

173 FERC ¶ 61,168
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James P. Danly, Chairman;
Neil Chatterjee and Richard Glick.

Midcontinent Independent System Operator, Inc.

Docket No. ER20-1901-000

ORDER ON WAIVER REQUEST

(Issued November 19, 2020)

1. On May 26, 2020, pursuant to section 205 of the Federal Power Act,¹ Midcontinent Independent System Operator, Inc. (MISO) submitted a request for a limited waiver of certain provisions of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff), regarding eligibility requirements for certain make-whole payments while receiving manual redispatch instructions in order to implement equitable relief granted to Entergy Texas, Inc. (ETI) through MISO's alternative dispute resolution (ADR) process. As discussed below, we find that MISO is authorized under the Tariff to make the payment to ETI determined under the Tariff's ADR process and dismiss MISO's request for waiver as unnecessary.

I. Background

2. MISO states that on November 12, 2018, ETI's Sabine 5 natural gas plant had a day-ahead schedule volume award of 450 MW, with an offered ramp rate of 3 MW per minute. MISO states that during the operating day its unit dispatch system dispatched Sabine 5 below its day-ahead schedule volume to a setpoint of 190.98 MW at Hour Ending (HE) 18 (i.e., 18:00), which Sabine 5 met. MISO explains that at 18:05, Sabine 5 received manual redispatch instructions² from MISO to return to its day-ahead schedule volume, which took Sabine 5 three five-minute intervals to reach due to the limited ramp capabilities of the unit. According to MISO, Sabine 5 was denied day-ahead margin

¹ 16 U.S.C. § 824d.

² Manual redispatch instructions are dispatch targets issued by MISO that are created other than through the automated security constrained economic dispatch software. *See* MISO, FERC Electric Tariff, § 1.M (65.0.0).

assurance payments³ when manually redispached for the three intervals it was ramping back to its day-ahead schedule. MISO explains that this is because the eligibility rules for day-ahead margin assurance payments require a resource to have received a manual redispach setpoint below its day-ahead schedule to qualify, and in this case the manual redispach setpoint was set at the day-ahead schedule.⁴

3. MISO states that its Tariff does not require, and MISO's system is currently incapable of enabling, manual redispach setpoint directives to take a resource's offered ramp rate into account. MISO explains that this caused Sabine 5 to receive a setpoint instruction that did not take its offered ramp rate into consideration. MISO also states that day-ahead margin assurance payment eligibility rules do not authorize MISO to allow day-ahead margin assurance compensation based on after-the-fact adjustments to manual redispach setpoint instructions based on the resource's offered ramp rate.⁵

4. MISO states that during its informal ADR process, MISO determined that it would be inequitable to not provide day-ahead margin assurance payments to Sabine 5 over the three intervals it was ramping to its manual redispach setpoint. MISO considers relief warranted here because Sabine 5 was dispatched below its day-ahead schedule volume in HE 18, before being manually redispached back up to its day-ahead schedule volume in the proceeding intervals. MISO states that its ADR determination granted relief in the amount of \$4,064.74, which is the amount Sabine 5 would have received if it had been granted day-ahead margin assurance payments for the three disputed intervals.⁶

II. Waiver Request

5. MISO requests waiver of sections 33.8, 40.3.6, *et seq.*, and Schedule 27, of the Tariff, and any other Tariff provisions regarding compensation for manual redispach, to the extent those provisions may preclude or otherwise authorize full compensation for

³ Day-ahead margin assurance payments ensure recovery of a resource's Day-Ahead Margin, which is the difference between the market participant's accepted day-ahead offers for energy and operating reserves and the day-ahead ex post locational marginal price and market clearing price for that day-ahead interval, when its Day-Ahead Margin would be eroded with the dispatch of energy or operating reserves below day-ahead schedules economically or the dispatch of energy below day-ahead schedules through manual re-dispatch, when the resource meets specified eligibility criteria. *See* MISO, FERC Electric Tariff, § 40.3.6 (30.0.0).

⁴ Waiver Request at 4.

⁵ *Id.* at 4-5 (citing MISO, FERC Electric Tariff, §§ 33.8 and 40.3.6, and Schedule 27).

⁶ *Id.* at 5.

