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Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20246

Re: Midwest Independent Transmission System Operator, Inc. Filing to Enhance RAR By Incorporating Locational Capacity Market Mechanisms; FERC Docket Nos. ER08-394-004; ER08-394-005; ER08-394-021; ER08-394-022; ER08-394-028; ER08-394-029; and ER11- ____ -000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, Part 35 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") regulations, 18 C.F.R. § 35, *et. seq.*, the Midwest Independent Transmission System Operator, Inc. ("MISO") respectfully submits for filing proposed modifications to the Module E portion of its Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Tariff") concerning enhanced Resource Adequacy Requirements ("RAR") Tariff provisions to file a permanent solution to ensure the deliverability of Load Modifying Resources in MISO's voluntary capacity auction and to incorporate locational capacity market mechanisms, in compliance with Commission Orders regarding RAR.¹

I. BACKGROUND

On March 26, 2008, the Commission conditionally accepted MISO's December 2007 RAR filing, and directed further compliance.² MISO made the required compliance filings which the Commission accepted, subject to additional compliance requirements, in a series of orders issued on October 20, 2008 in the Docket No. ER08-394, *et al.*³ On November 19, 2008, MISO made those three filings in compliance with the orders issued on October 20, 2008. On February 19, 2009, the Commission issued orders accepting two of the November 2008

¹ *Midwest Independent Transmission System Operator, Inc.*, 131 FERC ¶ 61,228 (2010) ("Market Mechanisms Order"); *Midwest Independent Transmission System Operator, Inc.*, 131 FERC ¶ 61,057, P 19 (2010) ("April 21 Order").

² *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,283 (2008).

³ *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,061 (2008); *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,062 (2008); *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,060 (2008).

Honorable Kimberly D. Bose, Secretary

July 20, 2011

Page 2

compliance filings.⁴ On April 16, 2009 the Commission issued an order regarding the remaining compliance filing.⁵ The April 16, 2009 Order, in part, directed MISO in a compliance filing to propose a methodology for determining the deliverability of load modifying resources⁶ in order to allow these resources to participate in the monthly voluntary capacity auction.⁷ On August 18, 2009, MISO made a filing in compliance with the directives set forth in the April 16, 2009 Order.⁸

On April 21, 2010, the Commission issued its “Order on Compliance Filing” directing MISO to file a permanent solution to ensure the deliverability of Load Modifying Resources in MISO’s voluntary capacity auction.⁹ On June 8, 2010, the Commission issued the Market Mechanisms Order which required, in part, that MISO and its stakeholders “develop a plan that details the steps that will be taken to incorporate [locational capacity] market mechanisms into the Resource Adequacy Plan” and “submit its plan and a discussion of stakeholder perspectives” to the Commission within six months of the date of the Order.¹⁰ On December 8, 2010, MISO made two compliance filings in response the April 21 Order and the Market Mechanisms Order. Commission orders in both of these compliance filing proceedings are pending.

As discussed in the enclosed Affidavit of Mr. Kevin Larson,¹¹ MISO has been meeting with its stakeholders¹² for many months to develop the subject new filing. As a result of those extensive stakeholder discussions, MISO has developed the proposed Tariff provisions (“RAR

⁴ *Midwest Independent Transmission System Operator, Inc.*, 126 FERC ¶ 61,143 (2009); *Midwest Independent Transmission System Operator, Inc.*, 126 FERC ¶ 61,144, P 47 (2009).

⁵ *Midwest Independent Transmission System Operator, Inc.*, 126 FERC ¶ 61,054 (2009).

⁶ Capitalized terms not otherwise defined herein have the meanings ascribed thereto in proposed Section 1 of the current and/or the proposed Tariff .

⁷ *Midwest Independent Transmission System Operator, Inc.*, 127 FERC ¶ 61,054, P 153 (2009).

⁸ Compliance Filing of Midwest Independent Transmission System Operator, Inc. Addressing Congestion Limits on Aggregate Deliverability filed August 18, 2009 in Docket ER08-394-024 (Accession No. 20090819-0624).

⁹ April 21 Order.

¹⁰ Market Mechanisms Order at P 24.

¹¹ Larson Aff. ¶¶ 6-8.

¹² The RAR Enhancements (also sometimes referred to as the “RAR Construct”) have been discussed with MISO’s Supply Adequacy Working Group (“SAWG”) at meetings on July 19, 2010; August 5, 2010; August 19, 2010; September 2, 2010; September 16, 2010; October 2, 2010; October 22, 2010; November 4, 2010; November 18, 2010; November 30, 2010; December 9, 2010; January 6, 2011; January 20, 2011; February 17 - 18, 2011; March 3, 2011; March 17, 2011; March 18, 2011; April 7 - 8, 2011; April 18, 2011; May 5, 2011; May 19, 2011; June 9, 2011; and June 24, 2011. The RAR Enhancements were also discussed with MISO’s Market Subcommittee on October 5, 2010. In addition, key issues regarding the RAR Enhancements were discussed with MISO’s Advisory Committee on October 20, 2010; November 17, 2010; December 1, 2010; February 23, 2011; May 18, 2011; and June 15, 2011.

Enhancements”) to replace and to supersede existing Module E of the Tariff, and to create a more effective and more efficient MISO RAR construct.

Because of the extensive nature of the proposed changes to Module E, and the fact that there will be overlap between the existing RAR construct and the RAR construct proposed herein,¹³ MISO is proposing to create a new Module E-1 to the Tariff that will comprehensively encompass the changes proposed herein. Upon the conclusion of MISO’s obligations under existing Module E, MISO will file with the Commission to terminate Module E.

II. NEED FOR THE RAR ENHANCEMENTS FILING

MISO commenced an extensive stakeholder process in the middle of 2010 to develop innovative and effective new tools that will be consistent with the April 21 Order and the Market Mechanisms Order, in part, to implement market mechanisms for locational capacity.¹⁴ MISO has comprehensively reviewed the entire RAR construct in the subject new filing to address many of the RAR needs of all of its stakeholders.¹⁵ The equitable participation of Load Modifying Resources and implementation of locational capacity market mechanisms are only two of many complex RAR elements that were carefully balanced in the subject proposal to further improve reliability in the MISO Region.

As described in the Affidavit of Mr. Richard Doying, the proposed RAR Enhancements will comprehensively replace existing Module E Tariff provisions to continue to achieve system reliability in operating and planning horizons at the lowest cost, as well as to complement state resource adequacy planning processes.¹⁶ MISO recognizes the need to provide comparability of service to all Market Participants while promoting capacity coordination at MISO’s seams with other Regional Transmission Organizations (“RTOs”). This issue was raised by MISO’s Independent Market Monitor (“IMM”) in a recent State of the Market Report¹⁷ and is being addressed through the MISO stakeholder process. The RAR Enhancements will also address some of the recommendations made by expert consulting organizations, such as The Brattle Group, which independently evaluated MISO’s capacity construct.¹⁸

¹³ After Commission approval of the subject filing, MISO will begin preparing for the 2013/2014 Planning Year pursuant to Module E-1, commencing on the requested effective date of this filing.

¹⁴ Larson Aff. ¶ 6.

¹⁵ Doying Aff. ¶ 7.

¹⁶ Doying Aff. ¶¶ 7-8, 14.

¹⁷ *2010 State of the Market Report for the MISO*, p.27 . See, http://www.potomaceconomics.com/uploads/midwest_presentations/2010_State_of_the_Market_Presentation_-_Final.pdf.

¹⁸ *MISO’s Resource Adequacy Construct*, pp. 33-35. See, http://www.brattle.com/_documents/UploadLibrary/Upload832.pdf.

