participants with Load Modifying Resources indicating MW quantities to be reduced during emergencies. *Id.*, Proposed First Revised Sheet No. 272, Section 1.594.

disparate treatment. AMP-Ohio also notes that there is no distinction between Demand Resources and Behind-the-Meter Generation in the penalty provisions.

ii. Answers

77. The Midwest ISO explains that the intent of the penalty provisions is to encourage parties to use Load Modifying Resources as Planning Resource Credits because it helps to ensure that these resources are available when called upon during an emergency. Section 69.3.9.a is intended to disqualify a Demand Resource or Behind-the-Meter Generation that was first unavailable from qualifying as a Load Modifying Resource for the remainder of the Planning Year, after investigation and if deemed appropriate by the transmission provider. Section 69.3.9.b is intended to disqualify a Demand Resource or Behind-the-Meter Generation from qualifying as a Load Modifying Resource for the remainder of the Planning Year and the entire next Planning Year if it was not available on a second occasion. The Midwest ISO considers this penalty structure to be more equitable.

78. The Midwest ISO agrees to clarify that section 69.3.9.a would prescribe a penalty that could extend to the remainder of the Planning Year and that section 69.3.9.b will extend such penalty to also include the next Planning Year.

79. The Midwest ISO is also willing to address AMP-Ohio's concerns with the following revision to section 69.3.9.a:

For any situation where either an LMR does not respond to an interruption request, including those circumstances where the LMR is claimed to be unavailable as a result of maintenance requirements or for reasons of *Force Majeure*, the Transmission Provider shall initiate an investigation with the Market Participant which has registered the ~~LMR as a PRC~~ Demand Resource or BTMG and was qualified as an LMR, into the cause of the LMR not being available when called upon to reduce Demand. . . .

80. In its answer to the Midwest ISO, AMP-Ohio asserts the Midwest ISO has misinterpreted its concerns regarding the disqualification treatments proposed in subsections 69.3.9.a and 69.3.9.b. Specifically, AMP-Ohio claims that it did not advocate that a Load Modifying Resource should be permanently disqualified for a single failure to follow a Midwest ISO dispatch order under subsection 69.3.9.a. Rather, AMP-Ohio states that it was arguing that the language in subsection 69.3.9.a should specify a duration for the disqualification, similar to the language in subsection 69.3.9.b. With regard to the other changes proposed by the Midwest ISO, AMP-Ohio supports the clarifications proposed by the Midwest ISO.

iii. Commission Determination

81. We note as an initial matter that the Commission has previously accepted the provisions specifying disqualification criteria for Load Modifying Resources, which are the same provisions the Midwest ISO is filing here.²¹ The proposal here does not substantively change those provisions, but only clarifies that penalty will be based on the Midwest ISO's Scheduling Instructions. We will not revisit the overall purpose of this provision in this proceeding. Additionally, we find the Midwest ISO answer to be responsive to AMP-Ohio's clarification requests, and we accept its proposed revision to the definition of the Scheduling Instruction. We require the Midwest ISO to revise its Tariff to state that section 69.3.9.a would prescribe that the penalty could extend to the remainder of the Planning Year.

b. Eligibility, Testing, Accreditation, Must-Offer and Deliverability Requirements for Load Modifying Resources

82. The Midwest ISO proposes to establish separate sections to address Demand Resources and Behind-the-Meter Generation to distinguish differences between these two types of Load Modifying Resources. The Midwest ISO is also proposing to establish a new section for deliverability issues consistent with its compliance filing in Docket No. ER08-394-022.

i. Comments

83. In its protest, Dynegy argues that Demand Resources and Behind-the-Meter Generation should be treated in a comparable manner to other accredited Planning Resources. Dynegy asserts that this special accommodation was only applicable for one Planning Year and that Planning Year has passed. Therefore, Behind-the-Meter Generators seeking accreditation as a Capacity Resource should be subject to the same rules as all other generation resources.

84. Dynegy also states that the Tariff requires Behind-the-Meter Generators, which also are Load Modifying Resources, to make their generation available when Midwest

²¹ The Commission required the Midwest ISO to clarify and revise its disqualification and penalty provisions in its initial order on the Midwest ISO resource adequacy proposal in Docket No. ER08-394. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,283, at P 359 (2008). The Commission subsequently accepted the Midwest ISO's compliance filing. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,062 (2008).

ISO declares an emergency. In other words, Dynegy claims that these resources are not being subjected to the same must-offer requirements as Generation Resources in the Midwest ISO. Dynegy contends that if these resources are being relied upon to maintain overall system reliability as a Capacity Resource, they should be subject to the same must-offer requirements as other generation resources.

