UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System Operator, Inc.)	**Docket Nos. ER19-465-001**

PROTEST OF THE ENERGY STORAGE ASSOCIATION, THE AMERICAN CLEAN POWER ASSOCIATION, CLEAN GRID ALLIANCE, SOLAR ENERGY INDUSTRIES ASSOCIATION, ADVANCED ENERGY ECONOMY, AND THE SOUTHERN RENEWABLE ENERGY ASSOCIATION

Pursuant to Rule 211[1] of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), the U.S. Energy Storage Association ("ESA"), the American Clean Power Association ("ACP"), Clean Grid Alliance ("CGA"), Solar Energy Industries Association ("SEIA"), Advanced Energy Economy ("AEE"), and the Southern Renewable Energy Association ("SREA") (jointly, the "Clean Energy Coalition")[2] submit this Protest in opposition to the Midcontinent Independent System Operator, Inc.'s ("MISO") March 4, 2021 filing in the above-captioned matter ("841 Delay Request" or "Request"). MISO has requested[3] to further delay nearly three years – from June 6, 2022 to March 1, 2025 - the effective date upon which Electric Storage Resources ("ESRs") would be allowed to participate in its markets under its Open Access Transmission, Energy and Operating Reserve Markets Tariff (the "Tariff"), per the requirements of Order No. 841.[4]

[1] 18 C.F.R. §§ 385.211 (2020).

[2] Each individual trade association has intervened in this proceeding.

[3] Midcontinent Independent System Operator, Inc.'s Request to Defer Effective Date of Compliance with Order No. 841 Docket Nos. ER19-465-000 and 465-001

[4] *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators* (February 15, 2018), Order No. 841, 162 FERC ¶ 61,127 (2018) ("Order No. 841"), *order on reh'g*, Order No. 841–A, 84 FR 23902, 167 FERC ¶ 61,154 (2019), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 964 F.3d

MISO's stated reason for making the 841 Delay Request is to prioritize implementation of its Market System Enhancement ("MSE") software platform, and to complete this software upgrade prior to implementation of MISO's Order No. 841 compliance. MISO states that the MSE will "address the anticipated reliability impacts of wind and solar growth in the near future," which it further claims it must accomplish before allowing ESRs full entry to the marketplace.[5] However, as detailed below, MISO's Request ignores the detrimental impact that a further delay in the implementation of the Tariff provisions will have on ESRs that had reasonably planned for interconnection and operation based upon the existing MISO-requested, Commission-approved operational date of June 6, 2022. The Request also disregards the positive impact that ESRs operating in the market will have on addressing the future impacts of wind and solar growth.

MISO has failed to meet the burden for a waiver of its tariff provisions, nor has it shown good cause for an extension of time [6] and specifically an implementation date that MISO itself requested.[7] First, MISO cannot satisfy the Commission's good faith requirement due to its failure to keep stakeholders fully informed. MISO affirmed that its implementation of the MSE and implementation of Order No. 841 were was on track as recently as November 2020;[8] now, without any prior notice or consultation with stakeholders regarding priorities or impacts, MISO abruptly requests nearly three years of additional time to implement the Order 841 Tariff provisions. Second,

1177 (D.C. Cir. 2020).

[5] MISO's Delay Request, at 24.

[6] *See* 18 CFR 385.2008(a)(2020)(" Except as otherwise provided by law, the time by which any person is required or allowed to act under any statute, rule, or order may be extended by the decisional authority *for good cause,")(*emphasis added)

[7] *ISO New England, Inc*., 117 FERC ¶ 61,171 at P 21 (2006), *citing Wisvest-Connecticut*, FERC ¶ 61,372 at 62,551 (2002); Great Lakes Gas Transmission Limited Partnership, FERC ¶ 61,331 (2003); *TransColorado Gas Transmission Co*., 102 FERC ¶ 61,330 (2003); *Northern Border Pipeline Co*., 76 FERC ¶ 61,141 (1996).

