

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

Midcontinent Independent System Operator, Inc.) Docket No. ER16-248-000

COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION

Pursuant to Rule 211 of the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Rules of Practice and Procedure,¹ the Electric Power Supply Association (“EPSA”)² respectfully files these comments³ on the November 2, 2015 petition (“Waiver Request”) by the Midcontinent Independent System Operator, Inc. (“MISO” or the “ISO”) requesting temporary waivers of Sections 39.2.5 and 40.2.5 of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (“Tariff”) in order to enable its consideration of offers that exceed MISO’s established \$1,000/MWh Energy Offer Price Cap, and Section 64.1.4 of the Tariff, which provides for the process used by the MISO Independent Market Monitor (“MISO IMM”) to establish cost-based reference levels for generation resources in MISO.⁴ MISO has submitted the instant

¹ 18 C.F.R. Section 385.211 (2014).

² EPSA is the national trade association representing competitive power suppliers, including generators and marketers. Competitive suppliers, which, collectively, account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. 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.

³ EPSA filed a doc-less Motion to Intervene in this proceeding on November 4, 2015.

⁴ *Midcontinent Independent System Operator*, Request for Waiver, Docket No. ER16-248-000 (filed November 2, 2015) [MISO 2015 Waiver Request].

waiver request to allow market participants “to offer and recover costs in excess of MISO’s established \$1,000/MWh Energy Offer Price Cap in the event their fuel costs rise to high levels as a result of extreme weather conditions like those experienced during the polar vortex of January and March 2014.”⁵

EPSA supports the intent of the MISO waiver request to ensure that generation resources whose demonstrated actual costs of producing Incremental Energy and/or Minimum Generation exceed the current \$1000/MWh Energy Offer Price Cap are not forced to operate at a loss during the upcoming winter season. However, EPSA believes the waiver should only be granted subject to certain conditions. Further, EPSA requests that necessary market design reform changes in MISO and other ISOs/RTOs should occur swiftly and contemporaneously through a Commission-led generic proceeding that addresses offer caps on an interconnection-wide basis.

First, EPSA requests that the Commission grant the requested waiver only as an interim solution for the next winter, subject to the condition that MISO must allow cost-based offers above the existing \$1,000/MWh to set the market clearing price and ensure that Locational Marginal Prices (“LMPs”) reflect actual market conditions. This is a critical step which the Commission can take immediately, to balance MISO’s demonstrated need for interim, temporary relief, with the equally pressing need for a real solution which assures that generators would actually be compensated for costs incurred due to actual market conditions such as fuel price spikes. As EPSA has

⁵ The MISO waiver request states that Commission approval is necessary to protect the reliability of MISO’s markets by providing full recovery of actual costs incurred to operate of generators impacted by spikes in natural gas prices due to extreme weather conditions. MISO 2015 Waiver Request, *supra* note 4, at 1. The Commission also approved a similar waiver request from MISO on February 9, 2015. See *Midcontinent Independent System Operator, Inc.*, 150 FERC ¶ 61,083 (February 9, 2015) [2015 MISO Waiver Order].

reiterated in many contexts before the Commission, after-the-fact uplift payments are not a real solution for retaining existing generation nor for incenting higher levels of investment in reliability.⁶ A permanent solution in MISO can only be effectuated through expeditious Commission action requiring that cost-based offers be permitted to set the LMP.

Second, notwithstanding the instant waiver request, EPSA requests that the Commission expeditiously move forward with a formal proceeding that will either eliminate or significantly raise offer caps and pursue related reforms that permit generators to make cost-based offers that reflect the true costs of participation in the energy markets and accordingly set transparent, accurate market prices. EPSA reiterates that it is untenable for ISO/RTOs to simply make piecemeal annual revisions to offers caps or other aspects of price formation reforms, without coordination across markets or seams. That level of requisite coordination can only come from the Commission through a proposal that addresses the issue on an interconnection-wide, interregional basis, thereby resolving potential unintended consequences from individual ISO/RTO offer cap reform efforts such as convergence at or across the seams between markets or regions.⁷ EPSA urges the Commission to include expeditiously within its broad price formation reform proceeding a holistic effort to

⁶ Comments of the Electric Power Supply Association, *PJM Interconnection L.L.C.*, Filing to Increase Energy Offer Cap, Docket No. ER16-76-000 (comments filed Nov. 4, 2015); Comments of the Electric Power Supply Association, Request for Waiver, Midcontinent Independent System Operator, Inc., Docket No. ER15-691-000 (comments filed January 9, 2015).

