143 FERC ¶ 61,007
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Midwest Independent Transmission System Operator, Inc. — Docket No. ER13-868-000

ORDER ON TARIFF REVISIONS

(Issued April 2, 2013)

1. On February 1, 2013, Midwest Independent Transmission System Operator, Inc. (MISO) filed proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). In particular, the filing proposes modifications to describe how Load Serving Entities (LSE) that integrate into the MISO balancing authority must meet their resource adequacy requirements. In this order, we conditionally accept the filing, subject to MISO's submission of a compliance filing as discussed below, effective April 3, 2013.

I. **Background**

2. On June 11, 2012, the Commission conditionally accepted MISO's proposal for a new annual resource adequacy construct, as set forth in a new Module E-1.[1] Pursuant to Module E-1, MISO conducts an annual planning resource auction beginning three days before the last business day in March and ending on the last business day in March. During this period, market participants are required to submit their resource offers into the auction for the planning year that begins on June 1 and ends on May 31 of the following calendar year.[2]

3. Under Module E-1, an LSE could obtain resources to satisfy their resource adequacy requirements by either offering or self-scheduling resources in the annual

---

[1] *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,199 (2012) (Capacity Auction Order); *see also* MISO, Application, Docket No. ER11-4081-000 (filed July 20, 2011) (July 20, 2011 Filing).

[2] Capacity Auction Order, 139 FERC ¶ 61,199 at P 175; July 20, 2011 Filing, Doying Aff. at ¶¶ 82-91.

auction or by submitting a Fixed Resource Adequacy Plan (FRAP), which demonstrates that it procured sufficient resources. If an LSE is found to be resource deficient, it is assessed a deficiency penalty. MISO also established seven Local Resource Zones and zonal resource adequacy requirements for which separate auctions are to be conducted. Finally, to the extent that an LSE uses resources that are located in a zone other than the zone in which its load is located, a Zonal Deliverability Charge is assessed to reflect price differentials between the zones.

4. On September 28, 2012, the Commission rejected without prejudice MISO's initial attempt to establish resource adequacy requirements applicable to those LSEs that have turned over functional control of their transmission systems to MISO.[3] These LSEs are defined as New LSEs under the MISO Tariff.[4] Under the proposal, if New LSEs were resource deficient, MISO wanted to bar the New LSEs from participating in MISO's energy and operating reserve markets and deny them balancing authority area services. The Commission found that MISO failed to show why such a proposal was not unduly discriminatory against New LSEs.[5] Furthermore, the Commission found that MISO's proposal failed to adequately incorporate locational market mechanisms previously required by the Commission.[6]

II. <u>Description of Filing</u>

5. MISO proposes to add Module E-2 to the Tariff which applies the resource adequacy requirements of Module E-1 to New LSEs, subject to modifications necessitated by virtue of New LSEs' circumstances. Specifically, MISO proposes to assign New LSEs to Local Resource Zones and, where the New LSEs' load is not located within existing zones, to establish new zones utilizing the same criteria as are provided under Module E-1 of the Tariff. MISO additionally proposes to develop capacity import limits, capacity export limits, local reliability requirements, and local clearing

---

[3] *See Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,254 (2012) (September 28 Order).

[4] MISO explains that the term "New LSE" includes any LSE within MISO's balancing authority area that is served by transmission facilities under MISO's control as a result of the transmission owner transferring functional control of the facilities to MISO, irrespective of whether the LSE is a new or an existing member. *See* Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff, Module E-1, 1.454a, New LSE, 1.0.0.

[5] September 28 Order, 140 FERC ¶ 61,254 at P 17.

[6] *Id.* PP 20-23.

requirements for each zone based on the same criteria set forth in Module E-1 of the Tariff.

6. MISO further proposes to apply MISO's system-wide planning reserve margin to all New LSEs for the planning year, unless another planning reserve margin is required by an applicable retail regulatory authority that has jurisdiction over the pertinent New LSE.[7] MISO also proposes similar requirements in Module E-2 for the provision of peak demand forecasts to those in Module E-1.

7. Under proposed Module E-2, New LSEs can demonstrate resource adequacy through any combination of four procedures until they can participate in the annual resource adequacy process. First, a New LSE can submit a FRAP that demonstrates that a New LSE would remain resource adequate from the time its load integrates into the MISO region through the remainder of the planning year. Second, the New LSE could acquire capacity from either the annual planning resource auction or a transitional planning resource auction, which MISO would conduct at least 30 days before the New LSE integrates into MISO's balancing authority area. Third, a New LSE can self-schedule its capacity resources. Fourth, a New LSE that has not procured sufficient capacity to meet its planning reserve margin requirement can pay a capacity deficiency charge.

8. MISO further proposes to apply the Zonal Deliverability Charge to New LSEs that demonstrate resource adequacy through the submission of a FRAP, consistent with Module E-1. Module E-2 also adopts the same zonal deliverability charge hedge[8] and zonal deliverability benefit[9] provisions as provided under Module E-1 of the Tariff. In addition, MISO proposes to grant New LSEs a hedge—referred to as a "Grandmother Agreement"—against the Zonal Deliverability Charge for capacity resources procured or developed on or before July 20, 2011. MISO proposes that Grandmother Agreements for New LSEs last for the duration of the transitional year and two planning years thereafter.

---

[7] MISO Filing at 4.

