

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Wolverine Power Supply Cooperative, Inc.)
)
 v.)
)
Midcontinent Independent System)
Operator, Inc.)

Docket No. EL19-102-000

**NOTICE OF INTERVENTION, MOTION TO DISMISS, AND
COMMENTS OF THE
ORGANIZATION OF MISO STATES, INC.**

Pursuant to Rule 211, 212, and 214(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §385.211, 18 C.F.R. §385.212, and §385.214(a)(2), the Organization of MISO States (“OMS”) submits its Motion to Dismiss, Notice of Intervention, and Comments in the above-captioned docket.

On September 27, 2019, Wolverine Power Supply Cooperative (“Wolverine”) filed a complaint¹ arguing that the parts of the Midcontinent Independent System Operator’s (“MISO”) Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“Tariff”) governing its Planning Reserve Auction (“PRA”) are not just and reasonable because they permit planning resources to participate in the PRA despite being on MISO-approved planned outages for the entire planning year.² Wolverine asks the Commission to direct MISO to preclude planning resources that are participating in the PRA from scheduling planned outages during the peak periods of the planning year in which they are participating and requests that that the

¹ *Wolverine Power Supply Cooperative v. Midcontinent Independent System Operator, Inc.*, “Complaint and Request for Fast Track Processing of Wolverine Power Supply Cooperative,” Docket No. EL19-1958-000 (September 27, 2019) (Complaint).

² Complaint, at 1.

Commission clarify that MISO is required to deny any request for a full-year planned outage if that unit intends to participate in the PRA.³

For reasons stated below, OMS requests that the Commission dismiss this complaint without prejudice. If the Commission decides not to dismiss this complaint at this time, the OMS requests that the Commission hold this Complaint in abeyance for 90 days so that MISO has time to file its tariff revisions and the Commission has time to rule on this filing.

I. NOTICE OF INTERVENTION

Pursuant to Rule 214(a)(2) of the Commission’s Rules of Practice and Procedure, the OMS submits a Notice of Intervention in this proceeding. The OMS is a self-governing organization of representatives from each state regulatory body with jurisdiction over entities participating in MISO and serves as the regional state committee for MISO. The purpose of OMS is to coordinate regulatory oversight among its members, to make recommendations to MISO, the MISO Board of Directors, the Commission, and other relevant government entities and state commissions, as appropriate, and to intervene in proceedings before the Commission to express the positions of the OMS member agencies.

Service of pleadings, documents, and communications should be made on:

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³ *Id.* at 21.

II. MOTION TO DISMISS

In its complaint Wolverine is asking the Commission to do two specific things. First, it asks the Commission to clarify that MISO is required to deny any unit's request for a full planning year outage if that unit intends to participate in the PRA.⁴ Second, Wolverine asks the Commission to direct MISO to revise its tariff to preclude resources seeking to participate in the PRA from scheduling outages during the peak periods of the Planning Year in which they seek to participate.⁵

As Wolverine acknowledges, there are ongoing stakeholder efforts within MISO that should result in imminent revisions to the Tariff that will remedy the deficiencies in the PRA that Wolverine has identified.⁶ The OMS agrees, and believes that this stakeholder process should be allowed to conclude. These stakeholder efforts are discussed in more detail below.

Further, Wolverine contends that the shortcomings in the PRA forced one of its units to retire prematurely and that the deficiencies in the PRA that it identifies have resource adequacy implications for the MISO system as a whole. The OMS takes threats to resource adequacy within the MISO footprint very seriously, but the threats to system reliability posed by shortcomings in the PRA identified by Wolverine fail to recognize the safeguards that exist from the larger resource adequacy construct in place within the MISO footprint. The PRA is a prompt residual auction that is not intended to serve as the primary signal for resource entry and exit decisions and is but a small part of the current MISO Resource Adequacy Construct. For most jurisdictions within MISO, state regulators have the responsibility of ensuring resource adequacy. This complaint claims reliability risk from the Planning Resource Auction. OMS

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 4.

has always held the position that it is the states within MISO – not the PRA – that ensure there are sufficient resources within each jurisdiction, and therefore, it is the states that ensure the long-term reliability of the bulk power system. For these reasons, the OMS respectfully moves the Commission to dismiss the instant Complaint without prejudice.

III. BACKGROUND

Wolverine alleges that an unspecified resource was allowed to participate in the 2019/2020 PRA despite the fact that MISO had approved the unit to be on outage for the entirety of the 2019/2020 PRA.⁷ It also points to the fact that MISO’s Independent Market Monitor found Local Resource Zone 7’s PRA clearing price of \$24.30 per MW-day to be artificially low based on the participation of this resource.⁸ Wolverine states that it offered its Burnips 6 unit in the PRA at \$55.51 per MW-day and contends that had this one unspecified unit been barred from participating in the 2019/2020 PRA that the clearing price for LRZ would have been pushed to Cost of New Entry (“CONE”), or \$243.37 per MW-day and that Burnips 6 would not have had to retire.⁹ Wolverine further states that the depressed clearing prices in this PRA caused it to under recover roughly \$12 million through the 2019/2020 PRA not counting losses associated with the retirement of the Burnips 6 unit.¹⁰

Wolverine cites multiple instances since 2016 in which the IMM called on MISO to exclude units from the PRA when they are on extended planned outages or have no intention of being available during peak conditions,¹¹ and it noted that the IMM stated that the artificially low

⁷ *Id.* at 9.

