

**UNITED STATES OF AMERICA
BEFORE
THE FEDERAL ENERGY REGULATORY COMMISSION**

**Midcontinent Independent System
Operator, Inc.’s Sections 205 and 206
Filings to Amend Tariff Provisions to
Establish a Stored Energy Resource –
Type II**

**Docket Nos. ER17-1376-000
EL17-8-000**

**MOTION TO INTERVENE AND COMMENTS OF
THE ENERGY STORAGE ASSOCIATION**

Pursuant to Sections 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. §385.212 and §385.214, 18 U.S.C., and the Combined Notice of Filings #2 issued on April 3, 2017, the Energy Storage Association (“ESA”) respectfully submits its Motion to Intervene and Comments in the captioned matter. For the reasons delineated herein, it is clear that the Midcontinent Independent System Operator, Inc.’s (“MISO”) April 3, 2017 compliance filing (the “Compliance Filing”) does not meet the requirements that the Commission set forth in its February 1, 2017, Order.¹ First, in contravention of the Commission’s Order, the Compliance Filing restricts the list of services that can be provided by SER Type II resources. Second, in its Compliance Filing MISO includes requirements that contravene with the unique technical and operational characteristics of electric storage resources. Thus, ESA respectfully requests that the Commission direct MISO to modify its proposed tariff to comply with FERC’s Order. Lastly, for the reasons detailed below, ESA respectfully requests that FERC grant ESA’s Motion to Intervene in this docket.

¹ *Indianapolis Power & Light Company, v. Midcontinent Indep. Sys. Operator, Inc.* 158 FERC ¶ 61,107 (2017).

I. MOTION TO INTERVENE

In the instant docket, the Commission will ultimately determine those resources that are allowed to participate in MISO's markets. The Energy Storage Association consists of 200 member companies that include manufacturers of advanced technologies (such as batteries, flywheels, thermal energy storage, compressed air energy storage, supercapacitors, etc.), utilities, independent power producers, component suppliers, and system integrators that will all be subject to FERC's decision in the instant docket. ESA will be directly affected by the outcome of these proceedings and its interests cannot adequately be represented by any other party. Accordingly, ESA respectfully requests that the Commission grant its motion to intervene.

II. COMMUNICATIONS

Communications regarding this filing should be directed to the following persons, who should be placed on the Commission's official service list in this proceeding:

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III. COMMENTS

Fundamentally, MISO's Compliance Filing is incomplete and inadequate to meet the Commission's Order. Although MISO considers its proposals to be an interim step while the Commission evaluates whether new tariffs should be implemented for the storage industry as

part of Docket No. RM16-23-000² the existence of the related rulemaking should not absolve MISO of its obligation to satisfactorily comply with the Commission's Order.

Moreover, even as an interim step, the Compliance Filing is incomplete in meeting the intent of the Order. In the Commission Order, FERC explicitly required MISO to accommodate the participation of all energy storage resources, regardless of technology, in all MISO markets that they are capable of participating in, taking into account their unique physical and operational characteristics.³ Yet, as described below, that is not what MISO included in its proposed tariff. In addition to these limited points, ESA largely agrees with the arguments filed with Indianapolis Power & Light in the instant docket and recommends their consideration by the Commission as well.

ESA also cautions that MISO has failed to describe significant details of the SER-Type II service. Clearly, the "devil is in the details," and many of the specifics of the SER-Type II service could be ultimately decided as part of a stakeholder process following the September 1, 2017 tariff language implementation deadline; as such, ESA requests that the Commission ensure MISO take timely follow-up actions. Nevertheless, as pertains to what is before the Commission for consideration in the instant matter, it is essential that MISO's implementation of its proposed tariff complies with the substance – and not just the form -- of the Commission's Order.

A. MISO's Compliance Filing should meet the standards required in the Commission's Order, regardless of other Commission activity.

MISO suggests that its Compliance Filing is an "interim" solution while more significant

² See the Commission's November 17, 2016 Notice of Proposed Rulemaking in Docket No. RM16-23-000, *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 157 FERC ¶ 61,121 (2016).

³ *Indianapolis Power & Light Company, v. Midcontinent Indep. Sys. Operator, Inc.* 158 FERC ¶ 61,107 (2017) (the "Commission's Order") at P 72.

changes are addressed through the rulemaking in Docket No. RM16-23-000 and MISO stakeholder processes.⁴ While the Commission acknowledges that the rulemaking covers topics considered in MISO’s Compliance Filing, nevertheless the Commission clearly states that MISO must remedy its unjust and unreasonable Tariff and suggests only that “MISO *may* be required to adjust its Tariff to align with the Commission’s determinations in that final rule.”⁵ This should not be interpreted as absolving MISO of a complete Compliance Filing. Rather, MISO must still present a Compliance Filing that meets the standard required in the Commission Order.

B. In contravention with the Commission’s directives, MISO’s Compliance Filing restricts the list of services that can be provided by SER-Type II resources.

In its Compliance Filing, MISO explicitly limits the markets in which an SER-Type II resource is eligible to participate. Those markets are: Energy, Capacity, Spinning Reserve, Supplemental Reserve, and Regulating reserve⁶. Noticeably absent are other areas where storage resources have proven to be successful, including, but not limited to Ramp Capability, voltage support and blackstart. The lack of explicit mention of these services fails to fully enable the participation of storage resources in all MISO markets that they are capable of participating in. Therefore, ESA respectfully asks the Commission to direct MISO to revise its Compliance Filing to include Ramp Capability and other services as eligible products for SER-Type II to offer.