[8] Section 1.705b of the Tariff defines the zonal deliverability charge hedge as the mechanism that permits an LSE to avoid Zonal Deliverability Charge assessments through the investment in new or upgraded Transmission System facilities which are a result of approved firm transmission service requests where the LSE's Planning Resource and the LSE's Demand are in separate Local Resource Zones.

[9] Section 69A.7.7(c) describes the zonal deliverability benefit, which is the mechanism by which MISO distributes any excess Zonal Deliverability Charge debits it receives from LSEs within a Local Resource Zone.

III. Notice and Responsive Pleadings

9. Notice of MISO's filing was published in the *Federal Register*, 78 Fed. Reg. 9685 (2013), with interventions, comments, and protests due on or before February 22, 2013.

10. Timely motions to intervene were filed by Exelon Corporation; Lafayette Utilities System; Louisiana Energy and Power Authority; Wisconsin Electric Power Company; Ameren Services Company; the cities of Osceola, Benton, and Prescott, Arkansas; Indianapolis Power & Light Company; Consumers Energy Company; and Arkansas Electric Cooperative Corporation. A notice of intervention was filed by the Arkansas Public Service Commission.

11. Timely motions to intervene and comments or protests were filed by MidAmerican Energy Company (MidAmerican) and NRG Companies (NRG).

12. Illinois Commerce Commission (Illinois Commission) filed a motion to intervene out of time. Northern Indiana Public Service Company (Northern Indiana PSC) filed a motion to intervene out of time and comments.

13. MISO filed an answer in response to the comments of NRG, MidAmerican, and Northern Indiana PSC.

IV. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

15. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), the Commission will grant the late-filed motions to intervene filed by the Illinois Commission and Northern Indiana PSC given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

16. 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 unless otherwise ordered by the decisional authority. We will accept MISO's answer because it has provided information that has assisted us in our decision-making process.

B. Substantive Matters

17. As discussed further below, we conditionally accept MISO's proposal, effective April 3, 2013, subject to MISO's submission of a compliance filing within 30 days of the

date of this order. MISO's proposal, as modified, is consistent with the requirements of the September 28 Order and Module E-1 of the Tariff. Specifically, Module E-2 affords New LSEs the same opportunities to satisfy their resource adequacy obligations as LSEs subject to Module E-1 of the Tariff. Like Module E-1, Module E-2 would permit New LSEs to satisfy those requirements by self-scheduling their capacity resources, submitting a FRAP, participating in either the annual or a transitional planning resource auction, or paying a deficiency charge. Moreover, Module E-2 incorporates locational market mechanisms such as those provided in Module E-1.

1. Demonstrating Resource Adequacy

a. MISO Proposal

18. MISO proposes to require all New LSEs to meet their resource adequacy obligations through any combination of the following: (1) submitting a FRAP; (2) self-scheduling zonal resource credits; (3) purchasing zonal resource credits through a transitional planning resource auction; and/or (4) paying a deficiency charge. MISO states that its proposal is intended to "address the Commission's determination that all new and existing LSEs in the MISO [balancing authority area should] use similar requirements to establish [resource adequacy requirements]."[10]

19. Pursuant to Module E-2, a New LSE's FRAP must demonstrate that adequate planning resources are deliverable in order to satisfy the New LSE's resource adequacy obligations. Further, a New LSE's FRAP must include the New LSE's coincident peak demand forecast for the transitional planning year and designate zonal resources credits that the New LSE owns equal to its coincident peak demand forecast adjusted for the planning reserve margin. Following the completion of the planning year in which the New LSE integrates into the MISO region, Module E-2 would require the New LSE to comply with the requirements of Module E-1 of the Tariff. With respect to the proposed FRAP provisions, MISO asserts that these provisions impose similar requirements for new and existing LSEs, as required by the Commission.[11]

20. MISO states that it would be more accurate to conduct a new Loss of Load Expectation study for the new load and planning resources. However, it notes that these studies take considerable time—approximately nine months from start to finish. Nonetheless, MISO expects basing the planning reserve margin on an analysis that does

[10] *Id.* at 7 (citing September 28 Order, 140 FERC ¶ 61,254 at P 17). Proposed section 69A.11.14 states that New LSEs that integrate into MISO may fulfill their capacity obligations by self-scheduling zonal resource credits prior to the close of the offer window of a transitional planning resource auction.

[11] *Id.*

not include new load and planning resources for the transitional period will not cause any system reliability problems, noting that the impacts to the planning reserve margin from previous membership changes have been minimal.[12]

b. Comments

21. NRG requests that the Commission reject MISO's filing as premature without prejudice to MISO re-filing at a later date once further analysis can determine whether additional modifications to Module E-2 are necessary.[13] NRG notes that most of the New LSEs will be in the Entergy region and MISO has not shown that the two systems (the current MISO region and the Entergy region) are comparable in terms of transmission planning and congestion and has failed to perform sufficient analysis. As a result, NRG concludes that it is unclear that the two systems will react in a similar fashion to the same market rules.

