

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

Midcontinent Independent) Docket No. ER23-2977-000
System Operator, Inc.)

**NOTICE OF INTERVENTION AND COMMENTS OF
THE MICHIGAN PUBLIC SERVICE COMMISSION**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”),¹ the Michigan Public Service Commission (“Michigan PSC”) hereby provides its notice of intervention and comments in the above-captioned proceeding regarding the Reliability Based Demand Curve (“RBDC”) proposed by the Midcontinent Independent System Operator, Inc. (“MISO”) to improve MISO’s resource adequacy construct.²

The Michigan PSC supports the RBDC proposal, which MISO and affected stakeholders developed through a comprehensive process that carefully weighed a multitude of considerations germane to the maintenance of reliable and affordable electric service in the MISO region. The Michigan PSC was an active participant in the stakeholder engagement process, both independently and through its membership in the Organization of MISO States (“OMS”). While also endorsing the comments OMS files in this docket, the Michigan PSC submits these separate comments to highlight its particular perspective on the RBDC filing. The Michigan PSC also wishes to emphasize the importance of the RBDC Opt Out as included in the RBDC Filing to the overall RBDC framework.³ The structure of the opt out mechanism in the RBDC proposal

¹ 18 C.F.R. § 385.214 (2023).

² *Midcontinent Indep. System Operator, Inc.*, Docket No. ER23-2977-000, Reliability Based Demand Curve (Sept. 29, 2023) (“RBDC Filing”).

³ *See* RBDC Filing, Transmittal Letter at 26-27.

appropriately accommodates the resource adequacy planning role of states and load-serving entities (“LSEs”) in MISO, while ensuring comparable treatment between Planning Resource Auction (“PRA”) participants and LSEs that opt out. The Michigan PSC respectfully urges the Commission to approve MISO’s RBDC proposal without modification.

I. NOTICE OF INTERVENTION

The Michigan PSC is a legislatively established agency in the State of Michigan, created by 1939 Public Act 3, Mich. Comp. Laws Ann. § 460.1, *et seq.* The Michigan PSC is the Michigan regulatory agency having jurisdiction and authority to control and regulate rates, charges, and conditions of service for the retail sale of natural gas and electricity in Michigan. The Michigan PSC is a “state commission” as defined in 16 U.S.C. § 796(15) and 18 CFR § 1.101(k), and it has an interest in this proceeding that cannot be adequately represented by another party. Accordingly, the Michigan PSC provides its notice of intervention.

Copies of all pleadings, correspondence, and other communications concerning this proceeding should be directed to:

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II. COMMENTS

A. The Michigan PSC Supports MISO's Objectives and the Proposed Solution Reflected in the RBDC Filing

The Michigan PSC generally concurs with MISO's assessment that the current PRA, with its use of a vertical demand curve, falls short on the three foundational principles of reliability, long run sustainability, and cost effectiveness.⁴ MISO's filing explains each of these principles and demonstrates how moving to the RBDC framework appropriately satisfies each principle and helps ensure that MISO's resource adequacy framework produces reasonable outcomes.

While the vertical demand curve currently used in the PRA worked well in a time of capacity surpluses,⁵ its design is less well suited to the ongoing energy transition. Use of a vertical demand curve, whether intentional or not, resulted in near zero PRA prices that helped to shrink an excess reserve margin that existed from the time of MISO's creation. Customers benefited from this new (at the time) concept of a pooled capacity market that allowed utilities to retire resources that were not needed above and beyond MISO's reliability requirement.

Now, however, diminishing reserve margins and the realities of a rapidly evolving resource mix warrant changes to the PRA's vertical demand curve. As MISO notes, the MISO North/Central Regions experienced a capacity shortage in the 2022-2023 PRA and cleared at the cost of new entry ("CONE").⁶ Now that MISO has largely eliminated its excess reserves, a vertical demand curve no longer makes sense, even in an RTO primarily made up of vertically-integrated utilities. Thus, the Michigan PSC enthusiastically signed onto the OMS Initial Position

⁴ RBDC Filing, Transmittal Letter at 10-11.

⁵ See, e.g., *Midcontinent Indep. System Operator, Inc.*, 162 FERC ¶ 61,176 at PP 67-69 (2018), *reh'g denied*, 170 FERC ¶ 61,215 at PP 116-121 (2020) (rejecting objections to the use of a vertical demand curve).

⁶ RBDC Filing, Transmittal Letter at 7. The 2022-2023 PRA results are available at: <https://cdn.misoenergy.org/2022%20PRA%20Results624053.pdf>.

Statement⁷ and August 14, 2023, letter⁸ that supported a departure from the vertical demand curve to help ensure system reliability.

Michigan has a unique perspective to offer in this matter because of the State's regulatory structure and 10% competitive retail choice market. While most of the utilities that are subject to Michigan PSC jurisdiction utilize traditional cost-of service rates, the remaining 10% of the market relies, in varying degrees, on bilateral contracts and price signals in the wholesale market to spur investment and retirement decisions. As a foundational principle, the MISO market must work for *all* entities and states, regardless of their regulatory structure. The Michigan PSC supports the market-based principles reflected in the RBDC, which help ensure that LSEs that may be short on capacity can buy from LSEs that are long on capacity at a non-zero auction price that reflects the value of the capacity. Naturally, LSEs that are long (historically, regulated entities), stand to benefit from the RBDC as they can use non-zero capacity revenues to offset a portion of the cost to their customer base. Aligning the economic signals sent by PRA prices is an important step towards ensuring the long-term reliability and sustainability of the MISO system, as state-regulated utilities, competitive suppliers, and public power entities all rely on the PRA market to some extent to help ensure resource adequacy in MISO.

