

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

Midcontinent Independent System Operator, Inc.	) ) )	Docket No. ER24-1638-000
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**Public Interest Organizations’  
Motion for Leave to Reply and Reply to  
Midcontinent Independent System Operator, Inc.’s Answer to Comments and Protests**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”),<sup>1</sup> Sierra Club, Natural Resources Defense Council, Sustainable FERC Project, Fresh Energy, and Clean Wisconsin (collectively, “Public Interest Organizations” or “PIOs”) move for leave to respond and respond to Midcontinent Independent System Operator, Inc.’s June 7, 2024 Motion for Leave to Answer and Answer (“MISO Answer”),<sup>2</sup> in the above-captioned docket.

PIOs stand by and restate the concerns previously raised in their Limited Protest<sup>3</sup> of MISO’s proposed tariff revisions to implement its direct loss of load (“DLOL”) methodology.<sup>4</sup>

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<sup>1</sup> 18 C.F.R. §§ 385.212, 385.213 (2023).

<sup>2</sup> Motion for Leave to Answer and Answer of Midcontinent Indep. Sys. Operator, Inc. (June 7, 2024), Docket No. ER24-1638-000, Accession No. 20240607-5128 (hereinafter “MISO Answer”).

<sup>3</sup> Limited Protest of Sierra Club, Nat. Res. Def. Council, Sustainable FERC Proj., Fresh Energy, and Clean Wisc. (Apr. 30, 2024), Docket No. ER24-1638-000, Accession No. 20240430-5057 (hereinafter “PIOs Limited Protest”).

<sup>4</sup> Midcontinent Indep. Sys. Operator, Inc.’s Filing to Reform MISO’s Resource Accreditation Requirements (Mar. 28, 2024), Docket No. ER24-1638-000, Accession No. 20240328-5329 (hereinafter “Tariff Filing”).

Nothing in MISO’s Answer has addressed the issues with the lack of oversight over MISO’s loss of load expectation (“LOLE”) model or MISO’s arbitrary and unsupported weighting methodology.

**I. MOTION FOR LEAVE TO REPLY TO MISO ANSWER**

The Commission’s Rules prohibit parties from submitting answers to answers unless specifically authorized,<sup>5</sup> but the Commission may waive this prohibition for good cause, and has done so when the filing aids in the Commission’s decision-making process.<sup>6</sup> Because there is no provision for parties to file answers to answers, there is also no time limit when any such proposed answers must be filed.<sup>7</sup> Thus, the Commission may consider the timeliness of a proposed answer as part of its determination whether good cause exists to permit that answer into the case record. Here, there is good cause for the Commission to allow PIOs’ proposed Reply: the Reply is narrowly tailored to MISO’s specific arguments in the Answer; it corrects errors of fact and of omission made by MISO for the benefit of the Commission; it promotes an efficient resolution of the issues; and it is timely because it is within the window of the Commission’s consideration of MISO’s filing. PIOs’ Reply will help the Commission’s understanding of PIOs’ concerns regarding MISO’s proposed accreditation methodologies. Thus, the Commission should grant PIOs’ request to submit the following Reply.

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<sup>5</sup> 18 C.F.R. § 385.213(a)(2).

<sup>6</sup> 18 C.F.R. § 385.101(e); *see, e.g., Midcontinent Indep. Sys. Operator, Inc.*, 178 FERC ¶ 61,249, P 16 (2022).

<sup>7</sup> 18 C.F.R. § 385.213(a)(2).

## II. REPLY TO MISO'S ANSWER

### A. MISO's Answer Fails to Grapple with the Need for Greater Commission Oversight of MISO's LOLE Model Given its Direct Role in Accreditation

MISO's response to PIOs' suggestion that the Commission require MISO to subject its LOLE analysis to Commission review fails to address the core point PIOs made in our opening protest. PIOs are well aware that the Commission has historically approved effective load carrying capability ("ELCC")-type capacity accreditation methodologies without requiring that the inputs and assumptions of the models used for the ELCC calculation be included in any tariffs. What differentiates MISO's proposal from those previously approved at PJM and NYISO is the direct connection of specific hours from the LOLE analysis to the DLOL accreditation process. MISO's accreditation proposal here is a near-perfect reflection of resources' modeled performance during the projected highest-risk hours that are identified in the model. In general, it's a defensible accreditation methodology—as long as the model responsible for those projections is accurate (and excluding MISO's arbitrary and unsupported approach to weighting hours, discussed further below). But the point PIOs made in the opening protest, which MISO has not really addressed, is that under this system, the LOLE model is replacing the accreditation methodology as the core of the resource accreditation calculation.