22. NRG consequently posits that MISO's proposal "lacks the necessary detail" to address the unique situations in the Entergy footprint. NRG adds that such details can only be added through continued development in the course of MISO's stakeholder process, which NRG claims with respect to New LSEs "is still in its infancy and far from being thorough enough to form the foundation" of a just and reasonable proposal.[14]

23. In support of its assertion that MISO's proposal provides insufficient detail, NRG describes a series of distinctions between the MISO and Entergy transmission systems.[15] NRG notes that these differences must be addressed before proposed Module E-2 can be accepted. First, NRG claims that the primary difference between the MISO and Entergy systems is the fact that MISO has experienced many years of open, independent and collaborative transmission planning, which NRG claims has been absent in the Entergy system.[16] Second, NRG states that, unlike MISO, there are very few traditional balancing authorities in the Entergy system.[17] Further, according to NRG, the balancing authorities that do exist in the Entergy system have no electrical boundaries. Third, NRG claims that the Entergy system has well-known load pockets, which are comparatively

---

[12] *Id.* at 4.

[13] NRG Protest at 3.

[14] *Id.* at 4-5.

[15] *Id.* at 5-9.

[16] *Id.* at 5-6.

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

rare in MISO.[18] Fourth, NRG contends that, until recently, MISO had no reliability must run resources.[19] Fifth, NRG asserts that resources and LSEs will not learn which capacity resources are deliverable until May 2013 or later, whereas market participants in MISO have benefitted from a consistent methodology for determining deliverability over many years.[20] Sixth, NRG states that MISO and Entergy do not have a seams agreement and have not had any historical opportunity to study their respective transmission infrastructure levels and plans.[21] And seventh, NRG notes that MISO's Loss of Load Expectation study takes nine months, and it is yet to present any information on how the Loss of Load Expectation study will be modeled.[22]

24. MidAmerican contends that MISO's proposal is inconsistent with Module E-1 of the Tariff with respect to the FRAP option. MidAmerican states that whereas the pertinent provisions of Module E-1 allow LSEs using the FRAP option to include zonal resource credits that the LSE owns or has contractual rights to, MISO's proposal would only permit a New LSE to designate zonal resource credits that the New LSE owns.[23] Similarly, MidAmerican states that Module E-1 requires LSEs to provide planning resources to meet their planning reserve margin requirements and their load ratio share of the local clearing requirement for each zone. MidAmerican states that Module E-2 lacks an equivalent reference to the local clearing requirement. MidAmerican, therefore, requests that MISO clarify whether FRAPs submitted by New LSEs must reflect a share of any local clearing requirement.[24]

25. Northern Indiana PSC requests that the Commission clarify that Module E-1 of the Tariff does not establish a mandatory capacity auction.[25] Northern Indiana PSC argues

[18] *Id.* at 7.

[19] *Id.* at 7-8.

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

[21] *Id.* at 9. NRG cites three additional differences between the MISO and Entergy regions: (i) some LSEs in the Entergy system have historically relied on the use of purchases from qualifying facilities and short-term economic purchases to serve load; (ii) some generators in the Entergy region have limited ability to provide counterflows; and (iii) under the Entergy tariff, certain entities received flowgate financial rights for participant-funded transmission upgrades. *Id.*

[22] *Id.* at 5.

[23] MidAmerican Comments at 8.

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

[25] Northern Indiana PSC Comments at 3-4.

that the Capacity Auction Order makes clear that the planning resource auction established in Module E-1 is not mandatory.[26]

c. Answer

26. MISO states that NRG's contention that MISO's proposal is premature ignores the fact that Module E-2 is intended to apply to all New LSEs. Further, MISO asserts that Module E-2 "is directed universally at meeting the existing Loss of Load Expectation reliability standard."[27] Moreover, MISO argues that all issues in NRG's protest are important and are already being addressed in other stakeholder forums. MISO adds that the sooner Module E-2 is approved by the Commission, the more certainty will be provided to all New LSEs. MISO contends that NRG's protest appears to seek to delay the integration of Entergy into the MISO balancing authority area.[28]

27. In response to Northern Indiana PSC's request to clarify the voluntary nature of the planning resource auction, MISO states that Northern Indiana PSC "is correct that the [p]lanning [r]esource [a]uction is not a 'mandatory' auction."[29]

28. MISO additionally explains that the FRAP provisions proposed in Module E-2 are intended to parallel those in Module E-1. MISO clarifies that there was no intent to treat zonal resource credits that an LSE owns or has contractual rights to any differently than is provided in section 69A.9(a) in Module E-1 of the Tariff. MISO further states that its proposal is not intended to eliminate the requirement that New LSEs comply with the local clearing requirement that applies to existing LSEs. Thus MISO states that it would be willing to clarify these provisions in a compliance filing to address MidAmerican's concerns.[30]

d. Commission Determination

29. As discussed further below, we will conditionally accept the provisions in MISO's proposal regarding how New LSEs may satisfy the planning reserve margin requirement provisions of MISO's proposal. Contrary to the assertions of NRG, MISO's proposal is not premature. As noted by MISO, Module E-2 is intended to establish the resource adequacy requirements for all New LSEs and is not limited to those LSEs in the Entergy

---

[26] *Id.* (citing Capacity Auction Order, 139 FERC ¶ 61,199 at PP 39-40).

[27] MISO Answer at 4.

[28] *Id.*

[29] *Id.* at 7.

[30] *Id.* at 9.

region. In this context, many of the arguments raised by NRG are beyond the scope of the current proceeding, which is focused on whether generally applicable provisions proposed in Module E-2 are just and reasonable. Even if the filing was limited to the Entergy region, NRG has failed to explain why differences between the MISO and Entergy transmission systems, including assertions regarding the boundaries between balancing authorities, the presence of reliability must run resources, and the effect of load pockets in the Entergy region, would make the proposal unjust or unreasonable.

