

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Midcontinent Independent System  
Operator, Inc.

Docket No. ER24-1638-000

**PROTEST AND MOTION TO REJECT OF  
AMERICAN MUNICIPAL POWER, INC., GREAT  
LAKES UTILITIES, INDIANA MUNICIPAL POWER  
AGENCY, MISSOURI JOINT MUNICIPAL  
ELECTRIC UTILITY COMMISSION, MISSOURI  
RIVER ENERGY SERVICES, SOUTHERN  
MINNESOTA MUNICIPAL POWER AGENCY, AND  
WPPI ENERGY**

Pursuant to the Commission’s March 29, 2024, Notice of Filings,<sup>1</sup> and Rule 211 of the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Rules of Practice and Procedure,<sup>2</sup> American Municipal Power, Inc. (“AMP”), Great Lakes Utilities (“GLU”), Indiana Municipal Power Agency (“IMPA”), Missouri Joint Municipal Electric Utility Commission d/b/a the Missouri Electric Commission (“MEC”), Missouri River Energy Services (“MRES”), Southern Minnesota Municipal Power Agency (“SMMPA”), and WPPI Energy (“WPPI”) (collectively, “Midwest TDUs”)<sup>3</sup> each protests and asks the Commission to reject the Midcontinent Independent System Operator, Inc.’s (“MISO”) March 28, 2024, filing to revise its Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“Tariff”)<sup>4</sup> to implement a

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<sup>1</sup> eLibrary No. 20240329-3050.

<sup>2</sup> 18 C.F.R. § 385.211.

<sup>3</sup> Midwest TDUs are Load Serving Entities (“LSEs”) in MISO and are described in more detail in the motions to intervene previously filed in this proceeding. (doc-less) Motion to Intervene of Indiana Municipal Power Agency under ER24-1638 (Apr. 9, 2024), eLibrary No. 20240409-5109; Motion to Intervene of Great Lakes Utilities, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, and WPPI Energy (Apr. 19, 2024), eLibrary No. 20240419-5228; (doc-less) Motion to Intervene of American Municipal Power, Inc. (Apr. 26, 2024), eLibrary No. 20240426-5127.

<sup>4</sup> MISO, Filing to Reform MISO’s Resource Accreditation Requirements (Mar. 28, 2024), eLibrary No. 20240328-5329 (“DLOL Filing”).

direct loss of load (“DLOL”) accreditation methodology for the purposes of both accrediting resources participating in MISO’s annual Planning Resource Auction (“PRA”) and calculating the Planning Reserve Margin Requirement (“PRMR”).

MISO’s DLOL Filing proposes to make a “significant change to the way resources are accredited.”<sup>5</sup> Specifically, MISO proposes to “add[] a probabilistic element”<sup>6</sup> as a new first step of its accreditation determination, which will use a loss of load expectation (“LOLE”) analysis to determine the contribution each identified Resource Class makes to meeting system need.<sup>7</sup> As a second step, MISO would allocate the results of these Resource Class-level unforced capacity (“UCAP”) calculations to individual resources within each Class, using a modified version of its current Schedule 53 methodology based on individual resource historical availability during each Season (with greater weight given to times of greatest need).<sup>8</sup> MISO proposes to begin using this new accreditation approach for Planning Year 2028/2029, although it seeks a September 1, 2024 effective date and will publish indicative results annually for the three years leading up to the implementation date.

Midwest TDUs are supportive of the general direction envisioned by MISO’s DLOL Filing. However, we have serious concerns about several aspects of the filing that are patently unjust, unreasonable, and unduly discriminatory or are not adequately developed or supported to meet MISO’s burden under Federal Power Act (“FPA”)

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<sup>5</sup> DLOL Filing, Transmittal Letter (“Transmittal Letter”) at 5.

<sup>6</sup> *Id.* at 8.

<sup>7</sup> *See id.* at 19-21 (describing the first step of MISO’s proposed DLOL methodology).

<sup>8</sup> *See id.* at 21-22 (describing the second step of MISO’s proposed DLOL methodology).

section 205.<sup>9</sup> Specifically, MISO's filing falls far short of meeting its obligation to demonstrate that the following aspects of its proposal are just and reasonable:

- Although MISO proposes to establish a Resource Class-based element to capacity accreditation, it has neither defined how it will determine these Resource Classes nor established a process for evaluating the list of Classes to be used for each Planning Year. This lack of any articulable standard for a key element of the DLOL methodology is not only inconsistent with FPA filing requirements, but it will also result in unjust, unreasonable, and unduly discriminatory rates that deter investment in reliability-enhancing technologies. (Part I.A.1)
- MISO's initial list of Resource Classes highlights the deficiencies of MISO's classification approach by inappropriately grouping dual fuel combustion turbines into the same Resource Class as their single fuel counterparts, despite the unique operating characteristics of dual fuel resources that are directly relevant to their availability to support reliability during times of greatest need. This treatment of dual fuel resources is not only contrary to MISO's stated intent of establishing Resource Classes based on unique operating characteristics, but it is also unduly discriminatory. (Part I.A.2)
- MISO's Resource Class-level UCAP determination—the critical new element in its proposed DLOL methodology—entirely relies on MISO's LOLE modeling. MISO concedes that changes to that modeling “are necessary,”<sup>10</sup> yet it does not identify and explain all of the required changes or describe how they will ultimately impact the results produced by its DLOL methodology. Because MISO's LOLE modeling is not sufficiently developed to perform its new and important Resource Class-level accreditation role, it is not yet possible to understand whether MISO's DLOL methodology will produce just and reasonable results. (Part I.B)
- MISO has not demonstrated that its proposed DLOL methodology, which specifically accounts for longer outages for certain resources (e.g., nuclear, coal) as part of the Resource Class-level UCAP determination, will operate in a just and reasonable manner when implemented in combination with its current capacity replacement obligation for planned outages extending beyond 31 days in a Season. The same resources whose accreditation would now be reduced through the DLOL methodology's Resource Class-level UCAP determination would

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<sup>9</sup> 16 U.S.C. § 824d.

<sup>10</sup> Transmittal Letter at 36.

also be subject to the heavy burden of MISO's one-size-fits-all capacity replacement obligation. MISO's filing nowhere addresses how the DLOL methodology's significant changes to its seasonal Resource Adequacy construct interact with MISO's current capacity replacement obligation, nor does it show MISO consideration of whether this obligation should be tailored to avoid unduly burdening resources requiring planned outages exceeding 31 days. (Part I.C)

- MISO's proposed Tariff language also contains various errors or inconsistencies with the descriptions provided in its filing. Although these problems are not as fundamental as those noted above, they further highlight that MISO's DLOL methodology is not yet sufficiently developed and supported to be found just and reasonable. (Part I.D)

As these problems show, MISO's DLOL methodology is not yet ready for prime time, and MISO has not met its burden to demonstrate that its proposed Tariff is just and reasonable. MISO cannot sidestep these serious deficiencies by suggesting that it is consistent with FPA section 205 to include mere "*policy level* details about the proposed method" in the Tariff, "sav[ing] the technical details regarding implementation to be included in the Business Practice Manual for Resource Adequacy."<sup>11</sup> A *policy* is not a "rate" or "rules and regulations" susceptible to being determined just and reasonable.<sup>12</sup> Nor is a *policy* a "classification[], practice[], and regulation[]" that provides the statutorily required transparency and public notice of how MISO will ultimately establish Commission-jurisdiction rates.<sup>13</sup>

Given the contemplated 2028/2029 Planning Year implementation horizon, there is time for MISO to submit a more complete Tariff that corrects the significant problems identified in this Protest. Although Midwest TDUs support MISO annually supplying

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<sup>11</sup> Transmittal Letter at 35 (emphasis added).

