

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System
Operator, Inc.

Docket No. ER24-1638-000

**MOTION FOR LEAVE TO RESPOND AND
RESPONSE OF AMERICAN MUNICIPAL POWER,
INC.; GREAT LAKES UTILITIES; INDIANA
MUNICIPAL POWER AGENCY; MISSOURI JOINT
MUNICIPAL ELECTRIC UTILITY COMMISSION;
MISSOURI RIVER ENERGY SERVICES;
SOUTHERN MINNESOTA MUNICIPAL POWER
AGENCY; AND WPPI ENERGY**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,¹ American Municipal Power, Inc. (“AMP”); Great Lakes Utilities (“GLU”); Indiana Municipal Power Agency (“IMPA”); Missouri Joint Municipal Electric Utility Commission d/b/a the Missouri Electric Commission (“MEC”); Missouri River Energy Services (“MRES”); Southern Minnesota Municipal Power Agency (“SMMPA”); and WPPI Energy (“WPPI”) (collectively, “Midwest TDUs”) respectfully move for leave to respond and respond to the June 7, 2024 Answer filed by Midcontinent Independent System Operator, Inc. (“MISO”).²

Numerous entities, including Midwest TDUs,³ protested MISO’s filing in this proceeding to revise its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“Tariff”) to implement a new direct loss of load (“DLOL”) capacity

¹ 18 C.F.R. §§ 385.212-213.

² Motion to Leave to Answer and Answer of the Midcontinent Independent System Operator, Inc. (June 7, 2024), eLibrary No. 20240607-5128 (“MISO June 7 Answer”).

³ Protest and Motion to Reject of American Municipal Power, Inc., Great Lakes Utilities, Indiana Municipal Power Agency, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, and WPPI Energy (Apr. 29, 2024), eLibrary No. 20240429-5370 (“Midwest TDUs Protest”).

accreditation methodology.⁴ Those protests show that MISO's proposed DLOL capacity accreditation methodology has serious shortcomings that must be addressed before it can produce rates that are just, reasonable, and not unduly discriminatory.

MISO's June 7 Answer fails to resolve these concerns. Midwest TDUs' Response below focuses on where MISO's June 7 Answer directly addresses aspects of Midwest TDUs' Protest, but other of our arguments remain unanswered.⁵ This Response explains:

- MISO's failure to include any standard or process for determining Resource Classes;
- MISO's failure to include an appropriate Resource Class for dual fuel resources, despite conceding their unique operating characteristics;
- The DLOL methodology's reliance on faulty loss of load expectation ("LOLE") modeling to determine capacity accreditation values; and
- MISO's failure to address the unreasonable interaction of its proposed new DLOL methodology, which MISO agrees fully accounts for all outages in capacity accreditation, with the existing capacity replacement obligation that was established in conjunction with a *different* accreditation methodology that did *not* include probabilistic modeling fully reflecting the impact of planned outages on capacity value.

I. MOTION FOR LEAVE TO RESPOND

Although the Commission's Rules prohibit answers to answers unless otherwise authorized,⁶ the Commission has the authority to waive this prohibition for good cause⁷

⁴ MISO, Filing to Reform MISO's Resource Accreditation Requirements (Mar. 28, 2024), eLibrary No. 20240328-5329 ("DLOL Filing").

⁵ For instance, we do not repeat the arguments raised in Midwest TDUs' Protest but note MISO's June 7 Answer does not address (1) the proposed Tariff language's failure to specify that seasonal data will be used to backfill deficient Tier 2 Resource Adequacy Hours, (2) MISO's failure to explain how its definitional changes will operate when in effect but before the DLOL methodology is implemented in 2028/2029, and (3) MISO's inconsistent description of the implementation of the 1,950-hour cap on non-loss of load hours.

⁶ 18 C.F.R. § 385.213(a)(2).

