

156 FERC ¶ 61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Midcontinent Independent System Operator, Inc.

Docket Nos. ER12-1265-005
ER12-1265-006

ORDER ON COMPLIANCE

(Issued September 22, 2016)

1. On September 9, 2013, Midcontinent Independent System Operator, Inc. (MISO) submitted a filing, as supplemented on September 30, 2013,¹ in compliance with Order No. 719² proposing revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to comply with the Commission's May 16, 2013 order on rehearing and compliance.³ As discussed below, we accept MISO's September 2013 Compliance Filings, subject to condition.

¹ MISO September 9, 2013 Compliance Filing, Docket No. ER12-1265-005 (September 2013 Compliance Filing); MISO September 30 Supplemental Compliance Filing, Docket No. ER12-1265-006 (September 2013 Supplemental Filing) (providing a definition of "Aggregate Power Supply Curve" which MISO states it inadvertently omitted from its September 2013 Compliance Filing) (together, September 2013 Compliance Filings).

² *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).

³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,145 (2013) (May 2013 Order).

I. Background

2. In Order No. 719, the Commission established reforms to improve the operation of organized wholesale electric power markets and amended its regulations under the Federal Power Act (FPA), pertinent to this order, in the areas of: (1) demand response, including pricing during periods of operating reserve shortage; and (2) market-monitoring policies.⁴

3. In the area of demand response, the Commission required Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) to, among other things: (1) accept bids from demand response resources in the RTOs' or ISOs' markets for certain ancillary services on a basis comparable to other resources; (2) in certain circumstances, permit an Aggregator of Retail Customers (ARC)⁵ to bid demand response on behalf of retail customers directly into the organized energy market; and (3) modify their market rules, as necessary, to allow the market-clearing price, during periods of operating reserve shortage, to reach a level that rebalances supply and demand, so as to maintain reliability, while providing sufficient provisions for mitigating market power.⁶ The Commission also took several steps to improve market monitoring, including: (1) modifying market monitoring unit participation in tariff administration and market mitigation; and (2) expanding the dissemination of market monitoring unit market information. The Commission required each RTO or ISO to consult with its stakeholders and make a compliance filing to explain how the RTO's or ISO's existing practices comply with Order No. 719's reforms, or describe the entity's plans to attain compliance.⁷

4. On July 16, 2009, the Commission issued Order No. 719-A, which, in response to requests for rehearing, revised and clarified certain of the findings in Order No. 719 and, as relevant here, directed MISO to make a compliance filing related to aspects of demand response and market monitoring. In Order No. 719-A, the Commission required RTOs and ISOs to develop mechanisms for sharing information about demand response resources with affected load-serving entities, as well as develop and implement protocols allowing ARCs to operate in organized markets, addressing concerns such as double-

⁴ Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 1.

⁵ The term "ARC" refers to an entity that aggregates demand response bids (which are mostly from retail loads). *Id.* P 3 n.3.

⁶ *Id.* PP 3, 15.

⁷ *Id.* PP 8, 578-583.

counting, deviations, underscheduling in the day-ahead market, metering, billing, settlement, information sharing, and verification measures.⁸

5. In the December 2011 Order on Compliance,⁹ the Commission conditionally accepted MISO's April 2009 Compliance Filing¹⁰ and certain proposals set forth in MISO's October 2009 Compliance Filing,¹¹ with certain modifications, as compliant with Order No. 719 and required MISO to submit a further compliance filing. On March 14, 2012, as amended March 23, 2012,¹² MISO submitted its filing to comply with the December 2011 Order on Compliance. In the July 2012 Order,¹³ the Commission denied the requests for rehearing and clarification of the December 2011 Order on Compliance and conditionally accepted MISO's proposed Tariff revisions, subject to a further compliance filing.¹⁴ On August 21, 2012, MISO submitted its August 2012 Compliance

⁸ Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 at PP 67, 69-70.

⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,214 (2011) (December 2011 Order on Compliance).

¹⁰ MISO April 28, 2009 Compliance Filing, Docket No. ER09-1049-000 (April 2009 Compliance Filing).

¹¹ MISO October 2, 2009 Compliance Filing, Docket No. ER09-1049-002 (October 2009 Compliance Filing).

¹² MISO March 14, 2012 Compliance Filing, Docket No. ER12-1265-000 (March 2012 Compliance Filing); MISO March 23, 2012 Amended Compliance Filing, Docket No. ER12-1265-001 (proposing errata corrections to address minor errors in its procedures for sharing certain demand response resource information) (March 2012 Amended Filing) (together, March 2012 Filings).

¹³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,060 (2012) (July 2012 Order).