⁷ *PJM Interconnection, L.L.C.*, *Filing to Increase Energy Offer Cap*, Docket No. ER16-76-000 (filed October 14, 2015) (“PJM Energy Offer Cap Filing”) (As noted most recently in the PJM Offer Cap Filing, differences among the ISOs/RTOs in their treatment of the Energy Offer Cap may create unintended seams issues.

address interconnection-wide energy offer cap rule revisions that will recognize the interdependency and seams issues between regions.

EPSA supports approval of the instant waiver request subject to conditions, and encourages the Commission to also take action as soon as possible that will seek to increase or eliminate offer price caps on an interconnection-wide basis and allow marginal costs to be reflected in market-clearing prices across neighboring ISOs/RTOs.

I. BACKGROUND

MISO has stated in its instant request that another waiver⁸ is necessary out of an abundance of caution in advance of this winter as the established \$1000/MWh Energy Offer Price Cap limits its authority to consider bids exceeding that amount in both the Day-Ahead and Real-Time Energy and Operating Reserves Markets, even though generation resources may need to recover actual costs in excess of those that could be recovered given the current offer cap. MISO points out that generators offering into the ISO neither have a specific Tariff-based mechanism through which they can seek cost recovery or offer in excess of the offer cap, nor the ability to consult with the MISO IMM to establish cost-based Reference Levels to reflect their increased fuel costs. Given these economic constraints and the possibility that MISO may again face extreme weather conditions that could cause offers to exceed the current cap due to natural gas price spikes, MISO argued that another waiver will ensure that the ISO can utilize all available resources to reliably serve load during extreme weather conditions.

⁸ MISO noted in its request that the Commission has already granted a similar waiver request made on February 9, 2015. See Order Granting Waiver, *Midcontinent Independent System Operator, Inc.*, 150 FERC ¶ 61,083 (February 9, 2015). [2015 Waiver Order].

MISO also noted its intent to continue to work toward a longer-term solution with its stakeholders and that it welcomed further guidance from the Commission regarding offer price caps in an upcoming Price Formation rulemaking. Finally, MISO argued that its waiver request is consistent with Commission policy regarding waivers, noting for example that the “short-term nature of the instant waiver request recognizes the seasonal nature of the potential issue of extreme weather and related high natural gas prices.”⁹ In the comments below, EPISA supports the above-noted concerns raised by MISO, and suggests the most appropriate path forward given these concerns as well as the broader need for Commission-led reform efforts that address offer caps on an interregional basis.

II. COMMENTS

EPISA believes that MISO has correctly identified the fundamental problem facing competitive generation resources and that MISO has justified the need for interim relief so that generators are available to the system and can be assured recovery of their justifiable and verifiable costs for supplying energy. However, EPISA does not believe MISO can quickly develop the required permanent solution through its stakeholder process. As such, EPISA disagrees with MISO that its stakeholder effort could be *complemented* by Commission guidance. Rather, EPISA asserts that the solution must uniquely and predominantly come from Commission action that provides appropriate guidance and direction to MISO for the upcoming winter and beyond. Accordingly, EPISA offers the following comments supporting specific direction from the Commission

⁹ 2015 MISO Waiver Request Filing, *supra* note 4, at 10.

to MISO and urging expeditious action to address offer caps generically across the ISOs/RTOs in a formal proceeding.

A. EPISA Supports the Instant Waiver Request but Urges that Cost-Based Offers be Allowed to Set Locational Marginal Pricing.

The Commission's approval of MISO's waiver request should be conditioned on MISO allowing offers above the current cap to set the LMP, in lieu of MISO's instant proposal to merely provide for recovery through uplift payments. This is the appropriate path forward for several practical and policy reasons that are consistent with the Commission's direction in its generic price formation proceeding,¹⁰ and supportive of the more permanent reforms which MISO had itself recently sought to bring about by proposing to raise its existing energy offer price cap from \$1,000/MWh to \$1,500/MWh.