<sup>12</sup> 16 U.S.C. § 824d(a).

<sup>13</sup> 16 U.S.C. § 824d(c).

LSEs with indicative information in the short term to provide directional certainty, MISO can do so without a change to its Tariff and without prematurely locking in problematic and insufficiently developed Tariff language. The Commission should therefore reject the DLOL Filing without prejudice to MISO submitting a more developed filing in the future with additional support.<sup>14</sup> The Commission should also provide guidance on concerns that need to be addressed in a future more complete proposal.

## I. PROTEST

### A. *MISO has failed to define and implement its crucial Resource Class determination in a way that would permit just and reasonable operation of its DLOL methodology.*

The fundamental new element in MISO's DLOL proposal is the Resource Class-level UCAP determination. Despite this key element's dependence on the proper grouping of resources into Resource Classes,<sup>15</sup> MISO's proposal (1) fails to establish a clear definition of, or a process for determining and updating, Resource Classes; and (2) assigns dual fuel combustion turbines into the same Class as resources with significantly different contributions to reliability in times of need, which is unreasonable, unduly discriminatory, and forecloses appropriate implementation of its DLOL methodology.

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<sup>14</sup> See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 119 FERC ¶ 61,311, P 2 (“[W]e will require the Midwest ISO to remedy these deficiencies, but we will provide guidance to better enable the Midwest ISO to prepare and re-file a complete proposal”), *reh’g denied*, 120 FERC ¶ 61,202 (2007); *Cal. Indep. Sys. Operator, Corp.*, 185 FERC ¶ 61,210, P 465 (2023) (explaining that “while we are rejecting the [Extended Day-Ahead Market] access charge, we do so without prejudice to a future filing in which CAISO provides additional support for its proposal.”).

<sup>15</sup> DLOL Filing, Tab A (“Redline Tariff”), Schedule 53A §I.C. (“All Capacity Resources, except External Resources, shall be assigned to one of the Resource Classes identified in this section for purposes of executing the two-step resource accreditation methodology defined in this Schedule 53A and determining the Planning Reserve Margin Requirement, as set forth in Module E-1.”).

1. MISO's Tariff provides neither a clear and predictable definition of Resource Class, nor any process for making such determinations.

Because Resource Classes are an essential and critical element of MISO's DLOL methodology, how MISO determines these Classes must be clearly and transparently described in its Tariff. FPA section 205 requires public utilities to file with the Commission all "classifications, practices, and regulations affecting [Commission-jurisdictional] rates and charges."<sup>16</sup> When determining whether a practice should be included in a tariff or service agreement, the Commission and courts apply the "rule of reason," which requires the filing of practices that "affect rates and services significantly, that are realistically susceptible of specification, and that are not so generally understood . . . as to render recitation superfluous."<sup>17</sup> Consistent with section 205, this rule "ensure[s] that the public has adequate notice of the proposed rate, and that the Commission has an opportunity to evaluate the proposal to ensure that it is just and reasonable and not unduly discriminatory or preferential."<sup>18</sup>

MISO's vague Resource Class definition fails the rule of reason.<sup>19</sup> MISO proposes to define a Resource Class as "a group of Capacity Resources, except External

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<sup>16</sup> 16 U.S.C. §824d(c). The Commission's regulations likewise require that "[e]very public utility shall file with the Commission . . . full and complete rate schedules . . . *clearly and specifically* setting forth all rates and charges . . . [and the] practices, rules and regulations affecting such rates [and] charges." 18 C.F.R. § 35.1(a) (emphasis added).

<sup>17</sup> *City & Cnty. of San Francisco v. FERC*, 24 F.4th 652, 661 (D.C. Cir. 2022) (internal quotation marks and citation omitted); *City of Cleveland, Ohio v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985).

<sup>18</sup> *Sw. Power Pool, Inc.*, 182 FERC ¶ 61,100, P 34 (2023).

<sup>19</sup> It is clear that the Resource Class definition significantly affects rates. MISO explains that the Resource Class-level UCAP values determined by the DLOL-based methodology "*depend on the definition of the subject class*," but not the number and type of other classes. Transmittal Letter at 19 (emphasis added). As discussed below, it is certainly possible to define classes with more specificity; indeed, the New York Independent System Operator ("NYISO") has done so. That different regional transmission organizations have established different classes than MISO's proposed initial list (which is flawed, as addressed below)

Resources, with similar operating characteristics whose Resource Class-level UCAP has been determined based on the LOLE analysis and is further described in this Schedule 53A.”<sup>20</sup> This definition does not “clearly and specifically”<sup>21</sup> define the prospective grouping in enough detail to provide sufficient notice to resource owners, the Commission, and the public to understand and anticipate just how Resource Classes will be established and their members assigned.

MISO’s filing highlights that properly identifying the resources to be grouped in the same Resource Class is essential to the implementation of MISO’s proposed DLOL methodology. MISO repeatedly stresses that Resource Classes must possess “a *unique set* of operating characteristics,” not only to produce “accurate accreditation” of individual resources, but also to “captur[e] the interactions between all Resource Classes.”<sup>22</sup> Likewise, the Independent Market Monitor emphasizes that the benefit of MISO’s shift to marginal accreditation “is important because it recognizes the diminishing value received from a particular class of resources,” as reflecting this in accreditation enables “the market [to] limit over-saturation by a class of resources that do not provide comparable reliability to other types of resources.”<sup>23</sup> These benefits, and indeed MISO’s DLOL methodology as a whole, are therefore contingent on MISO separating resources with unique characteristics into separate Resource Classes.

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confirms that there is no general understanding of resource classes for capacity accreditation purposes.

<sup>20</sup> Redline Tariff, Schedule 53A § I.C.

<sup>21</sup> 18 C.F.R. § 35.1(a).

<sup>22</sup> DLOL Filing, Tab E, Prepared Direct Testimony of Zakaria Joundi, Executive Director, Market & Grid Strategy (“Joundi Testimony”) at 16 (emphasis added); *see also id.* at 36-37 (explaining that Resource Classes should “possess unique properties”).

<sup>23</sup> DLOL Filing, Tab G, Affidavit of David B. Patton, PhD (“Patton Testimony”) at 9 (para. 23).

