

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

Midcontinent Independent System Operator, Inc.)	
)	ER20-588-000
)	

**MOTION TO FILE LATE PROTEST AND PROTEST
OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”),¹ the Electric Power Supply Association (“EPSA”)², hereby requests leave to file this protest out of time and provides the protest below. EPSA timely filed a doc-less intervention in this proceeding on January 21, 2019, and respectfully submits that this protest will aid the Commission in its decision-making with respect to Midcontinent Independent System Operator, Inc.’s (“MISO” or “the ISO”) proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (“Tariff”) that would allow for the selection of a storage facility as a transmission-only asset (“SATO”) in the MISO Transmission Expansion Plan (MTEP).

¹ 18 C.F.R. §§ 385.212 (2019).

² EPSA is the national trade association representing competitive power suppliers, including generators and marketers, that provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies. EPSA seeks to bring the benefits of competition to all power customers. This pleading represents the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

Approval of the EPSA's motion to file a late protest at this very early stage of the proceeding will not cause any disruption or delay to the Commission's consideration of this filing nor prejudice any other party to the proceeding. For reasons stated, EPSA respectfully submits this motion to file a late protest along with this protest now, after the deadline had passed.

I. Background

As EPSA has advocated before the Commission on multiple occasions,³ a storage asset should only participate on the system (and therefore receive revenues) as *either* transmission *or* generation services—not both. In the instant matter, while MISO's proposed tariff changes provide that certain storage facilities must declare as transmission-only assets to participate in the RTO's Transmission Expansion Plan, in its transmittal letter MISO notes that in early 2020 it will work with stakeholders to address the issues related to using storage to serve multiple functions.⁴ Were such a paradigm to be approved, it would have deeply distortive effects on the markets. The Commission should make clear that if storage resources are allowed to participate as transmission, its function must be limited to that designation.

³ See *generally*, "Comments of the Electric Power Supply Association and the PJM Power Providers Group on Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators," (filed Feb 13, 2017), Docket Nos. RM16-23-000 and AD16-20-000. Available at: <https://www.p3powergroup.com/siteFiles/News/4165658B02CE7D50BD8E3FCE2503E838.pdf>; See also, "Comments of the Electric Power Supply Association on Electric Storage Market Participation and ISO/RTO Reports," (filed June 6, 2016), Docket No. AD16-20-000. Available at: https://epsa.org/wp-content/uploads/2017/04/3958200000023.filename.EPSA_Comments_Storage_AD16-20_06062016_FINAL.pdf

⁴ MISO Transmittal Letter at p. 3.

II. PROTEST

As EPSA has stated in previous storage-related proceedings, our primary concern is that any proposed reform or existing tariff provision which addresses the participation of storage assets in an ISO or RTO ensure that undue barriers to participation do not exist. However, such tariff provisions should not potentially or practically confer unduly preferential treatment to storage resources. While EPSA recognizes that such proposals can be impacted by the challenges in integrating a new technology or resource innovation, any changes or reforms that institute unduly preferential or special treatment will distort price signals and place uncompensated reliability burdens on other resources, thereby producing inefficient market outcomes. Therefore, EPSA continues to urge the Commission to make clear that a storage resource can be designated as either transmission resources or generation resources but cannot be both at either the same time or toggling back and forth. It begs logic that a resource can operate under cost-based rates as transmission and also compete fairly against resources receiving market-based rates as suppliers or service providers. Additionally, EPSA urges the Commission to direct MISO to clarify *how* the distinction will be made regarding a storage asset's designation.

In the event that the Commission were to find that it is appropriate to allow battery storage to participate in MISO as transmission, the instant proposal as submitted to the Commission is highly anti-competitive as it creates an unduly discriminatory preference for storage projects proposed and developed by transmission owners ("TOs"). By design, MISO's proposal prefers TO projects over similar projects developed by non-Transmission Owning entities. By eliminating or limiting competitive

opportunities for storage developers, owners, and operators other than a TO, the MISO proposal leaves in place barriers to certain storage projects in contravention of FERC's final rule on *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators* (Order 841).⁵ This is a clear violation of the Commission's basic open access and comparability policies.⁶

EPSA acknowledges the infrastructure and deliverability challenges posed by the changing resource mix across RTOs/ISOs. That noted, it seems critical to ensure that any resource designated a SATOA (storage facility as a transmission-only asset) for this purpose must retain that designation clearly and solely. MISO's proposal cuts against the Commission's efforts in Orders 888 and 890. In the instant matter, were MISO's proposal to be approved as submitted, so-called transmission assets may in the future be used to participate energy markets.

Regarding MISO's intention to begin a process to address issues related to using storage to serve multiple functions – as both transmission *and* to provide market services – EPSA points out the impacts this approach will have on other resources supplying power and services to MISO. Setting up the rules and guidelines for this dual participation must navigate the guardrails detailed in the Commission's 2017 *Policy Statement on the Utilization of Storage Resources for Multiple Services when Receiving Cost-based Rate Recovery*. In that Statement, the Commission provided that the following three issues would need to be addressed: (a) the potential for double recovery

⁵ *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 841, 162 FERC ¶ 61,127 (2018).

⁶ See generally, "Joint Protest of Joint MISO Stakeholder Sector Participants" and "Protest of LSP Transmission Holdings II, LLC," each submitted concurrently to this Protest in the above-captioned proceeding.

of costs; (b) the potential for adverse impacts on wholesale electric markets; and (c) the level of control in the operation of the storage resource by an RTO/ISO that could jeopardize its independence.⁷ Should the instant filing be approved, storage resources participating in MISO as transmission would clearly pose issues to parts (a) and (b) of the Commission's three prong test. These resources would already be recovering their full costs through transmission rates and would thus have a suppressive effect on rates for other market services, distorting prices for other participants. Additionally, since transmission rates by design cover costs and a return for those assets, any additional revenues from other markets would make some level of double recovery a near certainty.

⁷ *Utilization of Electric Storage Resources for Multiple Services when Receiving Cost-based Rate Recovery*, 158 FERC ¶ 61,051 (2017) ("2017 Policy Statement").

III. CONCLUSION

For the foregoing reasons, EPSA urges the Commission to reject the MISO filing as submitted. In the alternative, the Commission should direct MISO to clarify that facilities electing to participate as SATOA may be developed by any Market Participant and will be prohibited from concurrently participating as supply resources in the energy markets based on their designation as transmission-only facilities.

Respectfully submitted,

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Dated: January 23, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., January 23, 2020.

Bill Zuretti

Bill Zuretti, Director, Regulatory Affairs, and Counsel