B. The Michigan PSC Fully Supports the RBDC Opt Out as a Balanced Solution that Meets the Needs Identified by MISO's Member States

The Michigan PSC strongly supports the RBDC Opt Out mechanism proposed by MISO as an essential element of a just and reasonable PRA framework.⁹ The opt out was developed in

⁷ Available at:
https://www.misostates.org/images/PositionStatements/Revised_Demand_Curve_Position_11142022.pdf.

⁸ Available at:
https://www.misostates.org/images/stories/Filings/Board_comments/2023/Letter_to_MISO_Leadership_on_RBDC_8.14.23.pdf.

⁹ RBDC Filing, Transmittal Letter at 26-27.

coordination with OMS and its member states over several months, and it was shaped in direct response to state feedback. MISO was very responsive to OMS and its member states, and it successfully crafted an opt out that respects state resource adequacy authority while treating LSEs that select this opt out option comparably with those that choose to participate in the PRA. In response to the states' and other stakeholders' requests, the RBDC Opt Out provides an option that achieves both price and quantity certainty for entities that value those features, while retaining all other existing opt out options in place today. The proposed opt out framework allows LSEs that value price insulation and planning certainty to select the RBDC Opt Out over other participation options.

The Michigan PSC endorses MISO's objective in proposing the RBDC Opt Out to "neither unfairly incent opt out, nor force RBDC participation" while respecting states' rights.¹⁰ The Michigan PSC articulated similar goals early in the stakeholder process,¹¹ and the PSC appreciates MISO's recognition of the need to structure the RBDC Opt Out in a way that balances diverse needs and perspectives. Achieving such a balance was extremely important in developing the RBDC Opt Out, and it has allowed the Michigan PSC and others to affirmatively support the overall RBDC proposal.

The tradeoffs built into the RBDC Opt Out mechanism are intentional and essential. As explained in MISO's filing, these tradeoffs include: (1) requiring RBDC Opt Out LSEs to procure an additional percentage of capacity to meet their Planning Reserve Margin Requirements (the RBDC Opt Out Adder); (2) locking-in the opt out selection for three years;

¹⁰ *Id.* at 26.

¹¹ Michigan PSC Staff's response to June 9, 2023 MISO stakeholder feedback request, available at: <https://www.misoenergy.org/stakeholder-engagement/stakeholder-feedback/2023/rasc-rbdc-proposal-and-design-elements-rasc-2019-8-20230530/>.

and (3) proscribing any partial opt out.¹² These components evolved over the nearly year-long stakeholder engagement process,¹³ and the final RBDC Opt Out structure represents an effective compromise that reflects numerous conversations between MISO and its member states. A concrete example of such compromise is illustrated by the May 2023 stakeholder discussions during which MISO proposed the RBDC Opt Out Adder, while allowing any excess capacity to be sold back into the market without restriction.¹⁴ LSEs can take these tradeoffs into account when deciding whether to choose the opt out mechanism.

Taken together, the RBDC Opt Out components ensure comparability between LSEs that remain in the PRA and those that are interested in selecting this opt out option.¹⁵ The Michigan PSC believes that participation in the PRA is the preferable option, but the PSC respects the ability for states and LSEs to select a different participation option or utilize the RBDC Opt Out based on their individual circumstances.

While other opt out options were considered in the MISO stakeholder process, the Michigan PSC *could not* support any of those approaches, given that they do not reflect the important tradeoffs included in MISO's proposal. The Michigan PSC is particularly concerned that other options proposed in the stakeholder process would, by design, skew LSE decisions towards opting out of the PRA. A framework that incentivizes opting out could undermine the important goals of implementing a RBDC in MISO. Indeed, if all LSEs were to opt out, the

¹² See RBDC Filing, Transmittal Letter at 27.

¹³ The RBDC concept was first formally introduced in October 2022. See October 12, 2022 MISO Resource Adequacy Subcommittee Presentation, available at: [https://cdn.misoenergy.org/20221012%20RASC%20Item%2008a%20Reliability%20Based%20Demand%20Curve%20Presentation%20\(RASC-2019-8\)626583.pdf](https://cdn.misoenergy.org/20221012%20RASC%20Item%2008a%20Reliability%20Based%20Demand%20Curve%20Presentation%20(RASC-2019-8)626583.pdf).

¹⁴ See May 24, 2023 MISO Resource Adequacy Subcommittee Presentation at 11, available at: [https://cdn.misoenergy.org/20230524%20RASC%20Item%2006%20Reliability%20Based%20Demand%20Curves%20Presentation%20\(RASC-2019-8\)628951.pdf](https://cdn.misoenergy.org/20230524%20RASC%20Item%2006%20Reliability%20Based%20Demand%20Curves%20Presentation%20(RASC-2019-8)628951.pdf).

¹⁵ See RBDC Filing, Transmittal Letter at 27.

region effectively would retain the use of vertical demand curve with its recognized deficiencies. The MISO RBDC Opt Out strikes an appropriate balance, ensuring comparability between PRA participants and LSEs that opt out, while meeting the resource adequacy objectives identified by MISO and its member states.

III. CONCLUSION

The Michigan PSC provides its notice of intervention in this proceeding, and urges the Commission to approve MISO's RBDC Filing without modification. The Michigan PSC particularly emphasizes the importance of the RBDC Opt Out to the overall RBDC framework. This mechanism appropriately accommodates the resource adequacy planning role of states and LSEs in MISO, while ensuring comparable treatment between PRA participants and LSEs that opt out of the PRA.

Respectfully submitted,

THE MICHIGAN PUBLIC SERVICE COMMISSION

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CERTIFICATE OF SERVICE

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

Dated at Washington, D.C., this 3rd day of November, 2023.

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