85. RRI Energy states that there are inconsistencies inherent in the Demand Resource eligibility provisions and the Load Modifying Resource penalty provisions. RRI Energy proposes revisions to the Demand Resource eligibility provision to clear up any ambiguities between these sections.

86. Ameren expresses concern that the process of allowing Local Planning Resource Credits from Load Modifying Resources to become Aggregate Planning Resource Credits, and the change in value between local resources and more valuable aggregate resources, is not comparable and equitable across all types of resources.

ii. Answer

87. The Midwest ISO asserts that it has established the same requirements for qualifying Demand Resources and Behind-the-Meter Generation and for Generation Resources to qualify with respect to the reporting of generator availability data and the requirement of annual testing. According to the Midwest ISO, the Tariff specifically applies the must-offer requirement to Capacity Resources and that Load Modifying Resources, such as Behind-the-Meter Generation, only need to participate during emergency conditions. The Midwest ISO explains that a Behind-the-Meter Generator is not capable of offering into the Day-Ahead Market or the Reliability Assessment Commitment process because the market participant has chosen not to represent the asset in the commercial model. The Tariff requirement is that Behind-the-Meter Generation that qualifies as a Load Modifying Resource must be available with no more than 12 hours' notice and also during declared emergencies. The Midwest ISO states that it did not intend to substantively change this requirement in the instant filing.

88. The Midwest ISO also notes that the Commission has previously accepted provisions that allow for different requirements for accreditation, testing, and deliverability for Capacity Resources and for Load Modifying Resources. Therefore, the Midwest ISO recommends that these differences be maintained in the absence of any credible, documentary evidence that such distinctions are resulting in unjust or unreasonable Tariff terms.

89. The Midwest ISO states that the Tariff should be modified to eliminate any potential ambiguities between section 69.3.5.vi and section 69.3.9; however, Midwest ISO disagrees with the specific modifications to section 69.3.5 suggested by RRI Energy. Midwest ISO states that the purpose of section 69.3.5.iv is to allow market participants to

avoid any financial penalties when the Demand Resource is called upon and is not available because the load is already offline.

iii. Commission Determination

90. We agree with the Midwest ISO that the must-offer obligations, accreditation testing and deliverability requirements are the same requirements the Commission accepted in previous orders in Docket No. ER08-394 and that existed in the Midwest ISO prior to the instant filing.²² The clarifications in the instant filing do not substantively change those provisions. Accordingly, we accept these provisions as proposed by the Midwest ISO and we will not require other substantive changes. We note that the exemption from unit specific verification testing applies to all generators not reporting generator availability data, as the Midwest ISO notes in its answer. Therefore, this provision is therefore not unduly preferential to Behind-the-Meter Generation.

91. We note that the provisions of concern to RRI Energy are the same provisions the Commission has previously accepted in Docket No. ER08-394, and that the Midwest ISO is not proposing any substantive changes to these sections. We understand RRI Energy's concern to be that the eligibility requirements in section 69.3.5 be consistent with the more precise description of performance requirements for Load Modifying Resources in the penalty provisions in section 69.3.9. We consider the RRI Energy recommendation to be reasonable since it avoids confusion as to the performance requirements of Load Modifying Resources, and it does not change the original meaning of the provisions previously accepted by the Commission. While the Midwest ISO answer is correct that the purpose of section 69.3.5 is to allow market participants to avoid financial penalties when a Demand Resource is called upon and when load is already offline, these responses do not address RRI Energy's concern regarding the need to avoid confusion by having consistent performance requirements for Load Modifying Resources in the eligibility and penalty provisions. For these reasons, we require the Midwest ISO to revise its Tariff in the compliance filing to reflect the RRI Energy recommendations.