[8] Midcontinent Independent System Operator, Inc. Informational Filing for Order No. 841 Docket Nos. ER19-465-000 & ER19-465-001, November 23, 2020.

the waiver is of significant scope, as it impacts the capacity, energy and ancillary services markets, and all ESR participants prepared to operate in those markets. Third, upgrading the Market System Enhancement ("MSE") software before implementing the Order 841 markets might be administratively beneficial (at least in in MISO's view), but is hardly a resolution to a 'concrete problem.' Fourth, the waiver would have undesirable consequences, such as harming third parties that include the Clean Energy Coalition's members.

MISO has failed to meet its burden, and the Clean Energy Coalition respectfully requests that the Commission deny MISO's Request.

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II. ABOUT THE CLEAN ENERGY COALITION

A. U.S. ENERGY STORAGE ASSOCIATION

The U.S. Energy Storage Association is the national trade association charged with working toward a more resilient, efficient, sustainable and affordable electricity grid – as is uniquely enabled by energy storage. With more than 200 members, ESA represents a diverse group of companies, including independent power producers, electric utilities, energy service companies, financiers, insurers, installers, manufacturers, component suppliers and integrators involved in deploying energy storage systems around the globe.

B. AMERICAN CLEAN POWER ASSOCIATION

The American Clean Power Association is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind, solar, energy storage, and electric transmission in the United States.

C. CLEAN GRID ALLIANCE

Clean Grid Alliance is a non-profit organization whose 40+ members include wind, solar and energy storage developers and manufacturers, non-profit environmental, public interest and clean energy advocacy organizations, farmer organizations, and other businesses that support renewable energy.

D. AEE

AEE is a national organization of businesses making the energy we use secure, clean, and, affordable. AEE represents more than 100 companies and organizations that span the advanced energy industry and its value chains. AEE's members include companies involved in electric storage, energy efficiency, demand response, wind, solar photovoltaics, solar thermal electric, ground-source heat pumps, electric vehicles, advanced metering infrastructure, transmission and distribution efficiency, fuel cells, advanced nuclear power, combined heat and power, and enabling software.

Used together, these technologies and services will create and maintain a higher-performing energy system—one that is reliable and resilient, diverse, cost-effective, and clean—while also improving the availability and quality of customer-facing services.

E. SREA

The Southern Renewable Energy Association (SREA) is an industry-led initiative that promotes responsible use and development of wind energy, solar energy, energy storage and transmission solutions in the South. Our vision is for renewable energy to become a leading source of energy in the South and our mission is to promote responsible use and development of renewable energy in the South. SREA's geographic region covers eleven Southeastern states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

F. SEIA

SEIA is a national trade association building a comprehensive vision with a a solar industry through research, education and advocacy.

III. PROTEST

A. As explained below, MISO has failed to meet the criteria for waiver of a tariff provision, and the Order No. 841 Delay Request would create an economic barrier to entry for ESRs in MISO's capacity, energy and ancillary services markets.

In determining whether to allow the extension of time and grant a waiver to the previously-imposed deadline, the Commission focuses on four criteria. Specifically, FERC evaluates whether: (1) the entity seeking the waiver acted in good faith; (2) the waiver is of a limited scope; (3) a concrete problem needs to be remedied; and (4) the waiver will not have undesirable consequences,

such as harming third parties.[9] MISO failed to meet any of the criteria and accordingly, the Clean Energy Coalition requests that the Commission deny MISO's Request.

1. MISO failed to inform stakeholders, many of which will be significantly impacted by this delay, that it would seek to dramatically extend the compliance date for Order 841, and therefore cannot satisfy the Commission's good faith requirement.