30. On the contrary, MISO's proposal implements procedures that the Commission previously found to be just and reasonable in Module E-1.[31] As provided for in Module E-1, MISO proposes that New LSEs are permitted to avail themselves of the same procedures previously approved by the Commission with respect to existing LSEs. Module E-2 also affords New LSEs significant flexibility in demonstrating their resource adequacy. Specifically, New LSEs will be permitted to participate in either the annual planning resource auction or, to the extent necessary, a transitional planning resource auction. Moreover, New LSEs subject to Module E-2 may self-schedule their capacity resources, submit a FRAP, or pay a deficiency charge. In this respect, Module E-2 complies with the Commission's directive in the September 28 Order to ensure consistency between the two modules. For this reason, we accept as reasonable the proposed provision for demonstrating compliance with the planning reserve margin requirements.

31. Finally, we do not consider the lack of a Loss of Load Expectation analysis that incorporates the new load and planning resources to be a reason to delay implementation of Module E-2. As MISO explains, the planning reserve margin (which, as MISO notes in its answer, is a system-wide planning reserve margin)[32] has not been impacted significantly by new members and therefore it does not expect any system reliability issues associated with adding New LSEs.

32. However, there are some aspects of MISO's proposal that differ from Module E-1, and those must be addressed as part of a compliance filing due 30 days after the issuance of this order. In particular, there are certain differences between the FRAP option in Module E-1 and proposed section 69A.11.13 of Module E-2. To be consistent, MISO must revise the section to state the following: (1) any portion of a New LSE's planning reserve margin requirement not covered by the FRAP may be purchased through the transitional planning resource auction; (2) a New LSE will be charged the applicable auction clearing price for any planning reserve margin requirement that is procured through the planning resource auction; (3) a New LSE that is capacity deficient will be

---

[31] *See* MISO Filing at 1, 5, 6, 7 (explaining similarities between Module E-2 and Module E-1).

[32] MISO Answer at 4.

assessed a deficiency charge in accordance with proposed section 69A.11.15; (4) to the extent that a New LSE designates zonal resource credits in a FRAP that are physically located in the same Local Resource Zone as the New LSE's load to meet the New LSE's planning reserve margin requirement for such Local Resource Zone, then the New LSE will not be subject to a Zonal Deliverability Charge for such zonal resource credits; and (5) a New LSE that utilizes zonal resource credits from planning resources that are not physically located in the same Local Resource Zone where the New LSE has load may be subject to a Zonal Deliverability Charge. Moreover, consistent with MISO's commitment in its answer, we direct MISO to clarify in its compliance filing the applicability of the local clearing requirement to New LSEs and the fact that a New LSE may designate zonal resource credits to which it possesses contractual rights in its FRAP.

33. In addition, proposed section 69A.11.16 of Module E-2 does not appear to fully reflect the breadth of options available to New LSEs described in MISO's filing. MISO states that a New LSE "will be eligible to participate in the [planning resource auction]," provided the New LSE submits the pertinent data and registrations before the applicable deadline.[33] Further, proposed section 69A.11.9(a) of Module E-2 states that a New LSE can satisfy its resource adequacy obligations through the planning resource auction provided it satisfies the same prerequisites. Proposed section 69A.11.16, however, merely states that New LSEs can purchase zonal resource credits through a transitional planning resource auction and makes no reference to New LSEs' participation in the annual planning resource auction. Accordingly, we direct MISO, in its compliance filing, to propose revisions to proposed section 69A.11.16 to permit New LSEs to procure zonal resource credits through the annual planning resource auction, consistent with the other statements in its filing.

34. Moreover, the text of proposed section 69A.11.16 appears to only address the procedures through which a New LSE must meet its planning reserve margin requirement "for each new [Local Resource Zone]." The procedures by which New LSEs must satisfy the resource adequacy requirements cannot differ based on whether the applicable planning reserve margin requirement applies to a new Local Resource Zone or an existing Local Resource Zone. Such disparate treatment would unduly discriminate between similarly situated New LSEs based on whether MISO has assigned the pertinent load to a new or to an existing Local Resource Zone. Therefore, we will require MISO to further revise proposed section 69A.11.16 to ensure that the procedures described therein apply irrespective of whether a New LSE's load has been assigned to a new or existing Local Resource Zone.

[33] *See* MISO Filing at 5.

2. Transitional Planning Resource Auction

a. MISO Proposal

35. Provided a New LSE has its assets registered and confirmed by MISO by the applicable deadlines, proposed section 69A.11.9 of Module E-2 allows a New LSE to participate in MISO's annual planning resource auction in accordance with the pertinent provisions of Module E-1. Where a New LSE is unable to participate in the annual planning resource auction, the New LSE would be able to participate in the next year's annual auction. Further, in the event that one or more New LSEs[34] are unable to meet these deadlines, MISO proposes to conduct a transitional planning resource auction and to publish the results at least 30 days prior to the integration of the New LSEs.[35]

36. MISO argues that such a transitional planning resource auction mechanism is required because, if a New LSE is unable to provide the necessary modeling information to MISO in a timely manner, then MISO would be unable to include the New LSE in the annual planning resource auction.[36] MISO also asserts that the use of the transitional planning resource auctions will permit a New LSE to acquire zonal resource credits through a planning resource auction process in a non-discriminatory manner.[37]

b. Comments

37. MidAmerican requests that MISO clarify its proposal in a number of respects. MidAmerican observes that proposed section 69A.11.9(b) states that transitional planning resource auctions will be conducted using "the auction procedures specified in Section 69A.7," which applies to MISO's annual planning resource auctions under Module E-1.[38] MidAmerican asks that MISO clarify whether resources within and outside of the newly-integrated portion of the MISO footprint are required or allowed to participate in the

---

[34] MISO adds that where multiple New LSEs integrate into the MISO region at approximately the same time, MISO proposes to conduct a combined transitional planning resource auction for the New LSEs. MISO Filing at 6.