MISO's proposed Tariff, however, sidesteps this fundamental issue. The *only* criterion listed is that the resources have "similar operating characteristics."<sup>24</sup> But MISO's proposed tariff language fails to identify what "operating characteristics," or even what types of "operating characteristics," MISO would consider in making such determinations. Nor does MISO provide any explanation or methodology for determining when a group of resources has sufficiently "similar operating characteristics" to constitute a distinct Resource Class. Critically, MISO's definition does not ensure that those "operating characteristics," even if similar, are similar in a way that correlates to expected marginal contribution to reliability during times of highest reliability risk.<sup>25</sup>

MISO is wrong to claim that it has satisfied the rule of reason, and that its filing here is similar to the cited NYISO filing the Commission approved because MISO has "includ[ed] . . . a detailed explanation of how Resource Class-level UCAP values are determined."<sup>26</sup> An explanation of how Resource Class-level UCAP values are determined is not at all the same as an explanation of *how MISO will divide resources into different Resource Classes*, which MISO's proposed Tariff only vaguely describes.

Moreover, MISO's proposed Resource Class definition is readily distinguishable from the class definition approved in the *NYISO* case. The NYISO tariff language in question defined Capacity Accreditation Resource Classes "as 'A set of Resources and/or

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<sup>24</sup> Redline Tariff, Schedule 53A § I.C. Although the proposed Tariff language also refers to a Resource Class as a group of resources "whose Resource Class-level UCAP has been determined based on the LOLE analysis and is further described in this Schedule 53A," *id.*, that language is circular and does not address how MISO determines which Resource Classes to use.

<sup>25</sup> *Cf.* Transmittal Letter at 3 ("MISO's proposed DLOL-based methodology first measures a resource's expected marginal contribution to reliability using Resource Class-level performance during the loss of load expectation ("LOLE") analysis.").

<sup>26</sup> Transmittal Letter at 19 (citing *N. Y. Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,102 (2022)).

Aggregations, . . . with similar technologies and/or operating characteristics *which are expected to have similar marginal reliability contributions toward meeting NYSRC resource adequacy requirements for the upcoming Capability Year.*”<sup>27</sup> In accepting this tariff language, the Commission emphasized that “NYISO’s proposed Services Tariff revisions bind NYISO to group resources into classes with similar marginal reliability contributions.”<sup>28</sup> In contrast, MISO’s much vaguer definition mentions only “similar operating characteristics,” with no requirement that resources within a Class have similar marginal reliability contributions.

MISO’s failure to provide an articulable standard as to what constitutes a Resource Class is exacerbated by its failure to include in the Tariff any description of how and when it will revisit its initial list of Resource Classes (which, as described below, is itself seriously flawed) that will remain in place until Commission acceptance of a future MISO filing to change those Classes. MISO gives no indication of how often it will review this list beyond the vague statement of “periodically”<sup>29</sup> (which is not in the proposed Tariff language) and stating that any proposed changes will be discussed with stakeholders.<sup>30</sup> In contrast, the NYISO tariff includes a provision detailing the *annual* process for establishing Capacity Accreditation Resource Classes.<sup>31</sup> MISO’s proposed

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<sup>27</sup> *N.Y. Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,102 P 111 n.161 (2022) (quoting NYISO filing in that proceeding) (emphasis added).

<sup>28</sup> *Id.* P 112.

<sup>29</sup> Joundi Testimony at 37 (“MISO intends to periodically review the set of Resource Classes and work with Stakeholders on any proposed changes before making a Tariff filing that would update the defined Resource Classes.”).

<sup>30</sup> Transmittal Letter at 19.

<sup>31</sup> NYISO Market Administration and Control Area Services Tariff § 5.12.14.3; *see also N. Y. Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,102, P 112 (2022) (“[W]e agree with NYISO and others that it is beneficial to provide NYISO with the flexibility to redefine resource classes annually so that it can accredit resources

Tariff also does not include any language about the process for revising its list of Resource Classes or how disputes over Class identification are to be resolved.<sup>32</sup>

The problems caused by MISO's lack of a clear definition of and process for determining Resource Class mirror other MISO-acknowledged challenges to the all-critical determination of getting Resources Classes right, so that its DLOL methodology can operate as intended. For example, MISO acknowledges that small Resource Classes may be susceptible to errors due to sample size, including outsized influence from a single member, and intends to address these "quality control/quality assurance" issues in its business practices.<sup>33</sup> While it may be appropriate for certain technical details to be deferred to business practices, MISO's Tariff is entirely silent as to MISO's obligation to monitor these vital quality control/quality assurance issues and the timeline for developing and implementing these processes. Nor does the Tariff mention these issues, much less provide language to indicate what constitutes "undu[e] influence"<sup>34</sup> of a single resource in a small Resource Class.

In sum, MISO's proposed Tariff language does not provide the Commission and public with the required notice and explanation of how MISO will determine the Resource Classes used to determine capacity accreditation in a given Planning Year. The adverse impact of this significant problem will only grow over time, as technologies continue to develop and there is a need to evaluate what types of resources with unique

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as accurately as possible.").

<sup>32</sup> Although MISO's proposed Tariff language includes some process for "dispute[s] regarding Resource Class *assignment*," Redline Tariff, Schedule 53A § I.C (emphasis added), this does not address disputes over the list of Resource Classes.

<sup>33</sup> Joundi Testimony at 38.

<sup>34</sup> *Id.*

operational characteristics should fall under their own Resource Class—e.g., storage resources with longer and shorter durations, wind-generators with or without low-temperature operating capability, intermittent-resources operating in different sub-regions (MISO North vs. MISO South), and fixed photovoltaic arrays versus single-axis tracking. Failure to recognize such differentiation on parameters key to a resource’s contribution to reliability may *discourage* investments in such technologies, impeding the region’s ability to meet the resource adequacy challenges on which MISO premises its DLOL Filing. Given the central role Resource Classes play in its proposed DLOL methodology, and the inevitable questions that will arise over these Classes, any implementing Tariff language must clearly define and establish a process for determining those Classes in order to be just, reasonable, and not unduly discriminatory.

2. MISO’s proposed Resource Classes unreasonably classify dual fuel combustion turbines with gas- and oil-only units that lack the same flexibility to contribute to reliability in times of need.

MISO’s DLOL Filing includes an initial list of Resource Classes in the proposed Tariff language of Schedule 53A:<sup>35</sup>

Gas (including Oil)	Storage
Combined Cycle	Solar
Coal	Wind
Hydro	Run-of-River
Nuclear	Biomass
Pumped Storage	

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<sup>35</sup> It is not entirely clear how MISO determined this list. MISO claims it started by considering “the operating characteristics, technology, fuel type, and the expected performance of resources in its forward-looking probabilistic model to evaluate the criteria for defining Resources Classes” before ultimately identifying the Resources Classes identified “based on similar operating characteristics of individual resources within the class and generally reflect the same or similar technologies.” Transmittal Letter at 17-18.

MISO's proposed list of Resource Classes thus lumps together into the same Resource Class (1) gas- and oil-only units that are unable to contribute to system reliability at times of need where there are restrictions in the availability of gas or oil, and (2) dual fuel units that have invested in the important and unique capability to respond when called upon even if one fuel or the other is unavailable. MISO's unexplained failure to classify dual fuel resources separately from their single fuel counterparts all but ensures that its DLOL methodology cannot operate in a just, reasonable, and non-discriminatory manner.