Upon the issuance of Order No. 841 in February 2018, MISO immediately instituted a robust stakeholder process to determine the proper models and rules pursuant to which ESRs could participate in MISO markets in a manner that complies with Order No. 841 directives. Since the start of the stakeholder process, MISO typically notified market participants about the process and the expected date by which the Tariff provisions would be operational. In November of 2019, when MISO initially sought an extension of time [10]to commence ESR participation, no stakeholders opposed that delay - likely because, at the time, few projects were in the queue. Thus, a change in the compliance date from December 2019 to June 2022 was minimally impactful.

However, since MISO's 2019 request, the landscape has changed considerably. Currently, there are 3,408.2 MW of stand-alone energy storage in the MISO queue, as well as 4064.2 MW of hybrid[11] interconnection projects that list battery storage as one fuel source, all slated for a commercial operation date prior to 2025. When an interconnection customer does not reach its

[9] 3408.2 MW of battery storage projects and 4062.4 MW of hybrid (that include battery storage) interconnection projects in the queue (as of March 16, 2021) are planned to complete the interconnection process and reach operational status prior to 2025. https://www.misoenergy.org/planning/generator-interconnection/GI_Queue/gi-interactive-queue/ .

[10] *See* Midcontinent Independent System Operator, Inc.'s Request to Defer Effective Date of Compliance with Order No. 841, Docket No. ER19-465-000.

[11] MISO currently does not have a market participation model for hybrid resources, and until a hybrid model is available, the ESR resources in a hybrid likely may need to use whatever participation option is available to storage resources. So, a delay for ESRs is also likely a delay for hybrid resources that include ESRs, further expanding the parties that will experience harm due to MISO's proposed delay.

intended commercial operation date within three years, the project is automatically withdrawn from the MISO queue and deemed invalid.

Despite knowing this, MISO failed to collect any input from these interconnection customers, the energy storage industry, or states or utilities contracting with these projects. Had MISO done so, its stakeholder process would have affirmed the harm that a nearly three-year additional extension of time would inflict on the industry. MISO's surprise request for a significant delay of market implementation is inconsistent with stakeholder notice requirements that are a part of "good faith" behavior.

In contrast, FERC approved a delay in the implementation of tariff provisions sought by Southwest Power Pool ("SPP") after SPP represented that it had worked closely with stakeholders by providing regular updates on the status of the project and conducting numerous informational sessions and trainings. In its order approving SPP's request, FERC found that "SPP has acted in good faith, . . . made concerted efforts to implement the revenue crediting process and, despite delays, demonstrated progress and kept its stakeholders informed of developments."[12]

Here, MISO failed to notify its stakeholders of the potential delay, and the Commission should decline to approve a sweeping extension filed with such little notice.

2. A further delay of the implementation of Order 841 by nearly three years is not "of a limited scope," as it will significantly hinder the development of ESR projects in the interconnection queue, and may result in prolonged barriers to market participation for ESRs and distributed energy resources.

[12] *Sw. Power Pool, Inc*., 156 FERC ¶ 61020 at P53 (2016).

MISO's requested extension is sweeping, rather than "of a limited scope." When the Commission adopted Order No. 841 and MISO sought a specific implementation date of June 6, 2022, market participants began to plan and prepare to utilize MISO's new participation model. Projects were developed and financed, energy storage and supporting equipment were planned for manufacture, and contractual commitments with off-takers and for managing operations were agreed upon. As a result of MISO's previous commitment to allow ESRs into the markets by 2022, there are now nearly 7,500 MW of standalone energy storage projects and hybrid resources with an ESR component that are currently planned for construction and operation prior to 2025.

Additionally, it appears that the scope of this delay, if approved, will extend beyond compliance with Order No. 841 and will likely similarly impact MISO's Compliance with Order 2222.[13] MISO has not directly made this connection or even discussed how its waiver request would impact Order No. 2222 compliance, but it has pointed to the ESR model that would be delayed by the requested waiver at issue here as a key pathway for Order No. 2222 compliance. For example, at its May 8, 2020 Distributed Energy Resources Task Force ("DERTF"), MISO presented recommendations for resource participation models that it could use to comply with Order No. 2222. MISO recommended the ESR and dispatchable intermittent resource ("DIR") participation models be used to comply with Order No. 2222.[14] However, MISO's DIR product does not allow for self-committed resources to charge, discharge, or provide continuous operation, and also does not allow for participation by resources as small as 0.1 MW, as the Commission required in Order No. 2222

[13] Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators, Order No. 2222, 172 FERC ¶ 61,247 (2020).

