

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
AMENDMENTS TO) R18-20
35 ILL. ADM. CODE 225.233) (Rulemaking – Air)
MULTI-POLLUTANT STANDARDS)
(MPS))

NOTICE OF FILING

PLEASE TAKE NOTICE that on this 27th day of March 2019, I have filed with the Clerk of the Illinois Pollution Control Board, the Motion to File Post-Hearing Comments Instantly and the Post-Hearing Comments of the Illinois Attorney General's Office in the above-referenced case, a copy of which is hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
By KWAME RAOUL,
Attorney General of the State of Illinois

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CERTIFICATE OF SERVICE

I, STEPHEN J. SYLVESTER, an attorney, do certify that on March 27, 2019, I caused the foregoing Motion to File Post-Hearing Comments Instantly, the Post-Hearing Comments of the Illinois Attorney General's Office and Notice of Filing to be served upon the persons listed in the attached Service List by email for those who have consented to email service and by U.S. Mail for all others.

/s/ Stephen J. Sylvester
STEPHEN J. SYLVESTER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R18-20
AMENDMENTS TO 35 ILL. ADM.)	(Rulemaking-Air)
CODE 225.233, MULTI-POLLUTANT)	
STANDARDS)	

MOTION FOR LEAVE TO FILE POST-HEARING COMMENTS INSTANTER

The Illinois Attorney General’s Office, on behalf of the People of the State of Illinois (“People”), pursuant to 35 Ill. Adm. Code 101.522, requests that the Hearing Officer allow the People to file the attached Post-Hearing Comments instanter. The People seek to file these comments only one week after the Illinois Environmental Protection Agency filed its Post-Hearing Comments setting out proposed Multi-Pollutant Standards revisions accepted by Vistra Energy Corporation. Accepting the People’s comments will not delay the Board’s decision in this matter but will allow the Board to consider the positions of an active participant and allow for a more complete record in this proceeding.

WHEREFORE, the People respectfully request that the Hearing Officer grant this Motion and accept the attached Post-Hearing Comments for filing instanter.

Dated: March 27, 2019

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
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POST-HEARING COMMENTS
OF THE ILLINOIS ATTORNEY GENERAL'S OFFICE

The Illinois Attorney General's Office, on behalf of the People of the State of Illinois ("People"), hereby files Post-Hearing Comments in this proceeding.

I. Illinois EPA's Currently Proposed Annual Emission Limits.

The People support the Illinois Environmental Protection Agency's ("Illinois EPA") current proposal, in its March 20, 2019 filing, to reduce the Board's proposed annual mass-based emission limits to 34,500 tons for sulfur dioxide ("SO₂") and 19,000 tons for nitrogen oxides ("NO_x"), with caps declining upon unit shutdowns.

The People's position in this proceeding has been that no changes to the MPS's current rate-based limits are warranted, but that, if the Board determined to discard rate-based limits in favor of mass-based limits, then annual mass-based limits for a combined MPS fleet should be set no higher than 34,094 tons for SO₂ and 18,920 tons for NO_x. As we have contended, those limits would most closely approximate the highest lawful emissions under current MPS rate-based limits, taking into account the MPS units' actual emission rates.

Illinois EPA's now-proposed annual limits exceed the alternative limits that the People have suggested. Nevertheless, in the interest of achieving an efficient resolution to this proceeding, the People will not object to the Board's adoption of annual caps of 34,500 tons for SO₂ and 19,000 tons for NO_x. The SO₂ limit, in particular, reflects a nearly 40% reduction from Illinois EPA's originally proposed cap, and a nearly 25% reduction from the Board's current

proposal. The People appreciate all participants' efforts toward achieving a compromise on this issue.

II. Adjustment of Emission Limits Following Permanent Shutdowns.

The People also support the revision proposed by Illinois EPA in its December 20, 2018 filing (P.C. #2931). This revision appropriately would make clear that the MPS regulates the emissions of a permanently shut down unit during the compliance period (or periods) in which the permanent shutdown occurs. Under Illinois EPA's proposed revision, a permanently shut down unit effectively is allocated **no** emissions under the MPS during the compliance period (or periods) in which the permanent shutdown occurs, and the emissions limits are reduced accordingly, but the unit's emissions are still counted in determining compliance with the reduced limits. If adopted by the Board, this revision would address the concerns raised by the People on pages 6 to 7 of our December 10, 2018 pre-filed testimony, and obviate the need for the amendment to Section 225.233(g)(1)(A) proposed on page 7, as well as the amendment to Section 225.233(g)(2) proposed on page 11 (concerning proration of the allocations for a permanently shut down unit, during the compliance period or periods in which the permanent shutdown occurs). *See* Ex. 48, *Armstrong Test.*, at 6-7 and 11.

III. Adjustment of Emission Limits During "Temporary Shutdowns."

Illinois EPA's December 20, 2018 proposal on permanent shutdowns appropriately recognized that a permanently shut down unit's emissions should be regulated during the period (or periods) in which the shutdown occurs, and that the MPS owner should not be allotted emissions for the shut down unit for those period(s) toward the fleetwide emission limits. Under the Board's current proposal, though, "temporary shutdowns" are treated differently, in that the MPS owner is allotted full emission limits for the period (or periods) during which the shutdown began—even though the unit had not operated for the full period. Instead, the MPS limits are

impacted by a “temporary shutdown” only if the unit is “temporarily shut down over an entire compliance period.” See Board’s proposed Section 225.233(h)(1). In a December 10, 2018 filing, Illinois EPA proposed to change this language to “does not operate during an entire compliance period.” Ex. 49, IEPA Responses at 3.

In our December 10, 2018 pre-filed testimony, we suggested several revisions to provide that the MPS owner not be allowed full limits for a compliance period during which one or more units began a “temporary shutdown.” (*See* Ex. 48, Armstrong Test. at 8-11). Assuming that the Board moves forward with Illinois EPA’s current proposal in its March 20, 2019 filing, though, there are two new elements that would to some extent ameliorate the concerns that motivated the People’s proposed revisions.

First, Illinois EPA’s current proposal brings significantly more clarity to current MPS owner Vistra Energy Corporation’s (“Vistra”) near-term shutdown plans, which Vistra has long discussed in the abstract without, until now, providing any specific detail. *See, e.g., id.* at 3 n.1 (citing discussion during Vistra earnings call in which its President and Chief Executive Officer referred euphemistically to “clean[ing] up” the MPS fleet “immediately” upon the Board’s adoption of MPS revisions). One concern that motivated the People’s proposed revisions was that Vistra might “temporarily shut down” a large number of units at the beginning of the 2020 annual compliance period, thereby maintaining full annual emission limits and allowing remaining unscrubbed units to significantly increase their pollution during the 2020 annual compliance period. That scenario is made less likely by the current proposal outlined in Illinois EPA’s March 20, 2019 filing, under which 2,000 megawatts of nameplate generation (nearly 40% of Vistra’s MPS generation) would cease operation by December 31, 2019 (assuming that no particular units are needed for reliability purposes). Assuming that to be the case, under

either the Board's and Agency's current proposals on shutdown reductions, emission limits should be promptly and permanently reduced.

Second, Illinois EPA has proposed clarifying language to Section 225.233(h)(1) providing that emission limits should be reduced if an MPS unit “**does not operate to generate electricity for sale** during an entire compliance period.” *See* IEPA Mar. 20, 2019 Comments at 4. This closes a potential loophole in both the Board's and Illinois EPA's earlier proposed language for Section 225.233(h)(1). Without further clarification, an MPS owner might claim that even minimal operation of a unit during a compliance period—for example, sporadic operation to generate electricity solely used within the unit's facility itself—could entail that the unit was not “temporarily shut down”—or that it “operated”—during the relevant compliance period. Illinois EPA's proposed clarification would help ensure that units that are not generating electricity for sale will not support an allocation of emissions that could be used to increase pollution from other remaining units. *Cf.* 35 Ill. Adm. Code 225.130 (defining “electric generating unit” or “EGU” as “a fossil fuel-fired stationary boiler, combustion turbine or combined cycle system that serves a generator that has a nameplate capacity greater than 25 MWe **and produces electricity for sale**”) (emphasis added).

As a result of these two new elements in Illinois EPA's current proposal—and assuming that the Board does adopt Illinois EPA's proposed revisions—the People would not object to the Board's adoption of the language proposed for Section 225.233(h)(1) in Illinois EPA's March 20, 2019 filing, providing that emission limits should be reduced if one or more MPS units “does not operate to generate electricity for sale during an entire compliance period.”

For the sake of completeness, the People do respond to several questions raised during the January 29, 2019 hearing. First, with respect to the history of “mothballed,” then reopened,

coal plants within the State of Illinois, *see* R18-20, Jan. 29, 2019 Trans. at 30, lines 3 to 11, the People are not aware of any coal-fired electric generating units within the State that have been mothballed and then returned to service. Instead, what we have seen in recent years are units shutting down and retiring at the Newton, Wood River, E.D. Edwards, Hutsonville, Meredosia, and Vermilion plants, within the MPS fleet alone (see Ex. 9, Gignac Test., at 7), and also at the Will County, Waukegan, Crawford, and Fisk plants, within the “Combined Pollutant Standard” group. *See, e.g.*, Consent Decree, *U.S. v. Midwest Generation, LLC*, 09-cv-05277 (N.D. Ill.) (Mar. 9, 2018), at 2 and 8, *available at* <https://www.justice.gov/enrd/consent-decree/file/1044471/download>. There is no factual basis to conclude that any MPS unit, once it had suspended service with the Midcontinent Independent System Operator (“MISO”), would then once again resume commercial operation as an EGU regulated under the MPS.

The MISO Tariff¹ requires the owner of a generating unit to notify MISO if it plans to suspend operations, but does not require that the owner identify whether it will be a temporary or permanent suspension. *See, e.g.*, Attachment A, 38.2.7(a)(i). “Time Limitations on Suspension” in the MISO Tariff are set forth at Attachment A, 38.2.7(n). Notably, the MISO Tariff regulates multiple types of generation resources, including resources that may more readily be brought into and out of operation than coal-fired power plants.

IV. Reporting and Recordkeeping Requirements.

The People continue to advocate for the additional reporting and recordkeeping requirements described on pages 3 to 4 of our December 10, 2018 pre-filed testimony: (1) the inclusion in compliance reports of all information required to be submitted as a notice or report

¹ The portion of the MISO Tariff addressing “Generation Suspension, Generation Retirement, and System Support Resources” is attached hereto as Attachment A. Attachment B hereto is a September 25, 2018 order of the Federal Energy Regulatory Commission accepting relevant revisions to the MISO Tariff, and explaining the history and purpose of the suspension requirements.

under Sections 225.233(f)(3), (g)(3), (h)(3), (k)(3), and (k)(4); (2) the maintenance of the most recently submitted compliance reports and any subsequently submitted notices and reports under Sections 225.233(f)(3), (g)(3), (h)(3), (k)(3), and (k)(4) on an MPS owner's website; and (3) a Board note identifying any mothballed units at the time that MPS amendments are adopted. *See* Ex. 48, *Armstrong Test.*, at 3-4. It is now even more apparent than at the time of our testimony that the annual SO₂ and NO_x emission limits in proposed Sections 225.233(e)(1)(C) and (e)(2)(C), as published, will be out of date within months of their adoption, after *Vistra* has shut down nearly 40% of its MPS fleet. It is important that regulators and the public have a clear picture of the MPS's applicable requirements, and the MPS owner's compliance with them.

As was stated during the January 29, 2019 hearing, there are examples of both regulated entities and Illinois EPA being required to maintain relevant documents on their websites. With respect to regulated entities, federal regulations on coal combustion residuals require that:

Each owner or operator of a CCR unit subject to the requirements of this subpart must maintain a publicly accessible Internet site (CCR Web site) containing the information specified in this section

40 C.F.R. § 257.107(a). *See also* 35 Ill. Adm. Code 721.104 (requiring that a certification claiming a particular type of hazardous waste exclusion “must also be readily accessible on the facility's publicly-available website (if such website exists) as a public notification”). If the Board were more inclined to require Illinois EPA to maintain records related to MPS requirements on its website, there are several existing regulations imposing a similar requirement to keep the public apprised of regulatory developments. *See, e.g.*, 35 Ill. Adm. Code 602.106(b) (requiring Illinois EPA to “publish on its website . . . a comprehensive list of community water supplies subject to restricted status”); 35 Ill. Adm. Code 734.870(c) (requiring Illinois EPA to “post . . . inflation factors on its website” related to maximum payment amounts under the

Underground Storage Tank program; 35 Ill. Adm. Code 1100.605(e) (requiring Illinois EPA to “publish at its website a list of chemical specific values for maximum allowable concentrations of chemical constituents in uncontaminated soil . . .”).

Finally, as stated in earlier comments: the People greatly appreciate the opportunity to have presented testimony over multiple days of hearing; the thoughtful questions posed by Board members and staff; and the efficient and professional oversight of the proceeding by the Hearing Officer.

Dated: March 27, 2019

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
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Post Hearing Comments

Attachment A

38.2.7 Generation Suspension, Generation Retirement, and System Support Resources

a. Generator or SCU Notification of Change in Status.

(i) Notification Procedures for Units.

An owner of a Generation Resource, Synchronous Condenser Unit (SCU), or a Generator that is directly interconnected to the Transmission System but is Pseudo-tied out of the Transmission Provider's Balancing Authority Area that is planning to Suspend operations of all or any portion of that resource must notify the Transmission Provider of such a plan by submitting a completed Attachment Y Notice to the Transmission Provider. This notification provision also applies to a Generation Resource connected to the underlying lower voltage facilities within Transmission Provider region and to Generation Resources that are not directly interconnected to the Transmission System, but are External Resources that are Pseudo-tied into the Transmission Provider's Balancing Authority Area. The Transmission Provider shall coordinate with the entity to which the External Resource is directly connected to determine whether the External Resource is necessary for reliability of the Transmission System, in accordance with applicable coordinated planning provisions between the Transmission Provider and the regional planning entity to which the External Resource is interconnected.

