

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

Voltus, Inc.)	
)	
Complainant,)	
)	
v.)	Docket No. EL21-12-000
)	
Midcontinent Independent System)	
Operator, Inc.)	
)	
Respondent,)	
)	

**NOTICE OF INTERVENTION AND
MOTION FOR EXTENSION OF TIME TO SUBMIT COMMENTS OF
THE ORGANIZATION OF MISO STATES, INC.**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §385.212 and 18 C.F.R. §385.214, the Organization of MISO States (“OMS”) files its Notice of Intervention in the above-captioned proceeding. The OMS also moves the Commission to extend the time to file comments in this proceeding from November 9th to November 19th, 2020. The OMS requests expedited action on this motion and that the Commission issue an order granting the requested 10-day extension by October 30th, 2020.

I. NOTICE OF INTERVENTION

The OMS is a non-profit, self-governing organization comprised of representatives from the seventeen regulatory bodies with jurisdiction over entities participating in MISO and serves as the regional state committee. The purpose of the 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. As such, the OMS files its Notice of Intervention in this proceeding under Rule 214(a)(2), 18 C.F.R. §385.214(a)(2), of the Commission’s Rules of Practice and Procedure.

Service of pleadings, documents, and communications in this proceeding should be made on the following:

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II. BACKGROUND

On October 20th, 2020, Voltus, Inc. (“Complainant” or “Voltus”) filed a Complaint¹ pursuant to rule 206 of the Commission’s Rules of Practice and Procedure² asking the Commission to:

(1) ...find that MISO tariff provisions authorizing states to bar third party demand response providers from participating in MISO’s wholesale market are: (i) inconsistent with the jurisdictional provisions of the Federal Power Act, and (ii) not just and reasonable, and are unduly discriminatory and preferential...

(2) issue an order interpreting its own regulation... and find that certain relevant retail electric retail regulatory authorities (“REERAs”) in MISO issued prohibitions against third party demand response providers in a manner inconsistent with the terms of that regulation and that such prohibitions are therefore void; and...

3) issue a notice of proposed rulemaking to repeal the provisions set forth in 18 C.F.R § 35.28(g)(iii) permitting RERRAs to bar third party demand response aggregators from participating in wholesale markets, on the grounds that these provisions are: (i) inconsistent with the jurisdictional provisions of the Federal Power Act and (ii) result in rates that not just and reasonable and are unduly discriminatory and preferential.³

¹ *Voltus, Inc. v. Midcontinent Indep. Sys. Operator, Inc.*, “Complaint of Voltus, Inc. Requesting Fast Track Processing,” Docket EL21-12 (October 20th, 2020) (“Complaint”).

² 18 C.F.R. §385.206.

³ Complaint at 1–2.

The Complainant asks the commission for prompt action so that “Voltus would be able to bid demand response into the market from all MISO states... to participate in the 2021/2022 [Planning Resource Auction]” (“PRA”). This 10-day extension is not sought to delay this proceeding and will not interfere with the Commission’s fast track processing of this complaint should the Commission deem fast track processing necessary.

III. MOTION FOR EXTENSION OF TIME TO COMMENT

As stated in the Complaint and an Appendix to the Complaint, most states in the MISO footprint have issued orders regarding demand response participation.⁴ The Complaint raises important questions that could have implications for these state programs and state resource planning generally. The retail regulators that comprise the OMS need adequate time to discuss and consider the important issues raised in the Complaint. The OMS has been active in following the complex jurisdictional issues surrounding Distributed Energy Resources, including demand response resources, and does not believe that 20 days is sufficient to fully consider comments in response to this complaint. Furthermore, coordinating a response across the many state jurisdictions while respecting all those jurisdictions’ approval processes requires additional time. An additional 10 days would provide the necessary time for the retail regulators in the MISO footprint to fully consider this complaint, respect the internal processes of each regulator, and seek approval for a response at the November 19th OMS Board of Directors meeting.

The additional time for comments will not prejudice any interested party and will maximize the opportunity for all stakeholders to help create a better record for the Commission’s decision. The Commission Orders Voltus asks the Commission to modify at this time were issued in 2008

⁴ Complaint at 31-34. Exhibit C, State Opt-out Chart.

with rehearing orders issued in 2009⁵, and no party appealed those Orders.⁶ The Commission accepted MISO's Compliance filing with respect to Order 719 in 2011.⁷ Complainant does not adequately explain why preparing for this particular PRA, as opposed to any past or future PRAs, requires the Commission to fast track this complaint. For these reasons a ten-day extension is reasonable.

IV. CONCLUSION

WHEREFORE, the OMS respectfully requests the Commission extend the comments in this proceeding from November 9th, 2020, to November 19th, 2020. The OMS submits this *Notice of Intervention and Motion for Extension of Time to Submit Comments* because a majority of OMS members support this filing. Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments.

Respectfully submitted,

/s/ Marcus Hawkins

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Dated October 26th, 2020

⁵ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008) (Order No. 719), *order on reh 'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 (2009), *order on reh 'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

⁶ Complaint at 16.

⁷ *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,214 (2011) (Order No. 719 Compliance Order).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list prepared 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.

DATED at Madison, Wisconsin this the 26th day of October 2020.

/s/ Marcus Hawkins

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