

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System Operator, Inc.)

Docket Nos. ER19-465-004

MOTION FOR LEAVE TO ANSWER AND ANSWER OF
THE U.S. 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 212 and 213¹ 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 Answer in response to the Midcontinent Independent System Operator, Inc.’s (“MISO”) April 5, 2021 Answer in the above-captioned matter (“MISO’s Answer”). As detailed below, MISO has failed to refute the information contained in the Clean Energy Coalition’s Protest detailing the detrimental impact to the energy storage industry should the Commission grant MISO’s request to delay by an additional three years (over two previous delays) – 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. 841.³ Moreover, in its Answer, MISO makes an inexplicable claim that a

¹ 18 C.F.R. §§ 385.212, 213 (2020).

² Each individual trade association has intervened in this proceeding.

³*Electric Storage Participation in Markets Operated by Regional Transmission Organizations*

delay in allowing ESRs to participate in the capacity market is unlikely because ESRs can participate in MISO’s capacity market as Stored Energy Resources – II (“SER-II”). Contrary to MISO’s claim however, no ESRs participate in MISO’s capacity market as SER-IIs, because that program has not provided the required parameter inputs that ESRs need to participate in the market.⁴

Accordingly, despite what MISO argues in its Answer, there are no options available for the 7500MW of stand-alone and hybrid ESRs that have already entered MISO’s interconnection process to effectively participate on the grid today. A three-year delay will result in significant financial loss to those projects. This does not take into consideration the eleven current “Surplus Interconnection” projects of ESRs that are scheduled to be added to existing operating projects.⁵

Thus, for the reasons outlined herein, the Clean Energy Coalition respectfully requests that the Commission grant this Motion for Leave to Answer and Answer and reject MISO’s extension request.

I. MOTION FOR LEAVE TO ANSWER

Although responses to answers are not permitted pursuant to FERC rules as a course of normal business the Commission does allow answers when the answer provides useful and

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 1177 (D.C. Cir. 2020).

⁴ MISO also claims that ESRs are able to participate in MISO’s markets as Storage as Transmission Only Assets (“SATOAs”). However, under Order 841, FERC has expressly prohibited ESRs from participation as a SATOA, which is only available for Transmission-Owner storage that is rate-based to ratepayers.

⁵ In Order No. 845, the Commission defined Surplus Interconnection Service as “any unneeded portion of Interconnection Service established in a Large Generator Interconnection Agreement, such that if Surplus Interconnection Service is utilized the total amount of Interconnection Service at the Point of Interconnection would remain the same.” See *Reform of Generator Interconnection Procs. & Agreements*, Order No. 845, 163 FERC ¶ 61043 at App’x 1 to LGIP (2018). MISO defines Surplus Interconnection projects as new generation resources or ESR that are added to existing interconnection service at the same point of interconnection without increasing the level of interconnection service in MISO. Although the MISO designates a Surplus Interconnection project as generating “0 MWs” on top of the existing resource in the interconnection process, each amounts physically to additional ESR capacity together totaling hundreds of MWs.

relevant information that will assist the Commission in its decision-making process, corrects factual inaccuracies and clarifies the issues, assures a complete record in the proceeding, provides information helpful to the disposition of an issue, or permits the issues to be narrowed.⁶

As demonstrated herein, this Answer satisfies each of those criteria and thus, FERC is respectfully requested to grant the Clean Energy Coalition's Motion for Leave to Answer and to include its Answer in the record of this proceeding.

II. ANSWER

A. MISO Erroneously Claims that the Three-Year Delay to the ESR Program is necessary for grid reliability and that losses to the storage industry can be mitigated by ESRs participating in the Stored Energy Resource – II Program or as Storage as a Transmission Only Assets.

In its Answer, MISO notes that it is imperative to install the Market System Enhancement (“MSE”) system quickly in part to ensure that the grid operator can maintain reliability of the system, especially in the event of weather-related problems that other regions have experienced. Curiously, in its Answer, MISO then attempts to “build the bridge” from its mission to maintain a reliable system (especially as it prepares to incorporate variable energy resources, such as wind and solar onto the grid)⁷ to its proposed three-year delay to allow energy storage resources onto the grid while computer systems are updated. It is difficult to imagine how effectively preventing energy storage resources, which by design assist with grid reliability during those times when wind and solar are not generating electricity, from integrating onto the grid would allow MISO to maintain grid reliability. This delay will also preclude storage from providing primary frequency response, voltage control,

⁶ See, e.g., *Southwest Power Pool, Inc.*, 143 FERC ¶ 61,018, at P 15 (2013) (accepting answer that assisted in the decision-making process); *Texas Eastern Transmission, LP*, 122 FERC ¶ 61,205, at P 8 (2008) (accepting answer that completed the record); *California Independent System Operator Corp.*, 105 FERC ¶ 61,284, at P 10 (2003) (accepting answer that clarified the issues).