The owner of a Generation Resource or SCU shall submit an Attachment Y Notice to the Transmission Provider at least twenty-six (26) weeks prior to changing to Suspend status, unless the Generation Resource or SCU is inoperable due to Forced Outage in which case Attachment Y Notice must be submitted to the Transmission Provider at least thirty (30) days prior to changing to Suspend status. The owner of a Pseudo-tied out Generator shall submit an Attachment Y Notice to the Transmission Provider at least thirty (30) days prior to the

anticipated effective date of change of status.

A Generation Resource or SCU that is inoperable due to Forced Outage or a Pseudo-tied out Generator shall not be designated as an SSR Unit. The provisions for time limitations on suspension within Section 38.2.7 shall apply to a Generation Resource or SCU that is inoperable due to Forced Outage and a Pseudo-tied out Generator.

A Generation Resource that is designated as a Blackstart Unit by a Transmission Operator in its System Restoration Plans shall not be designated as an SSR Unit to solely provide Blackstart Service. However, the Transmission Provider may determine that SSR Unit status is justified if such Generation Resource is required to maintain the reliability of the Transmission System based on its Attachment Y Reliability Study. Section 38.2.7 shall not modify or alter a Transmission Operator's obligations under the Tariff to identify Blackstart Units that are included in its System Restoration Plans, or a Blackstart Unit Owner's obligations to comply with the terms of any Blackstart Service agreement, in accordance with Schedule 33, or the requirements of Commission approved reliability standards.

The following exception applies to the Generation Suspension, Generation Retirement and System Support Resource (SSR) provisions in Section 38.2.7: The owner of a Generation Resource or SCU that requests a Generator Planned Outage or submits a Generator Forced Outage through the Transmission Provider's outage scheduling system (Control Room Operations Window – CROW or its successor) does not need to submit an Attachment Y Notice to the Transmission Provider if the request does not involve a change of status to Suspend.

An owner of a Generation Resource, SCU, or a Pseudo-tied out Generator certifies by submitting an Attachment Y Notice that it has elected to Suspend such resource and the

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Attachment Y Notice shall be executed by an officer of such owner attesting to that claim. The decision to Suspend may be modified by rescission as specifically provided in this Section 38.2.7.

An owner may not submit a new Attachment Y Notice to Suspend that supersedes a prior notification unless the prior Attachment Y Notice is rescinded. The new Attachment Y Notice requires at least twenty-six (26) weeks prior notice to the Transmission Provider.

(ii) Confidentiality of Attachment Y Notice.

The Transmission Provider shall treat all Attachment Y Notices as Confidential Information unless the Attachment Y Reliability Study is complete and any of the following occurs: 1) the owner has elected to waive its rescission rights; 2) the resource fails to return to operation before the period for rescission has lapsed; 3) public release is required under Section 38.2.7.b in order to evaluate the need for an SSR Agreement; or 4) the information is otherwise publicly disclosed by the owner of a Generation Resource, SCU, or a Pseudo-tied out Generator. The Transmission Provider shall promptly post on OASIS that an Attachment Y Notice was submitted, along with the effective date of retirement, under the first three of these circumstances.

(iii) Notification of the Outage Scheduler After Submittal of Attachment Y Notice.

After receipt of an Attachment Y Notice, the Transmission Provider shall schedule such outage notification through the Transmission Provider's Control Room Operations Window ("CROW") outage scheduling system, or successor system, to coordinate the outage planning of a Generation Resource or SCU through CROW, on behalf of the owner.

b. SSR Unit Procedures.

System Support Resource (SSR) procedures provide a mechanism for the Transmission Provider to enter into agreements with Market Participants that own or operate Generation Resources or Synchronous Condenser Units (SCUs) that are required by the Transmission Provider to maintain reliability of the Transmission System, if all or a specified portion of the capacity of such Generation Resources or SCUs would otherwise either Retire or Suspend. SSR Agreements are a last-resort measure to address a reliability issue on the Transmission System facilities under the functional control of the Transmission Provider and shall only be entered into once all potential SSR Agreement alternatives have been examined.

An owner of a Generation Resource or SCU must submit all necessary information to enable the Transmission Provider to evaluate whether SSR Unit status is appropriate for such Generation Resource or SCU. If, after completing a reliability study (Attachment Y Reliability Study) and analyzing potential alternatives (Attachment Y Alternatives Study), the Transmission Provider determines that SSR Unit status is justified for a Generation Resource or SCU, that is not subject to an exception under Section 38.2.7.a, then the Transmission Provider and Market Participant of such Generation Resource or SCU shall enter into an SSR Agreement, in accordance with the Attachment Y-1 form of agreement. The SSR Unit will be operated in accordance with the terms of the SSR Agreement, which contains detailed terms and conditions regarding operation and compensation of such Generation Resource or SCU. The Transmission Provider shall periodically review the reliability requirements of the Transmission Provider Region and shall determine which, if any, SSR Agreements should be extended.

The Transmission Provider shall use reasonable efforts to respond to the owner within 75 Calendar Days after receipt of the Attachment Y Notice, regarding whether the subject of an Attachment Y Notice appears to be required for transmission system reliability, unless an alternative date is agreed to by the owner and the Transmission Provider.

If the Attachment Y Reliability Study determines that a reliability concern exists, and a response is provided by the Transmission Provider to the owner, the Transmission Provider shall promptly post on OASIS: (1) that an Attachment Y Notice was submitted; (2) that the Transmission Provider's Attachment Y Reliability Study concluded that the Generation Resource or SCU was required for the reliability of the Transmission System; (3) the draft report on the Attachment Y Reliability Study with the CEII information redacted from the report; and (4) how the associated SSR Unit costs would be allocated in the event that the Generation Resource or SCU is required to provide service under an SSR designation.

The Transmission Provider shall discontinue Confidential treatment of an Attachment Y Notice and Attachment Y Reliability Study in the event that the Attachment Y Reliability Study results determine that the Generation Resource or SCU is required to maintain system reliability and would be eligible for treatment as an SSR Unit. The Transmission Provider may use information related to Retire or Suspend status in its Transmission Planning processes (pursuant to Attachment FF and the Transmission Planning BPM) and in its Generator Interconnection process (pursuant to Attachment X and the Generation Interconnection BPM), provided that recipients of the information have signed appropriate Non-Disclosure Agreements with the Transmission Provider.

c. Evaluation of Need for the SSR Designation.

The Transmission Provider will perform an Attachment Y Reliability Study to determine whether the Generation Resource or SCU is necessary for the reliability of the Transmission System based on the analyses described in this section and the criteria set forth in the Business Practices Manuals, but will not determine in this initial analysis the available alternatives to designating the Generation Resource or SCU as an SSR Unit.

In collaboration with the affected Transmission Owners, the Transmission Provider will cause an evaluation to be performed of transmission system conditions (an Attachment Y Reliability Study) that result from the change in status of the unit(s) subject to Attachment Y notification requirements. The evaluation will consider the performance of the transmission system to determine if thermal or voltage violations of applicable NERC Standards and Transmission Owner planning criteria occur when the unit is offline compared to conditions when the unit is online. The scope of this evaluation will include a steady state analysis, and may require analyses of stability and import limitations for the particular study area. Study cases will be derived from approved MTEP models that are representative of the period of time for which the suspension of the unit(s) is requested, and will include models that represent near-term and/or longer-term scenarios as appropriate for the study period. Models that are developed to reflect both the online and offline status of the unit being evaluated will be analyzed to compare the differences in results to determine the impact of the unit on the transmission system. The results of the evaluation will be reviewed with the participating Transmission Owners to verify the Transmission Provider's findings and to evaluate proposed solutions that should be considered to address the reliability issues. The need to retain a unit(s) as a System Support Resource, absent implementation of a feasible alternative, shall be determined by the presence of

unresolved reliability violations on the Transmission System that is under the functional control of the Transmission Provider.

The Transmission Provider shall post the determination of reliability need on the Transmission Provider's OASIS and shall: (1) begin negotiations of a potential SSR Agreement with the Market Participant owning or operating the Generation Resource or SCU; and (2) use reasonable efforts to hold a stakeholder meeting pursuant to Attachment FF within thirty (30) Calendar Days to review alternatives to the potential SSR Unit designation or designations (if multiple Attachment Y Notices apply). The Transmission Provider will schedule subsequent stakeholder meetings as needed. The Transmission Provider shall complete the Attachment Y Alternatives Study within 26 weeks after receipt of an Attachment Y Notice, if the Attachment Y Notice provides only 26 weeks of advance notification, unless otherwise agreed to by the owner of the potential SSR Unit. If no alternative is identified as available by the Attachment Y Notice date to Suspend, then the Transmission Provider shall file the SSR Agreement with an effective date as of the Attachment Y Notice date to Suspend.

Before entering into an SSR Agreement with any Generation Resource or SCU, the Transmission Provider shall assess, in an open and transparent planning process in accordance with the provisions of the Transmission Expansion Planning Protocol Attachment FF to the Tariff, feasible alternatives to the proposed SSR Agreement. The list of alternatives to SSR Unit status that the Transmission Provider shall consider and expeditiously approve as applicable include (depending upon the type of reliability concern identified): (i) redispatch/reconfiguration through operator instruction; (ii) remedial action plans; (iii) special protection schemes initiated upon Generation Resource trips or unplanned Transmission Outages; (iv) contracted demand

response or Generator alternatives; and (v) transmission expansions. Consistent with Section B.1.b of Attachment FF, the Transmission Provider will review and evaluate alternatives to an SSR Agreement on a comparable basis and select the most appropriate solution. Comparability includes the ability of the Transmission Provider to require contractual assurances that the party who provides the alternative solution will implement the solution before the Generation Resource or SCU with the Attachment Y Notice is permitted to Retire or Suspend. The executed contractual arrangements must provide a binding arrangement that obligates the Market Participant who provides the alternative solution to complete any required infrastructure changes that are needed to avoid the reliability issues that would otherwise be addressed by transmission upgrades. While the contractual arrangements will vary based on the particular solution, the terms of the contractual arrangements must further obligate the party who provides the alternative solution to implement actions when required by the Transmission Provider to provide necessary relief. A Generator alternative may be a new Generator, an existing Generator that is made available after the Attachment Y Reliability Study is completed, or an increase to existing Generator capacity that has an executed Generator Interconnection Agreement pursuant to Attachment X for a Commercial Operation Date that is prior to the commencement of the change of status date of the Generation Resource or SCU that has submitted an Attachment Y Notice and must be registered as a Generation Resource that is obligated to offer into the market and respond to instructions from the Transmission Provider. Contractual commitments associated with demand-side resource alternative solutions shall require demonstration to the Transmission Provider of an executed contract between LSE or ARC and Energy Consumers as well as necessary procedures and protocols for responding to Transmission Provider instructions. Such

demand-side contracts must be in place by the time that the SSR Agreement alternative solution would otherwise need to be committed in order to ensure a timely solution to the identified planning need, and must be of a sufficient duration such that a reliable alternative solution can be assured. In assessing applicability for SSR status, the Transmission Provider will not require continued operation when the continued operation of a portion or all of Generation Resources or SCUs would be contrary to applicable law, regulations, or court or agency orders (such as a settlement with an environmental agency or a consent decree approved by a court). In performing the Attachment Y Reliability Study and the Attachment Y Alternatives Study to an SSR Agreement, the Transmission Provider shall collaborate with the affected Transmission Owners and NERC-registered Transmission Planners, and if appropriate, may consult with a retained consultant. The Transmission Provider will appropriately identify any Confidential Information regarding a decision to Suspend before the Transmission Provider transfers such information to any entity. An entity that receives Confidential Information must agree in writing to maintain such confidentiality, to comply with any confidentiality obligations owed to Transmission Provider under the Tariff or pursuant to a related non-disclosure agreement, and to comply with applicable Standards of Conduct found in 18 C.F.R. § 358. The owner of the Generation Resource or SCU subject to review under this section shall make good faith efforts to minimize the costs to be incurred by seeking any available waivers or exemptions from environmental or other regulatory requirements that would necessitate improvements to the potential SSR Unit. The Transmission Provider will reasonably assist the owner of a potential SSR Unit in working with regulatory agencies to obtain environmental or other waivers or exemptions to the extent necessary to maintain the reliability of the Transmission System. For

purposes of determining whether a Generation Resource or SCU qualifies as an SSR Unit, the Transmission Provider will process multiple Attachment Y Notices in the order in which the Attachment Y Notices are received. If a subsequent Attachment Y Notice is received before a determination is made for a Generation Resource or SCU that is the subject of a prior Attachment Y Notice, the Generation Resource or SCU that is the subject of a prior Attachment Y Notice will not be the subject of an SSR Agreement to avoid reliability issues caused by the subsequently noticed suspension of another Generation Resource or SCU.

The filing of a SSR Agreement with FERC shall be accompanied by a corresponding report on the Attachment Y Reliability Study and the Attachment Y Alternatives Study that details the methodologies used, study assumptions, Transmission Owner planning criteria used (including when the criteria became effective and the approving regulatory body, if any), analysis results, an evaluation of alternatives and the conclusion of the study (including a short explanation of the proposed solution to any reliability issue identified and estimated timetables for implementing the preferred solution). An affirmation that the results, in whole or in part, from a previously filed report remain applicable may substitute for filing an entirely new report on the Attachment Y Reliability Study and the Attachment Y Alternatives Study.

d. Modification or Rescission of an Attachment Y Notice.

(i) Rescission of an Attachment Y Notice Prior to the Transmission Provider's Reliability Study Response.