¹⁴ Certain parties requested rehearing and/or clarification of the following determinations in the December 2011 Order on Compliance: (1) rejection of MISO's proposal to include the Marginal Foregone Retail Rate as part of its ARC compensation proposal; (2) acceptance of MISO's proposal to allocate the costs associated with demand response hosted by ARCs (i.e., the locational marginal price, or LMP) to the load-serving entity from which the demand response originates; and (3) lack of clarification that parties would have an opportunity to protest MISO's subsequent compliance filing. *See* July 2012 Order, 140 FERC ¶ 61,060 at PP 24-37, 38-46, and 47-49 (respectively).

Filing to comply with the Commission's July 2012 Order.¹⁵ In the May 2013 Order, the Commission denied requests for rehearing and clarification¹⁶ of the December 2011 Order on Compliance and conditionally accepted MISO's August 2012 Compliance Filing, subject to a further compliance filing.¹⁷ On June 7, 2013, MISO filed a Request for Clarification or, in the Alternative, Request for Rehearing of the May 2013 Order.¹⁸ On July 5, 2013, the Commission granted MISO's request for rehearing wherein the Commission did not require MISO to capitalize the word "capacity" in the Tariff when the term is being used to designate a product.¹⁹

6. On September 9, 2013, as supplemented on September 30, 2013, MISO submitted its September 2013 Compliance Filings in compliance with the Commission's May 2013 Order. As discussed below, the September 2013 Compliance Filings primarily address demand response and pricing during periods of Operating Reserve shortages (specifically bids and bidding parameters and customer baselines/measurements) and ARC compensation and settlement procedures.

¹⁵ MISO August 21, 2012 Compliance Filing, Docket No. ER12-1265-003 (August 2012 Compliance Filing).

¹⁶ May 2013 Order, 143 FERC ¶ 61,145 at P 18.

¹⁷ *Id.* P 1.

¹⁸ In the May 2013 Order, the Commission required MISO to change the word "capacity" to "Capacity" in two instances in the Tariff. MISO argued, however, that there is a substantive distinction in the Tariff between the use of the upper case word "Capacity," on the one hand, and the use of the lower case word "capacity," on the other. MISO stated that "Capacity" is used in the Tariff "to designate a megawatt measured output," whereas "capacity" is used in Module E "in connection with a product, such as the means by which Resource Adequacy Requirements can be satisfied." MISO concluded that, in its August 2012 Compliance Filing, MISO intentionally used the lower case term "capacity" in sections 1.1a and 1.142 of the Tariff because it was designating a product, and not a megawatt measured output. MISO June 7, 2013 Request for Clarification or, in the Alternative, Request for Rehearing, Docket Nos. ER12-1265-004, ER09-1049-007, ER12-1266-004 (Request for Clarification).

¹⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, 144 FERC ¶ 61,012 (2013) (Order Granting Rehearing).

II. Notice of Filings and Responsive Pleadings

7. Notice of MISO's September 2013 Compliance Filing was published in the *Federal Register*, 78 Fed. Reg. 57,146 (2013), with interventions and protests due on or before September 30, 2013. None was filed. Notice of MISO's September 2013 Supplemental Filing was published in the *Federal Register*, 78 Fed. Reg. 61,996 (2013), with interventions and protests due on or before October 21, 2013. None was filed.

III. Discussion

8. The Commission accepts the September 2013 Compliance Filings subject to condition, as discussed below. To the extent that any Tariff revisions submitted in response to the Commission's directives are not discussed herein, we accept them.

A. Demand Response and Pricing During Periods of Operating Reserve Shortages in Organized Markets

1. General Comparability in Accepting Bids and Bidding Parameters

a. Background

9. In Order No. 719, among other things, the Commission required each RTO and ISO to establish policies and procedures to ensure that demand response resources are treated comparably to supply-side resources.²⁰ The Commission required each RTO and ISO to allow demand response resources to limit the duration, frequency and amount of their service in their ancillary service bids or in their joint energy-ancillary services market bids. Such limits that are to be allowed in bids include a maximum duration in hours that demand response resources may be dispatched, a maximum number of times that they may be dispatched during a day, and a maximum amount of electric energy reduction that they may be required to provide either daily or weekly.²¹

10. In its April 2009 Compliance Filing, MISO explained that demand response resources can participate in its markets as either Demand Response Resources – Type I, which are capable of supplying a specific quantity of energy or contingency reserve through physical load interruption, or Demand Response Resources – Type II, which can supply energy and/or operating reserves over a dispatchable range through controllable

²⁰ Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 50.