92. Responding to Ameren, the Tariff provision on deliverability reflects Commission compliance requirements in Docket No. ER08-394-022, as the Midwest ISO noted in its

²² The Midwest ISO included offer requirements and verification and testing requirements for Load Modifying Resources in its December 28, 2007 filing in Docket No. ER08-394. The Commission accepted these provisions, subject to further compliance. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,283 (2008). The Midwest ISO proposed deliverability requirements for Load Modifying Resources in its June 7, 2009 filing in Docket No. ER08-394-022. This filing is pending before the Commission.

transmittal letter for the instant filing. The Commission has not yet issued an order on the proposed revisions in Docket No. ER08-394-022 and we will not prejudge our decision in that proceeding in this order.

c. Load Modifying Resource Participation in Voluntary Capacity Auction

93. The Midwest ISO proposes language that would allow Load Modifying Resources to submit an Aggregate Planning Resource Credit offer into the voluntary capacity auction so long as the requirements of section 69.3.5 or section 69.3.6, for Demand Resources and Behind-the-Meter Generation respectively, are satisfied and that the Load Modifying Resource Market Participant demonstrates that: (1) the Load Modifying Resource is not precluded from directly providing demand reduction to the Transmission Provider; (2) it agrees to indemnify and hold harmless any Load Serving Entity that acquires Aggregate Planning Resource Credits through the voluntary capacity auction; and (3) the Planning Resource Credits from the Load Modifying Resource are universally deliverable across the Transmission System and are not being double counted.

i. Comment

94. In its protest, RRI Energy notes that Midwest ISO has proposed the same language in a June 17, 2009 compliance filing in Docket No. ER08-394-022 and that this language was protested by RRI Energy.

ii. Answer

95. In its answer, the Midwest ISO agrees that because the issues regarding deliverability of Load Modifying Resources are currently pending before the Commission, it would be preferable for the Commission to resolve issues regarding participation of Load Modifying Resources in the auction before, or contemporaneously with Commission approval of the instant filing.

96. Like RRI Energy in its protest, and the Midwest ISO in its answer, CMTC argues that the Commission should not consider the issues regarding deliverability in this proceeding because they are currently pending in another proceeding. CMTC also states that it agrees with the Midwest ISO's answer that contends the Commission should maintain the differences it has already approved regarding accreditation, testing, and deliverability requirements for Capacity Resources and for Load Modifying Resources.

iii. Commission Determination

97. Since this provision is under consideration by the Commission in Docket No. ER08-394-022, we will not prejudge our decision in that proceeding by making a finding here. We will address that issue in Docket No. ER08-394-022.

9. Deliverability Requirements for Capacity Resources

98. The Midwest ISO proposes to delete the language in section 69.3.1.f. stating that a Generation Resource must be evaluated for aggregate deliverability in order to make this provision more transparent.

a. Comments

99. RRI Energy asserts that Midwest ISO's proposed language is not consistent with existing Tariff language. To rectify this discrepancy, RRI Energy suggests that the Midwest ISO should revise its proposed Tariff provision as follows:

v. Demonstrating that a Generation Resource was accepted by the Transmission Provider and confirmed by Network Customers as designated Network Resources under the OASIS reservation process in place prior to either the initial effective date of the Energy Market in 2005 or that Transmission Owner's integration date will be accepted by the Transmission Provider as deliverable to the Network Loads of the Network Customer for the term of the confirmed designation, as such term may be extended. Such Generation Resources must be evaluated for aggregate deliverability and be certified deliverable in order to qualify as a Capacity Resource for the Network Customer for periods beyond the confirmed designation, or in order to qualify as a Capacity Resource for any other Network Customer.

b. Answer

100. In its answer, Midwest ISO agrees to make the following changes if so directed by the Commission:

Demonstrating that a Generation Resource was accepted by the Transmission Provider and confirmed by Network Customers as designated Network Resources under the OASIS reservation process in place prior to either the initial effective date of the Energy Market in 2005 or that Transmission Owner's integration date will be accepted by the Transmission Provider as deliverable to the Network Loads of the Network Customer for ~~the~~ that term of the confirmed designation, as such term may be extended.

c. Commission Determination

101. The RRI Energy proposal is to reinsert a phrase that the Midwest ISO proposes to delete from the Tariff. We find that the Midwest ISO's proposed deletion is just and reasonable since it appropriately restricts the Tariff provision to the demonstration requirement that Generation Resources must meet in order to be considered deliverable. An additional phrase stating that resources must be evaluated is misplaced in a provision that specifies a demonstration requirement since it does not provide further detail on the demonstration requirements and instead addresses a general evaluation requirement that is not germane to the demonstration requirement. For these reasons, we accept the proposed provision with the additional revision proposed by the Midwest ISO.

10. Forecasted Demand

102. As set forth in section 69.1.1, the Midwest ISO proposes to allow Load Serving Entities to submit their own standard deviation to support their calculation of forecasted demand. It also proposes to modify section 69.1.1 to reflect that a Load Serving Entity's monthly forecasted demand for each commercial pricing node must reflect a 50 percent probability that the demand will not exceed forecasted demand.