The Transmission Provider shall notify the owner prior to publicizing the Attachment Y Notice and Attachment Y Reliability Study results that the Attachment Y Reliability Study is complete. However, the Transmission Provider shall not provide any information related to the

Attachment Y Reliability Study results to the owner at that time. The owner may rescind its Attachment Y Notice by submitting an amended Attachment Y Notice to the Transmission Provider stating its intention, not more than fifteen (15) Business Days after receiving notice from the Transmission Provider that the Attachment Y Reliability Study is complete. In the event of such rescission, the confidentiality of the Attachment Y Notice shall be preserved.

(ii) Modification or Rescission of an Attachment Y Notice After the Owner of Generation Resource or SCU Receives the Results of Attachment Y Reliability Study, but Prior to Commencing Suspension, Retirement, or an SSR Agreement.

(1) An owner of a Generation Resource or SCU that notifies the Transmission Provider in writing of a decision to Suspend, and for which the Transmission Provider has determined that the Generation Resource or SCU is not necessary for the reliability of the Transmission System, may rescind its decision to Suspend any time prior to the end of the period for rescission following the effective date or may modify the start of the suspension any time prior to the original effective date by submitting an amended Attachment Y Notice to the Transmission Provider stating its intention. If the revised date for suspension is prior to the original date specified in the Attachment Y Notice, a new Attachment Y Notice shall be submitted to the Transmission Provider at least twenty-six (26) weeks prior to the effective date of suspension.

At any time during the Attachment Y Conversion Period, the owner of the Generation Resource or SCU for which the Transmission Provider has determined is not necessary for the reliability of the Transmission System, may elect to convert the Attachment Y Notice to

retirement by notifying the Transmission Provider of its intent to waive the right to both rescind and modify the Attachment Y Notice. After the owner has waived the right to both rescind and modify the Attachment Y Notice, the requested status of the Generation Resource will change to Retire, and the interconnection service will be terminated in accordance with Section 38.2.7.k. The Attachment Y Notice will no longer be treated as Confidential Information once the owner has elected to waive its right to both rescind and modify the Attachment Y Notice and committed to retirement of the Generation Resource or SCU.

(2) An owner of a Generation Resource or SCU that notifies the Transmission Provider in writing of a decision to Suspend, and for which the Transmission Provider has determined that the Generation Resource or SCU is required as an SSR Unit may rescind its decision to Retire or Suspend or modify the date of suspension at any time while designated as an SSR Unit by submitting an amended Attachment Y Notice specifying the modified effective date or stating its decision to rescind.

At any time during the Attachment Y Conversion Period, the owner of the Generation Resource or SCU for which the Transmission Provider has determined is required as an SSR Unit may elect to convert the Attachment Y Notice to retirement by notifying the Transmission Provider of its intent to waive the right to both rescind and modify the Attachment Y Notice for the initial rescission period of the Attachment Y Notice. The owner that provides such notification will retain rescission rights (*i.e.* those additionally acquired by virtue of operating as an SSR Unit) only while designated as an SSR Unit after which time the Generation Resource or SCU will have a Retire status and the interconnection service will be terminated in accordance with Section 38.2.7.k.

(iii) Modification or Rescission of an Attachment Y Notice After Commencing a Suspension, Retirement, or an SSR Agreement.

(1) An owner of a Generation Resource or SCU that notifies the Transmission Provider in writing of a decision to Suspend, and for which the resource has not been designated as an SSR Unit or is not continuing to operate pursuant to an SSR Agreement, may rescind its decision to Suspend by submitting an amended Attachment Y Notice to the Transmission Provider stating its intention to rescind any time during the period for rescission following the effective date.

At any time during the Attachment Y Conversion Period, the owner of the Generation Resource or SCU for which the Transmission Provider has determined is not necessary for the reliability of the Transmission System, may elect to convert the Attachment Y Notice to retirement by notifying the Transmission Provider of its intent to waive the right to rescind and modify the Attachment Y Notice. After the owner has waived the right to rescind, the Generation Resource will have a Retire status, and the interconnection service will be terminated in accordance with Section 38.2.7.k. The Attachment Y Notice will no longer be treated as Confidential Information once the owner has elected to waive their right to rescind and committed to retirement of the Generation Resource or SCU.

(2) An owner of an SSR Unit may rescind its decision to Suspend or to Retire or modify the effective date prior to the termination date of the SSR Agreement by submitting an amended Attachment Y Notice specifying the modified effective date or stating its intention to rescind. After receiving an amended Attachment Y Notice from an owner of an SSR Unit to

rescind or modify its decision to Suspend or to Retire, the Transmission Provider will then exercise the termination provisions of the SSR Agreement.

At any time during the Attachment Y Conversion Period, the owner of the Generation Resource or SCU for which the Transmission Provider has determined is required as an SSR Unit may elect to convert the Attachment Y Notice to retirement by notifying the Transmission Provider of its intent to waive the right to both rescind and modify the Attachment Y Notice for the initial rescission period of the Attachment Y Notice. The owner that provides such notification will retain rescission rights (*i.e.* those additionally acquired by virtue of operating as an SSR Unit) only while designated as an SSR Unit after which time the Generation Resource or SCU will have a Retire status and the interconnection service will be terminated in accordance with Section 38.2.7.k.

e. Refund of Costs.

(i) If the owner of a Generation Resource or SCU that notifies the Transmission Provider of a decision to Suspend and for which the Transmission Provider has not determined the Generation Resource or SCU is needed for reliability rescinds an Attachment Y Notice prior to commencing suspension, then such owner shall pay the Transmission Provider all of the costs that the Transmission Provider incurred in conducting an Attachment Y Reliability Study.

(ii) The Market Participant that owns or operates an SSR Unit must refund to the Transmission Provider with interest at the FERC-approved rate, all costs, less depreciation, for repairs and capital expenditures that were needed to continue operation of the Generation Resource or SCU and to meet applicable regulations and other requirements (including environmental) while the Generation Resource or SCU was subject to an SSR Agreement if the

owner: (1) rescinds its decision to Suspend or to Retire the unit while it is designated a SSR; (2) rescinds its decision to Suspend following its previous designation as an SSR Unit; or (3) returns a unit to service following its previous designation as an SSR Unit and later retirement of the unit.

(iii) An owner of a Generation Resource or SCU that returns the unit to service upon failure to Retire or Suspend according to an Attachment Y Notice (*i.e.* returns from retirement or rescinds the Attachment Y Notice, including a Generation Resource or SCU that was not a SSR Unit, a former SSR Unit that no longer operates pursuant to an SSR Agreement, or an SSR Unit) will be allocated the total costs of Network Upgrades incurred or financially committed to as of the date of the notification of modification of the decision to Retire or Suspend if all the following apply:

- the rescission obviates the need for such Network Upgrades that were identified by the Transmission Provider in an Attachment Y Reliability Study;
- such Network Upgrades were necessitated solely by the Attachment Y Notice to Suspend; and
- such Network Upgrades were approved by the Transmission Provider's Board of Directors as Attachment FF Appendix A projects.

The total costs will include all pre-construction costs and interest at the FERC-approved rate. Such an owner will also be allocated the costs of expedited construction of such Network Upgrades that were approved for purposes other than dealing with needs identified in an

Attachment Y Reliability Study to the extent that such expedited construction was necessitated by the Attachment Y Notice to Suspend.

In the event that multiple Attachment Y studies identified reliability issues that required the Network Upgrades and the owners of the units subject to the studies return their units to operation upon failure to Retire or Suspend (*i.e.* return from retirement or rescind the Attachment Y Notices, including Generation Resources and/or SCUs that were not SSR Units, former SSR Units that no longer operate pursuant to an SSR Agreement, or SSR Units), the owners will be allocated the total costs of such Network Upgrades incurred or financially committed to as of the date of notification of the last modification of a decision to Retire or Suspend if all the following apply:

- the rescission obviates the need for such Network Upgrades that were identified by the Transmission Provider in the Attachment Y Reliability Study;
- such Network Upgrades were necessitated solely by the Attachment Y Notice to Suspend; and
- such Network Upgrades were approved by the Transmission Provider's Board of Directors as Attachment FF Appendix A projects.

The total costs will include all pre-construction costs and interest at the FERC-approved rate. Such owners will also be allocated the costs of expedited construction of such Network Upgrades that were approved for purposes other than dealing with needs identified in an Attachment Y Reliability Study to the extent that such expedited construction was necessitated by an Attachment Y Notice to Suspend.

Except as provided in this Section, cost responsibility is assigned only for Network Upgrades that are identified to fully alleviate the violations identified in the Attachment Y Reliability Study in connection with a change in a plan to Retire or Suspend a Generation Resource or SCU. Costs of Network Upgrades that have been identified in the MTEP to address Transmission issues other than the issues identified in the Attachment Y Reliability Study of a unit that requests suspension will not be allocated to the owner of that unit if such costs of construction were not expedited as the result of an Attachment Y Notice to Suspend. In accordance with Attachment FF of the Tariff, the estimated costs of such Network Upgrades are included in the MTEP when it is approved by the Board of Directors of the Transmission Provider for inclusion in the MTEP. The Transmission Provider will solicit from the constructing Transmission Owner the actual costs (including the costs of expediting construction, and pre-construction costs, if any) incurred or committed to as of the date of notification for the last modification of a decision to Retire or Suspend. Each owner shall pay its pro rata share of the incurred or committed Network Upgrade costs, based on the relative Generation Verification Test Capacity of each resource whose operation causes the assignment of Network Upgrade costs to its owner. The Transmission Provider will promptly notify the responsible owner of their share of the total costs once actual costs are determined.

f. Execution and Filing of SSR Agreement.

The Transmission Provider shall enter into an SSR Agreement with the Market Participant owning or operating a Generation Resource or SCU that is needed for SSR purposes based on the *pro forma* Attachment Y-1. The SSR Agreement shall state that it incorporates by reference the compensation authorized by the Commission. Resources that are ineligible to

continue operating for legal or regulatory reasons, however, shall not be required to enter into an SSR Agreement. If a potential SSR Unit is ineligible or an existing SSR Unit becomes ineligible to continue operation, then the Transmission Provider shall seek to minimize the impact to Load by operating the Transmission System in the same manner as for any Resource that becomes ineligible to continue operation due to Forced Outage.

The Transmission Provider will file an SSR Agreement with the Commission for approval if the Transmission Provider's analysis determines that the Generation Resource or SCU is required for reliability of the Transmission System. All potentially affected parties will receive notification of such Commission filing. SSR service is a contracted service between the Market Participant that owns or operates an SSR Unit and the Transmission Provider and shall be for a term of twelve (12) months, unless the Transmission Provider requires a different term. The Transmission Provider must have available the entire capacity specified in the SSR Agreement of each SSR Unit.

g. Operation of SSR Unit.

Once the Transmission Provider has entered into an SSR Agreement with a Generation Resource or SCU, the Transmission Provider shall have the right to dispatch the SSR Unit at any time for reliability of the facilities within the Transmission Provider Region. The Transmission Provider shall make every attempt to minimize the use of an SSR Unit for reliability purposes. The Transmission Provider will commit the SSR Unit when conditions are identified that require the use of the SSR Unit and will make best efforts to minimize the uneconomic commitment of the SSR Unit. The SSR Agreement found in Attachment Y-1 to this Tariff shall provide for equitable compensation to an SSR Unit when it is dispatched by the Transmission Provider.

h. Scheduling Rules for SSR Units.

The Transmission Provider shall notify Market Participants with SSR Units as to the time period of Energy, Operating Reserve, Up Ramp Capability, Down Ramp Capability, and/or Other Ancillary Services required from each SSR Unit in accordance with Section 39.1.5 for the Day-Ahead Energy and Operating Reserve Markets, Section 40.1 for Reliability Assessment Commitment processes, and Section 40.1.A.3 Look Ahead Commitment processes.

i. SSR Unit Participation in Markets.

A Market Participant may offer Energy or Ancillary Services from SSR Units into the Day-Ahead Energy and Operating Reserve Market, RAC, or Real-Time Energy and Operating Reserve Market during times when the Transmission Provider has not requested the Market Participant to run the SSR Unit at full capacity unless this would impair the ability of the SSR Unit to provide the Energy, Operating Reserve, Up Ramp Capability, Down Ramp Capability, or Other Ancillary Services when requested by the Transmission Provider.

Market Participants that own or operate an SSR Unit shall not use the SSR Unit to: (i) participate in Interchange Schedules; (ii) except for plant auxiliary Load obligations under the SSR Agreement, use the SSR Unit as a Self-Scheduled Resource to submit Self-Schedules for Energy and/or Operating Reserve; or (iii) submit Self-Schedules for Other Ancillary Services, if applicable, to the extent that Other Ancillary Services are required by the Transmission Provider under this Section.

j. SSR Unit Compensation.

(i) The Market Participant will be compensated for only costs incurred for the extended operation as an SSR Unit that do not exceed the full cost-of-service (including the fixed

cost of existing plant). The hourly component of compensation will be provided as stated in this Tariff. For the determination of any additional compensation, the Market Participant shall submit a filing to the Commission under Section 205 of the FPA that states the additional compensation the Market Participant deems appropriate that is associated with the SSR Agreement filed by the Transmission Provider, but the Market Participant shall not separately file an SSR Agreement. The Market Participant shall provide the Transmission Provider and the Independent Market Monitor with a copy of all compensation-related filings regarding a SSR-designated unit.

(ii) Any compensation for the SSR Unit will be reduced by payments for operation of the SSR Unit, according to the provisions in this Tariff. Monthly compensation under Schedule 2 of this Tariff and payments under resource adequacy programs (a percentage of such payments to a Market Participant whose generating unit designations are not made) shall be identified in the filing for compensation submitted by the Market Participant.