Dual fuel resources have unique operating characteristics and should not have their accreditation negatively impacted by a Resource Class-level UCAP that includes dissimilar resources. Based on MISO's own filing, they have a "unique set of operating characteristics"<sup>36</sup> that warrants a separate Resource Class. MISO recognizes the importance of "fuel type" and "expected performance,"<sup>37</sup> and it specifically emphasizes the need to account for reliability issues where dual fuel resources have fundamentally different availability than their single fuel counterparts. The testimony of Mr. Ramey cites recommendations from the North American Electric Reliability Corporation ("NERC") that "[r]egulators and policy makers should consider revising their resource adequacy requirements *to consider . . . reduced resource diversity and/or increased reliance on a single fuel source or delivery mode.*"<sup>38</sup> Mr. Joundi highlights the "significant disparity in the operating characteristics of the different types of thermal

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<sup>36</sup> Joundi Testimony at 16.

<sup>37</sup> Transmittal Letter at 17.

<sup>38</sup> DLOL Filing, Tab D, Prepared Direct Testimony of Todd Ramey, Senior Vice President, Markets and Digital Strategy ("Ramey Testimony") at 12 (emphasis added) (quoting NERC, 2020 Long Term Reliability Assessment at 7 (Dec. 2020), [https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC\\_LTRA\\_2020.pdf](https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2020.pdf)).

resources during various weather events (e.g. cold weather snaps affect Gas resources differently than Nuclear resources),”<sup>39</sup> and Mr. Ming similarly emphasizes that “[a]ccounting for the risk of gas fuel supply constraints will become increasingly important as coal capacity retires over the next decade in MISO and the risk of large-scale extreme weather events persists.”<sup>40</sup>

There is no question that dual fuel resources’ operating characteristics are distinct from single fuel resources, and that distinction directly and significantly affects their availability during these increasingly important and common extreme cold weather events. Indeed, MISO has previously explained that the unique characteristics of dual fuel resources are precisely the types of characteristics that should be accounted for in the accreditation process. MISO’s 2023 Attributes Roadmap report expressly stated that one way that MISO “should focus on incentivizing good fuel assurance practices” is to “create additional incentives *through accreditation* for resources with higher levels of fuel assurance (*dual fuel*, etc.).”<sup>41</sup>

The Commission has also recently found that the operational differences between dual fuel and single fuel resources make them not similarly situated in the context of accreditation:<sup>42</sup>

Dual fuel resources are not similarly situated to gas resources with firm fuel supply arrangements as they are physically different (e.g., a dual fuel resource has on-site fuel oil storage and is capable of operating on both gas and

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<sup>39</sup> Joundi Testimony at 37.

<sup>40</sup> DLOL Filing, Tab F, Testimony of Zachary Ming, Director, Energy and Environmental Economics, Inc. (E3) (“Ming Testimony”) at 10-11.

<sup>41</sup> MISO, Attributes Roadmap, A Reliability Imperative Report at 16 (Dec. 2023), <https://cdn.misoenergy.org/2023%20Attributes%20Roadmap631174.pdf> (emphasis added).

<sup>42</sup> *PJM Interconnection, L.L.C.*, 186 FERC ¶ 61,080, P 106, *reh’g denied*, 186 FERC ¶ 62,168 (2024).

oil and a gas-only resource with a firm fuel supply resource has no on-site storage and is only capable of operating on gas).

As the Commission explained, these operational differences between dual fuel resources and single fuel resources are directly related to the ability to perform in times of greatest need, as “a gas-only resource’s reliability value may be lower during an extreme winter event than a nuclear unit or dual fuel unit if there is a natural gas supply disruption (e.g., reduced natural gas production or issues with the natural gas pipeline system).”<sup>43</sup>

Critically, the Commission has explained that these differences support distinguishing dual fuel resources for capacity accreditation purposes. PJM, for instance, has separate classes for dual fuel combustion turbines for its Effective Load Carrying Capability (“ELCC”) Classes.<sup>44</sup> In finding PJM’s approach just and reasonable, the Commission specifically noted that PJM’s marginal ELCC framework “reflects the fact that *dual fuel resources are more likely to be available than gas-only resources during certain system conditions.*”<sup>45</sup>

Under MISO’s proposed Tariff language, however, dual fuel combustion turbines would be grouped into the same resource class as natural gas-fired only resources despite

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<sup>43</sup> *Id.* P 79. As further evidence of these differences, PJM reported that during Winter Storm Elliot, resources with dual fuel capabilities had a fuel related forced-outage rate of only 5.6%, as compared to forced-outage rates of 13.8% for gas-only resources with firm supply arrangements and 33.9% for gas-only resources with non-firm fuel arrangements, respectively. PJM, Winter Storm Elliot Event Analysis and Recommendation Report at 59 (July 17, 2023), <https://pjm.com/-/media/library/reports-notices/special-reports/2023/20230717-winter-storm-elliott-event-analysis-and-recommendation-report.ashx>.

<sup>44</sup> *See id.* P 30 (“Specifically, PJM proposes to add [to its existing classes of variable resources and limited duration resources] the following classes: Nuclear Class, Coal Class, Gas Combined Cycle Class, Gas Combustion Turbine Class, *Gas Combined Cycle Dual Fuel Class*, *Gas Combustion Turbine Dual Fuel Class*, Diesel Utility Class, Steam Class, Other Unlimited Resource Class, and Demand Resource Class.”) (emphasis added). *See also* PJM, ELCC Class Ratings for the 2024/2026 Base Residual Auction (last visited Apr. 24, 2024), <https://www.pjm.com/-/media/planning/res-adeq/elcc/2025-26-bra-elcc-class-ratings.ashx> (listing PJM ELCC Class Ratings for the 2025/2026 Base Residual Auction).

<sup>45</sup> 186 FERC ¶ 61,080, P 42 (emphasis added).

these well-documented differences in the reliability value and performance of such resources. The result will be a Resource Class that fails to account for the relative reliability values of resources based on the availability during tight system conditions, and an underestimation of the reliability value that dual fuel resources provide during times of greatest need.

That outcome is not only contrary to the very premise of MISO's proposed DLOL methodology—which depends on separating resources into Resource Classes with unique operating characteristics—but it is also unduly discriminatory, in violation of FPA section 205. The Commission and courts have explained that undue discrimination is not limited to dissimilar treatment of similarly-situated entities, it also occurs when the same treatment is applied to differently-situated entities.<sup>46</sup> As shown above, dual fuel resources are differently situated from their single fuel counterparts in terms of operating characteristics that directly and significantly affect their availability to support reliability during times of greatest need.

MISO's proposal to treat these resources the same as single-fuel resources by including them in the same Resource Class, thereby reducing their accreditation, is therefore unjust, unreasonable, and unduly discriminatory.<sup>47</sup>

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<sup>46</sup> “Typically, undue discrimination cases involve a seller charging a different rate to similarly-situated customers; but undue discrimination can also occur when a seller charges the same rate to differently-situated customers.” *Calpine Corp.*, 163 FERC ¶ 61,236, P 68 n.112 (2018) (citing, among other cases, *Ala. Elec., Inc. v. FERC*, 684 F.2d 20, 27-28 & n.3 (D.C. Cir. 1982)), *denying clarification*, 168 FERC ¶ 61,051 (2019), *reh'g denied*, 171 FERC ¶ 61,034, *correcting order on other basis*, 171 FERC ¶ 61,035 (2020).