²¹ *Id.* P 81.

load or behind-the-meter generation.²² MISO asserted that its offer parameters for Demand Response Resources – Type II satisfy the requirements of Order No. 719 because those resources can specify a maximum run time, a maximum start-up limit, and a maximum daily energy limit.²³

11. In the December 2011 Order on Compliance, among other things, the Commission required MISO to address whether its offer parameters are sufficiently flexible, as well as the concern that the combination of offer parameters, and especially the maximum daily energy limit, will not sufficiently address the risk that demand response resources are called upon too frequently.²⁴

12. In its March 2012 Compliance Filing, among other things, MISO clarified that system requirements now permit Demand Response Resources – Type I to specify certain operational limits in their offers.²⁵

b. July 2012 Order

13. To ensure that demand response resources are not called upon too frequently, the Commission required additional compliance from MISO regarding the flexibility of its existing offer parameters.²⁶ In response to MISO's statement that demand response resources could modify future offers if they were unable to provide contingency reserve after a qualifying event, the Commission found that this would subject such resources to deviation charges and that MISO's argument failed to address the issue of these resources being called upon too frequently during an event.²⁷ Accordingly, the Commission required MISO to allow demand response resources to submit additional offer parameters, such as maximum daily contingency reserve limits, that would address this and associated issues.²⁸

²² April 2009 Compliance Filing, Transmittal Letter at 8-9.

²³ *Id.* at 11-12.

²⁴ December 2011 Order on Compliance, 137 FERC ¶ 61,214 at P 53.

²⁵ March 2012 Compliance Filing, Transmittal Letter at 3-4.

²⁶ July 2012 Order, 140 FERC ¶ 61,060 at P 64.

²⁷ *Id.*

²⁸ *Id.*

c. August 2012 Compliance Filing

14. MISO proposed to modify the offer parameters for demand response resources to permit maximum daily contingency reserve and regulating reserve limits to be offered into the real-time market. MISO also proposed to use the new terms “Maximum Daily Contingency Reserve,” in sections 40.2.5.b(xxxvi) and 40.2.6.b(xix), and “Maximum Daily Regulation Up Deployment” and “Maximum Daily Regulation Down Deployment” in section 40.2.5.b(xxxiv)-(xxxv) of the Tariff to implement such offer parameters.²⁹

d. May 2013 Order

15. The Commission found that the proposed revisions enable demand response providers to ensure that they will not be called upon too frequently. However, the Commission required MISO to define the terms “Maximum Daily Regulation Up Deployment” and “Maximum Daily Regulation Down Deployment” in Module A of the Tariff.³⁰

e. September 2013 Compliance Filing

16. MISO proposes the following definitions in its redlined Tariff filing in eLibrary for “Maximum Daily Regulation Up Deployment” and “Maximum Daily Regulation Down Deployment” in Module A of the Tariff:³¹

Section 1.402b Maximum Daily Regulation Down Deployment

The maximum amount of net Regulating Reserve Deployment, expressed in MWh, that may be supplied in the down direction by a Demand Response Resource – Type II during the Operating Day.

²⁹ Section 40.2.5 addresses real-time offer parameters of Demand Response Resources – Type II, and section 40.2.6 addresses real-time offer parameters for Demand Response Resources – Type I. Demand Response Resources – Type I do not provide regulation service, and thus the other two offer parameters are not applicable to these resources. MISO explains that because these three phrases are defined in this subsection and are not used elsewhere in the Tariff, the definitions were not included in Module A of the Tariff.

³⁰ May 2013 Order, 143 FERC ¶ 61,145 at P 39.

³¹ These definitions may now be found in section 1.M of the Tariff.

Section 1.402c *Maximum Daily Regulation Up Deployment*

The maximum amount of net Regulating Reserve Deployment, expressed in MWh, that may be supplied in the up direction by a Demand Response Resource – Type II during the Operating Day in Real-Time Energy and Operating Reserves Market.³²

f. Commission Determination

17. We accept MISO’s proposed definitions of these two terms, subject to condition. Generally, we find these definitions to be sufficient as they provide adequate detail describing the manner in which MISO will ensure that Demand Response Resources – Type II are not called upon too frequently. However, in the August 2012 Compliance Filing, sections 40.2.5.b(xxxiv) and 40.2.5.b(xxxv) use “MW” to express “Maximum Daily Regulation Up Deployment” and “Maximum Daily Regulation Down Deployment,” respectively; however, in the September 2013 Compliance Filing, MISO defines each as being expressed in “MWh.” We require MISO, in the compliance filing directed below, to affirmatively state whether these terms should be expressed in “MW” or “MWh” and propose appropriate Tariff revisions to reconcile the inconsistencies between sections 1.402b and 1.402c and sections 40.2.5.b(xxxiv) and 40.2.5.b(xxxv). If the terms should be expressed in “MWh” then sections 40.2.5.b(xxxiv) and 40.2.5.b(xxxv) should be amended accordingly; conversely, if the terms should be expressed in “MW” then sections 1.402b and 1.402c should be amended accordingly.