Hourly compensation will be provided for those hours in which the SSR Unit has Actual Energy Injections and the SSR Unit is committed by the Transmission Provider in the Day-Ahead Energy and Operating Reserve Market or committed by the Transmission Provider in any of the RAC processes, or in the Look Ahead Commitment ("LAC") process, including any Reliability Assessment Commitment ("RAC") process conducted prior to the Day-Ahead Energy and Operating Reserve Market, in which hours the Transmission Provider shall calculate the Market Participants' Production Cost and Operating Reserve Cost. For the purposes of this calculation, "Production Cost" means the Energy output cost pursuant to Section 39.3.2B Day-Ahead Revenue Sufficiency Guarantee Payments of the Tariff for commitments by the

Transmission Provider in the Day-Ahead Energy and Operating Reserve Market or the Energy output cost pursuant to Section 40.2.19 Real-Time Sufficiency Guarantee of the Tariff for commitments by the Transmission Provider in any of the RAC processes, or in the LAC process, including any RAC process conducted prior to the Day-Ahead Energy and Operating Reserve Market, of each SSR Unit based upon Start Up, No Load, and Energy Offer cost components that reflect the actual costs of physically operating the SSR Unit(s). "Operating Reserve Cost" mean the actual cost to provide Operating Reserves. All Production Costs and Operating Reserve Costs will be subject to audit by the Transmission Provider, and will be subject to audit and enforcement by the Independent Market Monitor.

Through the Transmission Provider settlement process, the Transmission Provider will compare the "SSR Unit Compensation," which (for each SSR Unit) is equal to the sum of Production Cost and Operating Reserve Cost, to the "SSR Unit Energy and Operating Reserve Credit." The SSR Unit Energy and Operating Reserve Credit are those charges and credits calculated pursuant to Sections 39.3 Day-Ahead Energy and Operating Reserve Market, 40.3 Real Time Energy and Operating Reserve Market Settlement and 40.7 Determination of Inadvertent Energy of the Tariff, plus any revenues from Schedule 2 associated with the SSR Unit or from Planning Resource designation and any charges assessed through Schedule 17 and Schedule 24. In those hours where the SSR Unit Compensation is greater than the SSR Unit Energy and Operating Reserve Credit for that SSR Unit, the Transmission Provider will make the applicable make-whole payment to Market Participant (such make-whole payment to be equal to the difference between the SSR Unit Compensation and the SSR Unit Energy and Operating Reserve Credit). In those hours where the SSR Unit Compensation is less than the

SSR Unit Energy and Operating Reserve Credit, the Transmission Provider will debit from Market Participant (such debit to be equal to the difference between the SSR Unit Energy and Operating Reserve Credit and the SSR Unit Compensation). If the SSR Unit receives revenue pursuant to Sections 39.3 Day-Ahead Energy and Operating Reserve Market and 40.3 Real Time Energy and Operating Reserve Market Settlement of the Tariff in hours other than those described above, the Transmission Provider will debit those revenues from the Market Participant.

(iii) The Market Participant shall file with the Commission for a Monthly SSR Payment for compensation not covered by the hourly compensation stated in the previous subsection. The Market Participant's filing shall state the requested Monthly SSR Payment along with its sub-components (including amounts for monthly Schedule 2 payments for each SSR Unit) and applicable cost support, including an affidavit executed by an officer of the Market Participant attesting to the accuracy of the submitted cost information. The Market Participant shall provide the Monthly SSR Payment information for each SSR Agreement, including any renewals of an SSR Agreement, and may update the information in a Section 205 filing to revise such Monthly SSR Payment following any material, unforeseen circumstances affecting the SSR Unit that changes the costs incurred by the Market Participant. The Transmission Provider shall pay the Market Participant the Monthly SSR Payment as directed by the Commission, commencing on the effective date established by the Commission.

The filing for the additional compensation should evaluate, at a minimum, the following factors in negotiating compensation for an SSR Unit: (1) operations and maintenance labor expenses directly related to the SSR Unit; (2) administrative expenses directly related to

employees at the SSR Unit, including employee expenses environmental fees, safety and operator training, office supplies, communications, and plant inspection/testing expenses; (3) non-labor maintenance expenses, including chemical and materials consumed during maintenance of the SSR Unit and rental expenses for maintenance equipment used to maintain the SSR Unit; (4) taxes, permit and licensing fees, site security expenses, and insurance; (5) carrying charges, including charges for maintaining reasonable levels of inventories of fuel and spare parts that result from short-term operating unit decisions based on Good Utility Practice; (6) corporate expenses, including those incurred for legal services, environmental reporting, and procurement; (7) costs associated with capitalized projects; (8) depreciation, and (9) return on the undepreciated plant costs for the SSR Unit.

k. Termination of Interconnection Service.

Except as provided in Attachment X, the Transmission Provider shall file with the Commission to terminate the interconnection service to the Transmission Provider's system held by an owner of a Generation Resource or SCU or Pseudo-tied out Generator, that certifies by submitting an Attachment Y Notice that it plans to Suspend a Generation Resource or SCU or Pseudo-tied out Generator, upon the latter of: (1) the termination of an SSR Agreement; (2) the effective date for which the owner has elected to convert the Attachment Y Notice to retirement by waiving the right to rescind the decision; or (3) the end of the period for rescission for which the owner has not waived the right to rescind. Such termination of interconnection service shall be contained in a filing with the Commission and also posted by the Transmission Provider on its OASIS to the extent that such interconnection service was filed with the Commission, and shall otherwise be terminated by the Transmission Provider by a posting on its OASIS. If the owner

rescinds or modifies the Attachment Y Notice in accordance with Section 38.2.7.d, the owner of such resource may retain its interconnection service and continue to operate after the conclusion of an SSR Agreement or the date specified in the Attachment Y Notice.

l. Allocation of SSR Unit Costs.

The costs pursuant to the SSR Agreement shall be allocated to the LSE(s) which require(s) the operation of the SSR Unit for reliability purposes.

m. Annual Review of SSR Unit Status.

On at least an annual basis, the Transmission Provider will review Generation Resource or SCU characteristics to determine whether the Generation Resource or SCU is qualified to remain as an SSR Unit in coordination with a review of the Transmission Provider's annual regional transmission expansion plan in accordance with Attachment FF. If an SSR Unit continues to be required for reliability of the Transmission System, then the Transmission Provider will have the unilateral right to negotiate and enter into a subsequent SSR Agreement by providing the Market Participant at least ninety (90) days advance notice prior to the termination date of the existing SSR Agreement and by negotiating and filing a new SSR Agreement at the Commission. If not, the SSR Agreement will expire by its own terms and the Generation Resource or SCU will lose its SSR Unit status and will resume suspension in accordance with the Attachment Y Notice or Retire. Any subsequent SSR Agreement also shall be filed with the Commission.

n. Time Limitations on Suspension.

An owner of a Generation Resource or a SCU or a Pseudo-tied out Generator may request suspension pursuant to the provisions of this Section 38.2.7 and remain for a maximum of thirty-six (36) cumulative months during any five (5) year period under any combination of suspended and SSR-designated statuses. An owner of a Generation Resource or a SCU or a Pseudo-tied out Generator that had not exhausted its maximum period may request an additional suspension period by submitting a new Attachment Y Notice twenty-six (26) weeks prior to the effective date of the extension period, provided that the combined period is not greater than thirty-six (36) months in a five (5) year period. If a Generation Resource or a SCU or a Pseudo-tied out Generator does not return to service at the end of the thirty-six (36) month maximum suspension period, the Transmission Provider will terminate interconnection service of the resource pursuant to Section 38.2.7.

o. Non-Binding Informational Studies.

An owner of a Generation Resource or a SCU may complete an Attachment Y-2 to request that the Transmission Provider conduct a study to determine whether it is likely that a portion or all of such Generation Resource or SCU would qualify as an SSR Unit. The Transmission Provider will collaborate with the affected Transmission Owners and NERC-registered Transmission Planners, and if appropriate, will consult with a retained consultant to evaluate whether the facility is required for the reliability of the Transmission System. The Transmission Provider will appropriately identify any Confidential Information regarding a decision to Suspend that the Transmission Provider transfers to any entity. An entity that receives Confidential Information must agree in writing to maintain such confidentiality, or to any confidentiality obligations owed to Transmission Provider under the Tariff or related non-

disclosure agreement, and to comply with applicable Standards of Conduct found in 18 C.F.R. § 358. The owner will not be bound to the change of status indicated in an Attachment Y-2 request. Along with a completed Attachment Y-2, such owner shall submit a study deposit of \$70,000 to the Transmission Provider for the reasonable costs and expenses of such study. The Transmission Provider shall invoice such owner for all costs and expenses incurred in addition to the deposit amount, or shall refund any unused portion of such deposit upon completion of the study.

The Transmission Provider will process multiple Attachment Y-2 requests in the order in which the Attachment Y-2 requests are received. The Transmission Provider shall use reasonable efforts to submit the results of such study to the owner upon its completion within 75 days of receipt of the deposit and completed Attachment Y-2, unless an alternative period is mutually agreed to. The Transmission Provider shall treat Attachment Y-2 as Confidential Information. If an owner rescinds an Attachment Y-2 study request, then such owner shall not receive the results of the study and the owner shall pay the Transmission Provider all of the costs incurred in conducting the study up until the date of such rescission.

Once a response is provided by the Transmission Provider to the owner, the Transmission Provider shall promptly notify the Independent Market Monitor of any Resource that may qualify as an SSR Unit. The results of such study will provide the owner with the outcome if the owner elects to submit an Attachment Y Notice to request SSR status in the future and does so in accordance with Section 38.2.7.p.

The Transmission Provider shall maintain regional power flow models pursuant to Section I.C of Attachment FF, for use by the owner of a Generation Resource or a SCU choosing to conduct a study.

p. Submission of Attachment Y Notice Following Non-Binding Reliability Studies

Under Y-2.

The Attachment Y Notice following a non-binding Y-2 request must be submitted at least 26 weeks prior to the date of the planned change of status. The Transmission Provider shall conduct the subsequent Attachment Y process consistent with timeline and milestones in Section 38.2.7.

q. Transition to New Attachment Y Framework.

The Attachment Y Conversion Period shall not apply to an Attachment Y Notice submitted prior to the effective date of the revision of the term "Suspend." A subsequent decision to Suspend operation or Retire after the end date stated in such notice shall require a new Attachment Y Notice at least 26 weeks prior to the effective date of the new change of status.

The provisions contained in Section 38.2.7.e ("Refund of Costs") that shall apply are those stated in the Tariff at the time an Attachment Y Notice was submitted to MISO.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R18-20
AMENDMENTS TO 35 ILL. ADM.)	(Rulemaking-Air)
CODE 225.233, MULTI-POLLUTANT)	
STANDARDS)	

Post Hearing Comments

Attachment B

Electronic Filing: Received, Clerk's Office 3/27/2019; P.C. #3547

164 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Neil Chatterjee,
and Richard Glick.

Midcontinent Independent System Operator, Inc.

Docket Nos. ER18-1636-000
ER18-1636-001

ORDER ACCEPTING TARIFF REVISIONS

(Issued September 25, 2018)

1. On May 16, 2018, Midcontinent Independent System Operator, Inc. (MISO) submitted, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) provisions pertaining to resource suspension and retirement (May 16 Filing). In this order, we accept MISO's Tariff revisions, effective July 16, 2018.

I. Background

A. Attachment Y Notice

2. Under MISO's Tariff, a market participant that owns or operates a Generation Resource or Synchronous Condenser Unit (SCU)³ must submit a notice, pursuant to Attachment Y (Notification of Potential Resource/SCU/Pseudo-tied Out Generator Change of Status) of the Tariff, to notify MISO of any plan to retire or suspend⁴

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. pt. 35 (2018).

³ Capitalized terms not otherwise defined herein have the meanings ascribed to them in the existing Tariff, or, for new capitalized terms, the meanings ascribed to them in MISO's proposed revisions.

⁴ Suspend is the temporary cessation of operation of a Generation Resource or SCU for more than two months. MISO, FERC Electric Tariff, Module A, § 1.S (51.0.0). A market participant may request suspension of a Generation Resource or SCU for a
(continued ...)

operations at least 26 weeks prior taking such action (Attachment Y Notice). During this 26-week notice period, MISO will conduct a study to evaluate whether the resource is needed as a System Support Resource (SSR) for transmission system reliability (Attachment Y Study), and then notify the market participant that the study is complete prior to the release of the study.

3. MISO has made filings regarding its generation suspension and retirement procedures several times. In the 2012 SSR Order, the Commission accepted subject to condition, among other things, MISO's proposal to clarify the process for unit suspension/retirement and to allow resource owners to rescind or modify a decision to retire or suspend a resource under Attachment Y in certain circumstances.⁵ In the 2016 SSR Order, the Commission accepted MISO's proposal to further clarify that the decision to retire or suspend must be definitive at the time of Attachment Y Notice submission, unless modified by certain rescission provisions.⁶

B. Planning Resource Auction

4. MISO conducts the Planning Resource Auction (Auction) annually in the first 10 business days of April and posts the results approximately six weeks prior to the Planning Year.⁷ The Auction selects the least-cost set of Planning Resources needed to meet the Planning Reserve Margin Requirement of each Local Resource Zone (Zone),⁸ while respecting local and sub-regional constraints, and establishes the Auction Clearing

maximum of 36 cumulative months during any five year period. MISO, FERC Electric Tariff, Module C, § 38.2.7 (51.0.0).

⁵ *Midwest Indep. Transmission Sys. Operator, Inc.*, 140 FERC ¶ 61,237, at PP 61-64 (2012) (2012 SSR Order). *See also Midwest Indep. Transmission Sys. Operator, Inc.*, 148 FERC ¶ 61,056 (2014) (2014 Compliance Order); *Midwest Indep. Transmission Sys. Operator, Inc.*, 153 FERC ¶ 61,313 (2015); and *Midwest Indep. Transmission Sys. Operator, Inc.*, 155 FERC ¶ 61,274 (2016).