<sup>47</sup> This unduly discriminatory treatment of dual fuel resources exists independent of MISO's failure to file Tariff language that sufficiently defines Resource Classes and the process for determining them (discussed above in Part I.A.1). The later problem exacerbates the treatment of dual fuel resources by failing to provide any articulatable standard for evaluating the proper division of Resource Classes in Planning Year 2028/2029 and beyond. But even if that later problem is cured, there is still no justification for improperly grouping dual fuel resources with single fuel resources in the Resource Classes MISO has proposed to include in Schedule 53A.

**B. *The Commission should reject MISO’s DLOL methodology at this time because it directly relies on LOLE modeling that requires changes to produce just and reasonable results.***

MISO proposes to “transition to a two-step resource accreditation method (the ‘DLOL-based methodology’).”<sup>48</sup> “Step 2 of MISO’s DLOL-based methodology is largely based upon the mechanism set forth in [existing] Schedule 53.”<sup>49</sup> The first step, however, is the entirely new concept of Resource Class-level UCAP,<sup>50</sup> which forms the core of MISO’s proposed DLOL methodology. MISO’s LOLE modeling is essential to determining Resource Class-level UCAP. “Resource Class-level accreditation . . . will be calculated *directly from MISO’s LOLE analysis*,”<sup>51</sup> and “[a] *prerequisite* to calculating resource-class UCAP MW values . . . [is] the development of a loss-of-load expectation (‘LOLE’) model *that can simulate the reliability risks that the system faces* and identify which hours are *likely to entail the highest risk of loss of load*.”<sup>52</sup> Although MISO notes that it has previously “performed LOLE analysis using a probabilistic model,” it has not done so for purposes of capacity accreditation for thermal and other resources as it

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<sup>48</sup> Transmittal Letter at 3.

<sup>49</sup> *Id.* at 21.

<sup>50</sup> *See, e.g.*, DLOL Filing, Tab C, Schedule 53A § II.A (showing that the “Resource Class-level UCAP and ICAP Calculation” in proposed Schedule 53A is entirely new compared to existing Schedule 53).

<sup>51</sup> Joundi Testimony at 20 (emphasis added); *see also* Redline Tariff, Schedule 53A § II.A (“Resource Class-level UCAP in a Season will be determined by calculating the combined expected availability and performance of all resources within that Class during Critical Hours from the probabilistic LOLE analysis as set forth in Module E-1.”); Transmittal Letter at 3 (“MISO’s proposed DLOL-based methodology first measures a resource’s expected marginal contribution to reliability using Resource Class-level performance during the loss of load expectation (‘LOLE’) analysis.”).

<sup>52</sup> Ming Testimony at 22 (emphasis added).

proposes in this proceeding.<sup>53</sup> “MISO acknowledges that the DLOL-based methodology is a significant change to the way resources are accredited.”<sup>54</sup>

Midwest TDUs do not oppose the use of LOLE analysis as part of the capacity accreditation process. Currently, however, MISO’s LOLE modeling is not sufficiently developed to fulfill this critical new role in setting capacity accreditation values.<sup>55</sup> The Commission should therefore reject MISO’s filing at this time, without prejudice to a future filing to implement the DLOL methodology once necessary refinements to MISO’s LOLE modeling are identified and adequately addressed.

MISO does not dispute the need for changes to its LOLE modeling. In fact, its filing in this proceeding confirms that changes are required. MISO “recognizes that refinements to the model *are necessary*,”<sup>56</sup> and “agreed that LOLE modeling improvements are important to align the probabilistic model with the expected operation of resources.”<sup>57</sup>

The necessary LOLE modeling changes are significant and directly relate to the accurate calculation of Resource Class-level UCAP and, ultimately, just and reasonable capacity accreditation values. For instance, “MISO recognizes that [the software it uses to conduct the LOLE analysis] may not currently distribute planned outages consistently

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<sup>53</sup> Joundi Testimony at 48 (explaining that MISO’s LOLE analysis has been used “in establishing Resource Adequacy Requirements (both PRMR and LRR),” as well as “to perform the studies that determine the seasonal capabilities of wind and solar resources for the determination of requirements, as well as to accredit wind resources that plan to participate in the PRA”).

<sup>54</sup> Transmittal Letter at 5.

<sup>55</sup> MISO has previously used LOLE analysis to establish Resource Adequacy requirements, Joundi Testimony at 48, but it has not used it for capacity accreditation as it now proposes.

<sup>56</sup> Transmittal Letter at 36 (emphasis added).

<sup>57</sup> Joundi Testimony at 77.

across Resource Classes *which may have inadvertent impacts on Resource Class-level UCAP.*<sup>58</sup> MISO also notes the need for “a revision of planned outages, cold-weather outages, [and] load forecasting.”<sup>59</sup> These are far from minor details for a capacity accreditation intended to “measure[] a resource[’s] availability when reliability risk is the greatest.”<sup>60</sup> MISO also notes the need for improvements in storage modeling,<sup>61</sup> which will have a clear and direct impact for the Resource Class-level UCAP determination for that Class of resources.

Without a better understanding of how MISO’s LOLE modeling will work under the DLOL methodology (which MISO does not plan to implement until Planning Year 2028/2029), it is impossible to determine whether the accreditation values this methodology produces will be just and reasonable. This is akin to a formula rate filing where key elements of the formula, not just the inputs, are yet to be determined. For instance, it would be fundamentally inconsistent with FPA section 205 for a public utility to propose a formula rate stating that return on equity would be determined by a methodology, outside of the formula, that requires significant changes and currently may produce inaccurate results. Here, it is likewise not just and reasonable for MISO to implement a DLOL methodology in its Tariff when that methodology depends on

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<sup>58</sup> *Id.* at 78 (emphasis added). *See also* MISO, LOLE Modeling Enhancement: Planned Outage Modeling at 2 (Apr. 17, 2024), <https://cdn.misoenergy.org/20240417%20RASC%20Item%2005d%20LOLE%20Modeling%20Enhancements%20-%20Planned%20Outage%20Modeling632508.pdf> (listing this same problem as a “Key Takeaway”).

<sup>59</sup> Joundi Testimony at 78.

<sup>60</sup> Transmittal Letter at 3.

<sup>61</sup> Joundi Testimony at 54 (noting the need “to evaluate how the modeling of storage resources in the LOLE model needs to be adjusted to reflect how they are being operated in the operational time frames or real time markets, and how their energy-limited nature may influence the determination of risk across simulated hours”).

modeling with flaws that have not yet been fully identified and understood, much less resolved.

In addition, the current lack of data transparency further underscores the premature nature of MISO's proposed DLOL methodology. Although MISO is working on a data transparency process that would "maintain[] confidentiality and provide[] stakeholders the information they need to replicate accreditation values," currently stakeholders are unable to run the models and replicate accreditation values.<sup>62</sup> As a result, it is not possible to fully understand and verify the results that MISO's proposed DLOL methodology would produce, even using the current models that require refinement.