⁷ 18 C.F.R. § 385.101(e).

and regularly does so where an answer assists the Commission in its decision-making process.⁸ Midwest TDUs' Response will aid the Commission's understanding of complex issues raised in MISO's proposed Tariff revisions to implement a new, untested DLOL-based accreditation methodology. Midwest TDUs respectfully request leave to submit the following Response.

II. RESPONSE

MISO emphasizes the reliability challenges imminently facing the MISO region.⁹ While these challenges are serious, they do not support Commission approval of a DLOL proposal that is flawed and not yet fully developed. Likewise, that Midwest TDUs and other protesters "*generally* support[] resource accreditation reform"¹⁰ in no way suggests that the *specific* Tariff revisions MISO has proposed here are just, reasonable, and not unduly discriminatory.

Rather, these challenges require clear and detailed solutions so that market participants can make informed decisions. The importance of resource accreditation reform underscores the need for robust Commission review to ensure that MISO's seasonal Resource Adequacy construct is comprehensible and transparent, with details fully worked out, and that it ultimately produces just and reasonable rates.¹¹

⁸ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 178 FERC ¶ 61,249, P 16 (2022) (accepting answers to answers "because they have provided information that assisted us in our decision-making process").

⁹ MISO June 7 Answer at 4-9.

¹⁰ *Id.* at 7 (emphasis added).

¹¹ The incomplete, work-in-progress nature of MISO's complex DLOL methodology is highlighted by MISO's struggle in its Answer to keep track of its new acronyms and defined terms. For instance, on page 21, MISO discusses how after calculating Resource Class-level UCAP it "will then determine the specific allocation of Resource Class-level UCAP to each Resource within the Resource Class based upon the Resource's contribution to reliability during those *Critical Hours*." MISO June 7 Answer at 21 (emphasis added) (footnote omitted). But that is not correct. "RA Hours," not "Critical Hours," are used to allocate Resource Class-level UCAP among resources. MISO's initial filing explains the difference

Particularly given that MISO does not seek to implement a DLOL accreditation methodology until the 2028/2029 Planning Year, the Commission should not rush to approve premature and defective Tariff language. It is vital that the Commission require a fully developed and adequately supported DLOL proposal before this new capacity accreditation methodology is enshrined in the Tariff. MISO's June 7 Answer fails to show that the revisions proposed by MISO in this proceeding are up to that task and satisfy MISO's burden under Federal Power Act ("FPA") section 205.¹²

A. MISO's proposed Tariff language on Resource Classes is insufficient and fatally flawed.

1. MISO still provides no definition or process for determining Resource Classes.

MISO asserts that "Section I.C. of Schedule 53A provides a clear and predictable definition of Resource Class and defines a process for sharing the mapping of Resource Classes."¹³ That assertion cannot be squared with the plain text of MISO's proposed Tariff revisions, which MISO never quotes or discusses in its June 7 Answer. The closest the Tariff language comes to defining how MISO will group resources into Resource Classes is a vague reference to resources "with similar operating characteristics."¹⁴ As Midwest TDUs previously explained, that proposed language fails to comply with the requirements of the FPA and the Commission's regulations.¹⁵

between these two concepts. *See* DLOL Filing, Tab E, Prepared Direct Testimony of Zakaria Joundi, Executive Director, Market & Grid Strategy at 43-44 ("Joundi Testimony").

¹² 16 U.S.C. § 824d.

¹³ MISO June 7 Answer at 15.

¹⁴ DLOL Filing, Tab A ("Redline Tariff"), Schedule 53A § I.C.

¹⁵ Midwest TDUs Protest at 6-11.

Similarly, the availability of dispute resolution procedures to challenge MISO's assignment of an individual resource to a particular Resource Class is a red herring.¹⁶ Even assuming that provision allows challenges to the list of Resource Classes (which, on its face, it does not), that opportunity is meaningless without an explicit standard in the Tariff for evaluating such disputes. Nor does this provision provide any relief where there is not a Resource Class that reflects the particular operating and reliability characteristics of a given resource—as is the case with dual fuel resources discussed below.