103. Additionally, the Midwest ISO proposes to delete section 69.3.4 and create a new section 69.6.6, addressing the Midwest ISO's limited "after-the-fact" assessments of each Load Serving Entity's forecasted demand. The Midwest ISO proposes to: (1) clarify the procedures for evaluating whether a Load Serving Entity has under-forecasted its demand, especially as it relates to the standard deviation documentation; and (2) clarify the phrase "other normalization factors," by making clear that the term "includes, but is not limited to, recognition that any forecasted Demand relies upon a probabilistic assessment of potential Load, utilizing standard deviation estimates."²³

a. Comments

104. RRI Energy asserts that the Midwest ISO has failed to explain why Load Serving Entities are given the opportunity to submit their own standard deviation to the Midwest ISO. Such a proposal, according to RRI Energy, "ignores the crucial role that the standard deviation plays in determining the accuracy of the LSE's load forecast, and may undermine the Midwest ISO's ability to evaluate the accuracy of the LSE resource plans and to determine the sources of the inaccuracies. . . ." ²⁴ RRI Energy recommends that the

²³ Midwest ISO October 20, 2009 Filing at 10.

²⁴ RRI Energy November 10, 2009 Protest at 4 (footnotes omitted).

Midwest ISO either determine the appropriate standard deviation or establish parameters for calculating a standard deviation to be used by all Load Serving Entities. In the event the Commission accepts the Midwest ISO proposal, however, RRI Energy argues that Load Serving Entities should be required to provide all supporting documentation used to determine the standard deviation.

105. With respect to after-the-fact assessments, Ameren argues that Midwest ISO should perform such assessments based on the Load Serving Entity's load at the time of the Local Balancing Authority Area coincident peak, rather than performing the assessment based on the peak load at individual commercial pricing nodes. Ameren states that this is necessary because the sum of the individual peaks of the commercial pricing nodes will in most cases exceed the coincident peak of the combined commercial pricing nodes of a Load Serving Entity within a Local Balancing Authority Area. According to Ameren, this will require Load Serving Entities to purchase more Planning Resource Credits than is necessary.

106. Alternatively, if coincident peak load assessments are not possible, Ameren recommends that the Midwest ISO perform after-the-fact assessments at the Load Serving Entity level within each Local Balancing Authority, rather than at the individual commercial pricing node level. Ameren also recommends that this after-the-fact assessment include adding the additional Planning Resource Credits designated to serve load in each Load Serving Entity's Tracking Tool account, so that Load Serving Entities can create a hedge against potential under forecast errors.

b. Answer

107. In its answer, Midwest ISO states that the determination of a Load Serving Entity's standard deviation is the responsibility of each Load Serving Entity and should not be delegated to Midwest ISO. Midwest ISO also suggests that RRI Energy's recommendation would be a substantive change to its Tariff which is beyond the scope of this filing.

108. With regard to the after-the-fact assessments, Midwest ISO disagrees with Ameren's proposal to base after-the-fact assessments on the Load Serving Entity's demand at the time of the Local Balancing Authority Area coincident peak, and then comparing it to the Load Serving Entity's forecasted demand at the commercial pricing node. The Midwest ISO argues that such an assessment does not produce an accurate comparison because the Load Serving Entity is required to submit its non-coincident peak forecasted demand for each commercial pricing node, which may not coincide with the Local Balancing Authority Area's peak. The Midwest ISO asserts that the existing Tariff provisions—which were previously approved by the Commission—provide for forecasting demand based on the peak load at each commercial pricing node.

c. Commission Determination

109. We agree with the Midwest ISO that the determination of the standard deviation is part of the demand forecast and, therefore, is part of the forecasting responsibility of each Load Serving Entity—not the Midwest ISO. For this reason we will not require the Midwest ISO to take on these additional responsibilities and we accept the proposal. We also see no reason to add a requirement that Load Serving Entities provide all available data to the Midwest ISO. The Tariff provides that the Midwest ISO has the ability to require additional information in written responses. This process should provide the Midwest ISO with the information it needs to evaluate the accuracy of the forecast.

110. We also agree with the Midwest ISO that its forecasting requirements are based on current Tariff provisions that have been accepted by the Commission in Docket No. ER08-394. Since the proposals of Ameren are not part of the Midwest ISO October 20 proposal, we see no need to revise a previously approved provision. Since the after-the-fact assessment does not implicate Planning Resource Credits to meet the Load Serving Entity's Planning Resource Margin Requirement, as the Midwest ISO indicates in its answer, we see no need for revisions to address this concern of Ameren.

