

141 FERC ¶ 61,152
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 27, 2012

In Reply Refer To:
Midwest Independent Transmission
System Operator, Inc.
Docket No. ER12-817-000

Midwest Independent Transmission
System Operator, Inc.
720 City Center Drive
Carmel, IN 46032

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Attention: Arthur W. Iler, Assistant General Counsel

Reference: Resource Adequacy Plan Compliance

Dear Mr. Iler:

1. On January 17, 2012, the Midwest Independent Transmission System Operator, Inc. (MISO) submitted a compliance filing to meet the requirements of the December 15 Order¹ with respect to Module E (Resource Adequacy) of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).² As discussed below, we will accept MISO's proposed Tariff revisions to be in compliance with the requirements of the December 15 Order, but require an additional compliance filing.

¹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,213 (2011) (December 15 Order).

² MISO, FERC Electric Tariff, Fourth Revised Volume No. 1.

2. In October 2008, the Commission generally accepted, subject to a compliance filing, MISO's plan to financially settle its voluntary capacity auction.³ The Commission also ordered MISO's Independent Market Monitor (Market Monitor)⁴ to submit a filing describing its methodology for determining whether market power is being exercised in the voluntary capacity auction and mitigation measures that could be used to prevent market power.

3. The Commission, in its evaluation of the Market Monitor's submittal, required that the Market Monitor set forth Tariff provisions outlining the Market Monitor's plan for monitoring the voluntary capacity auction and address other concerns raised by parties.⁵ The Commission conditionally accepted the Market Monitor's subsequent submittal and required further compliance.⁶

4. As required by the December 15 Order, MISO's January 17, 2012 Filing⁷ includes the following proposed Tariff revisions: (1) clarification of the auction price threshold; (2) clarification of the market power threshold; (3) requirement that the Market Monitor provide facility-specific Planning Resource reference levels to market participants no later than five days prior to the deadline for submitting Planning Resource offers; (4) requirement that the Market Monitor specify the derivation of the opportunity cost; (5) requirement that Going-Forward Costs⁸ apply to all Planning Resources; and (6) specification of Planning Resource reference levels.

³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,060 (2008).

⁴ MISO's Tariff requires the Independent Market Monitor to monitor and evaluate the MISO market to ensure efficiency and competitiveness and to provide recommendations where appropriate.

⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 127 FERC ¶ 61,054, at PP 120-124 (2009).

⁶ December 15 Order, 137 FERC ¶ 61,213.

⁷ While the December 15 Order was in Docket No. ER08-394, the January 17, 2012 compliance filing was docketed in Docket No. ER12-817 as required by Order No. 714.

⁸ Going Forward Costs represent the cost of keeping a generation resource or demand response resource in operation. See MISO FERC Electric Tariff, section 61.1.c.

5. The December 15 Order also required that MISO submit a proposal to make external resources eligible to participate in the voluntary capacity auction.⁹ In its January 17, 2012 Filing, MISO proposes that external resources be eligible to participate in the auction proposed in its July 20, 2011 Filing in Docket No. ER11-4081 commencing on the proposed effective date in that proceeding of October 1, 2012.

6. Notice of MISO's January 17, 2012 Filing was published in the *Federal Register*, 77 Fed. Reg. 17 (2012), with interventions or protests due on or before February 7, 2012. Timely motions to intervene were filed by Exelon Corporation; Duke Energy Corporation; MidAmerican Energy Company; Consumers Energy Company; the Midwest TDUs;¹⁰ Wisconsin Electric Power Company; American Municipal Power, Inc.; and Illinois Municipal Electric Agency. Manitoba Hydro filed a timely motion to intervene and comment. On February 21, 2012 MISO submitted an answer.

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motion to intervene of MidAmerican Energy Company serves to make it a party to this proceeding. All other entities are already 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) (2012), prohibits an answer to a protest or answers unless otherwise ordered by the decisional authority. For this reason we reject MISO's answer.

9. Manitoba Hydro asserts that MISO has not complied with the December 15 Order directive to make external resources eligible to participate in the voluntary capacity auction. Manitoba Hydro faults MISO for proposing to satisfy this compliance requirement by offering to make external resources eligible to participate in the auction proposed in its July 20, 2011 Filing in Docket No. ER11-4081.¹¹ Manitoba Hydro explains that since the voluntary capacity auction currently in effect will continue to operate, external resources will continue to be excluded from participation until such time as the Commission rules on MISO's pending proposal. Manitoba Hydro argues

⁹ December 15 Order, 137 FERC ¶ 61,213 (2011), at P 117.

¹⁰ For purposes of their filing, the Midwest TDUs include: Indiana Municipal Power Agency; Madison Gas & Electric Company; Midwest Municipal Transmission Group; Missouri Joint Municipal Electric Utility; Missouri River Energy Services; Southern Minnesota Municipal Power Agency; WPPI Energy; and Great Lakes Utilities.

¹¹ The proposed auction in Docket No. ER11-4081 would apply to capacity for the Planning Year commencing June 1, 2013. See Transmittal Letter at p. 23, MISO July 20, 2011 Filing, Docket No. ER11-4081.

that MISO should not be permitted to defer responding to a direct request from the Commission by relying on a pending proposal since this approach leads to uncertainty and unfairness.

10. We will require MISO to submit a compliance filing to revise its Tariff to allow external resources to participate in the currently effective voluntary capacity auction. The Commission's directive in the December 15 Order required that external resources be able to participate in the voluntary capacity auction, to include the auction in effect at the time of the December 15 Order. We direct MISO to submit this revision within 30 days of the date of this order.

11. We accept the other proposed revisions submitted by MISO in the January 17, 2012 Filing to be in compliance with the December 15 Order.

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

Nathaniel J. Davis, Sr.,
Deputy Secretary.