

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

**Midcontinent Independent System Operator**      )  
  )  
  )                                      **ER20-359**

**COMMENTS OF THE  
AMERICAN WIND ENERGY ASSOCIATION,  
CLEAN GRID ALLIANCE, AND THE SOLAR COUNCIL**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”),<sup>1</sup> the American Wind Energy Association (“AWEA”), Clean Grid Alliance (“CGA”), and the Solar Council (“Council”) (collectively, the “Clean Energy Entities”) respectfully move to intervene and submit comments responding to the Midcontinent Independent System Operator’s (“MISO’s”) January 21<sup>st</sup>, 2020 response<sup>2</sup> to the Commission’s December 20, 2019 Deficiency Letter<sup>3</sup> in the above-captioned proceeding. In its filing, MISO proposed to implement a Pro Forma Facilities Services Agreement (“Pro Forma FSA”) in its tariff.<sup>4</sup> The Clean Energy Entities appreciate that several of the changes proposed by MISO in the Deficiency Response incorporate suggestions from our prior comments.<sup>5</sup> However, we do not believe that the contents of the Deficiency Response rehabilitate the flaws in

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<sup>1</sup> 18 C.F.R. § 385.213 (2018).

<sup>2</sup> Midcontinent Independent System Operator, Inc, Docket NO. ER20-359, January 21, 2020, Submission of Response to Deficiency Letter (“Deficiency Response”).

<sup>3</sup> Letter informing MISO of Deficiency and Requesting Additional Information, Docket No. ER20-359-001 (Dec. 19, 2019)(“Deficiency Letter”).

<sup>4</sup> ER20-359-00,1 Midcontinent Independent System Operator, Inc., Filing of Pro Forma Facilities Services Agreement for Transmission Owner Self-Funding Docket, Docket No. ER20-359 (Nov. 12, 2019), (“Pro Forma FSA Filing”); Midcontinent Independent System Operator, Inc., Filing of Exhibit I in ER20-359 (Nov. 14, 2019)(“Exhibit I Filing”).

<sup>5</sup> Mot. To Intervene and Comments of Am. Wind Energy Ass’n et. al., ER20-359-001 (Dec. 12, 2019)(“Initial Protest”).

MISO's initial Pro Forma FSA Filing; accordingly, we continue to urge the Commission to reject that filing as unjust and unreasonable.

## I. COMMENTS

MISO proposed to add to its Tariff a Pro-Forma FSA that, if accepted, would i) create cost uncertainty at each of the "Decision Points" in the interconnection process, ii) obscure costs in the MISO Generator Interconnection Process, and iii) not offer flexible terms. Additionally, MISO has failed to justify why a MISO Transmission Owner ("MISO TO") that elects to self-fund upgrades can reasonably receive both security and full financial guarantee from the interconnection customer (essentially eliminating financial risk to the MISO TO) while also received the full Return on Equity ("ROE") on the facilities. The Clean Energy Entities note that the Commission recently instructed MISO to:

"file with the Commission an FSA, which necessarily will set forth the costs for the network upgrades including a return on and of capital, for the Transmission Owner Initially Funded network upgrade(s) included in the [agreements] ... after the parties submit the executed or unexecuted FSA to MISO... [E]ach filing regarding an FSA that MISO submits to the Commission must adequately support any proposed method for determining the return on and of capital for the relevant [self-funded] network upgrades as just and reasonable and not unduly discriminatory and preferential."<sup>6</sup>

The relationship between the security and the TO's just and reasonable return on and of capital should be clearly specified for FSAs in this context as well. Additionally, we note that in its response to Question 4 MISO indicates that the deposits required under the currently-effective tariff should generally be substitutable for construction security.<sup>7</sup> Including this new category of deposits in the proposed pro forma FSA represents a new issue, and is not necessarily in conflict

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<sup>6</sup> See *Midcontinent Indep. Sys. Operator, Inc.* at PP138-140, 169 FERC ¶ 61,233 (2019) (requiring clear methodology, including ROE, for facilities for which retroactive self-funding is applied).

<sup>7</sup> Deficiency Response at 4 ("the Transmission Owner would be required to release security received for each Network Upgrade's costs under the [agreements] upon Transmission Owner's receipt of sufficient replacement security for that Network Upgrade under the FSA...").

with the filed tariff rate. However, consistent with the Clean Energy Entities' Initial Protest and the Commission's December instructions to MISO, the Commission should fully scrutinize the relationship between the various categories of potential security deposits and the appropriate return on and of capital for the MISO TO, and should ensure that any such returns are just and reasonable, and not unduly discriminatory or preferential.

## II. CONCLUSION

WHEREFORE, the Clean Energy Entities respectfully submit these comments for the Commission's consideration and continue to urge the Commission to reject MISO's proposed Pro Forma FSA because it improperly places risks and costs solely on the IC, and to direct MISO to return with a more balanced proposal.

Respectfully submitted,

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