111. We conditionally accept the probability threshold proposed by the Midwest ISO, subject to further explanation by the Midwest ISO. While we do not expect that the 50 percent probability threshold will have detrimental impacts on resource adequacy, the Midwest ISO has not provided any substantive explanation for this provision, other than noting that stakeholders support the 50 percent level. For this reason we require the Midwest ISO to discuss the reliability implications of the proposed probability threshold in the compliance filing.

112. We consider it reasonable to include standard deviation documentation in the data submitted by Load Serving Entities as part of their demand forecasts, and for this reason we accept this revision. We also consider the 60 day notification of under-forecasts to be reasonable and, therefore, we accept this revision.

11. Other Issues

a. Data Reporting Requirements

113. The Midwest ISO proposed to clarify the methodologies and timing that it will use to evaluate Planning Resources. In particular, the Midwest ISO is proposing new sections 69.3.1.b and 69.3.6.c to make clear that a Demand Response Resource that is a behind-the-meter generation facility or a Behind-the-Meter Generation Resource greater than 10 MW must provide generation verification test data.

114. RRI Energy argues that Midwest ISO has failed to provide any explanation or reasoning for exempting Capacity Resources of less than 10 MW from having to make such reports. Accordingly, RRI Energy argues that the Commission should reject the proposed revision.

115. In its answer, Midwest ISO states that it arrived at the 10 MW threshold based on an analysis of small generator unit specific forced outage rates greater than pooled class averages. According to Midwest ISO, setting the threshold at 10 MW properly recognizes both the cost of collecting and maintaining systems to report generator availability data and also the risk of overstating small resources' capacity value by allowing them the option of using a class average forced outage rate.

116. We find that the Midwest ISO answer provides a reasonable basis for setting 10 MW as the lower limit on the requirement for unit specific generator availability data. As the Midwest ISO explains in its answer, its analysis determined that outage rates above the class average were restricted to generators larger than 10 MW. Therefore, class average outage rates for generators smaller than 10 MW would be an accurate assessment of their outage performance. For this reason we consider the Midwest ISO proposal to be reasonable and we accordingly accept this provision.

117. Regarding the Midwest ISO proposal to use a class average unforced capacity based on the average for the resource type, as specified in section 69.4.3, we request that the Midwest ISO clarify in its compliance filing whether their class average will be based on the average for all behind-the-meter generators or on a class average based on the type of generation.

b. Removal of Language from Network Resource Provision

118. The Midwest ISO proposes to remove the reference to Demand Response Resources Type-I and Type-II from section 30 of the Tariff. The Midwest ISO explains that the section concerns transmission service for Network Resources and, therefore, does not apply to Demand Response Resources because they do not need transmission service. The Midwest ISO emphasizes that the provisions in section 30 only deal with transmission service and, thus, do not impact capacity obligations or the resource adequacy requirements.

119. In its protest, AMP-Ohio requests clarification that Demand Response Resources and Behind-the-Meter Generation will continue to qualify as designated Network Resources so long as they are able to serve the network customer's load and are not committed to serve other load.

120. We will accept Midwest ISO's proposed deletions in the Network Resource provision. We note that neither Demand Response Resource nor Load Modifying

Resources have transmission service requirements and, therefore, the Network Resource designation in section 30 of the Tariff does not apply to them.

c. Reporting Resource Adequacy Requirements to States

121. The Midwest ISO proposes to modify section 69.3 of the Tariff, which addresses the Midwest ISO's process for reporting resource adequacy data to state authorities. The Midwest ISO proposes to modify and reorganize this section and create a new section 69.6. The new section will address: (1) the manner in which the Midwest ISO complies with state reporting requirements; (2) notification of the Planning Margin Requirement to Load Serving Entities; (3) a new voluntary capacity bulletin board; (4) submission of data to Regional Entities; and (5) the data that will be provided to a Load Serving Entity.

122. AMP-Ohio argues that the proposed language is insufficiently precise in requiring the Midwest ISO to report all of the relevant resource adequacy data to the appropriate entities. AMP-Ohio faults the Midwest ISO for not defining applicable state authorities and notes that the appropriate entity is the relevant electric retail regulatory authority per Order No. 719.²⁵ AMP-Ohio also argues that the Midwest ISO should not be reporting resource adequacy data for municipal electric entities to state utility commissions unless the municipal electric entity is subject to the jurisdiction of the state commission.

123. The Midwest ISO agrees to clarify that "applicable state authorities" means "state authorities charged with establishing resource adequacy standards with respect to a Load Serving Entity subject to its jurisdiction."