The proposed RAR Enhancements that will replace existing Module E of the Tariff will also be consistent with the April 21 Order's deliverability requirements by providing that Load Modifying Resources (just like any other Planning Resource) will be deemed deliverable into the appropriate Local Resource Zone. This will be a permanent solution, permitting Load Modifying Resources to effectively participate in the proposed Planning Resource Auction. The current Tariff provisions are being superseded by the subject filing, in part, to address current challenges that Load Modifying Resources may have in order to demonstrate aggregate deliverability and participate in the voluntary capacity auction. The proposed RAR Enhancements will enable Load Modifying Resources and, more broadly, all Planning Resources that are physically located within a Local Resource Zone to participate equally in the new auction process. Load Modifying Resources (and other Planning Resources) also may be able to meet an LSE's Planning Reserve Margin Requirement for a Local Resource Zone other than where the resource is physically located.

As detailed in the Affidavit of Kevin Larson, a large number of MISO stakeholders have provided valuable assistance and advice to MISO during the past year as MISO has developed the subject comprehensive proposal.¹⁹ These stakeholders actively participated in SAWG meetings, Advisory Committee meetings, and other formal meetings, as well as in more informal discussions with MISO personnel to discuss and consider the relative merits of a wide range of resource adequacy approaches.²⁰ Stakeholders discussed the resource adequacy constructs that have been developed by other Regional Transmission Organizations, and then they compared and contrasted the relative merits and challenges associated with alternate proposals.²¹ MISO personnel also developed hypothetical examples of how alternate constructs might operate to assist stakeholders in thinking through various potential resource adequacy constructs. In addition, MISO circulated multiple versions of draft RAR Tariff language to the stakeholders so that they could better understand how various Tariff provisions might interact.²² Stakeholders provided extensive comments, suggestions, and in some cases proposed alternative Tariff language after each version of the draft Tariff language was circulated.²³ MISO carefully considered and evaluated the extensive stakeholder feedback in developing the subject proposal.²⁴

The Organization of MISO States ("OMS") has provided particularly effective assistance to MISO by offering many valuable suggestions and comments throughout the development of the subject proposal.²⁵ The OMS' assistance has been consistent with its historic interest in appropriate MISO Tariff resource adequacy provisions. Since 2007, for example, the OMS has worked closely and effectively with MISO to develop early Module E Tariff language that was

¹⁹ Larson Aff. ¶¶ 6, 13, 18, 20, 23, 25-26, 34, 36-44, 57-60, 65, 72, 84.

²⁰ *Id.*

²¹ *See e.g.* Larson Aff. ¶¶ 9, 48, 85.

²² Larson Aff. ¶ 84.

²³ *Id.*

²⁴ *Id.*

²⁵ Larson Aff. ¶¶ 72-83.

filed with the Commission on December 28, 2007, and was first conditionally approved by the Commission on March 26, 2008.²⁶ During the past four years, the OMS has consistently worked cooperatively with MISO to achieve a proper balance between federal and state involvement with resource adequacy issues and to preserve the states' historic role in the development of adequate Planning Resources throughout the MISO Region. In development of the subject proposal, MISO has consistently supported the Commission's well-established precedent that "states should play a central role in developing resource adequacy policies for the region."²⁷

Moreover, OMS and MISO have conducted extensive discussions (both during SAWG meetings and in meetings that MISO has held with representatives of the OMS during the past year) as part of the development of the subject filing.²⁸ MISO has greatly appreciated the productive comments that the OMS has provided regarding many of the key issues in the subject proposal. The OMS' constructive comments have provided MISO with a valuable perspective on, for example, the importance of states' rights with regard to resource adequacy, including, but not limited to, the ability of a state regulatory body to establish a Planning Reserve Margin for its regulated entities that is higher or lower than the Planning Reserve Margin determined by MISO for the Region. (*See*, proposed Sections 68A.1 and 68A.7(b)).

The OMS' valuable comments have greatly assisted MISO in better understanding a wide variety of stakeholder concerns regarding some early drafts of the RAR proposals, which have enabled MISO to make significant RAR modifications to better address such issues. For example, MISO altered its initial proposal to conduct a forward Planning Resource Auction for Planning Years from 3 to 5 years in advance of the Auction to a single Planning Year, based in part upon the OMS' constructive comments and concerns regarding a long-term forward capacity market construct.²⁹ MISO also developed extensive Self-Scheduling and "opt out" provisions to the proposal (as discussed in sections III.6 and III.7 herein) to provide Load Serving Entities with multiple options to minimize the financial consequences of the Planning Resource Auction, in part, based upon insightful OMS comments and suggestions.³⁰ In addition, MISO developed multiple financial hedging provisions in the Tariff to enable Load Serving Entities to take advantage of Planning Resources that are located outside the Local Resource Zone where Load is

²⁶ *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,283 (2008).

²⁷ *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,283, P 68. ("The Midwest ISO has worked very closely with the OMS and other stakeholders for many months to design a resource adequacy proposal that is supported by the states and respectful of their authority. We applaud this approach and fully expect it to continue as the region further refines its resource adequacy proposal.")

²⁸ As discussed in the Affidavit of Kevin Larson, MISO has met individually with all of the state commissions comprising the OMS, in many cases on multiple occasions, in order to better understand OMS concerns and to discuss alternate proposals for various resource adequacy issues. *See* Larson Aff. ¶¶ 72-83.

²⁹ Larson Aff. ¶ 13.

³⁰ Larson Aff. ¶¶ 50, 85.

located, without incurring Zonal Deliverability Charges.³¹ These key proposed Tariff improvements, and certain other modifications that were made to the proposed Tariff, demonstrate MISO's ongoing commitment to working closely with the OMS to understand the occasionally varying positions of state commissions, and then to make appropriate Tariff improvements.³²

MISO recognizes, of course, that the RAR Enhancements are not supported by all MISO stakeholders, as discussed in more detail in sections IV and V herein. The extensive SAWG discussions have revealed that several stakeholders believe that MISO should simply establish local resource zones and should not develop centralized market mechanisms, such as the proposed Planning Resource Auction procedures that reflect import and export constraints.³³ On the other hand, other MISO stakeholders have expressed concerns that MISO has not gone far enough in developing procedures to ensure that forward capacity market mechanisms are implemented. These stakeholders have contended during stakeholder meetings, for example, that more extensive capacity market mechanisms are required to send the requisite pricing signals in order to encourage development of Planning Resources that may take many years to design, construct and implement.

MISO has carefully considered the often conflicting stakeholder comments and suggestions in developing the proposed RAR Enhancements. In crafting the proposed RAR Enhancements, MISO has attempted to develop and reflect positions of consensus where possible.³⁴ As discussed in section VI of this transmittal letter, MISO appreciates that there may be merits to a longer term forward capacity proposal, which some stakeholders have advocated. That is one reason why the subject RAR Enhancements will transform Module E from the current month-by-month process into an annual process.

MISO, however, is not attempting to transform Module E into a mandatory forward capacity process similar to the models that have been adopted by several other RTOs, such as ISO-New England and PJM Interconnection, L.L.C. Instead, MISO believes that the subject filing represents a set of rational incremental improvements to the existing RAR requirements which will innovatively create capacity market mechanisms that will supplement, but will not replace, the existing largely bilateral market for capacity in the MISO Region.³⁵ These market mechanisms will appropriately consider capacity limitations into and out of the various Local Resource Zones when developing Local Reliability Requirements for each of the Local Resource Zones, and again when conducting the proposed Planning Resource Auction. In short, the RAR Enhancements will also form a stronger foundation to further enhance reliability.

³¹ Larson Aff. ¶ 85.

³² Larson Aff. ¶¶ 72-83.

³³ Larson Aff. ¶¶ 28, 84-86.

³⁴ Larson Aff. ¶¶ 84-86

³⁵ Hillman Aff. ¶ 35.

MISO also respectfully rejects suggestions by some stakeholders that the subject filing is overly ambitious. Some of these stakeholders contend, for example, that the Market Mechanisms Order merely requires that MISO establish different zones within the MISO Region and then basically maintain the current RAR process whereby LSEs designate Aggregate Planning Resource Credits to meet their Planning Reserve Margin Requirements. These stakeholders suggest that it is unnecessary to account for the existence of capacity import or capacity export constraints through an improved auction process, and also that it is acceptable to perpetuate the modest Voluntary Capacity Auction process to enable Market Participants to acquire or to sell Aggregate Planning Resource Credits. Such a minimalist approach will not establish robust and effective market mechanisms to encourage the development of Planning Resources in the locations where they are most needed.