As a matter of pursuing sound policy that is consistent with Commission precedent on competition in energy markets, MISO should be required to permit cost-based offers to set market-clearing prices and thereby provide appropriate, up-front recovery for costs borne by competitive suppliers above the current \$1,000/MWh energy offer cap. While MISO's waiver request is necessary to ensure that competitive suppliers are not forced to provide service at a loss based on an outdated bid cap during the winter, the underlying proposal from MISO would make competitive suppliers whole through cost-based, after-the-fact uplift payments. This proposed approach to provide "make whole" payments to generators is inconsistent with the Commission's

¹⁰ *Notice of Proposed Rulemaking, Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Docket No. RM15-24-000, 152 FERC ¶ 61,218, at 7. [RM15-24 NOPR].

longstanding precedent finding that it is harmful for market clearing prices to not reflect the cost of the marginal cost unit,¹¹ and it is antithetical to the goals of the FERC price formation proceeding.¹² Therefore, EPSA urges that the Commission grant the MISO waiver request subject to MISO allowing cost based offers above the Energy Offer Price Cap to set the market clearing price. Including the costs of serving the system in uplift unnecessarily distorts the MISO market.

EPSA has explained the negative impacts of these market distortions in several contexts, such as our comments filed following the FERC technical conference on organized capacity markets in the Eastern RTOs held in September 2013.¹³ These comments explain that Locational Marginal Prices are artificially suppressed when grid operators call on resources out of the market, resulting in uplift which is spread among load or other generators outside of the LMP mechanism. Simply put, proposing an uplift

¹¹ *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, III FERC Stats. & Regs. [p] 31,281, at P 192 (2008), *as amended*, 126 FERC [p] 61, 251, *order on reh'g*, Order No. 719-A, III FERC Stats. & Regs. [p] 31,292, *reh'g denied*, Order No. 719-B, 129 FERC [p] 61,252 (2009). [Order No. 719].

¹² See June 19, 2014 Notice of Price Formation Proceeding, Docket No. AD14-14-000 (“Ideally, the locational energy market prices in the energy and ancillary services markets would reflect the true marginal cost of production, taking into account all physical system constraints, and these prices would fully compensate all resources for the variable cost of providing service”); *cf. supra* note 8, PJM Energy Offer Cap Filing, *and PJM Interconnection, L.L.C.*, 150 FERC ¶ 61,020 at P 33 (2014) (“PJM FPA Section 206 Order”) (“[W]e find that PJM has demonstrated that the current offer cap of \$1,000/MWh in PJM is unjust and unreasonable for the winter months.”).

¹³ See Comments of the Electric Power Supply Association, Docket No. AD13-7-000, (filed Jan. 8, 2014) at 12 (“Unlike capacity market auctions, which occur periodically, energy markets are continuously in use on a day-ahead and real-time basis to meet on-going demand. As documented earlier, energy market revenues are far and away the primary source of revenues in the organized markets. If, as EPSA believes to be the case, some key aspects of present energy market design, price mitigation and certain operator practices are distorting formation of locational marginal prices (LMPs) in the energy markets, then investment decisions are being made on the basis of incorrect information. Under such circumstances, the LMPs are understating the revenue required to reliably meet demand for electricity in wholesale markets. This occurs when grid operators frequently take actions without transparency and accountability to call on resources outside of economic merit order that are compensated other than through LMPs. Instead, these other resources are paid through what is called uplift, a cost that is spread among load outside of the LMP mechanism.”).

payment for bids above the offer cap is inconsistent with longstanding precedent as the Commission has previously opined.¹⁴ In a 2014 order issued to PJM on an emergency offer cap waiver request submitted to address the polar vortex that winter, the Commission stated:

Market clearing prices derived from PJM's security constrained bid-based economic dispatch, where all bids have been appropriately mitigated for market power, yield competitive prices that all sellers should receive. Generators with marginal costs greater than \$1,000/MWh and that clear the market are, in fact, economic – not uneconomic, as some parties allege. The market clearing price under these conditions—even if it is higher than before—is a just and reasonable price that does not reflect the exercise of market power. Marginal cost bidding is competitive bidding. We did not anticipate that, when the \$1,000/MWh bid cap was adopted, it would prevent marginal cost bidding. Presently, however, the \$1,000/MWh bid cap is preventing competitive marginal cost bids and resulting competitive prices that are needed to balance supply and demand.¹⁵ [Emphasis added.]

As EPSA has argued in numerous proceedings and forums previously, while annual offer cap waiver requests seek to ensure that suppliers can recover their actual costs above the offer price cap through make-whole payments, this is simply not a sustainable approach. The Commission can encourage a real solution, *and* address MISO's pressing concerns as to the upcoming winter, by conditioning its order granting the waiver on further MISO compliance filings that incorporate changes permitting offers in excess of the current energy price offer cap, going into the upcoming winter.

