

170 FERC ¶ 61,257  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

March 26, 2020

In Reply Refer To:  
Midcontinent Independent System  
Operator, Inc.  
Docket No. ER20-877-000

Midcontinent Independent System Operator, Inc.  
720 City Center Drive  
Carmel, IN 46032

Attention: Aaron A. Fate

Dear Mr. Fate:

1. On January 27, 2020, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Midcontinent Independent System Operator, Inc. (MISO) submitted proposed revisions to Attachment L (Credit Policy) of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to enhance its ability to protect MISO market participants from financial loss.<sup>2</sup> As discussed below, we accept MISO's proposed amendments, effective March 28, 2020, as requested.

2. MISO states that, in light of significant credit events in other Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs),<sup>3</sup> it is proposing revisions to its Tariff to better protect its market participants from financial

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<sup>1</sup> 16 U.S.C. § 824d (2018).

<sup>2</sup> MISO, FERC Electric Tariff, Attachment L, Credit Policy, 46.0.0; MISO, FERC Electric Tariff, Attachment L, Credit Policy, 47.0.0.

<sup>3</sup> MISO Transmittal at 1-2 (citing *PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,260 (2019); Robert Anderson, Neal Wolkoff, & Arleigh Helfer, *Report of the Independent Consultants on the GreenHat Default*, <https://www.pjm.com/-/media/library/reports-notice/special-reports/2019/report-of-the-independent-consultants-on-the-greenhat-default.pdf> (March 2019); *Light Power & Gas of NY LLC v. N.Y. Indep. Sys. Operator, Inc.*, 167 FERC ¶ 61,232, at P 46, *reh'g denied*, 169 FERC ¶ 61,216 (2019) (LPGNY Complaint Order)).

loss. Specifically, MISO proposes revisions that allow it to broaden the information requested in its credit evaluations, take action by asking for additional financial security or suspending trading when necessary to protect the market from an unreasonable credit risk, and prevent a market participant with a prior uncured default in MISO's market from reentering under a different corporate form.<sup>4</sup>

3. First, MISO proposes to include additional disclosures in Attachment L of its Tariff. Specifically, MISO proposes to add the following questions to its Annual Certification Form: (1) whether an applicant, tariff customer, or an affiliate has defaulted in an energy market within the last five years; (2) whether an applicant has experienced bankruptcy, dissolution or went through any kind of merger or acquisition that led to a material change; and (3) whether the applicant is aware of any past or ongoing investigations in the last five years that it is legally able to disclose.<sup>5</sup>

4. Second, MISO proposes to include additional criteria in its Tariff to address unreasonable credit risk for new applicants and existing market participants, respectively. Specifically, MISO proposes that it have the authority to require additional financial security, reject the application of an entity seeking to become a market participant, or suspend an existing market participant if MISO determines that any such party presents an "unreasonable credit risk." MISO states that unreasonable credit risk may be identified based on, but not limited to, the material provided in the Annual Certification Form. MISO explains that additional financial security will reflect the proportional increase in credit risk to MISO administered markets. MISO states that it will work with the applicant/existing market participant when determining unreasonable credit risk for new applicants and existing market participants.<sup>6</sup> According to MISO, if an applicant or existing market participant were determined to present "unreasonable credit risk," MISO will then make its decision on whether to require additional collateral, reject an application, or suspend an existing market participant based on a thorough assessment that would be preserved in writing and could, if necessary, present a record reviewable by the Commission in a Commission proceeding.<sup>7</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 4; MISO, FERC Electric Tariff, Attachment L, Exhibit VI (46.0.0) (proposed).

<sup>6</sup> MISO, FERC Electric Tariff, Attachment L, §§ I.A.8 (proposed) and I.B.8 (46.0.0) (proposed).

<sup>7</sup> MISO Transmittal at 4.

5. Finally, MISO proposes to include an additional criterion in its Tariff to address re-entry of a defaulting market participant.<sup>8</sup> MISO states that, in addition to the provisions for curing a market participant default contained elsewhere in the Tariff, a market participant whose previous default resulted in a loss to the MISO administered market must cure such default by payment to MISO of all outstanding and unpaid obligations, as well as meet all requirements for market participation. MISO proposes to evaluate relevant factors to determine if an entity seeking to participate in the MISO administered markets under a different name, affiliation, or organization, should be treated as the same market participant that experienced a previous MISO default. MISO states that such factors may include, but are not limited to, the interconnectedness of the business relationships, overlap in relevant personnel, similarity of business activities, overlap of customer base, and the business in which engaged prior to the attempted re-entry.<sup>9</sup> According to MISO, this is consistent with Commission guidance given in its order denying Light Power & Gas of NY LLC's complaint against New York Independent System Operator, Inc. (NYISO) where the Commission encourages NYISO to list the factors NYISO will consider in determining whether to attribute a prior tariff customer's default to another entity.<sup>10</sup>

6. Notice of MISO's filing was published in the *Federal Register*, 85 Fed. Reg. 5656 (2020), with interventions and protests due on or before February 18, 2020. Illinois Commerce Commission filed a notice of intervention. Timely motions to intervene were filed by MidAmerican Energy Company, DC Energy, LLC, Entergy Services, LLC,<sup>11</sup> Cooperative Energy, Calpine Corporation, NRG Power Marketing LLC, Ameren Services Company,<sup>12</sup> Consumers Energy Company, Xcel Energy Services Inc.,<sup>13</sup>

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<sup>8</sup> *Id.* at 5.

<sup>9</sup> MISO, FERC Electric Tariff, Attachment L, § I.A.9 (46.0.0) (proposed).

<sup>10</sup> MISO Transmittal at 5 (citing LPGNY Complaint Order, 167 FERC ¶ 61,232 at P 46).

<sup>11</sup> Entergy Services, LLC submitted its motion to intervene on behalf of the following: Entergy Arkansas, LLC; Entergy Louisiana, LLC; Entergy Mississippi, LLC; Entergy New Orleans, LLC; and Entergy Texas, Inc.

<sup>12</sup> Ameren Services Company submitted its motion to intervene on behalf of the following: Ameren Illinois Company; Ameren Transmission Company of Illinois; and Union Electric Company.

<sup>13</sup> Xcel Energy Services Inc. submitted its motion to intervene on behalf of the following: Northern States Power Company, a Minnesota corporation; and Northern States Power Company, a Wisconsin corporation.

American Municipal Power, Inc., and Boston Energy Trading and Marketing LLC. On February 19, 2020, Financial Marketers Coalition filed a late motion to intervene.

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding in which they were filed. In addition, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2019), the Commission will grant Financial Marketers Coalition's late-filed motion to intervene given its interest in this proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

8. We find that MISO's proposed revisions are just and reasonable and not unduly discriminatory or preferential, and therefore we accept them for filing, effective March 28, 2020, as requested. The proposed revisions will allow MISO to improve the protection of its market participants from financial losses that result from unreasonable credit risks and defaults while also providing additional clarity and transparency to market participants. Further, we note MISO's commitment that any decision it makes with regard to rejecting or suspending a market participant would be preserved in writing and could form a record before a Commission proceeding if necessary.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.