[14] MISO, *Order 2222 Evaluation Framework*, 11 (March 8, 2021), *available at* https://cdn.misoenergy.org/20210308%20DERTF%20Item%2005%20Evaluation%20Framework%20Stage%20Review528122.pdf

(and in Order No. 841). As a result, delaying the ESR participation model as requested here will almost certainly have the impact of delaying the implement of Order No. 2222 as well, expanded the scope of impact from MISO's request even further.

With MISO's requested delay, Order No. 841 tariff provisions would be implemented nearly seven years later than FERC intended. The Clean Energy Coalition submits that delays of seven years for ESRs, and more than four years for distributed energy resources, should rightly be considered expansive rather than limited. If the Commission grants MISO's request for an extension and precludes those entities in the queue from operating in a timely manner, it will inadvertently create additional uncertainty in the already uncertain environment for developing storage, hybrid, and other advanced energy technologies in MISO. Project developers and financiers, as well as utilities seeking ESRs, will be unable to rely on decisions that determine an operational date certain for the commencement of tariff provisions.

3. MISO has failed to demonstrate that the upgrade to the existing software program needs to be completed and tested before ESRs can fully participate in MISO's markets.

In its Order allowing implementation of MISO's ESR participation model by 2022, the Commission noted that it was reasonable for MISO to upgrade its MSE software to be consistent with the implementation of its Order 841 tariff provisions. At that time, there was no objection to MISO's extension because there were no storage projects in the queue that could not be changed from an operational date of 2019 to a date nearly 31 months. In November 2020, MISO informed the Commission that the ESR market was on track to commence on June 6, 2022.[15] Four months later,

[15] Midcontinent Independent System Operator, Inc. Informational Filing for Order No. 841 Docket Nos. ER19-465-000 & ER19-465-001, November 23, 2020.

MISO requests a nearly 3-year extension, claiming that its existing software cannot handle the influx of renewable energy projects, such as wind and solar. In those intervening four months, MISO has apparently determined that the MSE upgrades are necessary before ESR participation models and expanding deployment of renewables can be aligned. This is inconsistent with Order No. 841's implementation timelines, which were designed to allow ESRs to participate in the capacity, energy and ancillary services markets imminently, not in 2025. And MISO's concern about the impact of the growth in wind and solar resources on its system disregards the potential for ESRs to help expedite the integration of these same resources. Of course, this solution will not be possible if the participation of ESRs is delayed.

By changing its priorities to the detriment of the ESRs, MISO is seeking to change its software planning unilaterally. The change may resolve a MISO administrative issue, but it hardly solves a 'concrete problem.' Indeed, RTOs typically juggle multiple regulatory deadlines and new market features simultaneously and without issue. Instead, MISO's proposed delay only creates problems for the ESR and other industries.

4. A grant of MISO's request would significantly harm third parties.

Finally, MISO cannot meet the fourth prong of the Commission's waiver standard, as there is no plausible case that a three-year delay – on top of an already-authorized lengthy delay – will not harm multiple participants. As detailed above, the delay in implementing Order No. 841 Tariff provisions from June 2022 until March 2025 impacts 3,408.2 MWs of energy storage projects and 4064.2 MW of hybrid projects involving energy storage slated to be online before the date that MISO now proposes to open the market. In the MISO Generator Interconnection Process, projects must remit payment of $4,000 per MW to enter the queue. This amounts to $29,889,600 for the currently planned 7472.4 MW of affected resources seeking operational dates prior to 2025. Once studies