III. PROPOSED RAR ENHANCEMENTS

The subject RAR Enhancements will implement comprehensive, new market mechanisms that recognize the physical locations of Planning Resources, and also properly take into account physical capacity import and capacity export constraints. The RAR Enhancements will also provide a permanent solution to the participation of Load Modifying Resources in the current Voluntary Capacity Auction, as previously mentioned and as required by the Commission.³⁶ The enclosed Affidavit of Mr. Richard Doying discusses the need for the subject filing and also briefly describes the additional enclosed supporting Affidavits from: (i) Mr. Clair Moeller - concerning the need for the subject filing to preserve future reliability consistent with MISO's transmission planning process;³⁷ (ii) Mr. Kevin Larson - concerning the extensive stakeholder process leading up to the subject filing;³⁸ and (iii) Mr. Todd Hillman - concerning the key substantive elements of the filing, which are generally described below.³⁹

1. Development of Local Resource Zones:

Once the RAR Enhancements have been approved by the Commission, MISO anticipates developing seven Local Resource Zones to ensure that sufficient qualified Planning Resources can be relied upon to meet Load within each portion of the MISO Region. MISO will evaluate Planning Resource attributes and will permit all Planning Resources to participate in meeting RAR, including: Generation Resources, Demand Response Resources, Intermittent Generation, External Resources, Energy Efficiency Resources, Demand Resources, and Behind the Meter Generation resources.⁴⁰ The geographic boundaries of each of the Local Resource Zones will be developed by MISO, after consultation and discussion with the relevant stakeholder

³⁶ April 21 Order.

³⁷ Doying Aff. ¶¶ 4, 11; *see also* Moeller Aff. ¶ 20.

³⁸ Doying Aff. ¶¶ 4, 15; *see also* Larson Aff. ¶¶ 6-7.

³⁹ Doying Aff. ¶¶ 4; 19; *see also* Hillman Aff. ¶¶ 10-90.

⁴⁰ Price responsive demand resources are being evaluated by the MISO for potential future inclusion as Planning Resources in the RAR construct after measurement and verification details for such resources have been resolved.

committee(s), beginning in 2012, and will be based upon the best available deliverability analysis, including evaluation of the following factors: (1) the electrical boundaries of Local Balancing Authorities; (2) state boundaries; (3) the relative strength of transmission interconnections between Local Balancing Authorities; (4) the results of LOLE studies; (5) the relative size of LRZs; and (6) natural geographic boundaries such as lakes and rivers (*See*, proposed Section 68A.3).

Creation of appropriately sized Local Resource Zones will facilitate the development of locational capacity market mechanisms to send economic signals to the marketplace that capacity may have additional value if it is located in one location rather than another. Such locational capacity market signals will benefit all stakeholders by identifying, for example, the capacity resource impacts associated with anticipated environmental regulations that are expected to adversely affect the economics of fossil fuel generation facilities. As discussed in the Affidavit of Mr. Clair Moeller, the anticipated environmental regulation compliance timeline associated with these environmental rules is anticipated to challenge reliability by accelerating the retirement of fossil fuel generation facilities, particularly those that were constructed more than 40 years ago.⁴¹ The RAR Enhancements will proactively assist MISO in meeting these and other reliability challenges.

2. Establish Zonal Planning Resource Requirements:

MISO will establish Local Resource Zone capacity requirements to encourage parties to develop or retain the proper amount of Planning Resources in the right locations within the MISO Region to ensure reliability. MISO will begin by establishing Local Reliability Requirements for each Local Resource Zone, which are defined in the Tariff as the minimum amount of Planning Resources necessary within a Local Resource Zone during a particular Planning Year to maintain a Loss of Load Expectation of 0.1 day per year, without consideration of access to Planning Resources located outside of the Local Resource Zone through transmission ties. (*See*, proposed Section 1.365b). MISO will also establish Local Clearing Requirements for each Local Resource Zone, which are defined in the Tariff as the minimum amount of Planning Resources that are physically located with a Local Resource Zone that are required to meet the Loss of Load Expectation reliability standard while fully utilizing Capacity Import Limits for such Local Resource Zone.

LSEs serving load in a Local Resource Zone will meet Planning Reserve Margin Requirements either: (1) through participation in the Planning Resource Auction process, a market mechanism that will create a liquid and robust auction process for determining the locational price of capacity (*i.e.*, Auction Clearing Price) for each Local Resource Zone; or (2) by Self-Scheduling their Planning Resources in the Planning Resource Auction to avoid the potential financial impact of Auction Clearing Prices; or (3) through the opt out procedures, which are described in subsection III.8 below. The Planning Resource Auction will recognize Capacity Export Limits for each Local Resource Zone, which are defined in the Tariff as the maximum amount of Planning Resources located within a Local Resource Zone that can be

⁴¹ Moeller Aff. ¶¶ 5, 11, 13, 35.

exported by Market Participants from an export-constrained Local Resource Zone. (*See*, proposed Section 1.66a). The Planning Resource Auction will also consider Capacity Import Limits for each Local Resource Zone, which are defined in the Tariff as the maximum amount of Planning Resources located outside a Local Resource Zone that can be imported by Market Participants into an import-constrained Local Resource Zone. (*See*, proposed Section 1.66b).

As described in the Affidavit of Mr. Clair Moeller, the RAR Enhancements will enhance regional reliability by introducing locational requirements that appropriately reflect the limitations of MISO's Transmission System (such as capacity import and capacity export limits).⁴² The RAR Enhancements will also send transparent market signals to Market Participants so that stakeholders may optimize their planning decisions.⁴³

3. Preserve the Authority of State Commissions and Relevant Electric Retail Regulatory Authorities

The proposed Tariff will preserve the existing authority of state commissions and Relevant Electric Retail Regulatory Authorities to establish and to enforce compliance with state and regional resource adequacy standards. For example, the proposed Tariff maintains the requirement that if a state regulatory body establishes a Planning Reserve Margin that is higher or lower than the Planning Reserve Margin determined by the Transmission Provider for the MISO Region, then the state-established Planning Reserve Margin will apply to the LSEs' Demand under that state's jurisdiction. (*See*, proposed Sections 68A.1 and 68A.5). The proposed Tariff will also facilitate state retail choice programs that exist in some of the MISO Region by establishing improved provisions to address wholesale and retail load switching. (*See*, proposed Sections 69A.1.1 through 69A.1.3). MISO recognizes the important role that state commissions (and Relevant Electric Retail Regulatory Authorities more generally) have in resource adequacy, and the proposed Tariff language is not intended to undermine or diminish their respective authorities and responsibilities.⁴⁴

The proposed Tariff language will provide LSEs and Electric Distribution Companies ("EDCs") with the opportunity to develop retail/wholesale load forecasting and load switching protocols that best meet their needs, without imposing a "one-size-fits-all" solution in the Tariff. Proposed Section 69A.1 provides that LSEs and EDCs should work together to reach agreement as to the appropriate way to develop Coincident Peak Demand forecasts for each of the LSEs within an EDC's service territory, which will be reviewed by MISO for validity, reasonableness, and consistency.⁴⁵

Similarly, the proposed Tariff encourages LSEs and EDCs to reach agreement on appropriate methods of measuring and accounting for applicable retail load switching by developing an Alternative Method that will meet the needs of the jurisdiction. If the parties are

⁴² Moeller Aff. ¶¶ 18-33.

⁴³ Moeller Aff. ¶ 17.

⁴⁴ Hillman Aff. ¶¶ 17-21.

