

State Regulatory Sector Response to MISO Board of Directors
MISO Competitive Retail Solution
July 26, 2016

Executive Summary

The State Regulatory Sector, which constitutes the members of the Organization of MISO States (OMS), have focused on four major criteria for the Competitive Retail Solution (CRS) since the first stakeholder meeting on this subject on January 15, 2016, namely: (1) maintaining state jurisdiction¹ over resource adequacy decisions, (2) assessing the impacts to non-retail choice areas, (3) ensuring adequate analysis and information is available to make an informed decision, and (4) ensuring system reliability is maintained. Without additional analysis, the OMS cannot assess whether MISO's final CRS proposal meets these fundamental criteria. The implementation of such a significant change in market design requires meaningful opportunity for a thorough understanding of the details, which does not seem feasible under the timeline provided. Accordingly, the OMS cannot support the filing of MISO's CRS proposal at this time.

As requested by the Advisory Committee leadership, the comments below provide the OMS position on MISO's final CRS proposal and highlight the concerns OMS and its members have raised throughout the stakeholder process. The conclusion that OMS does not support filing the CRS at this time does not imply that OMS supports the IMM's prompt-hybrid proposal. OMS has significant concerns with the IMM Proposal, and if MISO were to decide to abandon the forward proposal in favor of the prompt-hybrid, OMS and stakeholders must be given an opportunity to review and comment specifically on that proposal.

Comments

The OMS² appreciates the opportunity to provide feedback to the MISO Board of Directors related to the proposed CRS. First and foremost, the MISO Board should consider any proposal ultimately adopted to address the scenario in Illinois and part of Michigan as unique and not applicable to the rest of the MISO states. If an acceptable proposal is implemented to address this unique local issue, it must not become a template to change MISO's existing PRA approach or any other aspect of the existing resource adequacy construct as such actions could undermine state jurisdictional authority. By way of example, the rest of MISO does not require a downward sloping demand curve or the minimum offer price rule approach that would likely follow.

Regarding these current proposal, because capacity planning is inherently the role of retail regulators in fully regulated jurisdictions, which is 91% of the MISO footprint, the OMS members expressed concerns about infringement on that authority and the potential impact on the planning processes utilized by regulators to maintain resource adequacy. OMS appreciates that MISO removed the opt-in provision (that would have allowed non-retail choice loads to become included in the CRS proposal) as advocated by OMS. Yet, a concern related to the Safe

¹ For purposes of this response, references to "state jurisdiction," "state" or "states" shall also include the Council of the City of New Orleans.

² These comments are provided on behalf of OMS because a majority of members are in support. The Indiana Utility Regulatory Commission does not join these comments. The Illinois Commerce Commission and Manitoba Public Utilities Board abstain.

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Harbor provision (that determines what amount of regulated generation can be withheld from offering into the CRS proposal) remains. It is still not clear how this provision will be implemented and it is imperative that vertically integrated entities have unobstructed access to their generation assets, even if those assets are located in a zone with competitive retail loads. Decisions about what amount of generation is appropriate to offer into a forward market should be left to the utilities and their regulators.

Similarly, it is important that the CRS's impact on non-retail choice areas be analyzed and well understood. OMS does not believe sufficient data has been provided in this regard. One of two requests OMS made via the official CRS feedback process on April 25, 2016 was for analysis of the potential impacts of the proposal on non-retail choice areas, which would include how a forward auction (or any solution) would be integrated into the existing Planning Resource Auction ("PRA"). The other request was for data that illustrates the resource adequacy concern for retail choice areas beyond the antidotal justifications that had been provided up to that point. OMS members requested this information to help inform their decision on what a final proposal should look like. Though some data was ultimately provided on July 14, 2016, concurrent with MISO's announcement of the proposal it plans to file, the timing negates that point of the request.

As with any change to MISO markets, OMS is focused on potential impacts the CRS will have on system reliability. Based on OMS's understanding, the ultimate purpose of the CRS is to ensure long-term resource adequacy in retail choice states without state resource planning requirements. Yet an assessment of reliability was only recently completed and OMS was surprised to see that none of the proposals that were analyzed by the Brattle Group were able to meet reliability requirements.³ Ensuring that a final proposal is capable of supporting a healthy bilateral market and attracting sufficient levels of merchant generation is critical. All stakeholders would benefit from additional analysis focused on this objective given the inherent complexity of a bifurcated or dual market structure for retail or non-retail choice areas of MISO's footprint.

Finally, the proposed tariff language and draft business rules, which constitute over 100 pages, were just released July 20th. Sufficient time must be provided for review to ensure that stakeholders understand and can provide feedback on the details of the implementation of this plan. Moving forward without the opportunity for meaningful input will be harmful to the ultimate success of the proposal.

OMS is not opposed to revising the market design to address concerns in retail choice jurisdictions but there is a significant risk of unintended consequences if MISO does not provide additional time to vet the concepts and refine the final tariff and business rule language. Putting forward a redesign that is not adequately vetted is unacceptable to OMS. Therefore, the MISO CRS proposal should not be filed at this time.

³ See MISO RASC Presentation July 14, 2016, slides 7-9.