commence (as they currently have for all 7472.4 MWs), half of the $4,000 per MW becomes "at risk" - with all of it becoming "at risk" after the MISO Phase 1 study is completed.[16] However, this does not include the study deposit fees, the land acquisition fees, independent market and engineering study fees regularly done prior to entering the queue, and other capital, development and equipment costs, which can be estimated at $1M/MW as a "rule of thumb." Projects vary by location, generation source and grid conditions. [17] Equipment manufacturers base production on the equipment sales and orders, and off-take agreements with local utilities and private entities are regularly made while projects are under study. In short, the scope of impact of this request extends well beyond the direct $29,889,600 provided by Interconnection Customers to enter the MISO queue process by energy storage and hybrid projects currently in the queue and planned for operations before 2025.

MISO also erroneously claims that ESRs can use MISO's Storage Energy Resource Type II (SER Type II) participation model until MISO complies with the Order No. 841 requirement to implement an ESR participation model. When the Commission initially granted MISO's use of SER Type II, it did so as an interim or stop-gap solution until such time as "MISO can address some of these tariff deficiencies in its Order No. 841 compliance filing." [18] The Commission stated that SER Type II participation model, like the Demand Response Resource ("DRR") Type II model it is based on, does not "accommodate the unique features of electric storage technologies … and thus MISO's proposed interim SER – Type II category has a number of technical deficiencies, such as a lack of bidding parameters tailored to electric storage resources and a failure to determine whether make-

[16] https://cdn.misoenergy.org/GI%20Process%20Flow%20Diagram106549.pdf

[17] https://www.eia.gov/todayinenergy/detail.php?id=36813.

[18] Commission Order EL17-8, ER17-1376, March 23, 2018 at 60.

whole payments can be properly applied to SER – Type II resources."[19] The Commission further noted that the deficiencies of SER Type II also relate to voltage support and blackstart services.[20] MISO's Request to further delay its Order 841 implementation for such a long period of time, allowing ESRs to only use the SER Type II participation model in the interim, is woefully deficient and results in unjust and unreasonable treatment for ESRs.

Further, MISO's Order 841 compliance filing[21] included the following offer parameters for the ESR model:

- Energy Storage Level (state of charge)
- Hourly Maximum Storage Level
- Hourly Minimum Storage Level
- Hourly Economic Max Charge Limit
- Hourly Economic Max Discharge Limit
- Min Charge Time
- Max Charge Time
- Min Discharge Time
- Max Discharge Time
- Hourly Economic Min Discharge Limit
- Hourly Economic Min Charge Limit
- Hourly Discharge Ramp Rate
- Hourly Charge Ramp Rate
- Hourly Regulation Max Charge Limit
- Hourly Regulation Minimum Charge Limit
- Hourly Regulation Maximum Discharge Limit
- Hourly Regulation Minimum Discharge Limit
- Energy Dispatch Status
- Regulation Dispatch Status
- Spin Dispatch Status
- Start Up
- No Load
- Online Supplemental Dispatch Status
- Offline Supplemental Dispatch Status
- Emergency Maximum Energy Storage level
- Emergency Minimum Storage level

[19] *Id*., pp. 58.

[20] *Id*., pp. 60.

[21] Prepared Testimony of Kevin Vannoy, Dec. 3, 2018, Docket ER19-465, pages 21-23.

- Hourly Emergency max Discharge Limit
- Hourly Emergency Min Discharge Limit
- Hourly Emergency Max Charge Limit
- Hourly Emergency Min Charge Limit
- Initial Energy Storage Level (at start of DA Market)
- Electric Storage Resource Efficiency Factor

Yet, the SER Type II (Per the Commercial Model master template) only includes:

- Minimum Output/Maximum Charge Limit
- Maximum Output/Minimum Charge Limit
- Default Ramp Rate/Default Discharge Ramp Rate
- Regulation Maximum Limit
- Regulation Minimum Limit
- Maximum Offline Limit
- Default Status (online, outages, etc.)
- Energy Dispatch Status
- Regulation Dispatch Status
- Spinning Reserve Dispatch Status
- On-Line Supplemental Dispatch Status
- Off-Line Supplemental Dispatch Status
- Maximum Regulation Up Deployment
- Maximum Regulation Down Deployment
- Maximum Contingency Reserve Deployment