⁴⁵ Hillman Aff. ¶¶ 22-25.

unable to reach agreement on load switching procedures, then a Default Method will be imposed that is based upon use of actual Energy settlement data. During SAWG discussions, several Alternate Methods for the treatment of retail switching were discussed and proposed in draft Tariff language that was circulated among the stakeholders.⁴⁶ MISO's inclusion of the ability for parties to specify their own Alternate Method is not intended to suggest that any of the proposed approaches were inappropriate. MISO is proposing generic language that will permit different approaches to be utilized by different stakeholders in different states, rather than require a single methodology to be adopted in the Tariff.⁴⁷

In addition to providing additional procedures to facilitate different state retail choice programs, the RAR Enhancements will generally assist stakeholders in those states that have adopted retail choice protocols by providing more focused market signals on the cost of capacity in a more finely detailed set of Local Resource Zones than at present. The existing voluntary capacity auction does not provide the requisite granularity to provide capacity market signals for a set of Local Resource Zones because the voluntary capacity auction establishes a single auction clearing price for aggregately deliverable capacity resources throughout the entire MISO Region.⁴⁸ In contrast, the Planning Resource Auction will provide Auction Clearing Prices for each of the Local Resource Zones, prices which may (or may not) differ depending upon, for example, if Capacity Import Limitations and Capacity Export Limitations are reached.⁴⁹

As described in more detail below, the proposed Tariff changes will ensure that all Load Serving Entities annually meet their resource adequacy requirements either by: (i) participating in the Planning Resource Auction; (ii) partially or fully Self-Scheduling Planning Resources in the Planning Resource Auction to minimize financial consequences from the Auction; and/or (iii) partially or fully opting out of the Planning Resource Auction, as described in section III.7 below. If an LSE only partially Self-Schedules or partially opts-out, then the remainder of the LSE's load will participate in the auction. MISO has therefore removed Tariff provisions that were found in Section 69A.6.6 regarding MISO monthly reports on under-forecasting by Load Serving Entities. MISO will continue, however, to submit RAR information to the applicable Regional Entity, Electric Reliability Organization or state in accordance with proposed Section 69A.6.4.

4. Align Planning and Compliance Terms:

MISO will conduct an LOLE analysis to determine an annual capacity level needed for reliability when it establishes the Planning Reserve Margin for the MISO Region. (*See*, proposed Section 68A.2.1). Planning Resources that clear in the Planning Resource Auction must be dedicated to the MISO Region for the entire Planning Year, with the exception of Diversity Contracts discussed below.

⁴⁶ Larson Aff. ¶ 18-23.

⁴⁷ Hillman Aff. ¶ 22.

⁴⁸ Hillman Aff. ¶ 21.

⁴⁹ *Id.*

The proposed RAR Enhancements also will add a new type of Planning Resource, an Energy Efficiency Resource. Energy Efficiency Resources are a type of Planning Resource consisting of installed measures on retail customer facilities that achieves a permanent reduction in electric energy usage while maintaining a comparable quality of service. The proposed RAR Enhancements will provide that an Energy Efficiency Resource can qualify annually as a Planning Resource and receive Zonal Resource Credits for up to four (4) Planning Years after the Energy Efficiency Resource is initially qualified, if the energy efficiency measures are fully implemented prior to the upcoming Planning Year. Energy Efficiency Resources will not require notice, dispatch, or operator intervention, since these resources by definition are continually operating and providing capacity by reducing Demand. MISO is proposing to add Energy Efficiency Resources as a new type of Planning Resource to promote Energy Efficiency Resources in the MISO Region consistent with Commission Smart Grid policies and also because Energy Efficiency Resources really do reduce Demand and so assist in meeting MISO reliability standards.

The proposed Tariff also expressly addresses Diversity Contracts (contracts between an LSE in the Transmission Provider Region and an LSE with load external to the Transmission Provider Region that includes a one for one MW swap of Summer Season capacity for non-Summer Season capacity). (*See*, proposed Section 1.164a). Diversity Contracts must be dedicated to the MISO Region at least for the four summer months (June, July, August and September). Diversity Contract Planning Resources that clear in the Planning Resource Auction (that are not Self-Scheduled by an LSE) will receive reduced compensation based on the limited months during the Planning Year when such resources are available to provide capacity. (*See*, proposed Section 69A.7.6).

Modifying the timing for resource adequacy compliance will increase reliability by: (1) moving from a month-by-month construct to an annual construct; and (2) ensuring that capacity Diversity Contracts are measured and considered in reliability calculations in an appropriate and consistent manner.

5. Enhanced Load Forecasting Process:

The proposed Tariff will require Load Serving Entities to provide (either directly, or, in some cases, through Electric Distribution Companies in retail choice states) annual peak demand forecasts coincident with the MISO Region's peak, based, in part, upon MISO's historic peak demand information. (*See*, proposed Sections 69A.1.1 and 69A.1.2). The existing Tariff accounts for Load diversity in the calculation of the Planning Reserve Margin, a process that fails to recognize or reward individual LSEs for taking steps to reduce demand at times that would impact capacity requirements. In contrast, the proposed Tariff will account for such Load diversity directly in the individual Demand forecasts provided by Load Serving Entities. (*See*, proposed Section 69A.1.1). This Tariff improvement will, among other things, create a more appropriate incentive for Market Participants to develop new Demand Resources, and will also encourage Load Serving Entities to shift load use to MISO's off-peak periods, in order to defer future resource investment requirements. MISO also will become responsible for the determination and inclusion of wholesale transmission losses in each Load Serving Entity's

requirement. (*See*, proposed Section 69A.1.1.c). In addition, MISO will periodically review demand forecasts submitted, assessing methodologies and inputs for reasonability and consistency prior to the Planning Year. (*See*, proposed Section 69A.1.1.c).

As described in the Affidavit of Mr. Clair Moeller, the RAR Enhancements will improve reliability by focusing load diversity analysis at the LSE level (where Coincident Peak Demand forecasts are made by LSEs), rather than comingling this effect by incorporating load diversity considerations when calculating MISO's Region Planning Reserve Margin.⁵⁰

6. Implement Market Mechanisms to Respect Zonal Constraints:

The proposed Planning Resource Auction will provide a vibrant and competitive market mechanism to assist Load Serving Entities in meeting their Local Reliability Requirements by providing a more complete and granular market mechanism than the existing voluntary capacity auction. The voluntary capacity auction presently serves as a short-term, monthly auction process to provide incremental capacity credits to LSEs. Long-term acquisitions are made predominantly, if not entirely, in the bilateral market. To date, the voluntary capacity auction has experienced limited volume due to its short-term imbalance nature. The voluntary capacity auction does not recognize potential Capacity Import Limits or Capacity Export Limits, given its footprint-wide structure, and therefore cannot provide location specific financial information for investment in new Planning Resources.

In contrast, the proposed Planning Resource Auction will require that MISO schedule all Planning Resources and all Load through the annual Planning Resource Auction,⁵¹ which will be conducted in advance of each Planning Year. (*See*, proposed Section 69A.7.1.a). The proposed Planning Resource Auction will ensure that all zonal Capacity Import Limits and Capacity Export Limits are recognized and respected. The proposed Tariff will also significantly reduce the Physical Withholding Threshold Quantity triggering IMM review from 500 MW to only 50 MW to reflect the smaller Local Resource Zones in the Planning Resource Auction. (*See*, proposed Section 64.1.1.d.i). While long-term acquisitions of Planning Resources will still be made predominantly in the bilateral market, greater participation of Planning Resources and Load will facilitate a greater level of liquidity in the resulting auction, thus reducing the potential opportunities for Market Participants to exercise market power, and will enhance capacity pricing transparency for Market Participants.

The proposed Planning Resource Auction will use sealed offer, single round, uniform pricing auction procedures to determine capacity clearing prices for each Local Resource Zone in order to establish competitive capacity prices, while also fully respecting any Capacity Import Limitations and Capacity Export Limitations. (*See*, proposed Section 69A.7.1.c). The submitted Zonal Resource Credit Offers will be compared to an applicable reliability target (which is vertical in nature to reflect the 0.1 Loss of Load Expectation) in order to arrive at an Auction

⁵⁰ Moeller Aff. ¶¶ 6-7, 21, 33.

⁵¹ An LSE can avoid financial participation in the Planning Resource Auction by using the opt out procedures described in section III.8 below.

