

162 FERC ¶ 61,023
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

January 18, 2018

In Reply Refer To:
Midcontinent Independent System
Operator, Inc.
Docket No. ER17-2113-000

Midcontinent Independent System
Operator, Inc.
Jacob T. Krouse, Esq.
720 City Center Drive
Carmel, IN 46032

Dear Mr. Krouse:

1. On July 19, 2017, Midcontinent Independent System Operator, Inc. (MISO) submitted a request for a one-time waiver of the Planning Resource Auction (Auction) offer deadline set forth in its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).¹ For the reasons discussed below, we grant MISO's requested waiver.

2. MISO explains that, on March 31, 2017, its systems experienced intermittent connectivity issues after 3:00 pm until approximately 11:30 pm Eastern Daylight Time (EDT). MISO states that these connectivity issues could have affected market participants' abilities to submit or modify offers into the 2017/18 Auction, and that MISO is aware of one market participant that was unable to submit or modify its offers during the final hours of the Auction window. MISO states that, given these connectivity issues, it extended the 2017/18 Auction offer deadline from 11:59 pm Eastern Standard Time (EST) on March 31, 2017, as required by the Tariff, to 12:00 pm EDT² on April 1, 2017

¹ Specifically, MISO requests waiver of section 69A.7.1 of Module E-1 of the Tariff, which states that the Auction offer window "shall end at 11:59 pm EST on the last Business Day in March."

² Although EST is used in the Tariff, EDT was in effect at the time of the offer deadline.

to provide market participants additional time to submit offers into the Auction. MISO therefore requests a one-time waiver of the Auction offer deadline set forth in its Tariff. According to MISO, its requested waiver is the best available option to provide market certainty given MISO's actions to ensure that all market participants could submit and modify offers.³

3. MISO states that its requested waiver meets all four of the Commission's criteria for granting waivers. First, MISO asserts that its actions giving rise to the requested waiver were in good faith because MISO needed to depart from the deadline set forth in the Tariff to ensure that all market participants had sufficient time to submit or modify offers. Second, MISO states that its requested waiver remedies the concrete problem that market participants may not have been able to submit offers during the offer window due to connectivity issues. Third, MISO explains that its requested waiver is limited to the period between 11:59 pm EST on March 31, 2017 and 12:00 pm EDT on April 1, 2017. Fourth, MISO states that its requested waiver will not have undesirable consequences and that no third parties are harmed.⁴ MISO notes that in a separate filing it was concurrently submitting proposed revisions to section 69A.7.1 to provide that MISO can change the offer deadline due to unanticipated events in the future.⁵

4. Notice of MISO's filing was published in the *Federal Register*, 82 Fed. Reg. 34,653 (2017), with interventions and protests due on or before August 9, 2017. Exelon Corporation, Ameren Services Company,⁶ and NRG Companies⁷ filed timely motions to intervene. Public Citizen, Inc. (Public Citizen) filed a timely motion to intervene and protest. On August 24, 2017, MISO filed an answer.

³ MISO Request for Waiver at 1-3.

⁴ *Id.* at 2-4.

⁵ MISO's proposed revisions have been accepted for filing. *See Midcontinent Indep. Sys. Operator, Inc.*, Docket No. ER17-2112-000 (Aug. 31, 2017) (delegated letter order).

⁶ For purposes of this filing, Ameren Services Company, a wholly-owned subsidiary of Ameren Corporation, is filing on behalf of its affiliated public utility operating companies, Ameren Illinois Company, Ameren Transmission Company of Illinois, and Union Electric Company d/b/a Ameren Missouri.

⁷ For purposes of this filing, NRG Companies are NRG Power Marketing LLC and GenOn Energy Management, LLC.

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO's answer because it has provided information that assisted us in our decision-making process.

6. Public Citizen questions whether MISO's requested waiver is necessary. Public Citizen asserts that MISO failed to describe what caused the connectivity issues and what, if any, corrective measures MISO has taken, or needs to take, to avoid such disruptions in the future.⁸ Public Citizen argues that MISO also failed to provide evidence that any market participants were unable to submit or modify offers due to the connectivity issues.⁹

7. In its answer, MISO explains that its connectivity issues were caused by a hardware failure that affected the rate of information flow on MISO's network. MISO reiterates that it is aware of at least one market participant that utilized the offer deadline extension to submit or modify its offers. MISO asserts, however, that neither the underlying cause of its connectivity issues nor the utilization of the offer deadline extension has any bearing on its requested waiver.¹⁰

8. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.¹¹ We find that MISO's requested waiver satisfies these conditions, as discussed below.

9. First, we find that MISO acted in good faith. MISO extended the Auction offer deadline to ensure all market participants had the requisite time under the Tariff to submit their Auction offers. Second, we find that the requested waiver is of limited scope, as it amounts to a one-time extension of the offer deadline, and MISO has revised section 69A.7.1 of its Tariff to allow a change to the deadline, so a waiver will not be required in

⁸ Public Citizen Protest at 1.

⁹ *Id.* at 1-2.

¹⁰ MISO Answer at 2-3.

¹¹ *See, e.g., Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 14 (2016); *Calpine Energy Servs., L.P.*, 154 FERC ¶ 61,082, at P 12 (2016); *New York Power Auth.*, 152 FERC ¶ 61,058, at P 22 (2015).

the future. Further, we find that the extension (i.e., eleven hours and one minute) provided sufficient, but not excessive, time for market participants to submit or modify offers. Third, we find that MISO's requested waiver addresses the concrete problem that some market participants may not have been able to submit offers due to connectivity issues. MISO stated that at least one market participant was unable to submit or modify its offers during the final hours of the offer window. Fourth, we find that the requested waiver will not have undesirable consequences, such as harming third parties. Rather, this waiver benefits third parties by providing certainty to all market participants that participated in the 2017/18 Auction. Because MISO has satisfied our conditions for a waiver, we disagree with Public Citizen that MISO must provide any additional evidence about other issues. For these reasons, we grant MISO's requested waiver.

By direction of the Commission.

Kimberly D. Bose,
Secretary.