18. In addition, MISO has provided the Commission with differing Tariff language that must be clarified. As stated above, in MISO’s redlined Tariff provisions in eLibrary, the definition of “Maximum Daily Regulation Up Deployment” ends with the phrase “...in Real-Time Energy and Operating Reserves Market,” whereas the definition of “Maximum Daily Regulation Down Deployment” does not. However, both of the eTariff definitions contain the phrase “...in Real-Time Energy and Operating Reserves Market.” The language filed in eTariff controls. Therefore, if the language filed in eTariff is incorrect, MISO must submit on compliance the correct Tariff language.

2. Customer Baselines and Measurements: Measurement and Verification Protocols

a. Background

19. In Order No. 719, the Commission required RTOs and ISOs to describe their efforts to develop customer baselines in order to measure demand response resource

³² September 2013 Compliance Filing, Transmittal Letter at 3.

output and to file a proposed mechanism for measuring and verifying any demand reduction by demand response resources.³³

20. In the December 2011 Order on Compliance, the Commission required MISO to include the measurement and verification protocols and metering guidelines for demand response resources in its Tariff. The Commission deferred judgment as to whether the proposed protocols were just and reasonable.³⁴ In its March 2012 Compliance Filing, MISO submitted its proposed measurement and verification protocols in a new Attachment TT to the Tariff which included potential methods for determining consumption baselines and demand reduction.³⁵ For a Demand Response Resource – Type II that is qualified to provide regulating reserves (i.e., is regulation-qualified) or has Inter-Control Center Communications Protocol (ICCP) telemetry capabilities, MISO proposed that its consumption baseline should be equal the resource’s forecasted demand for the resource’s Host Load Zone submitted via telemetry for each five-minute dispatch interval (i.e., the Dispatch Interval Demand Forecast).

b. July 2012 Order

21. Among other things, the Commission found that Attachment TT was unclear with regard to MISO’s consumption baselines and demand reduction measures for regulation-qualified Demand Response Resources – Type II when those resources are providing energy.³⁶ While Attachment TT stated the consumption baselines for regulation-qualified Demand Response Resources – Type II using Dispatch Interval Demand Forecasts, it failed to specify whether these baselines apply to Demand Response Resources – Type II providing regulating reserves alone, or also to regulation-qualified Demand Response Resources- Type II providing energy and contingency reserves.³⁷ The Commission therefore required MISO to submit either:

(1) Tariff provisions to make clear that section 4(e) applies only to Demand Response Resources – Type II that are providing regulating reserves (as opposed to those that are *qualified to provide* regulating reserves); or (2) a

³³ Order No. 719, FERC Stats. & Regs. ¶ 31,281 at PP 57, 61.

³⁴ December 2011 Order on Compliance, 137 FERC ¶ 61,214 at PP 79-80.

³⁵ MISO, FERC Electric Tariff, Attachment TT, §§ 4(a)-(d) (1.0.0).

³⁶ July 2012 Order, 140 FERC ¶ 61,060 at P 83.

³⁷ *Id.*

justification for applying section 4(e) to regulation-qualified Demand Response Resources – Type II when they are providing contingency reserves and/or energy, and corresponding Tariff provisions to make clear that section 4(e) applies to regulation-qualified Demand Response Resources – Type II when they provide regulating reserves, energy, and/or contingency reserves.^[38]

c. August 2012 Compliance Filing

22. In response to the Commission’s requirement regarding lack of clarity in Attachment TT regarding MISO’s consumption baselines and demand reduction measures for certain resources, MISO proposed revisions to former section 4(e) of Attachment TT changing it to be sections 3.ii(a) and 3.ii(b). The revisions provide that consumption baselines and demand reduction measures for regulation-qualified Demand Response Resources – Type II apply to those resources when they provide regulating reserves, energy, and/or contingency reserves (and not just when they provide regulation). MISO explained that a Demand Response Resource – Type II is not obligated to invest in metering and telemetry equipment to become qualified to provide regulating reserves; however, if it does elect to invest in such equipment and training, then the resource will be able to provide MISO better quality data and information. MISO stated that, in its view, only in such instances is it just and reasonable to require, via Attachment TT, such a Demand Response Resource – Type II to use metering and telemetry equipment and provide enhanced data and information for calculating consumption baselines.³⁹

d. May 2013 Order

23. The Commission found, among other things, that MISO did not make Tariff revisions clarifying that sections 3.ii(a) and 3.ii(b) of Attachment TT applies to Demand Response Resources – Type II that are regulation qualified when they are actually providing regulating reserves. Because sections 3.ii(a) and 3.ii(b) still referred to baselines for resources that are “Regulation Qualified” when it should have referred to baselines for resources that are “providing regulation services,” the Commission directed MISO in the compliance filing to revise Attachment TT to make this clarification.⁴⁰

³⁸ *Id.* (footnote omitted).