Clearing Price for each of the Local Resource Zones. All Planning Resources that clear in a Planning Resource Auction will receive the Auction Clearing Price for the Local Resource Zone where the Resource is located during the applicable forward Planning Year on a daily basis.⁵² These payments to Planning Resources that clear in the Planning Resource Auction will be made by the Load Serving Entities located in that Local Resource Zone. Existing firm transmission service rights between Local Resource Zones will be preserved for the term of such rights, thus providing a hedging mechanism through the use of Grandmother Agreements, for Load Serving Entities with owned or contracted Planning Resources located in different Local Resource Zones than their Demand, while respecting all Local Resource Zone import and export limits, as more fully described in section 8 below. (*See*, proposed Section 69A.7.7(a)).

If an entity owns more cleared Zonal Resource Credits than its Planning Reserve Margin Requirements, then it might collect more capacity revenues than it pays. To the extent that an entity does not own sufficient Zonal Resource Credits to cover its Planning Reserve Margin Requirement (or failed to acquire Zonal Resource Credits through a bilateral market transaction), such entity would likely pay more for capacity than it received from the Planning Resource Auction, which will be a financial incentive to encourage such an entity to acquire sufficient Zonal Resource Credits. Deficient Load Serving Entities will no longer pay a deficiency charge of the Cost of New Entry; instead such Load Serving Entities will be responsible for paying the applicable Auction Clearing Price for capacity obtained from Planning Resources made available by other Market Participants.

7. Opt Out Procedures:

Load Serving Entities will be able to submit a Fixed Resource Adequacy Plan to MISO to demonstrate that the LSE has sufficient Zonal Resource Credits to meet all or a portion of its Planning Reserve Margin Requirement for the Local Resource Zone.⁵³ An LSE with a Fixed Resource Adequacy Plan that fully covers the LSE's Planning Reserve Margin Requirement for a Local Resource Zone will be able to opt out of the Planning Resource Auction for such Planning Year for such Local Resource Zone. The effect of this is that: (1) the LSE will not have an obligation to make Zonal Resource Credit Offers into the Planning Resource Auction for such Planning Year for the identified Planning Resources; and (2) the LSE will not have an obligation to pay the Auction Clearing Price for a Local Resource Zone for the LSE's Load within such Local Resource Zone.⁵⁴ Such LSE will, however, be able to make Zonal Resource Credit Offers into the Planning Resource Auction for any Zonal Resource Credits that are in excess of the LSE's Planning Reserve Margin Requirement for a Local Resource Zone.⁵⁵

If an LSE designates Zonal Resource Credits in its Fixed Resource Adequacy Plan that are not physically located in a Local Resource Zone to meet its Planning Reserve Margin

⁵² Hillman Aff. ¶¶ 20, 33.

⁵³ Hillman Aff. ¶¶ 42-43.

⁵⁴ Hillman Aff. ¶ 43.

⁵⁵ *Id.*

Requirement for a Local Resource Zone, then the LSE may be subject to a Zonal Deliverability Charge.⁵⁶ A Zonal Deliverability Charge will be based upon the difference in Auction Clearing Prices between the Local Resource Zone where an LSE has Demand that is not met by Zonal Resource Credits physically located in the Local Resource Zone, and the Auction Clearing Price of the Local Resource Zone where the LSE's Zonal Resource Credits are located, times the number of MWs of Zonal Resource Credits that are not subject to a Grandmother Agreement pursuant to proposed Section 69A.7.7(a).⁵⁷

As described below in section 8, a Load Serving Entity may be able to avoid the Zonal Delivery Charge through a hedging mechanism.⁵⁸ Alternatively, Load Serving Entities with sufficient Planning Resources to meet their Demand in a Local Resource Zone will be able to financially avoid the economic impact of the Auction Clearing Price through Self-Scheduling of Planning Resources (*i.e.*, by making Zonal Resource Credit Offers into the Planning Resource Auction at a zero capacity price).⁵⁹ If the Planning Resource associated with a Zonal Resource Credit is located in the Local Resource Zone of the LSE, then Self-Scheduling will result in the LSE being held financially neutral. If the Planning Resource associated with a Zonal Resource Credit is located externally to the Local Resource Zone where the LSE's Demand is, then the LSE must both submit a Fixed Resource Adequacy Plan and have a Grandmother Agreement pursuant to proposed Section 69A.7.7(a), or qualify for a Zonal Deliverability Charge Hedge pursuant to Section 69A.7.7(b), to ensure being financially neutral.

Under the Self-Scheduling procedures, which are different than the Opt Out Procedures, an LSE will be able to avoid the financial consequences of the Planning Resource Auction to the extent that its Zonal Resource Credits are equal to or greater than its Planning Reserve Margin Requirements. If an LSE elects to offer its Zonal Resource Credits into the Planning Resource Auction at a price of zero, then the Zonal Resource Credits will clear and the LSE's Planning Resources will be paid the applicable Auction Clearing Price. Because the LSE's obligations under the Planning Resource Auction will be at least equal to the payments that it receives for its Zonal Resource Credits, MISO will be able to financially "net" the two amounts in MISO's settlement process, so that the LSE will be exempt from the financial consequences of the Planning Resource Auction. (*See*, proposed Section 69A.7.8).

8. Preserve Transmission Rights Between Local Resource Zones:

The proposed Tariff will preserve the rights of parties that have already entered into firm contracts to move capacity from one Local Resource Zone to another Local Resource Zone through what is described in the Tariff as "Grandmother Agreements." (*See*, proposed Section 69A.7.7(a)) An agreement will qualify as a Grandmother Agreement for a Planning Year if: (1) the LSE's Planning Resource and the Load Serving Entity's Load are in different Local Resource Zones, and the Auction Clearing Price paid by the LSE is higher than the Auction Clearing Price

⁵⁶ Hillman Aff. ¶¶ 44-58.

⁵⁷ *Id.*

⁵⁸ Hillman Aff. ¶¶ 46-53.

⁵⁹ Hillman Aff. ¶ 39.

the LSE receives for such Planning Resources; (2) the contract is executed prior to the date of this filing and the contract duration covers the entire Planning Year; and (3) there is annual firm transmission service for such Planning Resource to Demand in the higher priced Local Resource Zone covered by the contract for the entire Planning Year.⁶⁰ A Market Participant with a valid Grandmother Agreement will be financially made whole for any difference between the Auction Clearing Price in the Local Resource Zone where the Load is located, and the Auction Clearing Price in the Local Resource Zone where the capacity specified in the Grandmother Agreement is located, by using excess Planning Resource Auction payments collected by the Transmission Provider.

In addition, the proposed Tariff provides opportunities for Market Participants to avoid the financial consequences of Zonal Deliverability Charges (when Auction Clearing Prices for Local Resources Zones diverge and the Market Participant has Load in a higher priced Local Resource Zone) through investment in Network Upgrades.⁶¹ By investing in new or upgraded Transmission System facilities between Planning Resources and Load in different Local Resource Zones that increases the import capacity of the Load's Zone as measured by the Capacity Import Limit, an LSE will receive from MISO a Zonal Delivery Charge Hedge that assigns the associated Planning Resource Auction benefits of the transmission enhancement to the LSE, effectively negating any financial impact of the Zonal Deliverability Charge. (*See*, proposed Section 69A.7.7(b).

9. Adjust Independent Market Monitor Capacity Review Protocols:

The market monitoring provisions in Module D of the Tariff will be enhanced to address potential market power issues that may arise, including, but not limited to: (1) potential physical withholding of Planning Resources from a Planning Resource Auction; and (2) Zonal Resource Credit offers made in a Planning Resource Auction that may reflect the exercise of potential market power (*i.e.*, economic withholding). (*See*, proposed Sections 53.1.b and 64.1.1d). In addition, MISO has reviewed the need to preserve the integrity of the Planning Resource Auction by addressing concerns that a Market Participant may attempt to artificially depress the Auction Clearing Price in a Local Resource Zone by constructing new Planning Resources and then making Zonal Resource Credit Offers from such resources at less than a competitive level (*i.e.*, uneconomic production). The IMM has proposed that MISO resolve this concern by implementing minimum offer price provisions.⁶²

The proposed Tariff provides that the IMM will have the authority to make a filing with the Commission to mitigate a Zonal Resource Credit Offer from a Capacity Resource that is not exempt from the minimum offer price provisions, if the IMM determines that such Zonal Resource Credit Offer is less than a competitive price and that the Offer represents an attempt to improperly reduce the Auction Clearing Price. In such cases, after a favorable Commission order, MISO would substitute a minimum offer price for the artificially low Zonal Resource

⁶⁰ Hillman Aff. ¶ 41.

