

STATE OF MICHIGAN
IN THE SUPREME COURT
Appeal from the Michigan Court of Appeals

In re RELIABILITY PLANS OF ELECTRIC
UTILITIES FOR 2017-2021.

ASSOCIATION OF BUSINESSES ADVOCATING
TARIFF EQUITY,

Appellee,

v

CONSUMERS ENERGY COMPANY,

Appellant,

and

MICHIGAN PUBLIC SERVICE COMMISSION,
ENERGY MICHIGAN, INC., and MICHIGAN
ELECTRIC AND GAS ASSOCIATION,

Appellees.

SC: 158305
COA: 340600
MPSC: 00-018197

ENERGY MICHIGAN, INC.,

Appellee,

v

CONSUMERS ENERGY COMPANY,

Appellant,

and

MICHIGAN PUBLIC SERVICE COMMISSION
and MICHIGAN ELECTRIC AND GAS
ASSOCIATION,

Appellees.

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**THE MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, INC.'S
MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE***

Bradley D. Jackson (P39745)
Attorney for Midcontinent Independent
System Operator, Inc.
Quarles & Brady LLP
33 E. Main St. Ste. 900
Madison, WI 53703-3095
(608) 283-2675

Dated: November 5, 2018

The Midcontinent Independent System Operator, Inc. ("MISO"), through counsel and pursuant to MCR 7.212(H), respectfully requests that this Court enter an Order granting it leave to file the attached *amicus curiae* brief for the reasons that follow:

1. MISO is a not-for-profit, member-based Regional Transmission Organization ("RTO"). MISO ensures the reliable delivery of electricity, at the lowest cost, across high-voltage electric transmission systems in fifteen states, including Michigan, and the Canadian province of Manitoba. MISO utilizes a collaborative, region-wide approach to grid planning to manage its members' generation units and high-voltage transmission lines in a pooled manner across its service territory.

2. MISO conducts transmission planning and manages the buying and selling of wholesale electricity in one of the world's largest energy markets. MISO also administers resource adequacy and other market-based programs authorized by the Federal Energy Regulatory Commission ("FERC") under the Federal Power Act. MISO's FERC-approved Tariff provides resource adequacy requirements that recognize and are complementary to the reliability mechanisms of states.

3. MISO has a broad member stakeholder community that reflects the interests of transmission owners, state regulatory authorities, independent power producers, power marketers and brokers, municipal utilities, energy cooperatives, transmission dependent utilities, public consumer advocates, environmental organizations, coordinating members, and competitive transmission developers.

4. As an independent operator of the transmission system and regional energy markets, MISO is uniquely positioned to provide this Court with new and useful information regarding MISO's resource adequacy construct, and how this construct both respects and

complements state policy initiatives. MISO can provide insight beyond the information that the parties may have, including the reliability of the electric grid and the operation of wholesale power markets.

5. MISO offers this *amicus curiae* brief to provide clarity regarding its resource adequacy processes, including how resource adequacy requirements are applied to Load Serving Entities in the State of Michigan.

6. This motion is timely because it is filed within 21 days after the filing of Appellee's brief. See MCR 7.212(H)(1).

WHEREFORE, MISO respectfully requests that this Court enter an Order granting it leave to file the *amicus curiae* brief that accompanies this motion.

Respectfully submitted,

By: /s/ Bradley D. Jackson

Bradley D. Jackson (P39745)
Attorney for Midcontinent Independent
System Operator, Inc.
Quarles & Brady LLP
33 E. Main St. Ste. 900
Madison, WI 53703-3095
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AMICUS CURIAE BRIEF
OF THE MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, INC.

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Attorney for Midcontinent Independent
System Operator, Inc.
Quarles & Brady LLP
33 E. Main St. Ste. 900
Madison, WI 53703-3095
(608) 283-2675

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16 U.S.C § 824.

Midwest Indep. Transmission Sys. Operator, Inc., 131 FERC ¶ 61,228 (2010).

MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff Module E-1, Resource Adequacy.

MISO Resource Adequacy Business Practices Manual 011-Resource Adequacy.