⁶ *Midcontinent Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,116 (2016) (2016 SSR Order). *See also Midcontinent Indep. Sys. Operator, Inc.*, 157 FERC ¶ 61,169 (2016).

⁷ The Planning Year begins June 1 and extends until May 31 of the following year. MISO, FERC Electric Tariff, Module A, § 1.P (39.0.0).

⁸ A Zone is a geographic area within MISO that is prescribed by MISO to address congestion that limits Planning Resource deliverability. MISO, FERC Electric Tariff, Module A, § 1.L (34.0.0).

Price for each Zone for the upcoming Planning Year.⁹ A market participant whose Capacity Resource clears in the Auction must submit self-schedules or offers for energy, and contingency reserve if qualified, for each hour of each day during the Planning Year.¹⁰

5. The Tariff also sets forth the market power mitigation measures that the Independent Market Monitor (Market Monitor) shall implement to mitigate the market effects of any conduct that would distort competitive outcomes in the markets and services administered by MISO.¹¹ As it pertains to the Auction, the Tariff includes market power mitigation provisions to address physical and economic withholding.¹²

6. On December 14, 2015, MISO proposed revisions to its Tariff to permit suspended units to participate in the Auction in response to the Market Monitor's recommendations in the 2013 State of the Market Report. MISO stated that it agreed with the Market Monitor that its processes should allow suspended units to participate in the Auction provided that a change in status would make business sense for the market participant and that "[w]hile suspension of generator operation may be driven by other factors (e.g. environmental regulations), removal of [Auction] disqualification language for suspended units from the Tariff may provide opportunities for Market Participants to efficiently make a deactivation or re-activation (temporary or permanent) decision based on the availability to participate in the [Auction]."¹³ MISO's proposed revisions removed the prohibition on suspended units participating in the Auction but retained language prohibiting units that requested to retire from participating in the Auction. MISO noted that a suspended unit could alter its status to participate in the Auction pursuant to existing provisions.¹⁴ The Commission accepted MISO's Tariff revisions subject to condition finding it reasonable to permit suspended generation resources to participate in

⁹ MISO, FERC Electric Tariff, Module E-1, § 69A.7.1 (39.0.0).

¹⁰ *Id.* § 69A.5 (32.0.0).

¹¹ MISO, FERC Electric Tariff, Module D, § I (31.0.0).

¹² *Id.* §§ 64.1.1 (42.0.0), 64.1.4 (49.0.0).

¹³ MISO, Suspended Resource Filing, Docket No. ER16-521-000, at 3 (filed Dec. 14, 2015).

¹⁴ *Id.* at 5.

the Auction, and directed MISO to clarify how the Tariff's physical and economic withholding provisions would apply to suspended generation resources.¹⁵

II. May 16 Filing

7. MISO states that the May 16 Filing is the result of stakeholder discussions initiated by the Market Monitor. MISO explains that the Market Monitor, in its 2016 State of the Market Report, recommended that MISO improve its Auction processes such that the Auction assists suppliers in making efficient retirement decisions. MISO states that the proposal unifies the approach to retirement and suspension notifications such that only suspension notifications are submitted by the Generation Resource owner (i.e., the retirement request type is eliminated). According to MISO, the resulting flexibility provided to the owner of a Generation Resource should provide added access to participation in the Auction that may assist such owners in making appropriate decisions regarding the future of their generating units.¹⁶

8. MISO notes that it undertook earlier changes to allow suspended units to participate in the Auction to provide opportunities for market participants to efficiently make a deactivation or re-activation decision based on the availability to participate in the Auction. MISO states that it recognizes the need for flexibility for owners to decide to retire or suspend operations, and that such decisions could be influenced by the results of the Auction if certain Tariff changes are made.¹⁷ MISO states that existing provisions under Tariff section 38.2.7 provide flexibility to a resource owner to submit an Attachment Y Notice to retire or suspend generator operations, as well as to rescind or modify the Attachment Y Notice submitted to MISO under certain circumstances; however, according to MISO, the retirement versus suspension distinction can be tenuous for some owners. MISO contends that the instant filing provides additional flexibility and allows units whose suspensions are not driven by market economics to proceed directly to retirement status.¹⁸

¹⁵ *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,094, at PP 24, 26, 30, *on compliance*, 156 FERC ¶ 61,076 (2016).

¹⁶ Transmittal at 1-2.

¹⁷ *Id.* at 2 (citing 2012 SSR Order, 140 FERC ¶ 61,237 at P 61).

¹⁸ *Id.*

III. Notice and Responsive Pleadings

9. Notice of the May 16 Filing was published in the *Federal Register*, 83 Fed. Reg. 23,665 (2018), with interventions and protests due on or before June 6, 2018.

10. Exelon Corporation, Consumers Energy Company, NRG Power Marketing LLC and GenOn Energy Management, LLC, Alliant Energy Corporate Services, Inc., Ameren Services Company, American Municipal Power, Inc., Entergy Operating Companies,¹⁹ Cooperative Energy, Wisconsin Electric Power Company, and the Public Utility Commission of Texas filed timely motions to intervene. American Transmission Company LLC (ATC), Industrial Consumers,²⁰ Public Interest Organizations,²¹ American Wind Energy Association and Wind on the Wires (Wind Parties), and MidAmerican Energy Company (MidAmerican) filed timely motions to intervene and comments. Illinois Commerce Commission filed a notice of intervention. On June 21, 2018, MISO filed a motion for leave to answer and answer to the protests. On July 6, 2018, Industrial Consumers filed a motion to answer and answer to MISO's answer.

11. On July 11, 2018, Commission staff issued a deficiency letter seeking additional information from MISO regarding certain aspects of its filing (Deficiency Letter). On July 27, 2018, MISO filed a response to the Deficiency Letter (Deficiency Response) in Docket No. ER18-1636-001. Notice of the Deficiency Response was published in the *Federal Register*, 83 Fed. Reg. 38,688 (2018), with interventions and protests due on or before August 17, 2018. On August 17, 2018, ATC filed comments and MISO Transmission Owners (MISO TOs)²² filed a timely motion to intervene and comments.

¹⁹ Entergy Operating Companies are Entergy Services, Inc., Entergy Arkansas, Inc., Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., and Entergy Texas, Inc.

²⁰ Industrial Customers include Illinois Industrial Energy Consumers, Texas Industrial Energy Consumers, Louisiana Energy Users Group, and Association of Businesses Advocating Tariff Equity.

²¹ Public Interest Organizations include Citizens Utility Board, Environmental Law & Policy Center, Fresh Energy, and Union of Concerned Scientists.

²² For purposes of this proceeding, MISO TOs are Ameren Services Company; Big Rivers Electric Corporation; Central Minnesota Municipal Power Agency; City Water, Light & Power (Springfield, IL); Cleco Power LLC; Cooperative Energy; Dairyland Power Cooperative; Duke Energy Business Services, LLC for Duke Energy Indiana, LLC; East Texas Electric Cooperative; Entergy Arkansas, Inc.; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, LLC; Entergy Texas, (continued ...)

IV. Discussion**A. Procedural Matters**

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2018), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We accept the answers filed by MISO and Industrial Consumers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

14. As discussed below, we find MISO's revisions to its resource suspension and retirement procedures proposed in its May 16 Filing to be just and reasonable and therefore accept them, effective July 16, 2018.

1. Revised Suspension and Retirement Procedures**a. May 16 Filing**

15. MISO states that generation owners currently submit an Attachment Y Notice to retire their asset that is studied by MISO to assess impacts on transmission system reliability. Currently, the Tariff provides no option to reverse the decision once the

Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Lafayette Utilities System; Michigan Electric Transmission Company, LLC; Minnesota Power (and its subsidiary Superior Water, L&P); Missouri River Energy Services; Montana-Dakota Utilities Co.; Northern Indiana Public Service Company LLC; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Prairie Power Inc.; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

owner receives MISO's approval for the retirement.²³ MISO states that it proposes to treat all initially submitted Attachment Y Notices as notices to suspend, with the right to rescind the notice upon certain conditions. MISO states that the term "Retire" is replaced by "Suspend" in a variety of section 38.2.7 provisions to carry out this adjustment. MISO states, however, that the term "Retire" is retained as a Tariff definition because it is a status that is reached by various means that are described in section 38.2.7. MISO states that, under its proposal, a status of "Retire" is obtained in the following three situations: (1) a generation owner notifies MISO that it waives the right to rescind and modify the Attachment Y Notice; (2) upon the expiration of an SSR Agreement for the unit; or (3) upon expiration of the maximum 36-month period for suspension of service.²⁴

16. MISO states that its proposal allows a suspended generator more flexibility in deciding whether to remain suspended or to convert its suspension to retirement during a new period called an "Attachment Y Conversion Period" which is "between the date of submission of the Attachment Y Notice and the June 1st start of the third full planning year following the submittal of the Attachment Y Notice."²⁵ MISO states that under its proposal, all Attachment Y Notices are submitted as suspension notices, and an owner would be able to rescind its Attachment Y Notice (and return to service) for a period limited to no more than 36 months after the effective date stated in the Attachment Y Notice. MISO contends that the proposed revisions provide all owners the opportunity to evaluate withdrawal of a unit from service based upon market conditions before the unit is committed to permanent retirement status.²⁶

17. Finally, MISO proposes to remove the requirement for a generation owner to specify a period for a suspension in the Attachment Y Notice, leaving suspension requests open-ended. MISO submits that, in its experience, the long-term outlook for a suspended generator is generally uncertain, and that the existing end date requirement for a suspension generally overstates the certainty for a return to service and modifications to

²³ A retired generating unit can come back to service by re-entering the MISO interconnection queue.

²⁴ Transmittal at 3. MISO does not propose modifications to section 38.2.7.n which limits suspensions to "a maximum of thirty-six (36) cumulative months during any five (5) year period under any combination of suspended and SSR-designated statuses." See MISO, FERC Electric Tariff, Module C, § 38.2.7.n (51.0.0).

²⁵ *Id.* at 4 (citing MISO, FERC Electric Tariff, Module A, § 1.S (52.0.0) (proposed)).

²⁶ *Id.*

the end date are frequently sought once owners refine their resource plans. MISO argues that the removal of the requirement that an owner specify an end date better reflects the uncertainty of a return to service.²⁷

b. Protests

18. Wind Parties contend that MISO submitted the instant filing prior to the completion of stakeholder discussions and it should therefore be rejected by the Commission. Wind Parties state that in February 2018, MISO issued a Stakeholder Feedback Request through MISO's Planning Advisory Committee on MISO's proposed changes to Attachment Y procedures, and that MISO received feedback indicating that there remain open issues and questions regarding the potential impacts of the proposal to generation interconnection models and process. Wind Parties argue that rather than responding to the comments submitted, MISO filed the proposal at the Commission on May 16, 2018.²⁸

19. Public Interest Organizations argue that that MISO's proposal to treat all Attachment Y Notices as suspensions is a dramatic change that will prevent market participants and state regulators from making timely investment decisions and should be rejected. According to Public Interest Organizations, MISO's justification for converting all Attachment Y Notices into indefinite suspensions is that it will provide "all owners the opportunity to evaluate withdrawal of a unit from service based upon market conditions before the unit is committed to permanent retirement status."²⁹ They argue that because the evaluation period can stretch up to five years under MISO's proposal, generation owners can prevent competitive resources from entering the market. Public Interest Organizations assert that this effectively allows existing generation to hold the market/planning process hostage while it waits for market conditions to improve, which could negatively impact markets and rates by artificially reducing supply while the existing generator waits for prices to increase.³⁰

20. Wind Parties argue that Attachment Y suspensions should not be allowed at all because of the impacts they have on other interconnection customers. Wind Parties allege that, with the largest queue size in MISO's history, and the delays that are being experienced, elimination of all suspension is more critical than ever. Wind Parties

²⁷ *Id.*

²⁸ Wind Parties Protest at 2.

²⁹ Public Interest Organizations Protest at 4-5 (citing Transmittal at 4).

³⁰ *Id.* at 5.

contend that when uncertainty in a model exists and studies progress with an incorrect assumption, it can lead to under or over charging interconnection customers for required Network Upgrades.³¹

21. Wind Parties argue that, if Attachment Y suspensions are allowed, they should only be allowed for three continuous years (instead of the 36-month over a five-year period currently allowed) to minimize their impact on interconnection studies. Wind Parties contend that the five year extension causes excessive uncertainty to new interconnection customers and encourages generators seeking retirement and replacement to “game the system” by using the full five years before deciding whether or not to return to service, whereas other interconnection customers seeking to install new generation must reach commercial operation within three continuous years of the Commercial Operation Date in their interconnection agreement.³²

22. Public Interest Organizations protest MISO’s proposal to treat suspensions as open-ended. Public Interest Organizations state that, while they recognize that MISO’s shift toward indefinite suspensions is designed to provide generation owners with the flexibility to make market-based decisions, removing all indicators of the length of a suspension will significantly impair the planning process and could lead to significant investment in unneeded resources and infrastructure. Public Interest Organizations contend that MISO’s proposal for indefinite suspensions leans too heavily in favor of incumbent generation to the detriment of all other market participants.³³

23. Wind Parties contend that the Commission should require MISO to specify how Attachment Y suspensions are modeled in transmission expansion planning, generator interconnection, including Local Planning Criteria, and other network studies before it grants MISO’s request for automatic suspensions of all Attachment Y Notices. Wind Parties contend that this modeling information significantly impacts the financial upgrades assigned to new interconnection customers, the upgrades assigned to transmission owners in the MISO Transmission Expansion Plan (MTEP) process, and also how much energy and capacity a new project can inject prior to all its upgrades being completed.³⁴

³¹ Wind Parties Protest at 4.

³² *Id.*

³³ Public Interest Organizations Protest at 8.