[35] Proposed section 1662a defines the "Transitional Planning Resource Auction" as a "Planning Resource [A]uction conducted by [MISO] to determine the [auction clearing price] and the cleared [zonal resource credit offers] for [a Local Resource Zone] for the remainder of a transitional [p]lanning [y]ear."

[36] MISO Filing at 6.

[37] *Id.* (citing September 28 Order, 140 FERC ¶ 61,254 at P 23).

[38] MidAmerican Comments at 7.

transitional planning resource auction.[39] Further, if resources outside of the newly-integrated area participate in the transitional planning resource auction, MidAmerican seeks clarification regarding the application of capacity import limits and capacity export limits between Local Resources Zones established in the previous annual planning resource auction. In addition, MidAmerican seeks clarification regarding how resources will be compensated in the event that there are different prices in the annual planning resource auction and the transitional planning resource auction. Finally, in the event that a Local Resource Zone is subject to clearing prices established in both the annual and a transitional planning resource auction, MidAmerican seeks clarification that retail choice load would be transferred at the auction clearing price established in the annual planning resource auction, regardless of the results of the transitional planning resource auction.[40]

c. Answer

38. MISO argues that MidAmerican's concern that Module E-2 "affects the rights and obligations of existing LSEs is contrary to the introduction to Module E-2 and contrary to the plain meaning of the proposed Tariff language."[41] MISO contends that MidAmerican's request to specify that all LSEs are able to participate in the transitional planning resource auction is unnecessary because, as MidAmerican points out, the proposed Tariff language may logically be interpreted to permit only New LSEs to participate in the transitional planning resource auction.[42] MISO adds that its proposal intends no different result. Furthermore, MISO argues that proposed section 69A.11.9(b) does not require clarification to address the other issues regarding transitional auction procedures raised by MidAmerican because proposed section 69A.11.9(b) already specifies that the same procedures found in section 69A.7 of Module E-1 will apply.[43]

d. Commission Determination

39. As discussed further below, we will conditionally accept MISO's proposed procedures for conducting transitional planning resource auctions because the proposed procedures are consistent with those previously approved by the Commission with respect to the annual planning resource auction. Notably, proposed section 69A.11.9 states that MISO will utilize the same auction procedures specified in section 69A.7 of

---

[39] *Id.*

[40] *Id.* at 8.

[41] MISO Answer at 7.

[42] *Id.* at 7-8.

[43] *Id.* at 8.

Module E-1. Furthermore, the transitional planning resource auction plays a significant role in MISO's effort to incorporate locational market mechanisms, as previously required by the Commission.[44]

40. Although MISO's answer does not directly address MidAmerican's inquiry,[45] MISO's answer indicates that only New LSEs may participate in the transitional planning resource auction and that other market participants that own or possess contractual rights to available capacity resources are prohibited from participating.[46] However, such a prohibition would deprive New LSEs of potential supply offers in the transitional planning resource auction, such that they may not be able to procure capacity at reasonable prices.[47] Accordingly, we direct MISO to revise Module E-2 to allow market participants other than New LSEs may participate in the transitional resource planning auction.

41. While market participants that own or have contractual rights to available capacity resources must be permitted to participate in MISO's transitional planning resource auction, it would be inappropriate for previously committed capacity resources to be offered into such an auction. Notably, the participation of previously committed resources would create the possibility that a single resource clears in two separate auctions and, consequently, is counted as a capacity resource twice. We direct MISO, in its compliance filing, to revise Module E-2 to require only capacity resources that are not otherwise committed for the remainder of the planning year may participate in the transitional planning resource auction.

---

[44] *See* September 28 Order, 140 FERC ¶ 61,254 at P 23.

[45] *Compare* MidAmerican Comments at 7 (addressing the participation of resources in the transitional planning auction), *with* MISO Answer at 7 (stating that "only New LSEs can participate" in a transitional planning resource auction).

[46] MISO Answer at 7 ("MidAmerican states that it agrees with the logical interpretation that only New LSEs can participate in a [transitional planning resource auction] in accordance with proposed [section 69A.11.9(b)]. MISO does not intend any different result . . . ." (footnotes omitted)).

[47] Further, such a prohibition would place market participants that are not New LSEs in the untenable position of complying with contradictory provisions of the Tariff. Specifically, while all market participants would be subject to the physical withholding threshold established in Module D of the Tariff, section 69A.11.9(b) (which only allows New LSE participation in the transitional planning resource auction) would prevent existing market participants from offering available resources into the transitional resource planning auction.