STATEMENT OF INTEREST OF AMICUS CURIAE

I. Introduction

The Midcontinent Independent System Operator, Inc. (“MISO”) administers resource adequacy and other market-based programs authorized by the Federal Energy Regulatory Commission (“FERC”) under the Federal Power Act. *See* 16 U.S. Code § 824. MISO is a not-for-profit, member-based organization. MISO ensures the reliable delivery of electricity, at the lowest cost, across high-voltage electric transmission systems in fifteen states, including Michigan, and the Canadian province of Manitoba. MISO also conducts transmission planning and manages the buying and selling of wholesale electricity in one of the world’s largest energy markets.

MISO’s members include utilities and other entities that own, operate, or control facilities for the transmission of electricity in interstate commerce, as well as Eligible Customers that purchase and sell power for resale in MISO’s markets. As a Regional Transmission Organization, MISO is responsible for administering its Open Access Transmission, Energy and Operating Reserve Markets Tariff (“Tariff”) and rate schedules, and is the sole decision-making authority on provision of transmission service. Administration of the tariff includes: calculating available transfer capability; evaluating and approving all requests for transmission service; performing transmission system impact studies; communicating with transmission customers, and; coordinating use and administration with other transmission providers in the region. MISO’s By-Laws outline the qualifications and admission of MISO’s members.

MISO has a broad stakeholder community reflecting the interests of the transmission owners, state regulatory authorities, independent power producers, power marketers and brokers, municipal utilities, energy cooperatives, transmission dependent utilities, public consumer advocates, environmental organizations, coordinating members, and competitive transmission

developers. MISO is governed by its independent Board of Directors, and MISO's day-to-day operations are run by its officers and employees. Importantly, the members are not charged with MISO's governance. The MISO Board of Directors has no financial interest or affiliation with members of MISO or its market participants. As an independent operator of the transmission system and regional energy markets, MISO is uniquely positioned to provide this Court with useful information regarding MISO's resource adequacy construct.

Because MISO is an independent entity, it does not take a position on the order by the Michigan Court of Appeals, nor does MISO advocate for a particular outcome before the Supreme Court of Michigan. As an independent Regional Transmission Organization, MISO is not interpreting state law or any regulatory order issued by a state agency.

Rather, MISO is offering this amicus brief to provide clarity around its resource adequacy processes, including how Local Clearing Requirements are applied to Load Serving Entities, including Alternative Electric Suppliers, in the State of Michigan. Alternative Electric Suppliers are entities that have undertaken an obligation to serve load for end-use customers, and are considered Load Serving Entities under MISO's Tariff. As described below, Local Clearing Requirements are applied to Load Serving Entities that submit Fixed Resource Adequacy Plans.

II. MISO's Tariff requirements recognize and are complementary to the resource adequacy requirements of states

MISO's Tariff recognizes and accounts for the independent authority of state regulators. Specifically, the resource adequacy provisions of the Tariff require MISO to take account of state initiatives in its resource adequacy and market processes. *See* MISO Tariff Module E-1, Section 68A. Understanding that resource adequacy requires support from a broad spectrum of entities, the Tariff also includes resource adequacy and market provisions that were developed through

extensive discussions with MISO states and stakeholders, including utilities, independent power producers, consumer groups, and other entities.

These Tariff obligations, crafted by a diverse set of interests, and accepted by FERC, guide MISO in ensuring that long-term resource adequacy and reliability needs are met. Specifically, MISO's resource adequacy and market mechanisms should neither affect nor alter state actions over entities under state jurisdiction. *Id.* Rather, MISO's resource adequacy processes are complementary to the resource adequacy mechanisms of the states.

III. MISO's Resource Adequacy Processes

MISO's regional oversight of the electrical system provides Load Serving Entities, including Alternative Electric Suppliers, with extensive access to capacity resources located both inside and outside of MISO's fifteen state footprint, subject to any physical transmission limitations. MISO requires Load Serving Entities to demonstrate that they have a sufficient amount of Capacity Resources, in the form of Zonal Resource Credits, to meet their Planning Reserve Margin Requirement, as described below. MISO also calculates a Local Clearing Requirement, which reflects the amount of generation required to maintain resource adequacy in each Local Resource Zone. Both requirements are necessary to ensure system reliability.

A Load Serving Entity may meet the Planning Reserve Margin and Local Clearing Requirements in several ways, including: purchasing capacity through MISO's Planning Resource Auction; electing to utilize their own capacity resources by self-scheduling into the Planning Resource Auction; paying a Capacity Deficiency Charge for not having sufficient resources, or; submitting a Fixed Resource Adequacy Plan.