⁶¹ Hillman Aff. ¶ 46.

⁶² Hillman Aff. ¶ 67-69.

Credit Offer. As discussed in Mr. Hillman's Affidavit, MISO coordinated development of these provisions with the IMM, although MISO did not adopt all of the IMM's recommendations in the proposed Tariff provisions.⁶³

The minimum offer price provisions recognize that many types of Planning Resources should be exempt from such rules, in part, because of the non-applicability of the provisions to such resources. Proposed Section 65.7.1 exempts the following Planning Resources from application of a minimum offer price: (i) Planning Resources that are included in an LSE's Fixed Resource Adequacy Plan; (ii) Zonal Resource Credit Offers from Planning Resources that are needed to meet an LSE's Planning Reserve Margin Requirement; (iii) Planning Resources that are sold bilaterally to another LSE to meet that LSE's Planning Reserve Margin Requirement; (iv) Planning Resources from facilities that are Self-Certified as Qualified Resources of 20 MW or less pursuant to the Public Utilities Holding Company Act of 2005; (v) Planning Resources that are not from a Combustion Turbine or Combined Cycle generation unit that is powered by natural gas; (vi) Planning Resources that prior to July 15, 2011, were in service or were approved for construction by the management of the Planning Resource, or were accepted by an Relevant Electric Retail Regulatory Authority (including, but not limited to, state commissions) through its planning process; (vii) Planning Resources where the owner of such resource is unable to recover capacity costs for the resource through a regulated rate, charge, or other regulated cost-recovery process; and (viii) Planning Resources that submit Zonal Resource Credit Offers and clear in any prior Planning Resource Auction.

In addition, proposed Section 65.7.2 provides that a new resource will not be subject to a minimum offer price provisions unless: (i) the Planning Resource is not exempt pursuant to proposed Section 65.7.1; and (ii) there is a capacity market surplus of more than 500 MW or more than five percent of the total Local Clearing Requirements for the Local Resource Zone; and (iii) the IMM's forecast of capacity prices in the Local Resource Zone is less than the minimum offer price level (*i.e.*, 75 percent of Net CONE) with inclusion of the subject resource. If the IMM determines that all three of these thresholds have been met, and the Market Participant of the new resource would be improperly attempting to depress the Auction Clearing Price, then the Tariff provides that the IMM can make a filing at the Commission seeking an order directing that Zonal Resource Credit Offers from such new resources should be made at the minimum offer price level. Affected Market Participants and state representatives would be able to participate in such a Commission proceeding. If the Commission concludes that the IMM is

⁶³ As discussed in the Affidavit of Todd Hillman, the IMM proposed alternate language which, among other things, would: (i) require a Planning Resource owner to seek advance exemption from the minimum offer price provisions when the Planning Resource was being planned; (ii) require the IMM to exercise its judgment on whether a Planning Resource was inefficient and being developed to improperly reduce the price of capacity; and (iii) not exempt Planning Resources that were accepted by an Relevant Electric Retail Regulatory Authority. After careful consideration of these suggestions and extensive discussions with stakeholders, MISO declined to adopt these IMM proposals for the minimum offer price provisions. *See Hillman Aff.* ¶¶ 67-79.

correct, then MISO would substitute a minimum offer price for the new resource into the Planning Resource Auction. The minimum offer price that would replace a Zonal Resource Credit Offer for a new resource would be set at 75 percent of the Net CONE for a default Combined Cycle generation resource or a Combustion Turbine generation resource that is located in the LRZ (depending upon the type of non-exempt resource), based upon MISO's annual determination of Net CONE. Under such circumstances, the affected Market Participants also would not be able to export Zonal Resource Credits from new resources that are subject to mitigation outside of the Transmission Provider Region prior to the PRA.⁶⁴

The proposed minimum offer price language is appropriate for the MISO Region, in part, because the language adequately addresses buyer-side market power concerns at the same time that it appropriately recognizes that only conduct that is intended to depress the price of capacity should be mitigated.⁶⁵ By establishing objective Tariff provisions that will enable all Market Participants to predict whether the minimum offer price provisions would affect their Zonal Resource Credit Offers, the proposed Tariff language will equitably address the concerns of many stakeholders.

The proposed Minimum Offer Pricing Tariff language strikes an appropriate balance between the need for a minimum offer price and the ability of the IMM (working with the Commission) to prevent potentially destructive market behaviors that could artificially depress capacity market prices. It recognizes, for example, that a Market Participant would not be engaging in improper conduct if it builds new capacity to meet its own Planning Reserve Margin Requirements or to sell excess capacity to another Market Participant so that it can meet its Planning Reserve Margin Requirement. The language properly excludes Planning Resources other than Combined Cycle or Combustion Turbine units, in part, because the Tariff should not discourage construction of renewable energy generation facilities. The proposed Tariff language also properly respects the rights of Relevant Electric Retail Regulatory Authorities (including, but not limited to, state commissions) to engage in planning in order to meet the anticipated needs of their respective jurisdictions. The language also avoids a potentially onerous process whereby a Planning Resource that failed to properly seek exemption from the IMM in advance of construction would be subject to mitigation even though the facility was not designed to artificially depress the price of capacity.

MISO recognizes that the Commission has approved a variety of different minimum offer price provisions for different RTOs.⁶⁶ Commission deference to regional differences is appropriate given the significantly different geographic, market and history of each of the RTOs. MISO respectfully requests that the Commission respect the unique differences between the

⁶⁴ Hillman Aff. ¶ 73.

⁶⁵ Hillman Aff. ¶ 74.

⁶⁶ See, e.g., *ISO New England, Inc.*, et. al., 135 FERC ¶ 61,029 (2011); *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,022 (2011); and *New York ISO*, 124 FERC ¶ 61,301 (2008); *order on reh'g*, 131 FERC ¶ 61,170 (2010).

MISO Region and other RTOs when evaluating the just and reasonableness of the proposed minimum offer price provisions for MISO's stakeholders.

10. Improve Capacity Portability with Neighboring Systems:

MISO will continue to identify any institutional barriers that limit capacity transfers across RTO and neighboring transmission owner seams, in part, by continuing to work with neighboring systems to remove any barriers to capacity portability. MISO agrees with the IMM's recommendation to remove inefficient barriers to capacity trading with adjacent areas by: (1) modifying deliverability requirements for external resources to establish a maximum amount of capacity imports by interface that can be used to satisfy LSE capacity requirements under Module E; and (2) working with PJM to identify deliverability and must-offer requirements that may create inefficient barriers to exporting capacity to PJM.⁶⁷ The subject filing will in no way hinder or replace MISO's continuing efforts to promote capacity portability.

IV. ALTERNATIVE PROPOSALS

Although some stakeholders suggested that there were alternative methods of meeting the intent of the Market Mechanisms Order, no party proposed comprehensive Tariff language reflecting an alternative proposal during the lengthy discussion of the RAR Enhancements at the SAWG during the past 12 months. As discussed in the Affidavit of Kevin Larson, many Market Participants and stakeholders provided extensive comments and suggestions regarding the draft RAR Enhancements redlined Tariff language that MISO circulated on April 1, 2011, May 2, 2011, June 6, 2011, and again on June 22, 2011.⁶⁸ MISO considered all of the suggestions and comments and attempted to incorporate as many of the suggestions as practicable into the proposed Tariff language.⁶⁹

MISO believes that the RAR Enhancements represent the best achievable consensus approach to revise Module E consistent with the Market Mechanisms Order and the April 21 Order and to meet the expressed needs and desires of MISO stakeholders. As discussed in the Affidavit of Kevin Larson, in several instances MISO developed compromise proposals where stakeholder recommendations were in conflict in an attempt to develop consensus proposals.⁷⁰

MISO understands that all pieces of this comprehensive revision to the RAR process will not be acceptable to all stakeholders. The issues are controversial and will impact almost all MISO Market Participants in various and diverse ways. However, the RAR Enhancements proposed herein provide effective and efficient solutions to the numerous challenges, including those that were specifically identified by some of the stakeholders:

⁶⁷ See, 2010 State of the Market Report for the MISO, *supra* note 17. at p. 27.