42. We also agree with MidAmerican that MISO's proposal is ambiguous regarding the clearing price to be paid to capacity resources that clear in both the annual and the transitional planning resource auctions. Specifically, MISO's proposal states merely that the auction procedures set forth in section 69A.7 of Module E-1 will apply. Section 69A.7, however, refers only to the "Auction Clearing Price," which the Tariff defines as "[t]he price . . . associated with the MW quantity that clears in the [planning resource auction] for a given [Local Resource Zone] for the applicable [planning year]."[48] In other words, the Tariff indicates that resources that clear in the transitional planning resource auction would receive the clearing price established in the annual auction, rather than the price established in the transitional auction. Thus, in its compliance filing, MISO must also propose Tariff revisions to clarify that resources that clear in the transitional auction will receive the clearing price established in that auction, and conversely, that resources that clear in the annual auction will receive the clearing price established in the annual auction.

43. With respect to MidAmerican's request for clarification regarding the establishment of the capacity import limit and capacity export limit between Local Resource Zones, however, we find that no further revisions are necessary. Proposed section 69A.11.2 makes clear that MISO will determine the capacity import and export limits for all Local Resource Zones for the transitional planning year.

44. Similarly, the clarifications sought by MidAmerican with respect to the transfer of retail choice load are unnecessary.[49] As noted above, the Tariff defines "Auction Clearing Price" in terms of the price established at the annual planning resource auction, and makes no reference to the proposed transitional auction. As a result, a straightforward reading of the existing Tariff already provides the clarification sought by MidAmerican. However, to ensure there is no confusion as to the applicable auction clearing price, especially for retail choice load that has purchased resources in the annual auction, we direct MISO to propose revisions to the Tariff clarifying that only the capacity requirements for retail choice that are satisfied through a transitional planning resource auction will transfer at the auction clearing price of the transitional planning

[48] Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff, Module E-1, 1.29, Auction Clearing Price (ACP), 1.0.0. The Tariff further defines "Planning Resource Auction" as the "annual auction that is conducted by [MISO] to determine the [auction clearing price] and the cleared [zonal resource credit offers] for each [Local Resource Zone]." Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff, Module E-1, 1.507a, Planning Resource Auction (PRA), 0.0.0.

[49] We note that section 69A.1.2 referred to in the MidAmerican comments does not address the auction clearing price. Rather, it addresses the assignment of coincident peak demand.

resource auction. Otherwise, the relevant auction clearing price for retail choice load is the annual auction clearing price.

45. We additionally note that MISO's proposal for the definition of "Transitional Planning Resource Auction," to be designated as "section 1662a" where, consistent with other definitions in the MISO Tariff, it should be section "1.662a." Accordingly, we direct MISO, in its compliance filing, to correct the section number for this definition.

3. Locational Market Mechanisms

a. MISO Proposal

46. In proposed section 69A.11.11, MISO proposes to subject New LSEs to the Zonal Deliverability Charge, consistent with section 69A.7.6(b), if the New LSEs submit FRAPs to meet all or a portion of their capacity obligations. New LSEs can reduce their exposure to the Zonal Deliverability Charge if they qualify for a zonal deliverability charge hedge or a zonal deliverability benefit. MISO argues that its proposed provisions comply with the Commission's directive that all new and existing LSEs in the MISO balancing authority area use similar requirements to establish resource adequacy requirements.[50]

47. Pursuant to proposed section 69A.11.12, MISO further proposes that New LSEs that owned or had contractual rights to a planning resource on or before July 20, 2011 qualify for Grandmother Agreement status that is exempt from the Zonal Deliverability Charge for the transitional year. MISO additionally proposes that Grandmother Agreements granted to New LSEs remain effective for the two full planning years following a New LSE's integration. MISO asserts that such provisions provide similar treatment for new and existing MISO LSEs, as directed by the Commission.[51]

b. Comments

48. NRG argues that if the Commission does not reject MISO's filing, the Commission should extend the two-year period over which Grandmother Agreements would remain effective to five years.[52] NRG contends that a two-year effective period would ignore the significant congestion on Entergy's transmission system caused by Entergy's inadequate transmission planning process. As a result, NRG states that the Entergy system is highly congested. NRG argues that a two-year period will reward Entergy while penalizing its transmission customers and potentially skew the results of

---

[50] MISO Filing at 6 (citing September 28 Order, 140 FERC ¶ 61,254 at P 17).

[51] *Id.* at 6-7 (citing September 28 Order, 140 FERC ¶ 61,254 at P 17).

[52] NRG Protest at 10-11.

the transitional planning resource auction. Furthermore, NRG argues, that "MISO does not have an indication of how many resources will need to rely on Grandmother Agreements" and that a five-year effective period would mitigate this uncertainty. NRG adds that five years is not only "the expected time period to build upgrades to mitigate transmission constraints on Entergy's system," but also MISO's proffered timeline for integrating Entergy's transmission system into MISO's cost allocation process.[53] Lastly, NRG states that a five-year time period is consistent with the Commission's previous findings that an unlimited exemption from the Zonal Deliverability Charge is inappropriate, though some exemption is acceptable.