Sabine 5's compliance with MISO's manual redispatch instructions. MISO contends that its waiver request satisfies the Commission's criteria for granting waiver. MISO also states that its waiver request involves MISO's past Tariff compliance that produced inequitable results, which it would be equitable, just and reasonable to remedy with a waiver.⁷

6. First, MISO argues that it acted in good faith in evaluating the informal ADR claim brought by ETI and in pursuing the resolution of those claims. MISO asserts that it seeks this waiver in good faith in view of Tariff provisions that could preclude the equitable compensation to ETI. MISO contends that ETI acted in good faith by meeting the unit dispatch system dispatch instructions and manual redispatch instructions, and ETI should not be harmed for following MISO's instructions. Second, MISO asserts that the waiver request is limited in scope to the remedy for non-payment of day-ahead margin assurance payment in three intervals in one hour of one day. Third, MISO states that the inability to receive day-ahead margin assurance payments when a resource follows manual redispatch instructions is a concrete problem under the Tariff. MISO also states that it has proposed Tariff revisions to address the issue in the stakeholder process, but it has yet to file them with the Commission. Finally, MISO contends that the waiver will not have undesirable consequences, such as harming third parties, because the relief involves making whole and holding harmless a resource whose compliance with a previous dispatch instruction caused it to lose day-ahead margin assurance payment eligibility when it subsequently received and followed manual redispatch instructions.⁸ MISO states that the total relief of \$4,064.74 will have a minimal impact, ranging from \$0.03 to \$336.27, on affected market participants.⁹ MISO asks that this waiver be effective May 27, 2020, one day after the date of filing.

⁷ *Id.* at note 5.

⁸ *Id.* at 8-9.

⁹ MISO states that the relief will be implemented through the issuance of a miscellaneous adjustment on an upcoming market settlement statement and will be allocated to market participants based on their load ratio share during the dates and periods for which ETI is granted relief. *Id.* at 9.

III. Notice and Responsive Pleadings

7. Notice of MISO's waiver request was published in the *Federal Register*, 85 Fed. Reg. 33,657 (June 2, 2020), with interventions and protests due on or before June 16, 2020. Entergy Services, LLC, (Entergy Services), on behalf of ETI, timely filed a motion to intervene and comments. Entergy Services states that it supports MISO's waiver request as it will ensure that ETI is fully compensated for costs it incurred to comply with a MISO directive.¹⁰

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), Entergy Services' timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

9. We find that MISO is authorized under the Tariff to make the payment to ETI determined under the Tariff's ADR process and dismiss as unnecessary MISO's request for waiver of sections 33.8, 40.3.6, *et seq.*, and Schedule 27 of the Tariff. The Tariff provides a path for a market participant to bring a settlement dispute through the ADR process if it meets the timing requirements for submission under the Tariff.¹¹ The Tariff also requires MISO to provide notice to any party that may be directly impacted by the outcome of the dispute and allow the party the opportunity to participate in the ADR process.¹² We find that MISO and ETI followed the ADR process set forth in the Tariff and, as a result MISO may make the payment to ETI determined as a result of the ADR process.¹³

10. Section IV.L of Attachment HH states that the "arbitrator(s) shall have no authority to revise or alter any provision of the ISO Agreement or this Tariff." However, after reviewing MISO's filing and Tariff, we find that it is not necessary to revise, alter, or waive any provision of the Tariff to implement the ADR determination. Instead, consistent with the ADR determination, MISO can update the manual redispatch setpoint

¹⁰ Entergy Services Comments at 1.

¹¹ *See* MISO, FERC Electric Tariff, Attachment HH § B.1 (34.0.0).

¹² *See id.* § D (34.0.0).

¹³ *See id.* § IV.L (34.0.0).

instructions to take into account ETI's offered ramp rates for Sabine 5 for the three disputed intervals as part of its implementation. The Tariff defines manual redispatch instructions as dispatch targets issued by MISO that are created other than through the automated security constrained economic dispatch software and provides no further explanation on how manual redispatch instructions are formulated. The Tariff does not restrict MISO from updating manual redispatch setpoint instructions to take into account a resource's offered ramp rate for resettlement purposes. Updating the manual redispatch setpoint instructions to take ETI's ramp rate offers for Sabine 5 into account for the three disputed intervals causes the manual re-dispatch setpoint instructions to be below Sabine 5's day-ahead schedule for those intervals, which would then be consistent with the setpoint instruction rules for day-ahead margin assurance payments under the Tariff.

The Commission orders:

MISO's waiver request is hereby dismissed as unnecessary, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.