³⁹ August 2012 Compliance Filing, Transmittal Letter at 6-7.

⁴⁰ May 2013 Order, 143 FERC ¶ 61,145 at P 65.

e. **September 2013 Compliance Filing**

24. Regarding the Commission's directive requiring MISO to provide Tariff language clarifying that sections 3.ii(a) and 3.ii(b) of Attachment TT applies to Demand Response Resources – Type II when they are actually providing regulating reserves, MISO states that it has submitted appropriate revisions. Specifically, MISO states that it has revised sections 3.ii(a) and 3.ii(b) of Attachment TT to instead refer to “‘DRR-Type II that are providing regulation services’ (referring to both regulation-qualified Demand Response Resources - Type II that are clearing Contingency Reserves and/or Energy in the Energy and Operating Reserves markets, and regulation-qualified Demand Response Resources - Type II that are clearing Regulating Reserves in the Energy and Operating Reserves markets) and ‘DRR that are not providing regulation service’ (referring to Demand Response Resources - Type II that are not qualified to provide Regulating Reserves), respectively.”⁴¹

f. **Commission Determination**

25. We accept MISO's revisions to the measurement and verification protocols in Attachment TT, subject to condition.

26. Regarding the Commission's directive requiring MISO to provide Tariff language clarifying that sections 3.ii(a) and 3.ii(b) (formerly section 4(e)) of Attachment TT applies to Demand Response Resources – Type II when they are actually providing *regulating reserves*, we find that the proposed revisions to sections 3.ii(a) and 3.ii(b) clarify the consumption baselines for regulation-qualified Demand Response Resources – Type II that are providing *contingency reserves* based on whether or not the resource is providing operating reserve services and/or energy in the Energy and Operating Reserve Market. However, the revisions do not differentiate the contingency reserve consumption baselines for a regulation-qualified Demand Response Resource – Type II from the consumption baseline that would be required under the circumstance that the Demand Response Resource – Type II was not actively providing contingency reserves, but still providing regulating reserves (i.e. a regulating reserve consumption baseline). According to Module A of the Tariff, Operating Reserve “consists of Regulating Reserve and Contingency Reserve.”⁴² If it was MISO's intent to have one consumption baseline that would apply to a regulation-qualified Demand Response Resource – Type II that is providing regulating reserve service or contingency reserve service and/or energy, that consumption baseline should not be described under a section that is labeled consumption

⁴¹ *Id.*

⁴² See MISO, FERC Electric Tariff, Module A, 1.O, Definitions – O.

baselines for contingency reserves, but instead should exist under a section that is labeled consumption baselines for operating reserves, as regulating reserves are a subset of operating reserves, not contingency reserves. For example, it would be more accurate to label the proposed section 3(ii)(a), “DRR-Type II that are Providing Operating Reserve Service” instead of “DRR Type II that are Providing Regulation Service.”⁴³

27. Therefore, we direct MISO, on compliance, to replace sections 3.ii(a) and 3.ii(b) with a new section that describes the consumption baseline(s) that applies to regulation-qualified Demand Response – Type II that are actively providing regulating reserves or contingency reserves under separate headings and appropriately reflects that regulating reserves and contingency reserves as two separate operating reserve products. In the consumption baseline for operating reserve section, MISO should clarify what the consumption baseline(s) is for a regulation-qualified Demand Response Resource – Type II that is actively providing regulating reserves or contingency reserves and whether or not a different consumption baseline is required for either of the operating reserve services. Furthermore, MISO should replace “regulation service” with “operating reserve service” in sections 3.ii(a) and 3.ii(b) in all cases where MISO is describing the clearing of contingency reserves and regulating reserves, since regulation service describes the action of deploying regulating reserves not contingency reserves.

B. Miscellaneous Issues

1. May 2013 Order

28. The Commission required MISO to submit in its compliance filing Tariff revisions to address certain specific typographical concerns including, among other things, changing section 38.6.4 from “resources” to “Resources.”⁴⁴

⁴³ According to Module A of MISO’s Tariff, Regulating Service is defined as, “the Regulating Reserve and Regulating Mileage that is used for Regulating Reserve Deployment.” MISO, FERC Electric Tariff, Module A, 1.R, Definitions – R. Therefore, the use of “regulation service” to describe the circumstance where the Demand Response Resource – Type II is actively providing an operating reserve is incorrect as this term only applies to regulating reserve deployment not contingency reserve deployment.