³⁴ Wind Parties Protest at 2-3.

24. Wind Parties assert that MISO had been working with stakeholders to confirm how projects in suspension would be modeled, and that MISO first proposed that suspended projects would be removed from models since 75 percent of such projects retire and new interconnection customers could be potentially required to fund unnecessary upgrades 75 percent of the time. Wind Parties state that MISO instead revised its proposal at the April Planning Subcommittee meeting to maintain suspended generators in interconnection and transmission models.³⁵

25. ATC states that, while it does not oppose MISO's revisions, it asks the Commission to require MISO to clarify how suspended generators are modeled under the new framework. ATC states that, currently, generators that submit an Attachment Y Notice to retire their asset and receive MISO approval to retire do not participate in the market, and transmission owners plan transmission buildout on the assumption that the generator will not be in service. ATC contends that MISO's new proposal provides additional flexibility to generator owners at the cost of significant uncertainty for transmission owners and planners. ATC states that currently, once MISO approves the retirement of a generator, that unit is not considered in future transmission plans. ATC contends that it is unclear if, under MISO's proposal, generators given suspension status must remain part of transmission plans, and that assuming a suspended generator is available for service adds confusion to the transmission planning process. ATC submits that making assumptions about the ongoing operation or retirement of a generator may result in unnecessary network upgrades if those assumptions prove to be incorrect. Further, multiple suspended generators in proximity to one another might lead to multiple required network upgrades, and transmission owners would not have clear direction on which system upgrades should be pursued. ATC argues that, similarly, suspended generators included in the model can mask transmission reliability issues that will require network upgrades.³⁶

26. ATC argues that MISO's proposal also introduces uncertainty into generation interconnection studies and regulatory approvals for upgrades. ATC contends that assuming a generator is available for service might lead to overbuilt or underbuilt interconnection facilities and improper cost allocation, and that regulatory approvals for any transmission projects needed to support a generator under suspended status may be challenging due to uncertainties of the generator being selected in the Auction. ATC argues that customers should not be saddled with the cost of network upgrades for a suspended generator that is never brought back to service. ATC requests, therefore, that the Commission require MISO to clarify how transmission plans will be developed and

³⁵ *Id.* at 3.

³⁶ ATC Protest at 2-3.

how transmission projects will be selected and approved given the uncertainty that the process introduces, while at the same time being mindful of the efficiencies of the planning process.³⁷

27. ATC states that MISO's filing asserts that generator deliverability studies would identify all transmission capacity needs; however, according to ATC, such studies do not address the entire range of the North American Electric Reliability Corporation contingencies required for compliance, specifically fault duty, voltages, or stability concerns. ATC asks that the Commission direct MISO to describe how transmission reliability needs will be addressed.³⁸

c. MISO Answer

28. MISO contends that it conducted a number of discussions in the Planning Advisory Committee and sought stakeholder feedback throughout the process. MISO states that, in response to stakeholder concerns that the proposed open-ended treatment could affect the assumptions used in other planning processes, it explained to stakeholders that the modeling methodology is prescribed by each planning area as a separate business practice and is not defined by the provisions contained in Tariff section 38.2.7. MISO states that it agreed to delay filing to allow time for other stakeholder committees to review their modeling practices regarding Attachment Y resources, but informed stakeholders that any changes to other planning analyses would be independent of the proposed adjustments in the instant filing.³⁹

29. MISO disputes Public Interest Organizations' contention that MISO's proposed revisions are a dramatic change that undermines the ability of stakeholders to determine the need for new investments in supply or demand side resources. MISO avers that its proposed revisions do not change any existing obligations for the resources under suspension to participate in the capacity market.⁴⁰

30. In response to the Wind Parties' argument alleging that suspension requests cause a lack of certainty, MISO indicates that uncertainty in resource planning is inherent to planning activities, and that the MISO Attachment Y process in Tariff section 38.2.7 responds to decisions made by generator owners who decide the future of their assets.

³⁷ *Id.* at 4.

³⁸ *Id.* at 4-5 (citing Transmittal at 8).

³⁹ MISO Answer at 11.

⁴⁰ *Id.* at 9.

MISO states that generator suspensions are already included in the Attachment Y process which balances competing interests in flexibility and certainty. MISO contends that its proposal extends the suspension treatment to all initial notices for generators with the option to return to service for a limited time while permitting the owner to convert the request to a permanent retirement. MISO further states that the conversion of a suspension to a retirement is accomplished without the current requirement to submit a new Attachment Y Notice. MISO concludes that the business decisions of the owners will ultimately determine their own course of action to either return the generator to service or commit the generator to retirement.⁴¹

31. In response to Wind Parties' argument that the modeling of suspensions should be specified, MISO contends that Tariff section 38.2.7 does not prescribe modeling practices other than the Attachment Y Study, and that other planning areas such as MISO transmission expansion planning and interconnection studies independently develop business practices through their respective stakeholder committees. MISO argues that, regardless of the chosen methodology, the proposed Attachment Y provisions would remain valid, enabling MISO to provide the flexibility needed to remove barriers to Auction participation in order to address a Market Monitor recommendation.⁴²

32. MISO disagrees with Public Interest Organizations that Attachment Y Notices should include a date by which the owner intends to resume operations. MISO reiterates that the degree of certainty for the future status of a suspended generator is usually unknown, and the requirement to specify an end-date when the return to service is actually uncertain can lead to false assumptions and unreasonable assurances regarding future development. MISO submits that eliminating the requirement to submit a return date better reflects this uncertainty and allows for consideration of either the suspension or retirement end-state, as is appropriate under both the existing or adjusted Tariff provisions.⁴³

d. Deficiency Response

33. In response to Commission staff's request for clarification regarding how MISO's proposal relates to the Market Monitor's recommendation to allow units with Attachment Y retirement requests to defer retirement to participate in the Auction, MISO states that the Market Monitor's recommendation provided the objective behind the principal purpose for the proposal but did not recommend the manner in which this objective

⁴¹ *Id.* at 10.

⁴² *Id.* at 11.

⁴³ *Id.* at 9-10.

should be accomplished through Tariff adjustments.⁴⁴ MISO notes that, because suspended generators already have the flexibility to participate in the Auction, the proposed approach implements the Market Monitor's objectives while avoiding redundancy with existing Tariff provisions.⁴⁵

34. In response to Commission staff's request to explain the effect that MISO's proposed open-ended suspension provisions would have on SSR designations, including how MISO plans to model suspension requests, MISO states that all generators that are the subject of an Attachment Y Notice will be modeled as permanently offline in the Attachment Y Study.⁴⁶ MISO contends that modelling the generators as permanently offline could result in the identification of longer-term reliability issues for which an SSR designation may be needed in the future, but these long-term issues would likely be resolved by alternative mitigation plans before the reliability issues appear avoiding the need for an SSR designation. MISO states that, under current practice, MISO and stakeholders are left with little time to formulate a mitigation plan when a suspension notification ultimately results in a retirement. MISO argues that, under its proposal, it will plan the system based on the best information available, and that the generation owner is responsible for any costs incurred for a network upgrade needed for its suspension if the Attachment Y Notice is rescinded.⁴⁷

35. MISO also describes how, under its proposal, it plans to model suspensions and retirements in its other planning processes. With respect to Loss of Load Expectation, interconnection system impact studies, and MTEP analysis, MISO states that generators approved for suspension would be treated as unavailable for the three years following the suspension start date and available after that three-year period. MISO explains that generators that have converted for retirement would be modeled as unavailable for the period following the retirement effective date. MISO adds that for generation deliverability studies associated with interconnection planning, generators approved to suspend would be modeled available for all periods since interconnection service is preserved to prevent over-subscription and that generators that have an approved Retire status would be modeled as unavailable for the period after the retirement effective date.⁴⁸

⁴⁴ MISO Deficiency Response at 3.

⁴⁵ *Id.*

⁴⁶ *Id.* at 2.

⁴⁷ *Id.* at 2-3.

⁴⁸ *Id.* at 6-7.

36. MISO explains that, under the current Tariff, it treats approved suspensions as unavailable resources for the specified suspension period but as available for any period after the suspension period. MISO notes, however, that many suspended resources are unlikely to return to service because they are typically uneconomic in the market or not cost effective to repair and, therefore, the owner of the suspension resource is generally not certain that the generator will resume operation at the time of the Attachment Y Notice. MISO states that the elimination of the end date in its proposal is consistent with MISO's evaluation of an Attachment Y Notice as a long-term condition and allows MISO to consider the impact on reliability in order to provide the asset owner with the option to convert the suspension to a retirement without the need for a new Attachment Y Notice. MISO also states that, although the absence of the end date avoids the implication that the resource will return to service, the change does not presuppose a definite plan to retire because the resource retains recession rights while in suspension. MISO adds that the longer-term downstream planning processes assume the maximum period of rescission to determine the appropriate modeling of units subject to Attachment Y Notices.⁴⁹

37. MISO also details that, out of 77 suspensions over the last five years, only eight generators returned to service at the end of the originally designated suspension period. Of the remaining suspended generators, MISO states that: (1) 14 generators returned to service on a different date than originally noticed to MISO; (2) 41 generators amended the original Attachment Y Notice in order to retire; (3) 10 generators extended the noticed suspension period and subsequently retired, and (4) four generators retired at the end of the suspension period.⁵⁰

38. With regard to how much prior notice is required in order to convert from a suspend status to a retire status, MISO states that the no notice period applies to conversion of the Attachment Y Notice to retire status, and that the original study would have considered the impacts of a permanent cessation of operation.⁵¹

e. Further Comments

39. ATC states that, while MISO's Deficiency Response addresses some of ATC's concern, uncertainty about the planning process revisions remains. It states that, absent further clarification, MISO's revisions could result in situations where unneeded projects are built while needed projects are delayed. ATC notes that MISO's Deficiency

⁴⁹ *Id.* at 4.

⁵⁰ *Id.* at 4-5.

⁵¹ *Id.* at 5-6.

Response indicates that only 22 out of 77 generators that submitted an Attachment Y Notice to suspend returned to service instead of retiring. ATC states that it is concerned that assuming a generator is available at the end of its suspension period could lead to underbuilding of needed transmission facilities. According to ATC, this underbuilding could impact the reliability of the bulk power system because transmission projects needed to address reliability would not be reflected in transmission plans. Relatedly, ATC contends that system changes during the suspension period could also require ATC to pursue additional projects to support the suspended generator returning to service, but state regulators and other stakeholders may not believe it prudent to spend ratepayer dollars to address a more speculative reliability need.⁵²

40. With regard to units that choose to retire but MISO identifies a reliability issue associated with that retirement, ATC states that, in this situation, MISO must pursue a permanent reliability solution. ATC contends that, while elegant in theory, the practical impact of this solution may be difficult to implement because transmission owners such as ATC will have an obligation to pursue projects to address reliability issues that, in at least 30 percent of cases, would not come to fruition. ATC states that, while it recognizes that generation owners that rescind their Attachment Y Notices would be responsible for costs incurred as a result of the unit's suspension/retirement, partially developed transmission solutions would have additional impacts to landowners, other stakeholders, and the environment. ATC therefore requests that the Commission require MISO to work with its stakeholders to clarify how transmission plans will be developed and how transmission projects will be selected and approved given the uncertainty the process introduces.⁵³

41. MISO TOs state that they support MISO's proposal as a just and reasonable means to streamline MISO's Attachment Y process that can potentially increase participation in the Auction. MISO TOs contend that by revising the existing Tariff provisions that currently provide no options to reconsider a decision to retire a generating unit following MISO's approval of such a request, MISO's proposal better allows a resource owner to consider the viability of keeping its unit online, and that this flexibility increases the potential for additional resources to participate in the Auction. MISO TOs submit that the provision to allow an owner to commit to retirement without waiting the 36-month maximum suspension period could facilitate more efficient retirement decisions, especially in instances in which the decision to retire is not driven by market

⁵² ATC Comments on Deficiency Response at 2.

⁵³ *Id.* at 2-3.

considerations.⁵⁴

42. MISO TOs also state that the proposed revisions better reflect the uncertainty associated with whether a resource will return to service, which is consistent with MISO's Deficiency Response that, according to MISO TOs, shows a large number of resource owners did not remove their units from suspension as indicated in their initial Attachment Y Notices.⁵⁵

43. MISO TOs note that while certain aspects of the filing remain contentious, the filing was developed through the stakeholder process and the provisions for increased flexibility in the designation of suspensions and retirements were generally supported by stakeholders.⁵⁶

f. Commission Determination

44. We find MISO's proposal to be just and reasonable. MISO's proposal allows market participants to make more efficient retirement decisions by providing the flexibility to align such decisions with market outcomes (i.e., whether they clear the Auction), which may result in increased participation and more efficient outcomes.

45. We disagree with the Public Interest Organizations' argument that MISO's proposal allows existing generation to effectively hold MISO's planning processes hostage, preventing competitive resources from entering the market and artificially reducing supply while the existing generator waits for prices to increase. Public Interest Organizations appear to assume that a suspended Generation Resource can refuse to participate in the Auction unless it expects prices to reach a preconceived level. However, like all other internal Planning Resources, suspended Generation Resources are subject to the physical and economic withholding provisions in Module D of the Tariff.⁵⁷ If a suspended Generation Resource is offered into but does not clear the Auction, then – like all other Planning Resources that did not clear the Auction – that suspended Generation Resource does not receive a capacity obligation or the capacity revenues associated with that obligation. On the other hand, if a suspended Generation Resource offers into and clears the Auction, it can return to service to meet its capacity obligation,

⁵⁴ MISO TOs Comments on Deficiency Response at 7-8.

⁵⁵ *Id.* at 8.