⁶⁸ Larson Aff. ¶ 84.

⁶⁹ Larson Aff. ¶ 85.

⁷⁰ Larson Aff. ¶ 86.

1. The methodology that will be used in the RAR Enhancements to determine import/export limitations, and to assess whether the methodology is appropriately aligned with planning procedures in Module F of the Tariff, was discussed during several SAWG meetings by Mr. Jesse Moser, MISO's Manager of Transmission Strategy. During these extensive PowerPoint presentations⁷¹, Mr. Moser explained how import/export limitations would be identified and how the planning process is compatible with the RAR Enhancements and answered questions from the stakeholders. Mr. Moser also provided five representative examples of how the import/export constraints would affect Local Reliability Requirements and Local Clearing Requirements.
2. MISO explained in several SAWG meetings that an LSE's potential exposure to zonal price differences will depend upon a unique set of factors that are reliant upon where an LSE's Load is located and where the LSE's Planning Resources are located. LSEs will have several options for mitigating zonal capacity price exposure including of the ability to Self-Schedule Planning Resources and the use of the opt out provisions.⁷²
3. The methodology and rationale for the creation of Local Resource Zones, as well as a discussion of the expected outcome relative to locating capacity additions where they are needed, were discussed by Mr. Moser at multiple SAWG meetings.⁷³
4. MISO initially discussed draft minimum offer price tariff language that had been developed by the IMM at the April 7, 2011 SAWG meeting. MISO proposed its own draft language to address this topic on May 2, 2011, and discussed it at several SAWG meetings to enable stakeholders to assess the potential impacts and application of the minimum offer price concepts on the RAR Enhancements. The IMM participated in several of the SAWG meetings and MISO discussed these concepts extensively on June

⁷¹ See, for example, the 47-page presentation that Mr. Moser presented to the SAWG on June 9, 2011.

<https://www.midwestiso.org/Library/Repository/Meeting%20Material/Stakeholder/SAWG/2011/20110609/20110609%20SAWG%20Item%2002%20Application%20of%20Transfer%20Limits%20in%20New%20RA%20Construct.pdf>.

⁷² See, for example, the 16-page presentation that Mr. Larson presented to the SAWG on June 9, 2011.

<https://www.midwestiso.org/Library/Repository/Meeting%20Material/Stakeholder/SAWG/2011/20110609/20110609%20SAWG%20Item%2004%20Opt-out%20Provision.pdf>.

⁷³ See, for example, the 31-page presentation that Mr. Moser presented to the SAWG at the May 5, 2011.

<https://www.midwestiso.org/Library/Repository/Meeting%20Material/Stakeholder/SAWG/2011/20110505/20110505%20SAWG%20Item%2003%20Local%20Clearing%20Requirements.pdf>.

9, 2011.⁷⁴

5. MISO developed its opt out proposal in response to stakeholder requests for an additional mechanism to limit the financial impact of the Planning Resource Auction and/or the minimum offer price provisions on an LSE. These provisions were discussed during several of the SAWG meetings, including the June 9, 2011 SAWG meeting.⁷⁵

It is worth noting that during each of the past year's SAWG meetings, MISO's subject matter experts have invited the stakeholders to ask clarifying questions in order to better understand the concepts that are being discussed. In those instances where a MISO subject matter expert did not fully answer a question at the meeting, MISO has routinely captured those questions for discussion at future SAWG meetings. In short, there have been very extensive stakeholder discussions surrounding all of the key elements of the RAR Enhancements.

V. STAKEHOLDER PERSPECTIVES

The Commission has requested that MISO discuss "stakeholder perspectives" regarding the proposed RAR Enhancements.⁷⁶ As described in section II herein, MISO stakeholders hold a wide variety of different perspectives regarding the RAR Enhancements. The SAWG has conducted several straw polls to better understand stakeholder opinions regarding RAR and the results of this feedback are not inconsistent with the RAR Enhancements proposal.⁷⁷ Following the results of these straw polls, MISO discussed the merits of one, three and five year RAR constructs, all-in/opt-in/opt-out participation, different auction styles, elastic or inelastic reliability targets, one hundred percent (100 percent) procurement or outer year procurement of

⁷⁴ See,

[https://www.midwestiso.org/Library/Repository/Meeting%20Material/Stakeholder/SAWG/2011/20110609/20110609%20SAWG%20Item%20003%20Minimum Offer Price.pdf](https://www.midwestiso.org/Library/Repository/Meeting%20Material/Stakeholder/SAWG/2011/20110609/20110609%20SAWG%20Item%20003%20Minimum%20Offer%20Price.pdf).

⁷⁵ See,

<https://www.midwestiso.org/Library/Repository/Meeting%20Material/Stakeholder/SAWG/2011/20110609/20110609%20SAWG%20Item%20004%20Opt-out%20Provision.pdf>.

⁷⁶ Market Mechanisms Order, P 24.

⁷⁷ On October 14, 2010, the SAWG was presented with motions from the LSE Coalition on the following four topics: (1) whether auction participation should be mandatory or voluntary, and if voluntary whether multiple auctions of different lengths should develop; (2) whether a mandatory forward capacity auction should have a term of one, three, or five years; (3) whether in a three or five year mandatory forward capacity auction, 100 percent of the required capacity must be fulfilled three or five years in advance; and (4) whether MISO should not propose a mandatory forward capacity market in the December 8, 2010 filing to comply with FERC's Orders dated April 21, 2010, and June 8, 2010. The results of these motions were posted on the Midwest ISO's website. See, http://www.midwestmarket.org/publish/Document/6a7e86_12bc0f1b440_-7f1a0a48324a/SAWG%20Ballot%20MASTER%20Results%20FINAL.pdf?action=download&_property=Attachment.

some lesser percentage, and the merits of an implementation date of the 2012/13 or 2013/14 Planning Years.⁷⁸

In short, the proposal reflects in many respects, MISO's incorporation of stakeholder positions. For example, contrary to the views of some stakeholders, it is clear that MISO is not proposing to adopt a mandatory auction in the subject filing. Incorporation of stakeholder comments is also demonstrated by the majority of votes supporting MISO's initial adoption of a one year forward capacity market.⁷⁹ Although MISO has initially committed to a single year auction, MISO plans to continue discussions with stakeholders regarding possibly extending the forward term, as discussed in section VI herein. Thus, the subject proposal has evolved significantly through continuous stakeholder engagement and it demonstrates MISO's collaborative approach towards resource adequacy.

MISO has learned through the extensive stakeholder process that some stakeholders would prefer more extensive changes to Module E, for example, by emulating some of the results of the mandatory forward capacity markets operated by ISO New England and PJM. These stakeholders have also opined that a forward capacity market construct of only one year may not effectively encourage Market Participants to make the long-term capital investments necessary to develop Planning Resources to meet future capacity requirements. Some of these stakeholders would prefer to modify Module E so that capacity auctions are conducted three or more years in advance of a Planning Year. Some of these stakeholders would also prefer that a transition plan be implemented whereby MISO eventually becomes the entity with the authority and responsibility for conducting all load forecasts, after considering input from the LSEs and Electric Distribution Companies.