MISO's argument for revising its Tariff now—over stakeholder objections<sup>63</sup>—are without merit. MISO states that it "disagrees that stakeholder support for the DLOL-based methodology should be contingent upon how the model performs," even though changes to the model "are necessary."<sup>64</sup> Because the DLOL methodology itself is contingent on LOLE modeling, so too is the justness and reasonableness of MISO's filing necessarily contingent on the performance of its LOLE modeling.

MISO also claims that "approval of the design sooner rather than later will provide MISO, LSEs, regulators and other interested stakeholders the certainty necessary to plan for the changing future."<sup>65</sup> But MISO's current filing does not provide that

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<sup>62</sup> Transmittal Letter at 36.

<sup>63</sup> *Id.* ("Several stakeholders recommended delaying the filing to later in 2024, after additional conversation on LOLE enhancements have occurred."); *id.* at 35 ("Several stakeholders complained that MISO's proposal for the accreditation reform filing at FERC is premature and requested MISO delay the filing by 3 months or whatever time is necessary to complete a transparent stakeholder process.")

<sup>64</sup> *Id.* at 36.

<sup>65</sup> *Id.* at 35.

certainty. The changes needed to the LOLE modeling will directly affect the accreditation values its DLOL methodology will produce, but the extent and manner of this effect is uncertain. Indeed, MISO's filing does not respond to stakeholders' suggestion that MISO at least "mak[e] a list of all planned LOLE modeling enhancements, the issues MISO is intending to solve with these enhancements and any known solutions at this time."<sup>66</sup> Because MISO has not explained or quantified the potential impact of these changes, much less implemented these modeling improvements, there is no certainty about the future implications of MISO's filing.

To the extent there is some value in the "indicative results" MISO plans to provide before the necessary LOLE model refinements are made,<sup>67</sup> that is not a reason for the Commission to approve a premature and underdeveloped DLOL Filing. Tariff revisions are not required for MISO to begin providing this indicative information to stakeholders, while it also works with stakeholders on necessary modeling refinements and data transparency. MISO's current filing should therefore be rejected without prejudice to a future filing with additional support for the DLOL methodology.

***C. MISO has not shown that its DLOL methodology that specifically accounts for longer outages as part of the Resource Class-level UCAP determination will operate in a just and reasonable manner in combination with its 31-day capacity replacement obligation.***

As discussed above, a key element of MISO's proposed DLOL methodology is the inclusion of a new, first step in its accreditation calculation to establish Resource Class level accreditation using a probabilistic approach. Unlike MISO's current

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<sup>66</sup> *Id.* at 36.

<sup>67</sup> *Id.* at 37.

accreditation methodology for Schedule 53 Resources, MISO's proposed DLOL methodology specifically accounts for outages at times of highest reliability risk as part of the capacity accreditation calculation through this new Resource Class-level UCAP determination. As Mr. Joundi explains, "[p]lanned outages are modeled using maintenance rates for each resource in the probabilistic model," and this "*reduce[s] capacity availability of Resource Classes within the probabilistic model and commensurately reduce[s] accreditation.*"<sup>68</sup> Importantly, planned outage exemptions are not part of the Resource Class-level UCAP determination because "the probabilistic model needs to identify all possible risks that may impact the reliability of the system."<sup>69</sup> MISO views consideration of such planned outages as "essential to identify[ing] periods of reliability risks and . . . reflect[ing] expected availability of resources,"<sup>70</sup> and is therefore a critical part of its proposed Resource Class-level accreditation step:<sup>71</sup>

*Accounting for planned outages in Resource Class-level UCAP calculations will ensure each Resource Class's contribution to reliability is appropriately accounted for and the approach is aligned with the key objectives of resource accreditation.*

Thus, under the proposed DLOL methodology, the Resource Class-level UCAP for Classes with longer planned outages (e.g., coal and nuclear) should appropriately reflect the reliability impact of these outages. The total UCAP assigned to such Resource Classes will be smaller to reflect that Class's extended outages during times of high reliability risk, thereby restricting the UCAP available to be allocated among the

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<sup>68</sup> Joundi Testimony at 39 (emphasis added).

<sup>69</sup> *Id.* at 41.

<sup>70</sup> *Id.* at 40 (emphasis added).

<sup>71</sup> *Id.* at 40.

resources in that Class based on the historical performance of each. As a result, the DLOL methodology will diminish an individual resource's Seasonal Accredited Capacity ("SAC") to the extent its Resource Class is subject to extended outages.

Although Midwest TDUs generally support accounting for planned outages as part of the Resource Class step of the proposed capacity accreditation calculation, MISO has failed to address—much less justify—the operation of this new methodology in the context of MISO's overall seasonal Resource Adequacy construct. In particular, MISO has failed to show that its proposed DLOL methodology, which directly and robustly accounts for longer outages as part of the accreditation calculation, is just and reasonable when applied in conjunction with the current 31-day capacity replacement obligation.

MISO's proposed DLOL methodology will not operate in isolation. Instead, what MISO characterizes as a "significant change to the way resources are accredited"<sup>72</sup> will operate as part of, and in conjunction with, MISO's overall seasonal Resource Adequacy construct. The current accreditation methodology in Schedule 53, which MISO's filing proposes to replace with the DLOL methodology in proposed Schedule 53A, is expressly referenced in and incorporated into Module E-1 as setting forth the accreditation values for several types of Capacity Resources.<sup>73</sup> When MISO first established its seasonal Resource Adequacy construct, it included not only the Schedule 53 accreditation methodology but also various related Module E-1 changes, including requiring LSEs to replace Zonal Resource Credits ("ZRCs") for resources that cleared in a particular Season

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<sup>72</sup> Transmittal Letter at 5.

<sup>73</sup> See, e.g., MISO Tariff Section 69A.4.1(a),(c),(d). It is not clear how MISO can leave those sections unchanged when it implements its DLOL Filing, as MISO will at minimum need to point to Schedule 53A instead.

and are scheduled to be subject to more than 31 days of full or partial planned outages.<sup>74</sup> Absent such replacement (which can be challenging, given, e.g., availability and Local Resource Zone constraints), the LSE is subject to a Capacity Replacement Non-Compliance Charge for each day that it fails to meet its replacement obligation.<sup>75</sup> As a result, the resource will stop receiving the Auction Clearing Price for cleared ZRCs, and the LSE will instead make a daily Cost of New Entry payment.<sup>76</sup>

Unlike in MISO's current seasonal Resource Adequacy construct, its DLOL methodology places the very heavy burden of this replacement obligation on LSEs with ZRCs for resources in the Resource Classes whose accreditation will already be reduced due to those Classes' extended outages (i.e., during the new Resource Class-level UCAP calculation). When viewed in the context of the DLOL's additional negative accreditation adjustment for such Resources Classes, MISO's one-size-fits-all replacement requirement needs to be reassessed to ensure that MISO's seasonal Resource Adequacy construct operates in a just and reasonable manner.