Specifically, a Fixed Resource Adequacy Plan allows a Load Serving Entity to opt-out of participating in the Planning Resource Auction. See MISO Tariff at 69A.9. A Load Serving Entity

must demonstrate, in advance of the Planning Resource Auction, that it has sufficient Zonal Resource Credits to meet all or a portion of the Load Serving Entity's Planning Reserve Margin Requirement. *Id.* Any portion of the Load Serving Entity's Planning Reserve Margin Requirement not covered by the Fixed Resource Adequacy Plan may be purchased through the Planning Resource Auction, otherwise, the Load Serving Entity will be assessed a Capacity Deficiency Charge. *Id.* Further, Load Serving Entities submitting Fixed Resource Adequacy Plans are required to abide by certain locational requirements, as further described below.

A. Planning Reserve Margin Requirements

MISO's Tariff assigns each Load Serving Entity (including Alternative Electric Suppliers) with a Planning Reserve Margin Requirement. *Id.* at 68A.7 The Planning Reserve Margin Requirement identifies the amount of supply resources that each Load Serving Entity must procure in order to meet its Resource Adequacy Requirement. *Id.* at 69A. To demonstrate compliance with the Planning Reserve Margin Requirement, each Load Serving Entity is required to have a sufficient number of Zonal Resource Credits which are units (minimum of one-tenth of a megawatt of a Planning Resource) that have been converted into credits. *Id.* These credits can be sold bilaterally, submitted within a Fixed Resource Adequacy Plan, or offered into the Planning Resource Auction. *Id.*

B. Local Clearing Requirements

The physical location of capacity resources is an important consideration in MISO's resource adequacy processes. In 2010, FERC directed MISO and its stakeholders to take steps to incorporate locational capacity market mechanisms into MISO's resource adequacy construct. *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,228 (2010) at P 24. In response to FERC's directive, MISO created Local Resource Zones to evaluate local resource availability and

transmission needs. The state of Michigan has load in two Local Resource Zones: one in the Lower Peninsula (Local Resource Zone 7) and one in the Upper Peninsula (Local Resource Zone 2), which also includes the state of Wisconsin.

For each Local Resource Zone, MISO conducts an annual transfer analysis study to determine how much capacity may be reliably imported into a particular zone. The results of this study are used to establish Local Clearing Requirements for each Local Resource Zone. *See* MISO Tariff at 68A.6. As mentioned above, Local Clearing Requirements reflect the minimum amount of resources that must be located in the Local Resource Zone in order to meet system reliability standards.

Local Clearing Requirements are also applied to Load Serving Entities that submit Fixed Resource Adequacy Plans. Load Serving Entities (including Alternative Electric Suppliers) that elect to utilize a Fixed Resource Adequacy Plan must designate a sufficient volume of resources located in the same Local Resource Zone to meet the Local Reliability Requirement. *See* MISO Resource Adequacy Business Practices Manual at Section 5.3. The amount of resources that must be sourced from within a Local Resource Zone to satisfy the Local Clearing Requirement is equal to the load ratio share of the Load Serving Entity's Planning Reserve Margin Requirement, multiplied by the total Local Clearing Requirement for the Local Resource Zone. *Id.* For Load Serving Entities (including Alternative Electric Suppliers) that elect to purchase capacity through MISO's Planning Resource Auction, MISO's auction clearing process ensures that the sum of capacity purchased within a Local Resource Zone is greater than or equal to the Local Clearing Requirement.

IV. Conclusion

MISO appreciates the opportunity to provide clarity around its resource adequacy processes, including how resource adequacy requirements are applied to Load Serving Entities and Alternative Electric Suppliers in the State of Michigan.

WHEREFORE, MISO respectfully requests that this Court consider the issues discussed above.

Respectfully submitted,

By: /s/ Bradley D. Jackson

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Proof of Service

I, Bradley D. Jackson, hereby certify that on November 5, 2018, I filed the Midcontinent Independent System Operator, Inc. Leave to File Brief as *Amicus Curiae* with the Clerk of the Court for the Michigan Supreme Court through the Court's electronic filing system, which will serve copies of the same on all counsel of record.

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