MISO's reference to the Commission's determination in PJM's marginal ELCC proposal highlights the core policy balance the Commission must strike. On the one hand, the Commission should not require so much detail in the tariff that it restricts the ability of MISO and other RTOs to update their tariffs to reflect new study assumptions and parameters.<sup>8</sup> But on the other, the Commission must be able to review enough information to ensure "[a]ll rates and charges" are "just and reasonable"; if a core part of the accreditation determination is left out of

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<sup>8</sup> PJM Interconnection, L.L.C., 173 FERC ¶ 61,134 (2020).

the tariff, the Commission loses the ability to do so. On this point, MISO’s assertion that it has “provide[d] sufficient detail to satisfy the rule of reason”<sup>9</sup> begs the question: in MISO’s telling, the RTO provided sufficient detail in its tariff because it “str[uck] the appropriate balance between” what to include in the tariff and what to include in the business practice manual.<sup>10</sup> But PIOs disagree with MISO’s implication that the core calculation impacting actual accreditation outcomes (*i.e.* the LOLE model) should be considered an “implementation detail.” For that reason, PIOs continue to believe MISO should be required to include the key assumptions and inputs to the LOLE model in its tariff.

MISO’s final list of information it did include in the tariff or share with stakeholders is a distraction from this core question.<sup>11</sup> The list of information it did include notably excludes inputs and assumptions to the LOLE model; and MISO’s past and future efforts to share more information about its LOLE modeling with MISO stakeholders are welcome and appreciated, but still do not subject that LOLE model to Commission review. The crucial question for the Commission is its own ability to provide meaningful oversight, not that of MISO’s stakeholders.

**B. MISO’s Defense of its Weighting Methodology Ignores Controlling Rule of Reason Precedent, Misrepresents the Stakeholder Process, and Fails to Address PIOs’ Core Arbitrariness Concern**

PIOs’ Limited Protest explained that the rule of reason required MISO to include the essential details of its weighting methodology—namely, weighting by effective margin and load forecast error (“LFE”) scenario probability—in its Tariff.<sup>12</sup> MISO’s Answer does not rebut PIOs’ arguments. MISO suggests, without elaboration, that any further information regarding

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<sup>9</sup> MISO Answer at 12.

<sup>10</sup> *Id.*

<sup>11</sup> *See id.* at 12-13.

<sup>12</sup> PIOs Limited Protest at 25–32.

weighting does not “*significantly* affect[] rates, terms and conditions of service,” and instead qualifies as “implementation details, such as instructions, guideline[s], examples and charts.”<sup>13</sup> But the factors and methodology that MISO uses to calculate weights in the LOLE model are not merely illustrative information or instructions for market participants. MISO’s weighting proposal can substantially shift resource accreditation (and in turn, Planning Reserve Auction rates) by weighting certain hours much more heavily than others.<sup>14</sup> MISO’s response fails to wrestle with Commission precedent finding that the rule of reason requires inclusion of similar methodological details.<sup>15</sup> PIOs further note that, prior to MISO’s Answer, the Commission offered further guidance in one of those cases by finding that the utility’s compliance filing still lacked sufficient methodological detail to satisfy the rule of reason.<sup>16</sup>

MISO’s account of the development of the weighting proposal also requires clarification. MISO’s Answer states that “[w]hile weights and caps were introduced later in the design process, MISO did so as a direct result of the stakeholder process,”<sup>17</sup> implying broad stakeholder support for MISO’s weighting methodology. To the contrary, several stakeholders had urged MISO to expand the Critical Hours to make the DLOL accreditation methodology more stable and account for the inherent limitations of modeling, but these stakeholders did not suggest MISO adopt weighting of the hours.<sup>18</sup> MISO ultimately agreed to expand the hours set in November 2023, but in January 2024 it then *additionally* adopted a weighting methodology that

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<sup>13</sup> MISO Answer at 23 (second quoting *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, P 16 (2008)).