¹⁴ See *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,078 at PP 40-41 (2014).

¹⁵ See Request of PJM Interconnection, L.L.C. For Waiver, Request For 7-Day Comments Period, and Request For Commission Action By February 10, 2014, Docket No. ER14-1145-000 (January 23, 2014) ("ER14-1145- 000 Waiver Request"). That filing was approved by the Commission on February 11, 2014. See also *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,078 (2014) ("PJM Waiver Request Order"). Requests for rehearing were denied on October 21, 2014. See *PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,060 (2014), at P 42.

As a practical matter, Commission guidance to MISO is singularly necessary and cannot take a back seat to MISO-led stakeholder-based reform. Though MISO pursued the commendable and important effort of attempting to raise its existing offer cap to \$1,500/MWh, that effort was not successful – a result which demonstrates that the MISO stakeholder process is not the appropriate venue for time-sensitive solutions that permit competitive generators to recover fuel and marginal costs outside of a pre-existing tariff or state regulatory cost recovery mechanism. Whether or not MISO continues internally-focused reforms, EPSA respectfully notes that the stakeholder process is an inadequate vehicle that cannot be reasonably expected to support MISO’s development and expeditious filing of tariff changes that would permit up-front cost recovery to competitive suppliers under terms and conditions that would appropriately compensate them in the short-term and incent the new build required to support reliability in the long-term. Such reforms can only be realized through prompt Commission action which mandates specific changes for energy offers in MISO, to take effect as soon as possible before the upcoming winter.

Finally, EPSA has already expressed its concerns about the “one-time” waiver approach in its prior comments made on MISO’s 2014-15 Waiver Request.¹⁶ Presently, the *second* such request makes it self-evident that the waiver mechanism has become a stand-in for meaningful reform which MISO could not realize timely through its internal processes. EPSA cautions that MISO’s request is *not*, as MISO states in its instant filing, a “short-term [request which] recognizes the seasonal nature of the potential issue

¹⁶ Comments of the Electric Power Supply Association, Request for Waiver, Midcontinent Independent System Operator, Inc., Docket No. ER15-691-000 (comments filed January 9, 2015).

of extreme weather and related high natural gas prices.”¹⁷ In fact, the very fact of seasonality, as cited by MISO, leads to the opposite conclusion— that recurring winters, fuel price spikes, and reliability and resource adequacy challenges associated with future cold weather forecasts are a long-term problem which must be addressed through a permanent reliability solution. Indeed, it is a misnomer to view the instant request as a “one-time” waiver request when in fact it is almost a complete duplication of a prior waiver request which the Commission has already granted.

For these reasons, EPSCA contends that the policy issues and practical concerns raised by MISO’s instant filing merit prompt Commission action that will provide more comprehensive, permanent reliability solutions beyond those that could be offered via granting a waiver. EPSCA believes that MISO’s request does reasonably demonstrate the need for immediate, interim relief in the upcoming winter – but that relief must come, as noted above, with conditions that bring forth a more permanent and effective solution which supports competitive generators’ economic participation on a long-term basis. Additionally, a longer-term solution should come from the Commission to address offer caps for all of the ISOs/RTOs, and to ensure that such “one-time” or “emergency” waivers do not become lesser substitutes for meaningful, permanent competitive market design reforms.

Therefore, as further discussed below, EPSCA encourages the Commission to expeditiously move forward with a formal proceeding addressing energy offer price caps that will apply to all ISOs/RTOs. A Commission-led proceeding will ensure that the benefits and efficiencies of these market design improvements will be derived across

¹⁷ 2015 MISO Waiver Request, *supra* note 4, at 10.

the regions, and safeguard against distortions or artificial intertie signals across markets based simply on different offer cap levels or approaches between neighboring ISOs/RTOs.

B. EPSA Urges the Commission to Expediently Pursue a Formal Generic Rulemaking on Offer Caps.

The policy issues raised by MISO's second request for a "one-time" waiver, along with the various emergency annual filings from other ISOs/RTOs, clearly demonstrate that an offer cap of \$1,000/MWh is no longer appropriate or reasonable for these markets and that a permanent solution is needed.¹⁸ Indeed, the Commission has recognized this problem through the lens of a broader effort to address key price formation issues in energy markets, noting that it "expects to undertake further action addressing various price formation topics, including offer price caps, mitigation, uplift transparency and uplift drivers."¹⁹ Therefore, the Commission should pursue a formal rulemaking regarding offer price caps prior to the next winter, consistent with the Commission's statements in the recent NOPR on price formation.