⁸ *Id.*

⁹ *Id.*.

¹⁰ *Id.* at 10.

¹¹ *Id.* at 10-11.

clearing price in the 2019/2020 PRA stemmed from MISO's failure to follow this IMM recommendation.¹²

Wolverine does not allege a specific tariff violation in its complaint because it states it does not possess specific public information to identify the specific unit that set the clearing price and states it does not know the circumstances that allowed this unit to remain on outage for the entire planning year.¹³ Instead it argues that the harm it suffered stems from "a flaw in the Tariff's design as opposed to a specific violation of its express terms."¹⁴ It does not ask for any type of retroactive remedy in its complaint. Instead it only asks for the Commission to clarify that MISO is required to deny any unit's request for a full Planning Year outage if that unit intends to participate in the PRA and to direct MISO to revise its tariff to preclude resources seeking to participate in the PRA from scheduling outages during the peak periods of the Planning Year in which they seek to participate.¹⁵

IV. COMMENTS

The OMS agrees that planning resources should not be able to participate in the PRA if it is known prior to the PRA that the unit will be on a planned outage for an extended part of the peak season. To that end MISO has presented its proposal to restrict participation of resources that are expected to be unavailable for 90 of the first 120 days of a particular Planning Year, and MISO has represented to stakeholders that it intends to file this tariff revision by the end of October.¹⁶

¹² *Id.* at 11.

¹³ *Id.* at 3 Footnote 4.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 21.

¹⁶ *Id.* at 10.

MISO first presented its specific proposal to remedy this problem at the August 7th, 2019 Resource Adequacy Subcommittee (RASC).¹⁷ MISO initially proposed to exclude resources from a given year's PRA if MISO expected that unit to be unavailable for the first 90 days of a given planning year.¹⁸ MISO further proposed to require units expected to be unavailable for at least 90 days at any point during the planning year, recognizing that the loss-of-load expectation is no longer only in the summer months, to be penalized at CONE.¹⁹

MISO modified its August proposal at the September RASC by proposing to only exclude resources which are expected to be unavailable for 90 of the first 120 days of the PRA and eliminated the CONE penalty for any resource going on planned outage for more than 90 days at any point of the planning year.²⁰ MISO stated that it intends to file this Tariff revision by the end of October.²¹

The OMS has supported MISO in this effort and agrees that the proposed Tariff revisions are appropriate. This incremental reform will satisfy Wolverine's complaint, and as MISO's filing is imminent, the Commission should dismiss this complaint, or in the alternative, the

¹⁷ MISO Resource Adequacy Subcommittee, *Cleared Resources with Long-Term Outages*, available at: <https://cdn.misoenergy.org/20190807%20RASC%20Item%2004c%20Replacement-LT-Outage369676.pdf> (August 7, 2019).

¹⁸ *Id.* at 4.

¹⁹ *Id.*

²⁰ See MISO Resource Adequacy Subcommittee, *Cleared Resources with Long-Term Outages*, available at: [https://cdn.misoenergy.org/20190911%20RASC%20Item%2004d%20LT%20Planned%20Outage%20\(RASC011\)380211.pdf](https://cdn.misoenergy.org/20190911%20RASC%20Item%2004d%20LT%20Planned%20Outage%20(RASC011)380211.pdf) at 4-5 (September 11, 2019). The specific Tariff Language MISO proposed is: "Module E Section 69A.3 Resources with existing full or partial outages for ninety (90) or more of the first 120 Calendar Days in the Planning Year shall be precluded from participation in that PRA. This pertains to all outage types, including, but not limited to, Generator Forced and Generator Planned outages. Module D section 64.1.1.xii (sic.) Market Participants with capacity expected to be on outage for ninety (90) of the first 120 Calendar Days after the start of the Planning Year will be precluded from participation in that PRA. Documentation of such circumstances shall be provided by the Market Participant to the IMM, and the IMM shall provide a written explanation of its determination to the Market Participant regarding such documentation upon request."

²¹ *Id.* at 10.

Commission should hold this Complaint in abeyance for 90 days so that MISO can file its proposed Tariff revisions and so that the Commission has time to rule on them.

V.CONCLUSION

WHEREFORE, for the reasons stated herein, OMS respectfully requests that the Commission dismiss Wolverine's September 27th Complaint without prejudice. In the alternative, the OMS requests that the Commission hold this matter in abeyance for 90 days until MISO is able to file and receive a ruling on the Tariff revision it has stated it intends to file by the end of October.

The OMS submits this motion because a majority of its members have agreed to generally support it.²² Individual OMS members reserve the right to file separate comments regarding the issues discussed in this docket.

Respectfully submitted,

/s/ Marcus Hawkins

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Dated October 17, 2019

²² The Manitoba Public Utilities Board and the Michigan Public Service Commission did not participate in the vote.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list prepare by the Secretary for the above-captioned docket in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.2010 (2019).

DATED at Madison, Wisconsin this the 17th day of October, 2019.

/s/ Marcus Hawkins

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