124. We consider the Midwest ISO answer to be responsive to the concerns of AMP-Ohio and therefore we accept the clarifications proposed by the Midwest ISO in its answer. We require the Midwest ISO to make the clarifications it proposes in its answer in the compliance filing.

d. Clarifying Losses in the Calculation of the Loss of Load Expectation

125. The Midwest ISO proposes to clarify that Load Serving Entities are responsible for calculating and reporting all losses, distribution as well as transmission, in their forecasts that are used in the Loss of Load Expectation calculations. It notes that

²⁵ AMP-Ohio November 10, 2009 Protest at 5 (citing *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008), *order on reh'g*, Order No. 719-A, 74 Fed. Reg. 37,776 (Jul. 29, 2009), FERC Stats. & Regs. ¶ 31,292, *reh'g denied*, Order No. 719-B, 129 FERC ¶ 61,252 (2009)).

section 69.1.1 has been modified to clarify that a Load Serving Entity's monthly forecasted demand "must include the effect of all losses and that such data on losses will be incorporated into the [Loss of Load Expectation] calculations. The Midwest ISO also proposes to modify section 68.3, which addresses the Loss of Load Expectation study, to clarify that the Planning Reserve Margin will be an Unforced Capacity requirement that is based on the weighted average forced outage rate of all Capacity Resources and Load Modifying Resources in the Midwest ISO.

126. AMP-Ohio and Ameren claim that Load Serving Entities (or market participants that are acting as Load Serving Entities) generally do not have the information necessary to determine transmission losses and that section 69.1.1 does not address how loss data will be made available to Load Serving Entities in order to allow them to make such calculations.

127. In its answer, Midwest ISO states that it is not imposing a new requirement on Load Serving Entities and that it should not be required to determine a Load Serving Entity's transmission losses. Additionally, Midwest ISO states that a Load Serving Entity can consult with its local balancing authority area or transmission owners, or review historical loss data to determine its losses.

128. We agree with the Midwest ISO that the demand forecast is the Load Serving Entity's responsibility, and therefore it is not appropriate for the Midwest ISO to determine Load Serving Entity transmission losses. However, we cannot accept a provision that cannot be implemented due to the lack of data. Therefore, we conditionally accept this revision subject to a submittal by the Midwest ISO in the compliance filing that addresses whether the proposed requirement can, in fact, be implemented by Load Serving Entities and to propose further revisions in its procedures to ensure compliance.

129. We consider it reasonable to base the Planning Reserve Margin on the weighted average forced outage rate of all Capacity Resources and Load Modifying Resources in the Midwest ISO, and for this reason we accept the proposed revision.

e. Planning Reserve Zone Clarification

130. Finally, the Midwest ISO proposes to modify section 68.1.3 to clarify and distinguish between: (1) Marginal Congestion Component Zones; and (2) Planning Reserve Zones. By doing so, the Midwest ISO asserts that that Tariff will clearly state that Marginal Congestions Component Zones are used in the Security Constrained Economic Dispatch, Locational Marginal Pricing simulation while Planning Reserve Zones result from that simulation. No party protested these clarifications.

131. We find that the Midwest ISO proposal to revise its Tariff to distinguish between Marginal Congestion Component Zones and Planning Reserve Zones is just and reasonable and will accept the proposed Tariff revisions.

f. Other Proposed Revisions

132. The Midwest ISO has made numerous revisions to Module E to correct grammatical and typographical errors and to ensure the use of consistent terminology. For example, the Midwest ISO has updated the Tariff language to make clear that the Tracking Tool will be the exclusive method for providing resource adequacy data to the Midwest ISO. In addition, it has consolidated (e.g., section on Full Responsibility Purchase and Sales Agreements) and renumbered certain sections to clarify the Tariff. None of the changes appear to be substantive and no party has objected to these changes. Accordingly, we find the changes to be reasonable.

133. However, we require the Midwest ISO to modify the phrase “ThePlanningReserveMargincoveredto an unforced capacityreserverequirement in j,” as set forth on proposed First Revised Sheet No. 1457. This language should be revised in the compliance filing so that it is comprehensible.

134. We also accept other revisions proposed by the Midwest ISO and not specifically mentioned in this order.

The Commission orders:

(A) The Midwest ISO’s proposed Tariff sheets are hereby conditionally accepted, in part, and rejected, in part, as discussed in the body of this order.

(B) The Midwest ISO is hereby directed to make a compliance filing within 30 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.