Other stakeholders have opined during stakeholder meetings that the RAR Enhancements are more extensive than the Market Mechanisms Order and the April 21 Order requires and that some proposed provisions (*e.g.*, the proposed Planning Resource Auction) amount to a "solution in search of a problem." Some stakeholders are particularly concerned about provisions that are designed to encourage all Planning Resources to participate in the Planning Resource Auction (despite the protections afforded by the opt out and Self-Scheduling procedures). These stakeholders contend, for example, that footnote 18 of the Markets Mechanism Order, and prior Commission precedent, support their opinion that MISO should not develop a so-called "centralized capacity market." They believe that a "mandatory, forward, centralized capacity market" is unnecessary and they favor more limited modifications to Module E consistent with the Market Mechanisms Order and the April 21 Order. These stakeholders would prefer, for example, to perpetuate the voluntary capacity auction and to continue to allow Load Serving Entities to designate Aggregate Planning Resource Credits to meet locational capacity requirements, with limited development of new provisions to address the potential impacts of Capacity Export Limits and/or Capacity Import Limits.

⁷⁸ Larson Aff. ¶ 13.

⁷⁹ Larson Aff. ¶ 14.

Other stakeholders are concerned that the RAR Enhancements might infringe upon the rights of state commissions and other regulatory entities. These stakeholders have explained that many states in the MISO Region are engaged in energy efficiency, peak demand reduction, and other smart grid policy initiatives that are designed to reduce the need for future investment in generation, particularly during the Summer peak. Since the price/cost margins would be greatest for existing capacity or new capacity, or peak generators, the proposed market provisions could result in further life extensions to aging generators, additions of peak capacity that may not be needed, and/or skewing the market for new generators toward peak capacity that is relatively inexpensive to build but expensive to operate. These stakeholders have also opined that establishment of a more forward capacity auction is a wrongly designed means to preserve generator membership at the expense of electricity consumers, which would represent an inequitable wealth transfer from consumers to generators.

MISO greatly appreciates the involvement of all stakeholders in providing helpful suggestions and useful feedback regarding these complex RAR issues. In an area that is this complex, it is perhaps not surprising that it has been a challenge for MISO to develop a consensus proposal for meeting the requirements in the Market Mechanisms Order. As the Commission has repeatedly held, there are multiple acceptable approaches to addressing RAR issues, which take into account differences in various regions of the nation.⁸⁰

The subject proposal is just and reasonable and it provides an appropriate, balanced, and equitable compromise of the conflicting stakeholder perspectives regarding RAR for the MISO Region that is within a zone of reasonableness.⁸¹ In developing the proposal, MISO attempted to

⁸⁰ The Commission has accepted a variety of approaches in addressing RAR concerns. *Midwest Indep. Trans. Sys. Op.*, 127 FERC ¶ 61,054 at P 25 (2009) (“While the Midwest ISO’s approach to resource adequacy is somewhat different than the resource adequacy programs developed by other regional transmission organizations, we nevertheless approved this approach because, as the Midwest ISO stated, it was consistent with a market that is predominantly managed by traditional, vertically-integrated utilities and spans multiple state and local jurisdictions.”); *see generally*, *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,053 (2008), *order on reh’g*, 134 FERC ¶ 61,132 (2011); *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,150 (2009), *order on reh’g*, 129 FERC ¶ 61,144 (2009); *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,2114 (2011); *ISO New England*, 119 FERC ¶ 61,045 at P 2 (2007) (referencing the historical developments of the installed capacity requirement in New England. *Devon Power LLC*, 111 FERC ¶ 63,063 (2005)); *Devon Power LLC*, 115 FERC ¶ 61,340 (2006), *order on reh’g*, 117 FERC ¶ 61,133 (2006), *order on reh’g*, 120 FERC ¶ 61,087 (2007); *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331 (2006); *New York Indep. Sys. Operator, Inc.*, 134 FERC ¶ 61,058 at P 3 (2011) (noting that NYISO implemented in 2003, “an ICAP market centered on administratively-determined demand curves for each of the three ICAP zones.”).

⁸¹ *Electric Consumers Res. Council v. FERC*, 407 F.3d 1232, 1236 (D.C. Cir. 2005) (“issues of rate design are fairly technical and, insofar as they are not technical, involve policy judgments that lie at the core of the regulatory mission”); *See also*, *Blumenthal v. FERC*, No. 07-1130, 2009, U.S. App. LEXIS 1101, at 12-13 (D.C. Cir. Jan. 23, 2009) (*Blumenthal*) (there is no single just and

carefully craft a consensus approach which incorporates compromises to meet sometimes widely varying stakeholder positions. As a result, MISO encourages the proposal to be viewed as a whole and not a series of elements that can be interchanged without upsetting the balance of interests. The enclosed supporting Affidavits provide additional factual support for MISO's position.

VI. DOCUMENTS SUBMITTED WITH THIS FILING

Pursuant to Section 35.13(b) (1) of the Commission's regulations, below is a list of the documents being submitted with this filing:

- Tab A – Redlined Tariff sheets
- Tab B – Clean Tariff sheets
- Tab C – Affidavit of Richard Doying
- Tab D – Affidavit of Clair Moeller
- Tab E – Affidavit of Kevin Larson
- Tab F – Affidavit of Todd Hillman

VII. EFFECTIVE DATE

MISO respectfully requests an effective date of October 1, 2012, for the subject revised Tariff sheets and waiver of any applicable provisions of the Commission's rules and regulations to effectuate such an effective date. Specifically, MISO is requesting waiver of the 120 day restriction on filings set forth in section 35.3 of the Commission's regulations.⁸² MISO is requesting a deferred effective date because: (1) it will take a number of months after the issuance of a Commission order accepting the proposal set forth herein for MISO to develop the necessary systems, test these systems, develop the Local Resource Zones, qualify Planning Resources, and train Market Participants in the use of the new RAR systems prior to implementation during the Planning Year that will commence on June 1, 2013; and (2) under the proposed Tariff, MISO will require the authority to require certain information and perform testing of Planning Resources under the RAR Enhancements beginning in the Fall of 2012.

reasonable rate, but rather a zone of reasonableness and the Commission must balance competing considerations in deciding on a just and reasonable rate within the zone); *United Parcel Service, et. al v. United States Postal Service*, 184 F. 3d 827, at 838 (D.C. Cir. 1999) (stating “[t]he Supreme Court has cautioned, moreover, that ‘[a]llocation of costs is not a matter for the slide-rule. It involves judgment on a myriad of facts. It has no claim to an exact science.’” *National Ass'n of Greeting Card Publishers v. USPS*, 462 U.S. 810, at 825 (1983) (quoting *Colorado Interstate Co. v. FPC*, 324 U.S. 581, 589 (1945))).

⁸² 18 C.F.R. § 35.3 (2011).

VIII. REQUEST FOR COMMISSION ACTION BY A DATE CERTAIN AND EXTENDED COMMENT PERIOD

MISO respectfully requests an order from the Commission on the subject filing no later than February 29, 2012 in order to provide Market Participants with a degree of certainty and predictability regarding MISO's capacity markets and, as noted above, to afford MISO the opportunity to develop and install all necessary software changes, among other things, and to train the MISO Market Participants.

Finally, MISO recognizes the complexity of the filing and that additional time may be required to adequately review and comment on the proposal included herein. Accordingly, MISO requests that the Commission direct an extended comment period with interventions, comments, and/or protests due on or before September 15, 2011. This should provide adequate time for MISO's various stakeholders to vet the proposal and respond to the subject filing.

IX. NOTICE AND SERVICE

MISO has served a copy of this filing electronically, including attachments, upon all Tariff Customers under the EMT, MISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, MISO Advisory Committee participants, as well as, state commissions within the Region. In addition, the filing has been posted electronically on MISO's website at <https://www.midwestiso.org/Library/FERCFilingsOrders/Pages/FERCFilings.aspx> for other interested parties in this matter.

X. CONCLUSION

For the foregoing reasons, MISO respectfully requests that the Commission approve the proposed RAR Enhancements Tariff modifications as described herein, which are being made in compliance with the April 21 Order and the Market Mechanisms Orders, as well as the rest of the subject filing. Additionally, MISO respectfully requests that the Commission issue, in its notice of the filing, an extended comment period for filing responses.

Respectfully submitted,

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Page 25

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