⁴⁴ May 2013 Order, 143 FERC ¶ 61,145 at P 109.

2. September 2013 Compliance Filings

29. MISO states that it has made all of the specified changes required by the Commission or addressed the requirements in other proceedings.⁴⁵

3. Commission Determination

30. We accept MISO's revisions regarding the capitalization of the term "resources." However, we will also require MISO to capitalize the two other instances of the term "resource" occurring in section 38.6.4.

C. Tariff Inconsistencies

1. Inconsistencies between Tariff Provisions Accepted in the July 2012 Order for Order No. 745 and MISO's August 2012 Order No. 745 Compliance Filing

a. May 2013 Order

31. As discussed in the Order No. 745 Order on Compliance Filing issued concurrently with the May 2013 Order,⁴⁶ MISO, without explanation, reinserted language in proposed section 40.3.3 of the Tariff that had been removed as ordered by the Commission, and in other places in that section of the Tariff, MISO removed language that the Commission had previously accepted regarding compensation for demand response resources and behind-the-meter generation. Specifically, such unexplained changes were made in sections 40.3.3.b(vi), 40.3.3.c(ii), and 40.3.3.c(iii) of the Tariff. The Commission therefore required MISO to follow the directives in the Order No. 745 Order on Compliance Filing with respect to those provisions, filing any explanation or revisions in both compliance filings.⁴⁷

32. Consistent with the directives in the Order No. 745 Order on Compliance Filing, the Commission also directed MISO, in both proceedings, to address other inconsistencies between MISO's March and August 2012 Compliance Filings with

⁴⁵ September 2013 Compliance Filing, Transmittal Letter at 9-11.

⁴⁶ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,146, at PP 98-103 (2013) (Order No. 745 Order on Compliance Filing).

⁴⁷ May 2013 Order, 143 FERC ¶ 61,145 at P 110; Order No. 745 Order on Compliance Filing, 143 FERC ¶ 61,146 at PP 102-103.

respect to Tariff section 40.3.3 (including, but not limited to, sections 40.3.3.a(i), 40.3.3.a(ii)(2), 40.3.3.a(ii)(4), 40.3.3.a(ii)(7), 40.3.3.a(iii)(1), 40.3.3.a(iii)(2), 40.3.3.a(iii)(7), 40.3.3.a(v), 40.3.3.a(vi), 40.3.3.a(viii), 40.3.3.a(xvii), and 40.3.3.c(iv)) by either submitting: (1) detailed explanations of the basis for each such discrepancy (excluding those specifically accepted in the July 2012 Order) between the section 40.3.3 provisions in MISO's March and August 2012 Compliance Filings, including, where applicable, a description of any dockets in which the Commission has accepted the provisions included in MISO's August 2012 Compliance Filing; or (2) propose Tariff revisions to address such inconsistencies.⁴⁸

33. In addition, MISO, without explanation, included in its August 2012 Compliance Filing numerous proposed revisions to Tariff Schedule 27: Real-Time Offer Revenue Sufficiency Guarantee Payment and Day-Ahead Margin Assurance Payment. Those revisions are included in sections A.2.b, A.2.c, A.2.d, B.2.b.i, B.2.b.ii, B.2.c.i and B.2.c.ii of Schedule 27. The Commission found that MISO's proposed revisions to Schedule 27 were beyond the scope of that compliance proceeding and lacked support or explanation. The Commission therefore directed MISO to remove any proposed revisions to Schedule 27 unless and until those revisions have been properly proposed and accepted by the Commission in another proceeding.⁴⁹

b. September 2013 Compliance Filing

34. Regarding sections 40.3.3.b(vi), 40.3.3.c(ii), and 40.3.3.c(iii) of the Tariff, MISO states that the Tariff revisions submitted in its April 11, 2013 filing in Docket No. ER12-668-002 correctly reflected the insertions and/or deletions explained and directed by the Commission in the Order No. 745 Order on Compliance Filing.⁵⁰

⁴⁸ May 2013 Order, 143 FERC ¶ 61,145 at P 111; Order No. 745 Order on Compliance Filing, 143 FERC ¶ 61,146 at PP 104-105.

⁴⁹ May 2013 Order, 143 FERC ¶ 61,145 at P 113; Order No. 745 Order on Compliance Filing, 143 FERC ¶ 61,146 at PP 106-107.

