

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

Midwest Independent Transmission System Operator, Inc.))))	Docket No. ER10-128-000
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**MOTION FOR LEAVE TO INTERVENE AND COMMENT
OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC or Commission), 18 C.F.R. §§ 385.211 and 385.214 (2006), the Electric Power Supply Association (EPSA) respectfully files for leave to intervene and comment in the above-captioned proceeding. On October 28, 2009, the Midwest Independent Transmission System Operator (MISO) filed amendments to its Open Access Transmission Energy and Operating Reserve Markets Tariff (Tariff) to revise its procedures for requesting and scheduling outages of both nuclear and non-nuclear generation resources.¹ MISO's October 28 filing proposed an effective date of December 28, 2009.

I. MOTION TO INTERVENE & COMMUNICATIONS

EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible

¹ *Filing of the Midwest Independent Transmission System Operator, Inc., to Enhance Generation Outage Procedures*, Docket No. ER10-128-000 (October 28, 2009). ("October 28 Filing")

facilities serving power markets. EPSA seeks to bring the benefits of competition to all power customers.²

Many of EPSA's members are interconnected with and/or are pursuing interconnection to the grid in MISO, and as such represent a significant portion of the supply capacity in that region. EPSA members have been active participants in MISO's stakeholder processes and EPSA has participated in many of the Commission's proceedings on MISO issues. As a result, EPSA has a direct and substantial interest in the instant proceeding that cannot be adequately represented by any other party, and allowing EPSA to actively participate in this proceeding would be in the public interest. Accordingly, EPSA respectfully requests that the Commission grant this timely motion to intervene.

All pleadings, correspondence and other communications concerning this proceeding should be directed to:

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II. COMMENTS

EPSA's primary concern in the instant proceeding lies in MISO's proposed extension of the timeframe for generators to submit planned outage scheduling requests from a rolling one year to a rolling two- or three-year requirement.

Among other things, MISO's proposal to amend its tariff seeks to modify the

² The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

ISO's review, approval and compensation process for scheduling generator outages. MISO's proposal increases the scrutiny with which MISO will evaluate planned generator outage requests and expands on the scenarios in which MISO can reschedule a planned generator outage. EPSC is further concerned by the absence of concurrent alterations to transmission outage scheduling in the face of the proposed burden being placed upon generation owners. Not only is the proposal at odds with other RTO models, but MISO has given no apparent justification for the increased authority sought or for moving the outage planning horizon from one year to up to three years. In essence MISO proposes to use a sledgehammer to fix a problem that has neither been explained nor put into any context that implicates the reliability of the system.

A. MISO's Proposal is Excessively Restrictive and Unprecedented in Other RTOs

If MISO's proposal were approved, MISO's outage language would be far more restrictive than that of other RTOs. In its transmittal letter, MISO points to PJM and California as "other RTOs [that] have included similar authority in Commission-approved Tariffs."³ As detailed in PJM and CAISO tariffs and manuals, their outage scheduling and rescheduling procedures are not nearly as restrictive as MISO's proposal and do not require a two year planning horizon. PJM and CAISO have the same duty to ensure the reliability of their systems as MISO does; thus, the instant proposal does not appear to be necessary for reliability reasons, as MISO alleges.

³ MISO October 28 Filing, p. 2.

According to PJM Operating Manuals, “in order to be classified as a Planned Outage, the PJM Member submits the initial outage request to PJM through eDART no later than 30 days prior to the Operating Day in which the Planned Outage is to begin.”⁴ California requires an annual plan of proposed planned outages to be submitted and requires generators to provide quarterly updates to be filed with the ISO. Each quarter, the generator notes any changes to its previous planned outages and notes any new planned outages for 12 months out; ostensibly, the generator provides the ISO with an updated one-year forward looking planned outage schedule each quarter.⁵ Further, the CAISO tariff allows for flexibility in rescheduling or modifying a planned outage:

The Operator of a Participating Generator or a Participating TO’s Operator may withdraw a request at any time prior to actual commencement of the Outage... but the CAISO Outage Coordination Office shall have the right to reject such modified request for reasons of System Reliability, system security or market impact, because of the complexity of the modifications proposed, or due to insufficient time to assess the impact of such modifications.⁶

MISO’s proposal to require generators to plan scheduled outages at least two years in advance and then restrict a generator’s ability to change that plan is unprecedented. Even the other RTOs that MISO points to in its filing offer generators the ability to create a dynamic outage schedule that can be changed within reasonable reliability parameters at the generator’s request. Given these

⁴ PJM Manual 10: Pre-Scheduling Operations Revision 24 (October 1, 2009) Section 2.2.1. This timeframe is also referenced in the PJM OATT, which defers to operating manuals for exact planning deadlines.

⁵ CAISO Tariff Section: 9.3.6 Maintenance Outage Planning.