⁵⁶ *Id.*

⁵⁷ *See supra* P 5 & note 12.

procure replacement capacity, and/or pay the ICAP Deferral Non-Compliance Charge.⁵⁸ Regardless, the participation of that suspended Generation Resource can only lower, and cannot increase, the Auction Clearing Price. That is because any Planning Resource – whether suspended or not – that clears the Auction effectively displaces higher cost capacity. Therefore, even Generation Resources that remain in suspension for up to 36 months are electing to continue to participate in the market and increase market efficiency.

46. In addition, in response to Public Interest Organizations, we find it unlikely that a Generation Resource that would otherwise retire would remain in suspension for the maximum 36-month period while it waits for market conditions to improve.⁵⁹ In order for a Generation Resource to remain in suspension for three consecutive years, that Generation Resource would incur ongoing costs (e.g., operation and maintenance) that would otherwise be avoided through retirement. If a Generation Resource remains suspended, it would continue to incur those costs while foregoing the opportunity to earn any market revenues. Accordingly, we are not persuaded by Public Interest Organizations' argument that the additional flexibility proposed by MISO will prevent competitive resources from entering the market.

47. We also disagree with arguments that Attachment Y suspensions should be eliminated or limited to three consecutive years, rather than 36 months over a five-year period, as an impermissible collateral attack on existing language in MISO's Tariff that the Commission previously accepted. MISO's Tariff already allows Generation Resources to suspend for a maximum of 36 months over a five-year period, and MISO's proposal does not extend or otherwise modify the maximum amount of time for a Generation Resource to remain in suspension.⁶⁰

48. We disagree with arguments that MISO's proposal to treat suspensions as open-ended will significantly impair the planning process. As MISO recognizes, resource

⁵⁸ MISO, FERC Electric Tariff, Module A, § 1.I (41.0.0) (The ICAP Deferral Non-Compliance Charge "is assessed to a Market Participant that fails to submit [Generator Verification Test Capacity] results, demonstrate deliverability, demonstrate commercial operation, and/or replace [capacity] by the last Business Day of May prior to the Planning Year"); Module E-1, §§ 69A.5 (32.0.0), 69A.3.1.h (36.0.0).

⁵⁹ Indeed, recent behavior under the existing Tariff provisions indicates that it is uncommon for generators to remain in suspension for the maximum three-year period. *See* MISO Deficiency Response at 5.

⁶⁰ *See* 2012 SSR Order, 140 FERC ¶ 61,237 at P 54.

planning will always involve some degree of uncertainty, but it is incumbent upon the transmission provider to use the most accurate assumptions possible. MISO's answer and Deficiency Response indicate that MISO's current requirement for Attachment Y Notices to provide a return-to-service date can, at times, cause Attachment Y Studies and other planning models to rely on inaccurate assumptions. For example, MISO's Deficiency Response states that in the last five years, only eight units (out of 77) returned to service on their originally planned dates, while 55 units amended their Attachment Y Notice to adjust the suspension dates or eventually retire. Nevertheless, MISO states that, under its current Tariff provisions, Loss of Load Expectation, interconnection system impact studies, and MISO Transmission Expansion Plan analyses assess suspended generators under the assumption that they will return to service on the date provided on their Attachment Y Notices to suspend.⁶¹ Therefore, we agree with MISO that its current requirement to provide a return-to-service date in Attachment Y Notices to suspend may at times create an illusion of certainty that does not actually exist. On balance, we agree with MISO that its proposal to eliminate this requirement better reflects the inherent uncertainty of planning, and protestors have not demonstrated that doing so would substantially impair the planning process.

49. We deny requests that the Commission require MISO to provide more specificity regarding how it will model Attachment Y suspensions in its planning analyses. Protestors have not demonstrated that eliminating the requirement for Attachment Y Notices to provide a return-to-service date would increase uncertainty in MISO's models that would justify the need for additional specificity. Accordingly, we see no need to depart from MISO's current practice, as noted in its answer, of not including modeling practices other than the Attachment Y Study in section 38.2.7 of the Tariff and generally maintaining the details of other planning practices in business practice manuals.

50. Finally, we disagree with Wind Parties that the filing should be rejected based on the argument that the filing was made before the completion of stakeholder discussions. MISO has demonstrated that it was responsive to stakeholders by responding to stakeholder concerns and adjusting its proposal based on those discussions. Further, MISO has provided additional information through its Deficiency Response that has allowed the Commission to evaluate the justness and reasonableness of the proposal.

2. Confidentiality of Attachment Y Notices

a. May 16 Filing

51. MISO states that the current confidentiality provisions of an Attachment Y Notice provide that the information remains confidential until the date for retirement or when a

⁶¹ MISO Deficiency Response at 6.

reliability issue is identified that requires public discussion of possible alternatives to SSR designation for a generating unit. MISO proposes to modify the treatment such that confidentiality is maintained until the owner waives its right to rescind the suspension, the resource fails to return to operation before the 36-month rescission period has lapsed, or a reliability issue is identified. MISO asserts that the retirement decision signals the owner's intent to release all rights to the interconnection service for the resource and the intent to release information on the retirement. MISO states that the information would become available for consideration by other potential interconnection customers once the decision reaches the point where it cannot be reversed, which is permanent retirement.⁶²

b. Protests

52. Wind Parties state that, if the Commission were to accept MISO's proposal, it should require that all Attachment Y suspended generators make their intention to suspend public. Wind Parties contend that new interconnection customers in MISO critically depend on doing their own modeling studies to determine whether they should enter the queue and/or progress to Phases 2 and 3 of the Definitive Planning Phase, and if new interconnection customers are not aware of these suspensions, it will significantly impact their assessment of the MISO system and their decision to enter and progress in the queue.⁶³

53. Industrial Customers argue that MISO's current confidentiality provisions unduly interfere with forward market visibility with respect to both resource adequacy and transmission planning, and that immediate public disclosure of all Attachment Y Notices upon filing would provide earlier and more transparent information to the market.⁶⁴ Industrial Customers assert that, because MISO's proposal only allows for public disclosure of a generating unit's retirement when the unit's owner makes the retirement decision, the proposal does not give market participants sufficient time to react to the planned suspension or retirement of existing generation by bringing new generation or demand-side resources to the market in a timely fashion to compensate for the loss of retiring or suspended resources.⁶⁵ Industrial Customers further argue that MISO's proposal does not provide market participants adequate time to hedge, through the deployment of replacement resources, for generation suspensions or retirements, which

⁶² Transmittal at 5.

⁶³ Wind Parties Protest at 5.

⁶⁴ Industrial Customers Protest at 4.

⁶⁵ *Id.* at 4-5.

could lead to unnecessarily higher prices for consumers.⁶⁶

54. Industrial Customers also allege that immediate public disclosure of Attachment Y Notices would increase the transparency of the MISO transmission planning process, asserting that such disclosure would enhance the efficiency of the transmission planning process by eliminating the confusion that has occurred in the past in stakeholder discussions regarding the generation assumptions that MISO is utilizing in its transmission studies. Industrial Customers contend that, if Attachment Y Notices are publicly disclosed, all stakeholders in the transmission planning process will have adequate information regarding the location and timing of planned generation suspensions or retirements so they can fully evaluate the impact of such suspensions and retirements on the MISO system.⁶⁷

55. Industrial Customers and Public Interest Organizations note that PJM Interconnection, L.L.C. (PJM) does not keep any suspension or retirement information confidential, and that PJM provides three separate lists regarding generator deactivation: (1) Generator Deactivations; (2) Future Deactivation Requests; and (3) Withdrawn Deactivations. Industrial Customers and Public Interest Organizations argue that there is no reason why MISO's confidentiality policy should be more restrictive than PJM's approach.⁶⁸

56. Industrial Customers also note that MISO Attachment Y Notice confidentiality was an issue before the Commission in the 2016 SSR Order, where the Public Interest Organizations urged the Commission to make all Attachment Y Notices public upon filing. Industrial Customers state that, in the 2016 SSR Order, the Commission did not reject the merits of the Public Interest Organizations' request but instead determined that the request was outside of the scope of MISO's filing in that proceeding.⁶⁹ Industrial Customers state that the Commission urged the Public Interest Organizations to raise their concerns regarding Attachment Y confidentiality through MISO's stakeholder process or to file a complaint with the Commission under section 206 of the FPA.⁷⁰

57. Industrial Customers argue that in response to the Commission's directive, they

⁶⁶ *Id.* at 5.

⁶⁷ *Id.*

⁶⁸ *Id.*; Public Interest Organizations Protest at 6.

⁶⁹ Industrial Customers Protest at 7.

⁷⁰ *Id.* at 8 (citing 2012 SSR Order, 140 FERC ¶ 61,237 at PP 22-23).

have diligently raised their concerns regarding MISO's Attachment Y confidentiality provisions through the MISO stakeholder process, but Industrial Customers' proposal was not accepted by MISO. Industrial Customers contend that, consequently, the

Commission should redress the problem with MISO's confidentiality requirements by initiating an investigation under section 206 of the FPA.⁷¹

58. Public Interest Organizations state that, while MISO's proposed change in confidentiality is a step in the right direction, it is unlikely to result in much additional transparency because it is highly unlikely that Attachment Y Notices will be made public far enough in advance of actual retirement.⁷² Further, according to Public Interest Organizations, maintaining confidentiality of all Attachment Y Notices that will not result in immediate reliability issues or retirements exacerbates the economic and planning impacts on the MISO system because competitive resources will not have sufficient information to make strategic decisions that could benefit the market, increase reliability, and lower rates.⁷³

59. Public Interest Organizations argue that early notification of suspended resources would provide states and market participants more time to assess investment and resource needs. Public Interest Organizations state that MISO has recently expressed concerns about resource adequacy in MISO Zone 4, and that if MISO made Attachment Y Notices public upon filing, new resources, including demand-side resources, distributed resources, and low-cost renewables, would be better able to assess whether there is a market opportunity that is less expensive than the existing generation.⁷⁴

60. Finally, Public Interest Organizations argue that without knowledge of which units are seeking suspension or are considering retirement, it is impossible for stakeholders to give feedback on whether a reliability issue exists before MISO has completed its reliability analysis. Public Interest Organizations contend that getting feedback on the need for an SSR is not something that should wait until MISO has found through its own costly analysis that a unit is needed for reliability purposes.⁷⁵

c. MISO Answer

61. MISO contends that the Commission has addressed the debate over confidentiality in prior Commission orders, citing the 2012 SSR Order which found that MISO should

⁷¹ *Id.* at 8-9.

⁷² Public Interest Organizations Protest at 5.

⁷³ *Id.* at 6.

⁷⁴ *Id.* at 7.

⁷⁵ *Id.*

treat Attachment Y Notices as confidential.⁷⁶ MISO states that the comments of the Industrial Customers, Public Interest Organizations, and Wind Parties provide little acknowledgement that other stakeholders have concerns that weigh against lifting confidentiality from Attachment Y Notices. MISO further argues that the comments of the Public Interest Organizations in the instant filing are substantially similar to those filed by the Public Interest Organizations in 2016, and that the Commission addressed those comments in the 2016 SSR Order:

If the Public Interest Organizations continue to believe that, in light of current market conditions, MISO's process fails to strike the appropriate balance between ensuring transparency in the transmission planning process and ensuring that confidential information is not inappropriately disclosed, they may raise their concerns through MISO's stakeholder process or may file a complaint with the Commission pursuant to section 206 of the FPA. We also encourage MISO independently to explore the possibility of allowing for greater transparency due to changing market conditions, further experience with the SSR and transmission planning processes, or other factors.^[77]

62. MISO contends that, since the 2016 SSR Order, the Public Interest Organizations and other parties have taken no affirmative action. MISO notes that it proposed to remove all confidentiality in the initial stakeholder discussion of the instant MISO proposal, but received considerable stakeholder opposition to the change that distracted from stakeholder discussion of the primary objective of its proposal. MISO states that, as a result, it removed its initiative and replaced it with a partial rollback of confidentiality in a form that relies upon generator owners proceeding to retire status.⁷⁸

63. Finally, MISO submits that it recognizes the difficult task of balancing interests favoring transparency in the transmission planning and other processes versus protecting business decisions implicit in the information provided to MISO in an Attachment Y Notice. MISO states that its current proposal to release information concerning retirements will improve planning prospects for parties, which includes potential interconnection customers. On the other hand, MISO states that the release of

⁷⁶ MISO Answer at 6-7 (citing 2012 SSR Order, 140 FERC ¶ 61,237 at P 37).

⁷⁷ *Id.* at 7 (citing 2016 SSR Order, 156 FERC ¶ 61,116 at P 23).

⁷⁸ *Id.* at 7-8.

information regarding suspensions does not clearly improve modeling accuracy and is not included in the proposal before the Commission.⁷⁹

d. Industrial Customers Answer

64. Industrial Customers dispute MISO's assertion that Industrial Customers took no affirmative action in response to the 2016 SSR Order, stating that they each submitted public comments to MISO in December 2016 strongly supporting MISO's initial proposal to remove Attachment Y confidentiality retirements in their entirety. Industrial Customers contend that in mid-December 2016, MISO concluded that there was strong stakeholder support for its proposal to remove all Attachment Y confidentiality requirements, or to at least remove such requirements once MISO shared its Attachment Y Study results with the generation owner for which the Attachment Y Notice was made. Industrial Customers submit that it was not until May 2017 that MISO received comments from the MISO TOs and other electric utilities in opposition to the removal of the Attachment Y confidentiality restrictions. In June 2017, MISO updated its proposal such that Attachment Y confidentiality restrictions would be fully removed once MISO shared its Attachment Y Study results with the generation owner for which the Attachment Y Notice was made.⁸⁰

65. Industrial Customers state that, in August 2017, MISO withdrew its proposal to eliminate confidentiality requirements for suspended generators and that, in January 2018, the Industrial Customers again raised concerns with respect to the transparency issues associated with continuing confidentiality restrictions for suspended generators. Industrial Customers argue that it is clear that Industrial Customers actively participated in the MISO stakeholder process on this issue. According to Industrial Customers, MISO instead sided with generation owners and withdrew its transparency proposal in favor of a partial rollback of confidentiality restrictions.⁸¹

66. Industrial Customers also take issue with MISO's claim that MISO's proposal could allow earlier public notice of retirements. Industrial Customers argue that, under MISO's proposal, generation owners have no incentive to waive their right to return a generator to service and every incentive to delay a decision to rescind their right to retire their units until the 36-month suspension period is complete, in order to preserve their option to return their units to operation without losing their interconnection rights during the suspension period. Industrial Customers contend that MISO's proposed revisions to

⁷⁹ *Id.* at 8-9.