¹⁸ *New York Independent System Operator, Inc.*, Request for Waiver, Shortened Comment Period and Expedited Commission Action, Docket No. ER14-1138-000 (filed Jan. 22, 2014); PJM Interconnection, L.L.C., Request of PJM Interconnection for Waiver, Request for 7-Day Comment Period, And Request for Commission Action by February 10, 2014, Docket No. ER14-1145-000 (filed Jan. 23, 2014) ("PJM Cost-Based Offers Filing"); PJM Interconnection, L.L.C., Request of PJM Interconnection for Waiver and For Commission Action by January 24, 2014, Docket No. ER14-1144-000 (filed Jan. 23, 2014) ("PJM Make-Whole Payment Filing"); Midcontinent Independent System Operator, Inc., Request for Waiver, Docket No. ER15-691-000 (filed December 19, 2014) ("MISO 2014 Make-Whole Payment Filing").

¹⁹ *Notice of Proposed Rulemaking*, Docket No. RM15-24-000, 152 FERC ¶ 61,218, at 7. [RM15-24 NOPR]. See also, September 17, 2015 Statement of Commissioner Cheryl A. LaFleur on Notice of Proposed Rulemaking on Settlement Intervals and Shortage Pricing (stating that "the Commission expects to take further action addressing other price formation topics, including price caps, mitigation, uplift transparency, and uplift drivers.").

As has been noted extensively in previous comments and expert reports,²⁰ EPSA reiterates that the appropriate solution is to address offer caps on an interconnection-wide basis. This approach ensures that capacity resources can make offers reflecting their verifiable marginal costs and set market-clearing prices in the day-ahead and real-time markets in order to address fundamental market conditions. EPSA is encouraged by and strongly supports the Commission's statement in the RM15-24 NOPR that it expects to undertake further action addressing additional price formation topics, including offer price caps. EPSA supports generic reforms to the offer cap to address the interdependency among the regions.²¹ EPSA has urged the Commission to address this issue on a generic basis in the numerous waiver and related offer cap filings submitted by ISOs/RTOs to date.²² By example, a generic proceeding is

²⁰ See, e.g., Comments and Affidavit of the Electric Power Supply Association, Affidavit of Dr. Susan Liese Pope, Managing Director, FTI, Inc. ("Pope Affidavit"), *PJM Interconnection, L.L.C.*, Docket Comments and Affidavit of the Electric Power Supply Association, Affidavit of Dr. Susan Liese Pope, Managing Director, FTI, Inc. ("Pope Affidavit"), *PJM Interconnection, L.L.C.*, Docket No. ER14-1145-000 (filed January 30, 2014); Limited Protest of the Electric Power Supply Association, PJM Power Providers Group, and the New England Power Generators Association, *New York Independent System Operator, Inc.*, Docket No. ER14-1138-000 (filed January 29, 2014); Comments of the Electric Power Supply Association, *PJM Interconnection, L.L.C.*, Docket No. EL15-31-000 (filed December 23, 2014); Comments of the Electric Power Supply Association, *Midcontinent Independent System Operator, Inc.*, Docket No. ER15-691-000 (filed January 9, 2015); and, "The Polar Vortex: Implications for Improving the Efficiency of Wholesale Electricity Spot Market Pricing," by A. Joseph Cavicchi, Compass Lexecon, Prepared for the Electric Power Supply Association (March 2014).

²¹ *Western Electric Coordinating Council*, 131 FERC ¶ 61,145 at P 7 (2010) (citing *California Independent System Operator Corp.*, 114 FERC ¶ 61,135, at P 14 (2006) ("As we have previously stated 'California is an integral part of a trade and reliability region in the West. Because of this interdependency of market and infrastructure, conditions in and changes to the California market affect the entire region.' Given this interdependency, we have previously determined that it would be advisable to have consistent caps in the CAISO and the rest of WECC.' In addition, a lower cap in the WECC could result in reduced supply options available to WECC purchasers.").