⁶ CAISO Tariff Section: 9.3.6.6 Withdrawal or Modification of Request.

clear shortcomings and burdensome requirements, the Commission should reject MISO's proposed changes.

B. MISO has Given No Apparent Justification for the Proposed Tariff Changes

MISO has given no apparent justification for moving the outage planning horizon from one year to two. MISO notes at the outset that the changes it proposes seek to “balance the potentially conflicting interests of owners of Generation Resources in scheduling planned outages while ensuring system reliability.”⁷ However, MISO never expounds on what those potentially conflicting interests are, nor does MISO explain how these very far-reaching changes will ensure greater system reliability in the face of what may be very narrow problems.

Further MISO has not justified why its proposed expanded authority for rescheduling planned generator outages is necessary. Currently, MISO's tariff gives it the authority to reschedule a planned outage due to a documented reasonable expectation of an Emergency.⁸ MISO's proposal expands that authority to include the ability to reschedule planned generator outages due to three unduly broad non-emergency situations.⁹ The proposed changes appear to give MISO unbridled authority to reschedule planned outages for every conceivable event on its system with a moments notice. MISO should work with

⁷ MISO October 28 Filing, p. 2.

⁸ Subsection 38.2.5.g.iii of the Tariff. Emergency is defined in section 1.179 of the Tariff as “(i) An abnormal system condition requiring manual or automatic action to maintain system frequency, or to prevent loss of firm Load, equipment damage, or tripping of system elements that could adversely affect the reliability of any electric system or the safety of persons or property; (ii) a fuel shortage requiring departure from normal operating procedures in order to minimize the use of such scarce fuel; or (iii) a condition that requires implementation of Emergency procedures as defined in this Tariff.”

⁹ See proposed subsection 38.2.5.g.iii (a)-(c).

generators to reschedule outages that are demonstrated to adversely affect system reliability, as other RTOs do, rather than giving itself unlimited control over generators' scheduling processes.

MISO's October 28 filing has characterized these changes as simple enhancements or clarifications to the generator outage procedures in MISO's tariff, but these are, in fact, material changes to the MISO tariff. The Commission should reject MISO's proposal to force generators to plan outages on a burdensome two- to three-year horizon and then leave open ended the horizon in which MISO may reschedule these generator planned outages outside of already defined Emergency Events. In the alternative, the Commission should direct MISO to more fully justify why it has requested these changes.

C. MISO's Proposal Is Discriminatory

MISO's proposal to move from a one year notice requirement to a two- to three-year notice requirement, in conjunction with the rescheduling proposal for generation outage planning, is discriminatory given the less stringent scheduling criteria for transmission assets. MISO's proposal needlessly places a higher burden on generation owners than it does on transmission owners. To wit, MISO only requires a two week notice period for transmission outages.¹⁰ Such differentiation is unjustified and clearly discriminatory in the face of a multi-year notice requirement for generator outage planning.

¹⁰ According to MISO's Business Practices Manual (BPM), though transmission operators must submit a yearly schedule of planned outages to be updated quarterly, ultimately, "Planned outage requests on Critical Transmission Facilities 100 kV and above must be submitted to the Midwest ISO OS at least 10 Business Days in advance of the planned start date for review. Planned outages on non-Critical Transmission Facilities 100 kV and above must be submitted to the Midwest ISO OS at least 5 Business Days in advance of the planned start date." *MISO BPM 008: Outage Operations*, Section 5.1 (Effective February 20, 2008).

MISO seeks unprecedented scheduling requirements and unlimited control over generator owners' planning in the name of transmission reliability and system coordination. MISO states that this newly sought authority "is needed for circumstances that could compromise the reliability of the transmission grid, even if the situations do not necessarily constitute an Emergency" and further states the changes "are necessary due to the severe potential risks associated with ensuring system reliability if outages of Generation Resources are not properly coordinated."¹¹ EPSA and its members unequivocally support reasonable efforts to ensure system reliability. However, while MISO mentions transmission reliability and system coordination as the reason for the proposed changes, it has done little to coordinate the actual planning process since notice provisions for planned transmission asset outages remain unchanged. MISO cannot evaluate the reliability impact of the generator outage two years in advance and can do little in the way to coordinate generation outages with transmission outages if transmission outages are unknown two years out.

The Commission should reject MISO's bifurcated approach to outage scheduling. In the event the Commission does accept MISO's proposed changes, the Commission should require MISO to submit a more comprehensive proposal that aligns generation and transmission outage planning.

¹¹ MISO October 28 Filing, p. 1-2.

III. CONCLUSION

Wherefore, EPSA respectfully requests that the Commission grant its motion for leave to intervene in this proceeding and consider the comments herein.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "Nancy Bagot", is written over a horizontal line.

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November 18, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., November 18, 2009.


Nancy Bagot, VP Regulatory Affairs