The differences in the offer parameters for these two participation models are further evidence that the SER Type II model is insufficient to allow ESRs to provide their full capabilities into MISO's markets, and without a fully functional ESR participation model the impact to project developers and market participants is significant While both the SER –Type II resources and the future ESR are qualified to provide the same market products, the offer parameters for SER-Type II resources do not allow for the full functionality ESRs in MISO's markets as required by Order No. 841. The SER - Type II options are based on the offer parameters of a demand response resource, clearly a different resource from a front of the meter standalone or solar/wind paired storage facility. The offer parameters for SER Type II resources lack functionality the ESR is expected to include, such as the state of charge and round-trip efficiency parameters. In addition, the different

ESR operating modes (charge, discharge, and continuous) that can be adjusted in real time offers would provide much help in managing the state of charge and the deficiencies in the SER Type II model will make the management of a storage asset more difficult. Without the full ESR functionality, both stand-alone ESRs and pairing of such resources with solar and wind resources, will not be able to offer their full capabilities to the MISO markets as required under Order 841.

The detrimental impact that the delay will have on project developers, equipment manufacturers, financiers, and parties to contractual commitments creates massive barriers to participation and MISO's Request is not sufficient to delay the implementation of FERC-mandated tariff provisions that other parties have significantly relied upon in good faith.

B. Even if FERC determines that a waiver of the tariff provisions are not required, the Commission should deny MISO's request because (1) the delay will cause further unjust and unreasonable rates for the region and (2) will cause undue harm on market participants.

As detailed above, the delay requested by MISO will result in market upheaval to not only the Order No. 841 mandates, but to those in Order No. 2222 as well. Specifically, the potential use of the ESR model in Order 2222 compliance provides self-commits and appropriate resource sizes for DERs, would result in compliance delays to those FERC mandates in substantial part until at least 2025.

Already discussed above, each delay results in furtherance of a rate structure that the Commission already has deemed to be unjust and unreasonable. MISO's solution to maintain the inappropriate status quo, only allowing the use of SER Type II participation model which the Commission has already deemed deficient, while it upgrades a software system is unreasonable. MISO's extension would cause undue harm to existing ESR projects, their investors and manufacturers and would most likely moot existing contracts with a three-year delivery date. Based

on the harm to the industry, it is clear that a three-year delay for implementation of the Order No. 841 tariff provisions is unreasonable and unfair to the industry.

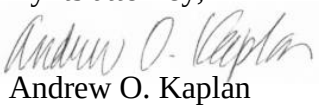
The simplest resolution of this issue is for the Commission to direct MISO to continue to implement the ESR software using its existing platform to ensure that the benefits of storage are realized in 2022. MISO has acknowledged many ways that storage can facilitate the integration of renewables as well as improve reliability. Ensuring that ESR software is operational by June 2022 would give MISO an additional tool to help manage renewable energy integration.

IV. CONCLUSION

For the reasons outlined above, MISO has failed to show good cause for its Request, nor has it met any of the criteria that the Commission relies upon to evaluate waiving a Tariff provision. Moreover, as the Commission already has deemed MISO's present market rules for energy storage to be unjust and unreasonable, maintaining the status quo for an additional three years is harmful and inappropriate. Accordingly, the Clean Energy Coalition respectfully requests that the Commission deny MISO's request.

Respectfully submitted,

THE U.S. ENERGY STORAGE ASSOCIATION
By its attorney,



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Dated: March 19, 2021

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I, Anne O'Hanlon, certify that on this day that I emailed or mailed, postage prepaid, a copy of the foregoing document to all parties on the official service list posted by FERC

Dated at Boston, MA this 19th day of March, 2021.

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