⁴ MISO filing at 3.

⁵ *Commission Order* at P 71 (emphasis added).

⁶ See “Tariff 1.S Definitions – S” on page 39 of MISO’s compliance filing, *Re: Midcontinent Independent System Operator, Inc. ’s Sections 205 and 206 Filings to Amend Tariff Provisions To Establish a Stored Energy Resource – Type II*, filed April 3, 2017.

C. MISO’s Compliance Filing proposes a SER-Type II resource that does not meet the standard of enabling electric storage participation in a manner that accords with unique technical and operational characteristics of electric storage resources.

The Commission’s Order requires MISO to enable electric storage participation “in a way that acknowledges their unique physical and operational characteristics.”⁷ While MISO has made clear what products SER-Type II is eligible to offer, such participation still falls short of this standard in the Commission’s Order.

For example, in defining “Station Power,” MISO excludes energy “used for Charging a Stored Energy Resource”.⁸ This exclusion is critical for energy storage, where energy withdrawals are considered a part of wholesale service and not a load. In this case, MISO uses references the exclusion for the existing SER resource type but does not explicitly mention the same exclusion for the SER-Type II resource type in its instant filing. Simple addition of the SER-Type II resource type in the definition of Station Power would clarify energy for charging is differentiated from calculation of station power for this resource type, which has similar physical and operational characteristics as SER. ESA respectfully asks the Commission to direct MISO to revise its filing accordingly.

As another example, while MISO states SER-Type II resources can provide Capacity, existing rules still require an Energy schedule for such resources, which would not take account of the technical and operating characteristics of storage. Establishing a day-ahead Energy market must-offer obligation would create a barrier to storage, insofar as such requirement of is incompatible with the energy limited nature of storage resources. An Energy schedule may be necessary to guarantee a conventional generation resource’s availability, since it might otherwise

⁷ February 1 Order at P 72.

⁸ MISO Compliance Filing at 39, (Tariff 1.S Definitions – S).

remain offline; however, because electric storage is always on and ready for service even when neither charging nor discharging, this same requirement is inappropriate.⁹ Rather, an electric storage resource's eligibility for MISO's Capacity product should correspond only to the energy deliveries it can commit to over the set duration required. Regardless of schedules in other markets, ESA respectfully asks the Commission to direct MISO to revise its filing accordingly.

Additionally, MISO's proposal of not allowing SER-Type II to be eligible for make-whole payments is problematic. All resources, including the SER-Type II resources, must be eligible for due and just compensation when participating in the marketplace.

Finally, there remain ambiguities about whether SER-Type II, as described in MISO's Compliance Filing, allows participation that accord with the technical and operating characteristics of electric storage. For example, MISO asserts that all references to Demand Response Resource (DRR)-Type II in Tariff Module D shall also be deemed to refer to SER-Type II.¹⁰ However, DRR-Type II also appears in other Modules, and MISO doesn't explicitly say that those references include SER-Type II. Explicit clarification is merited here. At the same time, MISO states that "an SER-Type II will not be settled and compensated as a Demand Response Resource-Type II, and instead shall be treated as a regular Generation Resource for settlement purposes."¹¹ While generation resources only inject energy, storage resources have fundamentally different operations in that they both inject and withdraw energy. Yet, there are no further details referenced by MISO that would indicate how settlement as a Generation Resource will apply to storage—including the previously referenced issue of make-whole

⁹ This matter was discussed in ESA's previous comments to the Commission; see *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators* 157 FERC ¶ 61,121 at P 45.

¹⁰ See page 8 of MISO's transmittal letter to the Commission *Re: Midcontinent Independent System Operator, Inc.'s Sections 205 and 206 Filings to Amend Tariff Provisions To Establish a Stored Energy Resource – Type II*, filed April 3, 2017.

¹¹ *Id.* at page 3.

payments. Again, explicit clarification is merited here. ESA respectfully requests the Commission to direct MISO to revise its filing with an appropriate level of tariff language.

ESA notes these concerns as a reminder that numerous details of SER-Type II resources have yet to also be described in Business Practices Manuals (“BPM”). While MISO’s Compliance Filing is premised on implementation by September 1, 2017, lack of attention to development of necessary details in the BPM could effectively delay implementation much farther. ESA acknowledges MISO’s stated constraints given this timeline. Nevertheless, the Commission must ensure MISO prioritizes the various non-tariff changes necessary to meet the intent of its Order in a timely manner. Therefore, ESA respectfully requests that the Commission direct MISO to file quarterly reports showing regular discussion among stakeholders and progress in moving forward with non-tariff changes following MISO’s stated tariff language implementation deadline.

IV. CONCLUSION

ESA respectfully requests that the Commission direct MISO to revise its Compliance Filing that meets the standards of the Commission’s Order, in line with the preceding comments.

Respectfully submitted,
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By its attorney,



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CERTIFICATE OF SERVICE

I, Anne O'Hanlon, hereby certify that the foregoing Comments were served via electronic mail to the service list.

Dated in Boston, MA this 24th day of April 2017.



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