MISO's proposed approach to Resource Classes stands in stark contrast to that set forth in the New York Independent System Operator ("NYISO") tariff, which includes not only a more detailed definition of Capacity Accreditation Resource Classes but also an annual process for establishing classes for a given year.¹⁷ MISO fails to acknowledge these critical differences, much less justify how its proposal will ensure just and reasonable rates without a clear standard or process for how all-important Resource Classes will be determined and reevaluated over time.

The problems that would result from MISO's insufficient Tariff language are readily foreseeable. In fact, they are confirmed by MISO's June 7 Answer. In responding to other protestors, "MISO recognizes that as solar penetration increases, it may become necessary to create more granular solar resource classes based upon operating characteristics and similar technologies."¹⁸ Yet there is nothing in the Tariff or MISO's filings that explains how MISO will make the critical determination of when it is

¹⁶ See MISO June 7 Answer at 15.

¹⁷ See Midwest TDUs Protest at 8-9 (explaining the differences between NYISO's treatment of classes and MISO's proposed Tariff language).

¹⁸ MISO June 7 Answer at 14.

necessary to establish new Resource Classes. Indeed, MISO concedes it has not yet developed or documented a process for revisiting Resource Classes, and it intends to relegate any process developed in the future to the Business Practices Manuals (“BPM”) without any Commission review to ensure it is just and reasonable.¹⁹

Given that Resource Classes are fundamental to MISO’s DLOL proposal, the FPA requires the details of how MISO will determine Resource Classes to be on file and subject to Commission review—not developed on an ad hoc basis free from objective standards and Commission scrutiny.

2. MISO fails to explain why dual fuel resources should be within the same Resource Class as gas- or oil-only units.

MISO offers no substantive response to Midwest TDUs’ demonstration of the significantly different operating characteristics of dual fuel resources, differences that MISO and the Commission have previously recognized.²⁰ MISO likewise ignores that PJM has a separate class for dual fuel combustion turbines under its Effective Load Carrying Capability (“ELCC”) classes.²¹ This non-response is particularly glaring given that elsewhere in its June 7 Answer, MISO seeks to support its DLOL proposal by relying on that same PJM ELCC framework.²² Indeed, the very passage MISO quotes from the Commission discussion of PJM’s framework expressly recognizes that one reason “PJM’s marginal ELCC framework is just and reasonable [is] because it: . . . *reflects the*

¹⁹ See MISO June 7 Answer at 18 (“MISO *will* work with stakeholders *during the transition period* to develop and document a process in the BPM for identifying when changes to Resource Classes are necessary.”) (emphasis added).

²⁰ See Midwest TDUs Protest at 12-14.

²¹ See *id.* at 14.

²² MISO June 7 Answer at 27-28.

fact that dual fuel resources are more likely to be available than gas-only resources during certain system conditions.”²³

MISO’s Answer does not dispute that dual fuel resources have clear operational differences compared to single-fuel resources, but it claims that these differences will be captured in step two of its proposed DLOL methodology, in which Resource Class-level Unforced Capacity (“UCAP”) is allocated among individual resources within a Resource Class. That is a non-response. Because MISO has provided no information on the extent to which the accreditation of dual fuel resources will be similar or different depending on whether grouped in their own Resource Class or with single-fuel resources, it is impossible to assess MISO’s claim that step two of the DLOL methodology “appropriately captures the benefits” of dual fuel resources notwithstanding the use of a combined Resource Class in step one.²⁴ Moreover, the step one Resource Class-level UCAP determination is the core of MISO’s new DLOL methodology, and the existence of the second step does not negate the importance of properly dividing resources into Classes based on similar operating characteristics. If it did, there would be no reason for MISO to establish the new concept of Resource Class-level UCAP in the first place.