c. Answer

49. MISO argues that NRG's request for a five-year Grandmother Agreement period is inconsistent with the Capacity Auction Order, noting that the Commission explained that such agreements will improperly mute locational price signals and should be phased out over a two-year period.[54] MISO contends that NRG has failed to demonstrate locational price signals in Entergy or any other region will not be improperly muted by Grandmother Agreements. As a result, MISO states, the Commission should approve the proposed Grandmother Agreement provisions in Module E-2.[55]

d. Commission Determination

50. We accept the locational market mechanisms proposed by MISO because they are largely consistent with those approved by the Commission in the Capacity Auction Order.[56] Notably, the Commission observed that the Zonal Deliverability Charge will recognize transmission constraints in resource planning and thus help to ensure reliability.[57] Furthermore, MISO's proposal is consistent with the September 28 Order, in which the Commission rejected MISO's previous proposal because it failed to incorporate locational market mechanisms such as those provided in Module E-1 of the Tariff.[58] We also accept MISO's proposal to provide Grandmother Agreement status to qualified resources for the year in which a New LSE integrates as well as for the next two

[53] *Id.* at 11.

[54] MISO Answer at 5 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,199 at P 74).

[55] *Id.* at 6.

[56] *See* Capacity Auction Order, 139 FERC ¶ 61,199 at PP 71-74.

[57] *Id.* P 100.

[58] September 28 Order, 140 FERC ¶ 61,254 at PP 20-23.

full planning years, exempting them from the Zonal Deliverability Charge for that period. We find that this provision provides New LSEs with sufficient time to adjust their resource portfolios and to plan for additional resources in light of the projected effect of the Zonal Deliverability Charge, consistent with the Commission's determination in the Capacity Auction Order.[59]

51. NRG's recommendation that the Commission should extend the application of Grandmother Agreements from two to five years is similarly inconsistent with the Commission's holding in the Capacity Auction Order. Neither the magnitude of congestion nor the fact that MISO has yet to develop a comprehensive understanding of which resources are more likely to be affected by the Zonal Deliverability Charge justifies extending the application of Grandmother Agreements beyond the 2014/2015 planning year. Indeed, the locational market mechanisms proposed by MISO and approved by the Commission are designed to ensure aggregate deliverability of capacity resources, which is reduced by congestion. In this respect, NRG's proposal would negate the locational market mechanisms that we have previously approved in the MISO region.

4. Resource Qualification

a. MISO Proposal

52. Proposed section 69A.11.8 requires market participants to register and provide certain information to MISO in order to qualify planning resources that a New LSE may use to meet MISO's resource adequacy requirements. MISO further proposes to utilize the planning resource data to determine unforced capacity values for each planning resource, consistent with section 69A.4 of Module E-1. MISO states that these provisions will ensure that all new planning resources are subject to the same qualification and performance requirements as existing planning resources.[60]

b. Comments

53. MidAmerican asserts that it is unclear whether the proposed resource qualification procedures apply to all market participants, or only to those market participants with capacity resources in the newly-integrated portion of the MISO footprint.[61]

---

[59] Capacity Auction Order, 139 FERC ¶ 61,199 at P 74.

[60] MISO Filing at 5.

[61] MidAmerican Comments at 7.

c. Answer

54. In its answer, MISO asserts that there is no need to clarify whether proposed section 69A.11.8 applies to all market participants or only to New LSEs because the proposed Tariff language clearly applies to registration of planning resources that a New LSE may use.[62]

d. Commission Determination

55. The proposed resource qualification procedures are consistent with the provisions previously approved by the Commission and we will, therefore, accept this aspect of MISO's proposal. Additionally, MISO is correct in stating that no additional clarification is necessary. Proposed section 69A.11.8 refers to market participants generally that may qualify planning resources that a New LSE may use to meet its resource adequacy requirement and includes no reference to the location of the pertinent market participants. Thus, the proposed language cannot be reasonably read to support the conclusion that the proposed resource qualification procedures only apply to those market participants within the newly integrated portion of the MISO footprint, as MidAmerican suggests.

5. Market Monitoring

a. MISO Proposal

56. Proposed section 69A.11.10 specifies that New LSEs shall be subject to the provisions of Module D of the Tariff with regard to physical or economic withholding of planning resources from the transitional planning resource auction. Additionally, MISO proposes to report to the independent market monitor any known attempt by a New LSE to exercise market power in a transitional planning resource auction. MISO states that these provisions will ensure that LSEs and New LSEs are subject to similar resource adequacy requirements.[63]

b. Comments

57. MidAmerican argues that the market monitoring provisions in proposed section 69A.11.10 require revisions or clarifications.[64] First, MidAmerican asserts that the proposed market monitoring provisions should not be limited to New LSEs, but rather should apply to all market participants. Second, MidAmerican suggests that proposed section 69A.11.10 is inconsistent with other aspects of the Tariff. MidAmerican asserts

---

[62] MISO Answer at 8.

[63] MISO Filing at 6.

[64] MidAmerican Comments at 5-6.

that physical and economic withholding is typically associated with offers from suppliers and not from bids submitted by LSEs. In this respect, MidAmerican reiterates its position that the market monitoring provisions should apply to all market participants “involved in” transitional planning resource auctions.

c. Answer

58. MISO states that it disagrees with MidAmerican’s belief that proposed section 69A.11.10 of the Tariff needs to be clarified to apply to all market participants.[65] MISO argues that Module D and section 69A.7.5 of the Tariff already address the market monitor’s role with regard to market power for all LSEs. MISO asserts that Module E-2 merely clarifies the market monitor’s role regarding New LSEs to avoid ambiguity that may exist absent a provision explicitly subjecting New LSEs to Module D.

d. Commission Determination

59. We conditionally accept MISO’s proposed section 69A.11.10 describing market monitoring provisions for New LSEs because it appropriately subjects New LSEs to the requirements of Module D and is generally consistent with how such provisions apply to existing LSEs under section 69A.7.5 of the Tariff. However, we agree with MidAmerican that proposed section 69A.11.10 is unclear as to whether Module D applies to all LSEs or only New LSEs. Accordingly, we direct MISO to clarify that all market participants—such as suppliers to New LSEs—are subject to the market monitoring and mitigation provisions of Module D.