<sup>14</sup> PIOs Limited Protest at 27–28.

<sup>15</sup> See, e.g., PIOs Limited Protest at 27–28 (citing *Sw. Power Pool, Inc.*, 180 FERC ¶ 61,074, P 25 (2022) (details of accreditation methodology), *set aside on other grounds*, 182 FERC ¶ 61,100 (2023)); *Energy Storage Ass’n*, 162 FERC ¶ 61,296, PP 102, 104 (2018) (methodology for establishing benefits factor curve); *id.* at 29 (citing *Am. Elec. Power Serv. Corp. v. Sw. Power Pool, Inc.*, 184 FERC ¶ 61,207, PP 31–33 (2023) (use of loss-of-load expectation study to calculate planning reserve margin)).

<sup>16</sup> *Sw. Power Pool, Inc.*, 187 FERC ¶ 61,102, P 42 (May 23, 2024).

<sup>17</sup> MISO Answer at 24.

<sup>18</sup> See PIOs Limited Protest at 37–38.

significantly dilutes those expanded hours and undermines the reasons for including them in the first place.<sup>19</sup> As noted in PIOs’ Limited Protest, multiple stakeholders expressed opposition to MISO’s weighting methodology and voiced concerns with its late introduction.<sup>20</sup> MISO nonetheless chose to file without adequate time to vet the proposal with stakeholders. MISO’s failure to meaningfully engage with stakeholders to resolve their concerns has led directly to the arbitrary and unsupported weighting proposal currently before the Commission.<sup>21</sup>

Finally, MISO’s Answer ignores the heart of PIOs’ concern with the substance of MISO’s weighting methodology, which is that MISO arbitrarily chose a weighting system and has not justified that choice in light of concerns about volatility and modeling uncertainty.<sup>22</sup> PIOs do not contend that MISO must choose the best weighting method, but rather that MISO has not shown that its chosen method falls within the range of reasonableness.<sup>23</sup> MISO’s Answer still fails to make that showing, resorting to conclusory assertions that the chosen weighting methodology “appropriately account[s]” for reliability risk and “works best for [MISO’s] market design.”<sup>24</sup>

### III. CONCLUSION

For the reasons stated above, PIOs continue to request that the Commission issue a deficiency letter directing MISO to clarify and improve the elements of MISO’s Proposal that are

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<sup>19</sup> *See id.* at 38–40.

<sup>20</sup> *See id.* at 39–40; *see also* Notice of Intervention and Comments of the Organization of MISO States, Inc. at 9 (Apr. 29, 2024), Docket No. ER24-1638-000, Accession No. 20240430-5057.

<sup>21</sup> *See, e.g.*, PIOs Limited Protest at 34–35 (summarizing January 2024 stakeholder discussion where MISO Staff stated that they had not considered other possible weighting approaches).

<sup>22</sup> *See id.* at 32–36; PIOs Limited Protest, Ex. A, Affidavit of Anna Sommer, P IV.12 (“Weighting specific hours as MISO proposes assumes a level of replicability in those risky hours in future LOLE studies that is not supported by evidence. And assuming that modeled hours with more [expected unserved energy (‘EUE’)] are truly more risky hours than those with less EUE is not an empirically-based conclusion, but one that assumes MISO’s LOLE model is exceptionally accurate down to the hourly level without clear justification for doing so.”).

<sup>23</sup> *Cf.* MISO Answer at 25.

<sup>24</sup> *Id.* at 24–25.

not just and reasonable, as discussed in detail in this Reply and PIOs' Limited Protest, or in the alternative, to deny the Proposal without prejudice.

Dated: June 24, 2024

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. § 385.2010 upon each party designated on the official service lists in these proceedings listed above, by e-mail.

Dated: June 24, 2024

*/s/ Sameer H. Doshi*  
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