For example, it is not unusual for nuclear or coal resources to require planned outages that extend beyond 31 days in order to maintain the resource in good working order with high availability, consistent with good utility practice and MISO's claimed reliability objective. The DLOL methodology will now account for the longer outages required for these Resource Classes in the accreditation calculation. As a result, a

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<sup>74</sup> This 31-day threshold also applies to unplanned outages during that Season that "were known or could have reasonably been anticipated at the time of the PRA." MISO Tariff § 69A.3.1.h.a. That assessment is made after-the-fact by the Independent Market Monitor.

<sup>75</sup> MISO Tariff § 69A.3.1.h.b.i.

<sup>76</sup> *Id.*

resource in one of these Classes that requires a 32-day planned outage will have its accreditation reduced on a Resource Class basis to reflect those outages. But it will also be burdened by an obligation to replace the capacity (with capacity beyond the level the PRM determines to be required, taking account of covering such long outages), even if the planned maintenance is scheduled more than 120 days in advance and during times of adequate maintenance margin—and even though, unlike under Schedule 53, longer outages for these types of resources are already fully factored into Resource Class-level UCAP values.<sup>77</sup>

Although the 31-day replacement obligation is directly related to and integral to an assessment of the MISO's filing to substantially alter its seasonal Resource Adequacy construct, MISO's filing nowhere addresses the reasonableness of imposing this replacement requirement in combination with its proposed new DLOL methodology. MISO's filing touts the benefits of its new proposed Resource Class-level UCAP component of capacity accreditation, which will reduce the accreditation of resources belonging to Classes that require longer outages, but MISO entirely ignores the interaction of its proposal with existing, burdensome obligations addressing the same issue. Nor does it show any consideration as to whether a less onerous replacement requirement would ensure that MISO's proposed DLOL methodology operates in a just and reasonable manner.

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<sup>77</sup> The ability of a resource to avoid the 31-day replacement requirement by scheduling longer outages across two Seasons, thereby incentivizing shifting a portion of longer outages to a Season with narrower margins, also runs counter to the DLOL methodology's stated purpose of "award[ing] more relative accreditation to resources that have properly mitigated risks during each Season and will ensure that resources committed during a seasonal PRA receive accreditation based on their reliability contribution during the times of highest need." Transmittal Letter at 8.

Nevertheless, it may be appropriate and consistent with the DLOL methodology to require capacity replacement in certain instances. For example, a more tailored replacement requirement may be appropriate for a resource with a planned outage that far exceeds the length of the typical outages for that Resource Class that are factored into the accreditation value. But MISO has not demonstrated that its blunt 31-day capacity replacement obligation is reasonable and appropriate to the extent the resource's need to schedule longer outages is already reflected in the new DLOL Resource Class accreditation calculation.<sup>78</sup>

Midwest TDUs acknowledge that the Commission accepted the 31-day capacity replacement obligation, while “recogniz[ing] that other thresholds could also be just and reasonable,”<sup>79</sup> in the context of MISO's initial filing to implement its seasonal Resource Adequacy construct, with a different capacity accreditation methodology. The Commission's reasoning in that proceeding, however, does not apply in the context of the proposed new DLOL methodology. The Commission previously reasoned that the 31-day capacity replacement obligation “reflect[s] a reasonable expectation that a Planning

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<sup>78</sup> As described above, the 31-day replacement obligation and the accreditation approach are inherently interrelated parts of MISO's seasonal Resource Adequacy construct, as set forth in Module E-1 of MISO's Tariff, which incorporates Schedule 53 (and will need to be revised to instead incorporate Schedule 53-A). Consideration of the 31-day replacement obligation is therefore integral to assessing the justness and reasonableness of MISO's proposed DLOL methodology. Any effort by MISO to portray its DLOL Filing as merely a “single issue rate filing” should be rejected, as that shoe simply does not fit given the magnitude of the changes MISO is proposing to its seasonal Resource Adequacy construct and their impact on the operation of the 31-day replacement requirement. In any case, MISO has not demonstrated that its DLOL Filing changes will not have impacts on the 31-day replacement obligation. *See, e.g., Indicated RTO Transmission Owners*, 161 FERC ¶ 61,018, P 13 (2017) (denying in part petition for single-issue ratemaking because “it is unclear whether the specific revisions proposed by Applicants to their respective formula rates will affect other unchanged components of their formula rates”).

<sup>79</sup> *Midcontinent Indep. Sys. Operator, Inc.*, 180 FERC ¶ 61,141, P 335 (2022) (“SAC Order”), *reh'g* 182 FERC ¶ 61,096 P 65 (2023) (reiterating that acknowledgement), *petition for review pending sub nom., Entergy Arkansas, LLC v. FERC*, No. 22-1335 (D.C. Cir. argued Mar. 8, 2024).

Resource receiving capacity payments for a given Season should not be unavailable for a significant portion of that Season.”<sup>80</sup> Here, however, the Resource Class-level UCAP element of the DLOL methodology addresses in the accreditation calculation what a reasonable expectation for outages is for a given Resource Class, and appropriately discounts the accreditation values for resources in that Class.

Likewise, the Commission found that the 31-day capacity replacement obligation “reasonably ensures LSEs are receiving the benefits of those resources in the Seasons for which they were procured.”<sup>81</sup> For the reasons stated above, the Resource Class-level UCAP element of the DLOL methodology ensures that accreditation values appropriately reflect reliability benefits—without the need for additional capacity beyond what the LOLE modeling shows as needed. Indeed, as the LOLE model is further refined, and seasonal PRMR decreases (as MISO expects<sup>82</sup>), the need for additional capacity, beyond what the LOLE model supports, is inconsistent with the “improve[d] alignment between accreditation and PRMR” (*id.*) that MISO identifies as an important goal.

Thus, MISO should not be permitted to modify its seasonal Resource Adequacy construct by making fundamental changes to its accreditation methodology that will single out Resource Classes that are particularly subject to extended outages for discounted accreditation without (1) considering the interaction of this new approach with the heavy burden imposed on resources in those Classes by the replacement obligation, and (2) demonstrating that in combination these provisions will operate in a

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<sup>80</sup> *Id.* P 334.

<sup>81</sup> *Id.* P 335.

<sup>82</sup> *See* Transmittal Letter at 22.

just and reasonable manner or appropriately modifying that obligation. It should be required to do so before its DLOL proposal can be accepted.

***D. MISO’s proposed Tariff language fails to properly implement the parts of its proposal that have been developed.***

At multiple points, there is a disconnect between MISO’s apparent intent and the operative Tariff language. Although these problems may be less fundamental than those identified above, they further underscore that MISO’s proposal is a skeletal outline at a “policy level,” not a *rate schedule* ready for approval and implementation.

1. The Tariff language does not specify that seasonal Resource Class-Level UCAP is used to backfill where a Tier 2 Resource Adequacy deficiency exists in a Season.

Step two of the DLOL-based methodology determines the “slice of pie” for individual members of a Resource Class, which MISO says it “largely based upon the mechanism set forth in Schedule 53.”<sup>83</sup> One key difference from the current approach under Schedule 53 is the use of *seasonal* data to backfill deficient Tier 2 Resource Adequacy Hours (“RA Hours”) in a Season, rather than *annual* average availability that is not likely to capture the variability in performance from Season to Season, particularly for intermittent resources.<sup>84</sup>

Although MISO intends to use seasonal data to backfill any deficiency in Tier 2 Seasonal RA Hours—a key improvement from its current accreditation methodology—the proposed Tariff language does not indicate that the Resource Class-Level UCAP used

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<sup>83</sup> Transmittal Letter at 21.