⁷ MISO's Answer at 5.

and many other critical grid reliability functions. Thus, MISO's claim that the delay is necessary for grid reliability lacks factual support.

In its attempt to gloss over the *loss* of reliability to the system that will result if FERC implements another delay to market implementation by ESRs, MISO claims that such losses are mitigated because those resources already participate on the grid as SER-IIs. This is incorrect. The SER-II program was approved as a short-term solution to ESR market participation in response to Indianapolis Power and Light's complaint regarding MISO's exclusion of ESRs.⁸ Yet, the IPL project has not been able to make use of this category. In fact, Clean Energy Parties are aware of *zero* energy storage resources participating with this market asset registration type. The reason for the lack of participation in the SER-II program is because ESRs require intra-hour offer parameters, whereas MISO's SER-II program only allows for hourly offers. Similarly, because the SER-II program disallows state of charge management parameters, SER-II projects are unable to participate in both the Capacity and Ancillary Services markets simultaneously.⁹ Moreover, SER-II lacks eligibility for revenue sufficiency guarantee ("RSG") and other make-whole payments, which other resources are eligible for, making the use of this model risky for market participants. Based on Module C Sections 39.3.2B and 40.2.19A of MISO's Tariff, it is unclear if the SER Type II would be made whole if the revenue from market and reliability commitments are less than the SER Type II's production cost.¹⁰

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

⁹ See MISO's December 4, 2018 informational report to FERC explaining the status of Stored Energy Resources – Type II ("SER – Type II"), which was filed in response to Order No. 841. <https://cdn.misoenergy.org/SER%20-%20Type%20II%20Informational%20Filing299163.pdf>.

¹⁰ See MISO's presentation on the SER II model at the October 8, 2020 MSC meeting. [https://cdn.misoenergy.org/20201008%20MSC%20Item%2007%20Hybrid%20Resource%20Market%20Participation%20Model%20\(IR086\)481352.pdf](https://cdn.misoenergy.org/20201008%20MSC%20Item%2007%20Hybrid%20Resource%20Market%20Participation%20Model%20(IR086)481352.pdf).

MISO failed to develop a program where ESRs could effectively participate in the MISO market under the SER-II type. In the long run, the Commission has alleviated that concern with the enactment of Order No. 841 – but only once the order is actually implemented. MISO now seeks to push the market implementation timeline out of reach to ESRs in the queue for pre-2025 operations. This result would be unjust and unreasonable, and unduly discriminatory.

MISO also suggests, without any supporting documentation, that these same resources have the opportunity to participate as Storage as a Transmission Only Asset (“SATO”).¹¹ In fact, SATOA - by design - is not available to Independent Power Producers (“IPP”), who sponsor most if not all of the 7500MW of storage and hybrid resources in the MISO queue. SATOA status is limited to sponsoring entities that already own transmission in MISO and are allowed to rate-base the cost of an ESR, which is inapplicable to IPPs.

Should the Commission approve MISO's request for delay, the Commission should require MISO to engage with stakeholders to work towards enhancing SER-II rules under the existing system (*i.e.*, such as the currently planned Tariff revisions to exempt SER-II from transmission charges when providing certain services) and to provide regular updates on this work to the Commission.

B. The Proposed Delay of Order No. 841 mandates until June 2025 risks market losses of approximately \$7.5 billion for storage projects in the queue.

In its Answer, MISO claims that the acceleration of the MSE software ahead of full implementation of Order No. 841 is a priority, because it will result in \$300 million in net benefits to the region¹². Even if MISO could support its calculation of that number – which it has not, either

¹¹ MISO's Answer at 1.