MISO’s own filings confirm the importance of properly assigning resources to distinct Resource Classes in step one. MISO’s June 7 Answer repeatedly emphasizes the importance of the forward-looking probabilistic analysis (i.e., step one) component of its DLOL methodology.²⁵ MISO’s initial filing also recognized the problems of grouping

²³ MISO June 7 Answer at 27 (quoting *PJM Interconnection, L.L.C.*, 186 FERC ¶ 61,080, P 42, *reh’g denied*, 186 FERC ¶ 62,168 (2024)) (internal quotation marks omitted) (emphasis added).

²⁴ *Id.* at 16.

²⁵ *Id.* at 3, 21-22.

dissimilar resources in the same Resource Class, despite step two's allocation of Resource Class-level UCAP to individual resources. Mr. Joundi explained that because of the "significant disparity in the operating characteristics of the different types of thermal resources during various weather events," grouping these resources into one Class "will not provide the appropriate signals to inform retirement and investment decision making with respect to specific Resource Classes, *which is one of the primary objectives of the proposed reforms.*"²⁶

The same is true for dual fuel resources. MISO does not dispute that they have significantly different operating characteristics than single fuel resources. Treating them the same as single-fuel resources is thus not only contrary to the purpose of MISO's DLOL methodology, but it is also unjust, unreasonable, and unduly discriminatory.

B. MISO's proposed capacity methodology relies on an LOLE model that is not yet ready for this new use.

Under the FPA, it is not sufficient for MISO to argue that its "proposed accreditation *framework*"²⁷ is just and reasonable; the FPA requires that "[a]ll rates and charges . . . and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable."²⁸ There is no question that MISO's LOLE model would have a direct and significant role in determining capacity accreditation values under the proposed DLOL methodology, and would ultimately determine Commission-jurisdictional rates. MISO is therefore flatly wrong to suggest that the Commission limit its review to the proposed DLOL "framework," and that "the results produced by the

²⁶ Joundi Testimony at 37 (emphasis added).

²⁷ MISO June 7 Answer at 21-22.

²⁸ 16 U.S.C. § 824d(a) (emphasis added).

LOLE model are not dispositive of the justness and reasonableness of the DLOL-based methodology.”²⁹ The Commission cannot ignore the admitted problems with the current LOLE model when evaluating MISO’s filing in this proceeding.

As an analogy, the Commission permits formula rates for transmission service, but requires “safeguards [such as formula rate protocols] . . . to ensure that the input data is correct, that calculations are performed consistent with the formula, that costs to be recovered in the formula rate are reasonable and were prudently incurred, *and that the resulting rates are just and reasonable.*”³⁰ Here, MISO fails to provide safeguards that ensure its DLOL methodology results in just and reasonable rates, which are especially important given that MISO continues to correctly acknowledge that changes to “the LOLE model are necessary to improve model outcomes.”³¹

In an attempt to minimize the significant role of the LOLE model, MISO cites PJM’s and NYISO’s marginal ELCC approaches to argue that the LOLE model’s role in capacity accreditation is an insignificant implementation detail not subject to Commission review.³² MISO, however, glosses over the differences between those approaches and MISO’s proposal. As discussed above, MISO offers no response to Midwest TDUs’ arguments about NYISO’s more specific definition and process for resource classes and PJM’s separate class for dual fuel resources.

²⁹ MISO June 7 Answer at 21-22.

³⁰ *Southwest Power Pool, Inc.*, 180 FERC ¶ 61,022, P 2 (2022) (emphasis added).

³¹ MISO June 7 Answer at 19.

³² *Id.* at 12.