6. Planning Reserve Margin Requirement

a. MISO Proposal

60. MISO proposes to require New LSEs to satisfy the system-wide planning reserve margin that was developed by MISO for the planning year, unless another planning reserve margin is required by an applicable relevant electric retail regulatory authority with jurisdiction over the New LSE. For all other planning years, MISO’s proposal states that a New LSE’s planning reserve margin shall be determined in accordance with the provisions of section 68A.2 of Module E-1.

b. Comments

61. MidAmerican contends that Module E-2 contains no section corresponding to section 68A.7, which establishes the planning reserve margin requirement for each Local Resource Zone under Module E-1.

---

[65] MISO Answer at 7.

c. Answer

62. In its answer, MISO states no revisions are necessary to define the planning reserve margin requirement for New LSEs because proposed section 69A.11.5 of the Tariff sufficiently addresses the issue.[66] MISO further notes that proposed section 69A.11.16 of the Tariff, which provides procedures through which a New LSE will meet its planning reserve margin requirement, uses the identical term and meaning as section 1.504a of the Tariff.[67]

d. Commission Determination

63. We agree with MidAmerican's concern that Module E-2 does not include a provision that corresponds with section 68A.7 of the Tariff, which establishes a planning reserve margin requirement for LSEs in Local Resource Zones. Although proposed section 69A.11.5 includes provisions for establishing the applicable planning reserve margin for New LSEs, Module E-2 does not appear to describe how MISO will establish requirements for New LSEs. Section 1.504a of the Tariff merely defines the term "Planning Reserve Margin Requirement" and does not specify how that requirement is to be determined. Further, no provision of Module E-2 references section 68A.7 of Module E-1. Accordingly, we direct MISO to revise Module E-2 to either reference the calculation of the planning reserve margin requirement and procedures in section 68A.7 with respect to the establishment of the planning reserve margin requirements for New LSEs or to propose such language in Module E-2.

7. Miscellaneous

a. Comments

64. MidAmerican states that certain sections of the Tariff, including sections 7, 39, and 40 and Attachment L include references to Module E-1, and should be revised to include references to Module E-2.[68]

65. MidAmerican further points out that the existing introductory language to Module E-1 in section 68A imposes mandatory requirements to be met by market participants serving load in the MISO region. MidAmerican asserts that because New LSEs are market participants in MISO, a literal reading of section 68A would make New LSEs subject to the requirements of Module E-1 as well as the requirements of Module E-2. MidAmerican argues that section 68A should be modified to clarify that the provisions of

---

[66] MISO Answer at 6.

[67] *Id.*

[68] MidAmerican Comments 3-4.

sections 69A.11 through 69A.11.16 apply to New LSEs and that sections 68A.1 through 68A.10 apply to all other LSEs.[69]

66. Moreover, MidAmerican asserts that the must-offer requirements in section 69A.5 of Module E-1 are not present in Module E-2. MidAmerican states that the Tariff should clarify that these requirements should apply to all resources in MISO.[70]

b. <u>Answer</u>

67. MISO states that it agrees that the Tariff should be as clear as possible and is willing to make several changes, if ordered by the Commission. Specifically, MISO states that it would be willing to propose in a compliance filing revisions to ensure that references to Modules E and E-1 are supplemented with references to Module E-2 where appropriate and to clarify that the must offer requirements in section 69A.5 of Module E-1 apply to New LSEs under Module E-2.[71]

c. <u>Commission Determination</u>

68. We agree with MidAmerican that there appear to be locations within the Tariff that should include references to Module E-2. Accordingly, we direct MISO to review the Tariff for references to Module E and for references to Module E-1, and, in its compliance filing, propose revisions to reference Module E-2 where appropriate.

69. MidAmerican is also correct in asserting that section 68A of Module E-1 can be read to subject New LSEs to the requirements of Module E-1 at the same time New LSEs are subject to the requirements of Module E-2. Consequently, we direct MISO, in its compliance filing, to propose revisions to this language clarifying that provisions in Module E-1 apply to existing LSEs and that New LSEs are only subject to the provisions in Module E-2 of the Tariff.

70. We finally agree that the must-offer requirements in section 69A.5 should apply to New LSEs and existing LSEs alike. Thus, we will accept MISO's commitment to address the issue in a compliance filing and direct MISO to propose revisions to section 69A.5 that apply the must-offer requirement to New LSEs.

---

[69] *Id.* at 4-5.

[70] *Id.* at 5.

[71] MISO Answer at 9.

<u>The Commission orders</u>:

(A) MISO's filing is hereby conditionally accepted, to be effective April 3, 2013, as discussed in the body of this order.

(B) MISO is hereby directed to submit 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)

Kimberly D. Bose,
Secretary.