

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

<b>Midwest Independent Transmission System Operator, Inc.</b>	) ) ) )	<b>Docket No. ER10-1791-000</b>
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**MOTION FOR LEAVE TO ANSWER AND ANSWER OF  
THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. §§ 385.212 & 385.213 (2009), the Electric Power Supply Association (“EPSA”)<sup>1</sup> hereby submits this motion for leave to answer and answer to the Protest of MidAmerican Energy Company (“MidAmerican”) filed September 10, 2010, in response to the proposal of the Midwest Independent Transmission System Operator (“MISO”) in the above-captioned proceeding.<sup>2</sup> In its proposal, MISO seeks to allocate certain transmission upgrades dubbed Multi Value Projects (“MVPs”) on a postage stamp basis to load in the MISO footprint and through a per megawatt charge on power exports. MidAmerican and a few other parties have filed varying degrees of protests asking the Commission to look at an Organization of MISO States (“OMS”) proposal that was ultimately rejected by the MISO stakeholder process. Under that OMS proposal, 20 percent of the

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<sup>1</sup> 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 facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers. 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.

<sup>2</sup> Additional commenters that contemplate the idea of a generator charge include: OMS, Southwestern Electric Corp., ABATE, Indiana Office of Consumers Counsel, Iowa Utilities Board and the Midwest TDUs.

costs of MVPs would be allocated to new and existing generator owners.<sup>3</sup> EPSA did not address this issue in its first filing in this docket on September 10, 2010, because it was not a part of MISO's proposal filed with the Commission. EPSA respectfully seeks leave to answer the protests of MidAmerican and others who wish to allocate portions of MVPs to existing generators.

## **I. MOTION FOR LEAVE TO ANSWER**

To the extent that this pleading is deemed to be an answer to a protest or comments, EPSA requests leave to file such an answer pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2). Although the Commission's procedural rules do not provide for answers to protests as a matter of right, the Commission regularly allows answers where, as here, the answer provides further explanation or otherwise helps ensure a full and complete record and Commission understanding of the record.<sup>4</sup>

In particular, this answer addresses a matter that was not present in MISO's proposal and therefore parties filing initial comments on September 10 had no notice that a proposal for a portion of MVPs to be allocated to generator owners would be an issue before the Commission or included in the record in any way. This pleading will serve as a counterargument while the Commission is

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<sup>3</sup> This proposal may also be referred to as the "CARP Proposal." (An acronym developed by OMS for Cost Allocation and Regional Planning.)

<sup>4</sup> See, e.g., *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,154 at P 14 (2003); *Williams Energy Mktg. & Trading Co. v. Southern Co. Servs., Inc.*, 104 FERC ¶ 61,141 at P 10 (2003); *Ameren Servs. Co.*, 100 FERC ¶ 61,135 at P 15 (2002).

in the midst of considering all comments in this proceeding, including those of MidAmerican, which present this additional proposal.

## **II. ANSWER**

The primary flaw in MidAmerican's pleading is that it fails to make the distinction between generators that are new and interconnecting to the grid and those that already exist. MidAmerican makes the argument that if it is generator owners that require the network upgrades, they should pay a portion of MVP costs. EPSA makes no comment here on whether it is prudent to assess a portion of the cost of MVP upgrades to the new generation that benefits from those upgrades. However, neither MidAmerican nor other commenters supporting the CARP proposal have provided a sufficient explanation or support as to why existing generator owners in the MISO footprint should be assessed a charge to pay a portion of MVPs. The CARP proposal does not adequately explain its need to tax existing generators, something which has no precedent either in MISO or in other RTOs, and a proposal that was ultimately rejected by the MISO stakeholder process. The Commission should reject the arguments of MidAmerican and others who wish to levy yet another tax on generator owners in order to defray transmission costs.

There are several reasons why the OMS CARP proposal was ultimately rejected by the MISO stakeholder process. OMS itself notes that only five of its fourteen member states (IL, IA, MO, MT and OH) support the generator charge.<sup>5</sup> Even the Independent Market Monitor's (IMM) analysis of the CARP proposal

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<sup>5</sup> OMS September 10 Comments, p. 5. (Number of members in the OMS gathered from the OMS website on September 20, 2010).

makes clear that any charges to generators in the MVP allocation scheme should be assessed to new generation entrants, not existing generation.<sup>6</sup> The proposal, which stemmed from OMS, did not have a majority vote within the OMS membership. Moreover, charging existing generators was specifically rejected by Dr. Patton, the IMM, not to mention the voting generator owner sectors (many of whom are EPSA members), which have heard no convincing arguments for the charges that would have been assessed to them under the CARP proposal. EPSA respectfully requests that the Commission reject any attempt to allocate a portion of MVPs to generation as outlined in the CARP proposal.

MidAmerican's main argument seems to hinge on the principle of fairness.

MidAmerican states:

It is inherently unfair that one of the key reasons for the MVP category and allocation is to facilitate the integration of location-constrained resources which are primarily facilities of Generator Owners and not Load Serving Entities and yet not allocate any portion of MVPs to these Generator Owners.<sup>7</sup>

Clearly, MidAmerican is making the argument that generators benefiting from MVP projects should pay a portion of the cost of the upgrade. However, MidAmerican supports the OMS CARP proposal that 80 percent of MVPs be allocated to load/export charges and 20 percent be allocated to *existing* and new generation.<sup>8</sup> Other commenters support the OMS CARP proposal to varying degrees. The Iowa Utilities Board supports a 10 percent charge to "generators," but does not specify if it is talking about new generators, existing generators or

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<sup>6</sup> Id., p. 6.

<sup>7</sup> MidAmerican September 10 Comments, p. 10.

<sup>8</sup> MidAmerican September 10 Comments, p. 12.

both.<sup>9</sup> The Indiana OUCC generally supports CARP, but does not specifically support a generator charge.<sup>10</sup> Finally, the Association of Businesses Advocating Tariff Equity (“ABATE”) calls for a charge to generators on page 3 of its pleading, but then clarifies that the charge should be assessed to “new and incremental generators that will interconnect” on page 4.<sup>11</sup>

None of the entities calling for charges to generators to fund MVPs makes a satisfying argument as to why existing MISO generators should be taxed. In fact, none of the above named commenters make any arguments at all for taxing existing generators. MidAmerican simply notes that a tax on new and existing generators was part of the CARP proposal, which MidAmerican supports. In fact, the CARP proposal calls for existing generators to subsidize MVP upgrades. Yet no sound argument has been made for taxing existing generators, something which has no precedent and was rejected by the MISO stakeholder process.

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<sup>9</sup> Iowa Utilities Board September 10 Comments, p 5-6. Southwestern Electric Coop’s September 10 comments call for a similar charge to “interconnecting generation owners,” but does not clarify whether this also pertains to previously interconnected customers (pp. 10-12).

<sup>10</sup> Indiana OUCC September 10 Comments, p 2.

<sup>11</sup> ABATE September 10 Comments, pp. 3-4.

### III. CONCLUSION

EPSA respectfully requests that the Commission grant its motion for leave to Answer MidAmerican's protest, as the concept of assessing a portion of MVPs to new and existing generators was not a part of the original MISO proposal to which EPSA responded on September 10. Further, EPSA asks the Commission to reject any charges based on the CARP proposal in the MISO footprint as no party in this docket has made any argument as to why all generators should be charged.

Respectfully submitted,

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

Nancy Bagot, Vice President of Regulatory Affairs  
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September 27, 2010

**CERTIFICATE OF SERVICE**

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

Dated at Washington, D.C., September 27, 2010.

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

Nancy Bagot, VP Regulatory Affairs