⁸⁰ Industrial Customers Answer at 6-7.

⁸¹ *Id.* at 7-8.

the Attachment Y confidentiality provisions will have no practical impact on the actual timing of the removal of confidentiality.⁸²

67. Industrial Customers claim that MISO's argument that opposition to its initial proposal to remove all Attachment Y confidentiality restrictions in the stakeholder process distracted from the overall purpose of the filing is without merit. Industrial Customers contend that, on the contrary, allowing complete transparency with regard to generation suspensions and retirements would greatly facilitate the objective of efficiently preserving resource adequacy in MISO.⁸³

68. Finally, Industrial Customers request that the Commission dismiss MISO's argument that Industrial Customers do not adequately weigh the interests of generation owners in preserving the confidentiality of generation suspensions and retirements. Industrial Customers reiterate that the significant market transparency and efficiency improvements associated with immediate public disclosure of Attachment Y Notices clearly outweigh the narrow self-interest of generation owners in keeping this information confidential, and that an appropriate balancing of interests on this issue unquestionably favors maximum transparency in the dissemination of information to the market regarding generation retirements and suspensions.⁸⁴ Industrial Customers also note that MISO's answer offered no basis for maintaining the secrecy of generation deactivation plans and dates in MISO while such information is fully public in PJM. Nor has MISO shown that there has been any harm to generation owners in PJM as a result of PJM's policy of making information regarding generation suspensions and retirements fully transparent in the market. Industrial Customers conclude that therefore the Commission should require MISO to provide the same level of public disclosure of generation suspensions and retirements that exists in PJM.⁸⁵

e. **Commission Determination**

69. We accept MISO's proposal to modify its confidentiality provisions under the revised resource suspension and retirement provisions that we accept herein, in order to allow retirement decisions to be publicly noticed as of: (1) the date that an owner has elected to waive its rescission rights; (2) the date the 36-month rescission period has elapsed without a return to service; (3) where public release is required to evaluate the

⁸² *Id.* at 8-9.

⁸³ *Id.* at 9.

⁸⁴ *Id.* at 10.

⁸⁵ *Id.* at 10-11.

need for an SSR Agreement; or (4) the information is otherwise publicly disclosed by a generation owner.⁸⁶ We find that the modified confidentiality provisions largely maintain MISO's existing confidentiality requirements, and the balance between transparency and ensuring that confidential information is not inappropriately disclosed thereunder. MISO's revisions to its confidentiality provisions conform its procedures to the revised suspension and retirement provisions and expands disclosure requirements beyond the existing Tariff in limited instances for retirements. Specifically, MISO would publicly notice a retirement as soon as an owner has elected to waive its rescission rights, as opposed to MISO's current practice of maintaining confidentiality until a generating unit reaches the date of retirement.

70. We disagree with arguments that MISO's current confidentiality provisions should be relaxed or removed in their entirety. In the 2016 SSR Order, the Commission accepted MISO's proposal to clarify that all Attachment Y Notices should be treated as confidential until a generating unit's date of retirement unless the information is otherwise publicly disclosed, with limited exceptions involving SSR and other planning purposes. The Commission found that Public Interest Organizations' request that MISO publicly notice unit retirements upon MISO's receipt of an Attachment Y Notice to be outside of the scope of MISO's filing, and determined that MISO's revisions were a just and reasonable improvement to MISO's Tariff as they provided for greater clarity and transparency.⁸⁷

71. As in the 2016 SSR Order, protestors in the instant filing argue that MISO's proposed revisions to its confidentiality procedures are unjust and unreasonable because the proposal does not go far enough with regard to transparency. We disagree. At issue before the Commission in this proceeding is whether MISO's proposed confidentiality provisions are just and reasonable. As the Public Interest Organizations acknowledge, MISO's proposal is a "step in the right direction."⁸⁸ We find that MISO's proposed confidentiality provisions provide greater clarity and transparency by allowing immediate public notice of units once the owner has made the permanent decision to retire. We again note that, if parties believe that MISO's process fails to strike the appropriate balance between transparency and ensuring that confidential information is not inappropriately disclosed, they may file a complaint with the Commission pursuant to FPA section 206.

⁸⁶ See MISO, FERC Electric Tariff, Module C, § 38.2.7.a.ii (53.0.0).

⁸⁷ 2016 SSR Order, 156 FERC ¶ 61,116 at PP 21-23.

⁸⁸ See Public Interest Organizations Protest at 5.

72. In addition, while we find that MISO's proposal is just and reasonable, we note that this does not preclude MISO from considering further changes to improve clarity and transparency through its stakeholder process. Accordingly, we encourage MISO to continue evaluating whether additional transparency would be beneficial in light of changing market conditions, further experience with the SSR and transmission planning processes, or other factors since the issuance of the 2012 SSR Order.

3. Other Issues

a. MidAmerican Protest

73. MidAmerican states that, while it does not oppose the general provisions of MISO's filing, the proposed Tariff language appears to contain inconsistencies that MISO should either explain or alter. First, MidAmerican asks that MISO clarify the interplay between the Attachment Y Conversion Period and the 36-month rescission period for Attachment Y Notices. MidAmerican states that, as it understands the proposal, at any time during the "Attachment Y Conversion Period" a generation owner could convert a suspension decision to a retirement decision. After the Attachment Y Conversion Period, a suspension could continue for up to 36 months from the beginning of the suspension, during which period an owner could no longer notify MISO of a decision to retire; thus, if an owner decided to retire a resource after the end of the Attachment Y Conversion Period, they would need to wait until the end of the 36-month suspension limit, at which point their interconnection rights will be terminated. MidAmerican states that they do not necessarily object to these provisions but that it is unclear why MISO would provide no means to be notified after the Attachment Y Conversion Period to retire a resource.⁸⁹

74. Second, MidAmerican states that the Tariff provisions for rescinding a retirement decision appear inconsistent. MidAmerican cites MISO's justification for retaining the definition of Retire, which is because Retire "remains a legitimate status from which rescission is permitted under the Tariff."⁹⁰ MidAmerican notes, however, that various Tariff provisions indicate that an owner's decision to retire a resource cannot be rescinded since it requires "notifying the Transmission Provider of its intent to waive the right to both rescind and modify the Attachment Y Notice."⁹¹ MidAmerican then points

⁸⁹ MidAmerican Protest at 3.

⁹⁰ *Id.* at 5 (citing Transmittal at 3).

⁹¹ *Id.* at 6 (citing MISO, FERC Electric Tariff, Module C, §§ 38.2.7.d.ii.1; 38.2.7.d.ii.2; 38.2.7.d.iii.1; and 38.2.7.d.iii.2 (52.0.0)).

to several Tariff sections that indicate a right to rescind a retirement decision. For example, proposed section 38.2.7.d.ii.2 states:

An owner of a Generation Resource or SCU that notifies the Transmission Provider in writing of a decision to Suspend, and for which the Transmission Provider has determined that the Generation Resource or SCU is required as an SSR Unit may rescind its decision to Retire or Suspend.⁹²

MidAmerican requests that these provisions be clarified or altered.⁹³

75. Third, MidAmerican states that while the title of section 38.2.7.d.ii refers to modification or rescission of Attachment Y Notices prior to commencing suspension, retirement, or an SSR Agreement, the section appears to describe provisions that can apply after commencing suspension, retirement, or an SSR Agreement. MidAmerican contends that section 38.2.7.d.ii.i describes actions an owner may take “any time prior to the end of the period for rescission” or “at any time during the Attachment Y Conversion Period,” and that section 38.2.7.d.ii.2 describes options “at any time while designated as an SSR Unit” or “at any time during the Attachment Y Conversion Period.”

MidAmerican requests that MISO explain whether this heading is consistent with the associated Tariff provisions. According to MidAmerican, it would appear that some provisions of section 38.2.7.d.ii have over time become similar or identical to those of section 38.2.7.d.iii and that it may be possible to combine certain Tariff elements rather than retaining two separate sections.⁹⁴

b. MISO Answer

76. With regard to MidAmerican’s comments on the Attachment Y Conversion Period, MISO states that the introduction of the Attachment Y Conversion Period allows an owner to commit its generator to retirement without waiting the 36-month maximum suspension period for the conversion to a “Retire” status. MISO states that an owner that submits an Attachment Y Notice is provided a limited period of time for conversion that ends at the start of the third full planning year following submittal. MISO explains that this feature was introduced specifically to address the inflexibility that presently exists in the Tariff for retirements in order to address the Market Monitor’s recommendation that generator owners should have the ability to use Auction results before committing to a

⁹² MISO, FERC Electric Tariff, Module C, § 38.2.7.d.ii.2 (52.0.0).

⁹³ MidAmerican Protest at 5.

⁹⁴ *Id.* at 7.

decision regarding the ongoing operation of their resource. MISO adds that MidAmerican is correct that the Attachment Y Conversion Period is a shorter timeframe than the rescission period. MISO contends that an owner that does not convert to retirement may wait out the suspension period, but cannot later choose to convert to retirement to avoid participation in the Auction. Thus, according to MISO, if an owner truly seeks “Retire” status, it should commit to retirement during the Attachment Y Conversion Period rather than waiting out the suspension period.⁹⁵

77. MISO also clarifies the circumstances under which a unit can rescind its retirement. MISO states that under the proposal, rescission is permitted for all Attachment Y Notices to Suspend by default, which provides the opportunity to withdraw the decision for the period ending 36 months from the date when the suspension begins. MISO adds that rescission is also provided for all units that are SSR-designated, which is a situation that exists under the current Tariff where owners are given an opportunity to avoid the need for an SSR by operating their resource in the market. MISO contends that Tariff provisions cited by MidAmerican refer to SSR-designated units.⁹⁶

78. MISO further explains that an owner may have waived its “initial” rescission rights of the Attachment Y Notice during the Attachment Y Conversion Period, as described in section 38.2.7.d.ii(2) and section 38.2.7.d.iii(2), but would retain the right to rescind as an SSR Unit during the period the unit is SSR-designated in these same sub-sections. Thus, according to MISO, there exists a situation where rescission is applicable for a resource that an owner plans to Retire and the proposed revisions are not inconsistent.⁹⁷

79. Finally, MISO explains that the individual sub-sections of 38.2.7.d contain separate guidance to match the various circumstances a generator may find itself in. MISO states that, for example, sub-section 38.2.7.d.ii refers to permissible modifications of Attachment Y Notices prior to commencing operation as an SSR-designated unit, while sub-section 38.2.7.d.iii provides provisions to deal with termination of an existing SSR Agreement. MISO maintains that sub-sections are desirable to maintain clarity regarding the applicability of the distinct provisions.⁹⁸

⁹⁵ MISO Answer at 3-4.

⁹⁶ *Id.* at 4-5.

⁹⁷ *Id.* at 5.

⁹⁸ *Id.* at 5-6.

c. Deficiency Response

80. In response to questions from Commission staff regarding potentially inconsistent or imprecise Tariff language in MISO's proposal, MISO makes clarifying changes to (1) Module D⁹⁹ and (2) section 38.2.7.a.ii.¹⁰⁰

d. Commission Determination

81. We accept MISO's proposed changes to Module D and section 38.2.7.a.ii. We find that MISO's proposed changes clarify the intent of MISO's proposal and remove potential internal inconsistencies with the Tariff itself.

82. We also find that MISO has addressed the alleged Tariff inconsistencies raised by MidAmerican. First, MISO explains that it did intend to propose the "Attachment Y Conversion Period" as a shorter time-frame than the 36-month maximum suspension period because it prevents owners that do not convert to retirement during the specified period from later choosing to convert to retirement as a way to avoid participating in the Auction. Second, we agree with MISO that the Tariff provisions for rescinding a decision to retire do not need to be further clarified. As MISO explains, the sections highlighted by MidAmerican involve units that have been designated as SSR units for reliability purposes, and such units have additional rescission rights.¹⁰¹ We therefore find that MISO's proposal is not inconsistent in this regard and that further clarification is not necessary. Similarly, we find that proposed sections 38.2.7.d.ii and 38.2.7.d.iii contemplate different scenarios for generating units and remain distinct enough to justify continued separation.

⁹⁹ MISO clarifies that a Market Participant that requests a facility-specific Reference Level utilizing retirement-based avoidable costs and does not clear the Auction must "submit an Attachment Y Notice and provide notification to the Transmission Provider to convert to a Retire status for the resource" prior to the beginning of the Planning Year. MISO Deficiency Response at 7.

¹⁰⁰ *Id.* at 7-8.

¹⁰¹ *See, e.g.*, MISO, FERC Electric Tariff, Module C, § 38.2.7 (53.0.0) (indicating that a unit that has submitted an Attachment Y Notice to suspend and has been informed that it is required as an SSR Unit may convert to retirement at any point during the Attachment Y Conversion Period, and that the owner of a unit ". . . will retain rescission rights (*i.e.* those additionally required by virtue of operating as an SSR Unit) only while designated as an SSR Unit after which time the Generation Resource or SCU will have a Retire status. . .").

The Commission orders:

MISO's proposed Tariff revisions are hereby accepted, to be effective July 16, 2018, as requested, as discussed in the body of this order.

By the Commission. Chairman McIntyre is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

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