Finally, MISO wrongly claims that its past use of the LOLE model to determine *Resource Adequacy Requirements* (although only recently on a seasonal basis) proves that the LOLE model will produce just and reasonable *capacity accreditation values* under the new DLOL methodology.³³ MISO's initial filing acknowledges that the proposed DLOL methodology would use the LOLE model for a *new* purpose (Resource Class-level UCAP) beyond its traditional use,³⁴ and "recognize[d] that refinements to the model *are necessary*" for this new purpose.³⁵ MISO similarly suggests that necessary LOLE model revisions are merely "incremental enhancements" that the Commission need not consider in evaluating the DLOL proposal.³⁶ But the problems with MISO's current LOLE model include (i) inconsistent distribution of planned outages across Resource Classes; (ii) flawed planned outage, cold-weather outage, and load forecasting; and (iii) flawed storage modeling.³⁷ These admitted problems with the current LOLE model are directly relevant to the accreditation values resources will receive and, until fixed, they will distort the accreditation values produced by the DLOL methodology.

The Commission should reject MISO's DLOL proposal until these problems are resolved and MISO can show that the DLOL methodology is able to consistently produce accurate, just, and reasonable accreditation values.

³³ MISO June 7 Answer at 18-19.

³⁴ Joundi Testimony at 48 ("MISO will continue to use the probabilistic model to set Resource Adequacy Requirements and will *expand the use of the model to establish Resource Class-level UCAP.*") (emphasis added).

³⁵ DLOL Filing, Transmittal Letter at 36 (emphasis added).

³⁶ MISO June 7 Answer at 19.

³⁷ See Midwest TDUs Protest at 17-18.

C. *MISO cannot sidestep concerns about how its capacity accreditation methodology operates in conjunction with MISO's capacity replacement obligation.*

At the outset, MISO appears to misconstrue Midwest TDUs' argument with respect to the issue of MISO's 31-day capacity replacement obligations. Midwest TDUs agree with MISO that "[t]he DLOL-based methodology appropriately accounts for all reasons of resource unavailability, including planned and forced outages."³⁸ In fact, that is the basis of our argument.

Because the proposed DLOL methodology fully accounts for outages, the combination of this *new* capacity accreditation methodology with the 31-day capacity replacement obligation established in conjunction with a *different* accreditation methodology is not just and reasonable for resources with expected longer outages. As Midwest TDUs explained, resources with longer outages such as coal and nuclear will have these longer outages fully accounted for as part of the proposed Resource Class-level UCAP calculation, lowering their capacity accreditations.³⁹ Given lower accreditations under the DLOL methodology that reflect expected longer outages, it would be unduly burdensome and discriminatory to also subject these resources to a one-size-fits-all 31-day capacity replacement obligation. It also contrary to MISO's stated goal of having its DLOL proposal "improve alignment between resource accreditation and establishment of the [Planning Reserve Margin Requirement],"⁴⁰ as imposing the 31-day capacity replacement obligation in combination with the new DLOL accreditation

³⁸ MISO June 7 Answer at 22.

³⁹ Midwest TDUs' Protest at 23-24.

⁴⁰ Joundi Testimony at 72.

methodology would require customers in MISO to bear the costs of procuring more capacity than MISO's own analysis indicates is needed.

MISO's June 7 Answer does not dispute the substance of Midwest TDUs' Protest on this issue. Instead, MISO claims that the 31-day capacity replacement obligation is "completely separate from resource accreditation" and "outside the scope of this specific filing."⁴¹ Not so. Midwest TDUs previously showed that the 31-day capacity replacement obligation is directly related and integral to MISO's seasonal Resource Adequacy construct, and the significant changes to that seasonal Resource Adequacy construct MISO proposes in this proceeding are not appropriate for review on a single-issue basis.⁴² MISO cites no precedent in support of its claim that its DLOL methodology should be evaluated in isolation from MISO's overall Resource Adequacy construct.

CONCLUSION

For the reasons discussed above, and in Midwest TDUs' Protest, the Commission should find that MISO's filing has not been shown just and reasonable, and reject the filing, without prejudice and with guidance on concerns that need to be addressed in a future more complete proposal.

⁴¹ MISO June 7 Answer at 22.

⁴² Midwest TDUs Protest at 24-25 & n.78.

Respectfully submitted,

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June 24, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated on this 24th day of June, 2024.

/s/ Jeffrey M. Bayne

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