¹² MISO's Answer at 3.

before stakeholders or the Commission -- \$300 million pales in comparison the likely \$7.5 billion¹³ loss to capital finances of the 7500 MWs of energy storage in the MISO queue and associated Network Upgrades that are necessary for those projects to operate. The approximately \$7.5 billion loss is for those projects in the queue for operations before 2025. MISO's emphasis on the priority of the MSE software does not factor in the significant potential financial loss to parties impacted by its delay of Order 841 implementation. The number of ESRs that would seek to enter the queue will only increase as MISO demonstrates that it can implement the required changes to its market to incorporate ESRs within a date certain, adding to the growth of this market segment.

MISO notes that given its ongoing requests for delays, it would be willing to provide FERC and the MISO stakeholders with reports that delineate its progress towards the June 2025 MSE completion date. Although that might have been acceptable three years ago, such a report will not, at this point, alleviate the continuing concern and regulatory uncertainty caused by MISO's inactions since the Commission granted MISO's most recent market implementation delay. In November 2020, MISO stated that it was on track to implement Order No. 841 mandates by June 2022.¹⁴ Then, without warning (which MISO claims it was unable to provide to shareholders because of the sudden nature of the problem, and the need to make an immediate decision to delay market implementation to ensure the request was timely for FERC's rules),¹⁵ MISO filed for a three-year extension. This immediately created economic and operational uncertainty for both the IPPs and the storage industry. This does not consider the ripple effects caused by this unannounced delay to secondary industries including, but not limited to C&I customers that have been in discussion for offtake agreements (which often occurs during the MISO interconnection queue process to give developers confidence in

¹³ The \$7.5 billion estimate is based on a conservative estimate of the cost to build a storage facility.

¹⁴ See Informational Filing for Order No. 841, Docket No. ER19-465 *et al.*, at 3 (November 23, 2020).

¹⁵ MISO's Answer at 3.

putting cash up front for “at-risk” milestones), construction and engineering firms, materials suppliers, transport arrangers, and others.

Based on MISO’s lack of transparency to the storage industry and other stakeholders to date, the release of a mere progress report is unlikely to address the underlying issues responsible for the delay requests to date and the resulting uncertainty or financial impacts. There have been zero stakeholder updates on the progress of storage participation, or even attempted progress.¹⁶ There are no charts showing the tasks needed and time needed to complete. It appears as if no effort whatsoever has been made. With the assurances of being able to meet the 2022 deadline with the last delay request, seemingly no work attempted since then, and no viable market participant model for ESRs to utilize in the interim (with billions of dollars at stake), it is only prudent that the Commission deny MISO’s request.

C. MISO’s Intimation that FERC has approved similar requests for delays in other RTOs/ISOs is Misleading.

In its Answer, MISO claims that FERC has permitted delays to implementing Order No. 841 mandates under similar circumstances and points to ISO-NE as an example. The Commission’s decision on the ISO-NE proceeding is inapplicable to MISO’s request.

MISO’s reliance on the Commission’s order on ISO-NE’s second compliance filing mischaracterizes the scope of the compliance tariff provisions that would be subject to the January 1, 2026 effective date. In August 2020, the Commission approved ISO-NE’s second compliance filing, effective December 3, 2019.¹⁷ The Commission also granted ISO-NE’s request to delay the effective date of the tariff provisions related to ESRs’ State of Charge and Duration Characteristics in the day-

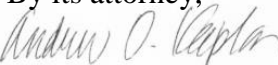
¹⁶ See <https://www.misoenergy.org/stakeholder-engagement/issue-tracking/storage-participation--ferc-order-841-compliance/>.

¹⁷ *ISO New England, Inc.* 172 FERC ¶ 61, 125 (2020).

ahead market could be delayed, pending a modification to ISO-NE's software. However, in ISO-NE, "the vast majority of ISO-NE's electric storage resource participation rules are fully operational and modification of day-ahead clearing does not appear to be an immediate priority for entities operating and installing electric storage resources in ISO-NE."¹⁸ There is no similarity between ISO-NE's request and MISO's request. ISO-NE will have instituted all of the Order No. 841 mandates as pertains to ESRs with a lone exception. MISO, on the other hand, has asked for a delay in implementing *all* of Order No. 841's requirements, which would preclude ESRs from fully participating in MISO's markets until (at least) 2025. This delay is on top of the two delays previously requested. The Commission should deny the additional three-year delay that MISO now seeks.

III. 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,
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¹⁸ *Id.* at P 73.

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Dated: April 20, 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 20th day of April, 2021.



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