<sup>84</sup> Joundi Testimony at 33-34. As Mr. Joundi explains, “[i]f there are less than 65 Tier 2 RA Hours in a Season (deficient hours), *seasonal* Resource Class-level UCAP, as a percentage of Resource Class-level ICAP, is used to determine a resource’s availability during those deficient hours. . . . This is a slight deviation from the existing Schedule 53 methodology for filling deficient hours as this process will replace [*annual* average offered capacity].” *Id.* at 33 (emphasis added).

is from the Season for which the deficiency exists. Instead, the Tariff language refers generally to Resource Class-level UCAP as a percentage of Resource Class-level ICAP.<sup>85</sup>

To address the Seasonal RA Hour Deficiency, a Resource Class-level UCAP as a percentage of the corresponding Resource Class-level ICAP will be multiplied by the Resource's ICAP and the product will be applied for purposes of determining ISAC for only the deficient Seasonal RA Hours.

Given the importance of using same-Season data to fill in Tier 2 RA Hours (if needed) with data reflecting availability in that Season, MISO should correct this mismatch in a future filing seeking to implement a more developed and supported DLOL methodology.

2. MISO has not explained how its definitional changes will operate in a just and reasonable manner.

MISO plans to fully implement its DLOL-based methodology in the 2028/2029 Planning Year, after a three-year transition period. MISO plans to publish “indicative results” during the transition period to “allow stakeholders to adapt to the new methodology before requirements and the accreditation of resources are impacted by the change.”<sup>86</sup> As such, MISO proposes to establish two effective dates. Provisions in Schedule 53A, except Subsection I.B Effective Date of Reporting Requirement, are effective June 1, 2027, for implementation beginning with Planning Year 2028/2029. All other provisions are proposed to be effective September 1, 2024. MISO, however, does not address how the proposed Tariff changes that would take effect on September 1, 2024, will operate prior to the DLOL-methodology being fully implemented.

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<sup>85</sup> Redline Tariff, Schedule 53A § IV (emphasis added).

<sup>86</sup> Transmittal Letter at 2.

In particular, MISO proposes to revise the definition for “Unforced Capacity (UCAP)”, effective September 1, 2024, to be “[t]he amount of Capacity in MW assigned to a Planning Resource after accounting for either its availability in the LOLE analysis or historic availability, as applicable.”<sup>87</sup> This new UCAP definition is problematic because it suggests MISO could use either a deterministic approach (based on “historic availability”) or a probabilistic approach (based on “availability in the LOLE analysis”) where it deems “appropriate.” But nowhere does the Tariff explain when it would be appropriate to use which approach. Indeed, the DLOL Filing offers no explanation of how this revised definition will function in the context of Schedule 53 for the next three years.

MISO has proposed other changes outside of Schedule 53A, including changes to the definition of “Seasonal Accredited Capacity (SAC)” and substantive provisions in section 68A.2.1 related to the LOLE analysis. MISO should explain its intention in these and any other non-Schedule 53A proposed Tariff revisions, and address whether and how those changes are appropriate for use under *both* the current accreditation methodology and its proposed DLOL-based methodology intended to be implemented in Planning Year 2028/2029.

3. The Tariff and MISO are inconsistent in describing the stage in implementing the 1,950-hour cap on non-loss of load hours.

The Tariff and MISO’s testimony are inconsistent on the order of operations for weighting (based on probability of load forecast error and effective margin) and selecting

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<sup>87</sup> Redline Tariff § 1.U (revised definition of Unforced Capacity).

Critical Hours. MISO's Transmittal Letter and testimony suggest that the Critical Hours are capped and selected *before* applying any weighting. Mr. Joundi describes that Critical Hours are first selected based on the number of loss of load hours in the Season and the cap of 1,950 non-loss of load hours, and then "the weights are calculated and normalized" before calculating the total availability for a Resource Class.<sup>88</sup> The proposed Tariff language for Schedule 53A, however, states: "*After* calculating the weights for each Critical Hour, Critical Hours will be capped at 1,950 hours for each Season during which there are less than 1,950 loss of load hours."<sup>89</sup> It is not clear whether this difference would affect the final determination of Critical Hours, or the ultimate accreditation values, but MISO should explain (a) whether there is a substantive difference between these two procedures, and (b) which of these two procedures it intends to use.

## II. MOTION TO REJECT

As demonstrated above, while Midwest TDUs are generally supportive of the development of a DLOL methodology, MISO has failed to meet its burden to demonstrate that its DLOL Filing is just and reasonable. As proposed, MISO's DLOL Filing is plainly unjust and unreasonable, or unworkable. Among other things, (1) MISO's Resource Classes are not adequately defined (in general), and the initial Resource Classes are flawed, resulting in undue discrimination; (2) its LOLE modeling lacks revisions (not all of which are even identified) that MISO concedes are "necessary"<sup>90</sup> and must be implemented before the modeling can be used to reasonably

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<sup>88</sup> Joundi Testimony at 27-28; *see also* Transmittal Letter at 20-21.

<sup>89</sup> Redline Tariff, Schedule 53A, § II.A (emphasis added).

<sup>90</sup> Transmittal Letter at 36.

determine Resource Class-level UCAP; (3) MISO has not addressed, much less demonstrated to be appropriate, the interaction between its proposed “significant change” to how resources are accredited”<sup>91</sup> with other aspects of the seasonal Resource Adequacy construct, particularly the 31-day capacity replacement requirement; and (4) MISO’s Tariff suffers from other obvious defects.

These deficiencies preclude the Commission from reaching a reasoned decision as to precisely what MISO is proposing and whether its DLOL proposal can be relied upon to produce just and reasonable rates. Indeed, the clearly unjust, unreasonable, and unduly discriminatory treatment of dual fuel resources in MISO’s proposed Resource Classes is alone sufficient to mandate rejection.

Thus, while MISO can and should provide its stakeholders with the indicative results of its evolving DLOL methodology annually, starting in the fall (which MISO can do without approval of its proposed Tariff language), the Commission should reject the DLOL Filing without prejudice to MISO submitting a more developed filing in the future with additional support.<sup>92</sup> The Commission should also provide guidance on concerns that need to be addressed in a future more complete proposal.

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<sup>91</sup> *Id.* at 5.

<sup>92</sup> *See, e.g., Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027, P 26 (2004) (“We find some merit in Midwest ISO’s proposal to impose a charge on generators that operate above the limits specified in the final Facilities Study report, but will reject the proposal without prejudice to Midwest ISO submitting a revised proposal with appropriate support in a future Section 205 filing.”).

**CONCLUSION**

For the reasons discussed above, the Commission should find that MISO's filing has not been shown just and reasonable, and reject the filing, without prejudice and with guidance on concerns that need to be addressed in a future more complete proposal.

Respectfully submitted,

*/s/ Gerit F. Hull*

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April 29, 2024

CERTIFICATE OF SERVICE

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

Dated on this 29th day of April, 2024.

*/s/ Anree G. Little*

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