²² See Request of PJM Interconnection, L.L.C. For Waiver, Request For 7-Day Comments Period, and Request For Commission Action By February 10, 2014, Docket No. ER14-1145-000 (January 23, 2014) ("ER14-1145-000 Waiver Request"). That filing was approved by the Commission on February 11, 2014. See *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,078 (2014) ("PJM Waiver Request Order"). Requests for rehearing were denied on October 21, 2014. See *PJM Interconnection, L.L.C.*, 149 FERC ¶ 61,060 (2014); *PJM Interconnection, L.L.C.*, Docket No. EL15-31-000 (filed Dec. 15, 2014) ("PJM Offer Cap Filing"); also, see *California Independent System Operator Corporation*, Petition for Limited Waiver of

necessary to address offer caps across MISO, PJM and New York, because failure to promptly address the energy offer cap in MISO and New York would raise significant reliability issues for PJM's neighboring control areas which share common interstate natural gas pipeline supplies.

EPSA submits the substantial record is compelling based on recent events across the ISOs/RTOs that the market has evolved to render the arbitrary offer cap, particularly at the current level of \$1,000/MWh, outdated and distortive.²³ Commission leadership and expedited action are required now to address a just and reasonable offer cap methodology on a national basis, rather than establishing another seemingly arbitrary offer cap. EPSA therefore requests that the Commission initiate a generic rulemaking that will require all ISOs/RTOs to increase the offer cap and allow energy and ancillary services offers based on verifiable marginal costs to set the market clearing price²⁴ by a date certain not later than November 2016, to allow changes to go in to effect for the winter of 2016/2017.

Tariff Provisions, Request for Shortened Comment Period, and Request for Expedited Commission Action by March 19, 2014, Docket No. ER14-1440-000, filed March 6, 2014; *Indicated CAISO Suppliers*, Emergency Request for Temporary Waiver and Shortened Comment Period, Docket No. ER14-1428-000, filed March 4, 2014; *Midcontinent Independent System Operator, Inc.*, Request for Waiver, Docket No. ER15-961-000 (filed December 19, 2014); *New York Independent System Operator, Inc.*, Petition for Temporary Tariff Waivers, Request for Shortened Comment Period, and Request for Expedited Commission Action by January 31, 2014, Docket No. ER14-1138-000 (filed January 22, 2014).

²³ *California Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076, at P 488 (2007) (the Commission stated that “[a] significant downside to ‘soft’ caps is the lack of transparency and uplift costs they create. For these reasons, if generation costs were to appear sufficiently likely to exceed the prevailing cap, our preferred approach would be to adjust the level of the energy cap, as has been done in the past. This way, instead of suppressing the market clearing price by regulatory fiat, all competitive bids would be allowed to clear supply and demand and send transparent price signals to encourage demand response, market entry, and forward contracting”).

²⁴ Such guidance is similar to the approval previously granted by the Commission to PJM pursuant to its emergency waiver request. See Order Granting Waiver re: PJM Interconnection, L.L.C., Docket No. ER14-1145 (Feb. 11, 2014) at P 40 (“By limiting legitimate, cost-based bids to no more than \$1,000/MWh, the market produces artificially suppressed market prices and inefficient resource selection. By paying an

III. CONCLUSION

Wherefore, EPSA respectfully requests that the Commission grant MISO's waiver subject to the condition that MISO must permit offers above the existing cap and allow those cost-based offers to set market-clearing prices. Further, EPSA urges the Commission to move forward expeditiously with a formal rulemaking on offer price caps that applies to all ISOs/RTOs, to ensure that the benefits of these market design reforms will be realized on an interconnection-wide basis and to protect markets against seams or inter-market distortions.



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Filed: November 23, 2015.

uplift, PJM is in effect paying one price for energy dispatched through the market (e.g. \$1,000), and a second higher price (e.g. \$1,200) for the resource dispatched out-of-merit (while treating the latter in the dispatch stack as if it had a bid of \$1,000). This would not be consistent with longstanding Commission precedent. The Commission has previously found that “[p]ayments made only to individual resources and recovered in uplift fail to send clear market signals” and that those resource costs “should be reflected in transparent market prices whenever possible.” Accordingly, we find that the request for waiver addresses a concrete problem. Whether generators have entered into fuel delivery contracts or made other arrangements to hedge against the possibility of spikes in fuel prices does not change the fact that the generators’ marginal costs are not being reflected in transparent market prices.”).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served via electronic transmission the foregoing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 23rd day of November, 2015.

_____/s/_____

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