⁵⁰ MISO notes that the April 11, 2013 filing was intended to reconcile inconsistencies between Tariff language filed via .pdf files in eLibrary and eTariff language submitted to FERC through .rtf electronic files, and this filing was accepted by the Commission on July 30, 2013. *See Midwest Indep. Transmission Sys. Operator, Inc.*, Docket Nos. ER12-668-000, ER12-668-001, and ER12-668-002 (July 30, 2013) (delegated letter order). September 2013 Compliance Filing, Transmittal Letter at 14.

35. Regarding the instances in the Order No. 745 Order on Compliance Filing where the Commission identified “inappropriately re-inserted language that determines Demand Response Resource excessive energy payments in relation to the net benefits threshold and to behind the meter generation”⁵¹ as well as unexplained changes in various section 40.3.3 provisions, MISO asserts that such re-inserted language and unexplained changes were the result of “squeeze sheeting.”⁵² MISO states that it has since discontinued this practice due to these errors and has instead implemented a standard practice of only filing its proposed Tariff revisions on the most current version of pending Tariff language, regardless of effective date, thereby greatly reducing the chance of such errors or inconsistencies. MISO asserts that Version 10.0.0 of section 40.3.3.a as previously filed in Docket Nos. ER12-668-000, ER12-668-001, and ER12-668-002, reflects MISO’s accepted and corrected version of Section 40.3.3.⁵³

36. Regarding MISO’s unexplained revisions to Schedule 27 of the Tariff, MISO states that it previously submitted proposed revisions to Schedule 27 in Docket No. ER12-1664, and these revisions were approved by the Commission on September 20, 2012.⁵⁴ MISO adds that revisions to Schedule 27 were also proposed in Docket No. ER12-668-001 on August 21, 2012, which were ultimately approved by the Commission on July 30, 2013.⁵⁵ According to MISO, the revisions in those two dockets, in tandem, essentially reflected the revisions that were submitted in MISO’s August 2012

⁵¹ September 2013 Compliance Filing, Transmittal Letter at 15 (citing Order No. 745 Order on Compliance Filing, 143 FERC ¶ 61,146 at P 103).

⁵² According to MISO, “[s]queeze sheeting is the act of inserting or ‘squeezing’ one version of a tariff section between two already filed versions of that same tariff section based on effective date. It was MISO’s past practice to use ‘squeeze sheeting’ in situations where a new tariff section was filed for which MISO requested an effective date that fell between the effective dates of two existing versions of that tariff section on file with FERC. MISO has discontinued the use of ‘squeeze sheeting.’” *Id.*

⁵³ *Id.*

⁵⁴ *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,224 (2012)).

⁵⁵ *Id.* (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, Docket Nos. ER12-668-000, ER12-668-001, ER12-668-002 (July 30, 2013) (delegated letter order)).

Compliance Filing. MISO therefore withdraws its request for the Tariff revisions to Schedule 27 as part of its September 2013 Compliance Filing.⁵⁶

c. Commission Determination

37. With respect to the Commission's directives requiring MISO to revise section 40.3.3, we address compliance with these directives in the concurrently issued order regarding compliance with the Order No. 745 Order on Compliance Filing.⁵⁷

2. Inconsistencies between eLibrary and eTariff Filings

a. May 2013 Order

38. Pursuant to Order No. 714,⁵⁸ the Commission requires public utilities to file all tariffs, tariff revisions and rate change applications with the Commission.⁵⁹ The Commission specified that no substantive differences should exist between the tariff provisions filed as part of the XML data (in eTariff) and the tariff provisions filed as attachments (in eLibrary).⁶⁰ As such, MISO's filings in eTariff and in eLibrary should be identical. However, the Commission found that MISO omitted certain parts of the filing in eTariff that it included in eLibrary. For example, sections 1.74, 39.2.5a, 39.3.1, 39.3.1A, and 39.3.1B were included with changes in redline in the eLibrary filing but were not included in the eTariff filing for this proceeding. Conversely, section 1.569a was included in the eTariff filing but not the eLibrary filing. The Commission also noted an inconsistency between the eTariff and eLibrary filings in section 38.6(3), in which only the eLibrary version contained the phrase "or energy provision of an EDR resource." Additionally, in section 40.2.6(b)(viii), the eLibrary version referred to "Module E-1" and the eTariff version referred to "Section 69." The Commission therefore directed MISO to review the entire eLibrary and eTariff filings in this proceeding and, with respect to each inconsistency, to submit appropriate modifications

⁵⁶ *Id.*

⁵⁷ *Midcontinent Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,193, at PP 57-72 (2016) (2016 Order No. 745 Compliance Order).

⁵⁸ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

⁵⁹ *Id.* P 114.

⁶⁰ *Id.* P 59.

to either the eTariff version or the eLibrary version of the filing, or both, to ensure consistency, and to provide an explanation supporting each change.

b. September 2013 Compliance Filing

39. MISO states that it has performed a comprehensive review of the eTariff and eLibrary filings in these proceedings and submits the following Tariff sections to correct any discrepancies: sections 1.74, 39.3.1, 39.3.1A, 39.3.1B, Attachment TT, 38.6, 40.2.6(b)(viii), and 39.2.5A. MISO states that it is submitting clean and redlined versions of Section 39.2.5A to include capitalizing the word “offer” after Energy in paragraph b; changing the first word in paragraph b(ii) to “the,” changing the first “is” to “shall be,” and adding the phrase “shall consist of either a stepped or a piecewise linear Offer curve of up to three (3) segments, and shall be monotonically increasing. A Spinning Reserve Offer” after “and.” These Tariff revisions were reflected as redlines in eLibrary, but they were inadvertently not included in the eTariff filing in these dockets.

c. Commission Determination

40. We accept MISO’s compliance with respect to its revisions to section 39.2.5A, subject to condition. MISO states in its transmittal letter that it has capitalized the word “offer” after the word “Energy” in paragraph b. However, the version filed in eTariff with the September 2013 Compliance Filing has not capitalized “offer” after the word “Energy” in paragraph b. Also, we find that section 39.2.5A(b)(i) states “Energy Offer Curve” when the word “Curve” should not be capitalized; it should therefore read “Energy Offer curve.” On compliance, we require MISO to change the word “offer” to “Offer” and the word “Curve” to “curve,” as stated above.

D. Effective Date

1. Background

41. In the July 2012 Order, the Commission approved MISO’s request for an effective date of June 12, 2012 for the Tariff provisions that were necessary to comply with Order No. 719.⁶¹ In the August 2012 Compliance Filing, MISO requested an effective date of June 12, 2012 for all Tariff provisions, except those that address: (1) provisions to allow demand response providers to provide multi-part offer curves for operating reserves; (2) the provisions to allow Maximum Daily Regulating Reserve and Maximum Daily Contingency Reserve; and (3) the removal of the Host Load Zone association for Demand Response Resource – Type II. MISO instead requested an effective date of

⁶¹ July 2012 Order, 140 FERC ¶ 61,060 at P 166.

December 1, 2014 for Tariff provisions that address these three matters, stating that each of these changes requires significant modifications to MISO's market software.⁶²

2. May 2013 Order

42. The Commission accepted MISO's request to extend the effective date of the three specified matters until December 1, 2014. Nevertheless, to enhance appropriate provision of demand response, the Commission directed MISO to make such Tariff revisions and accompanying software and other modifications as expeditiously as possible, and in any event no later than December 1, 2014. The Commission further required MISO to notify the Commission at least 10 days in advance of the effective date of implementation of these Tariff provisions.⁶³

3. September 2013 Compliance Filing

43. After reiterating that the Commission approved MISO's request for a June 12, 2012 effective date for the Tariff provisions necessary to comply with Order No. 719 and also permitted an effective date of no later than December 1, 2014 in order for MISO to address the three matters discussed above, MISO states that it submits Tab C, which lists Tariff provisions being submitted in the September 2013 Compliance Filing that have a June 12, 2012 and/or December 1, 2014 effective date. MISO states that it will notify the Commission at least 10 days in advance of the effective date of the implementation of the Tariff provisions that reflect a December 1, 2014 effective date.

4. Commission Determination

44. In this order, we accept MISO's September 2013 Compliance Filing, effective June 12, 2012. With respect to the Tariff provisions submitted in Tab C for which a December 1, 2014 effective date was accepted, this issue is now moot as these provisions are now effective March 1, 2015 pursuant to the outcome of another proceeding.⁶⁴

⁶² August 2012 Compliance Filing, Transmittal Letter at 16-17.

⁶³ May 2013 Order, 143 FERC ¶ 61,145 at P 118.

⁶⁴ On August 26, 2014, MISO requested a later effective date of no later than March 1, 2015 for these Tariff provisions due to software-related implementation issues. An effective date of March 1, 2015 was ultimately accepted. *See* MISO, Docket No. ER14-2711-000 (Oct. 24, 2014) (delegated letter order).

The Commission orders:

(A) MISO's September 2013 Compliance Filing is hereby accepted, effective June 12, 2012, subject to condition, as discussed in the body of this order.

(B) MISO is hereby directed to submit a compliance filing, due within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.