

I. CAPACITY PORTABILITY INITIAL COMMENTS SUMMARIES

AD12-16-000

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A. MISO

Current rules related to transfer capability act as barriers to efficient capacity transfers between MISO and PJM to the detriment of consumers. MISO and PJM treat external resources differently from internal resources when evaluating deliverability to load for resource adequacy purposes and the differential treatment creates barriers for generation capacity transfers between the RTOs.

Barriers based on differences between point-to-point and network service evaluation techniques limit capacity transactions resulting in underutilization of the transmission system for capacity sales, and eliminating these barriers across the seam would result in optimizing the use of the transmission system for capacity transactions and much lower consumer costs. MISO suggests that the Commission direct MISO and PJM to eliminate interregional capacity deliverability barriers by making a joint filing no later than February 1, 2013, so consumers can realize savings from the removal of barriers to economic capacity transfers beginning with PJM's next reliability pricing model ("RPM") auction in May 2013.

MISO estimates that at least 4,000 MW of transfer capability between MISO and PJM has not been used, despite available capacity resources and strong economic incentives. Using PJM's sensitivity scenario analysis results for 2014/15, MISO estimates that an additional 4,000 MW of supply would reduce the clearing price for Annual and Extended Summer resources from \$125.99 per MW/day to \$98.70 per MW/day, and that the overall reduction in clearing prices would have saved consumers approximately \$1.1 billion.

PJM has indicated that it relies on 2,000 MW of Capacity Benefit Margin ("CBM") from the West, which lowers the approximately 4,000 MW of transfer capability noted above to approximately 2,000 MW. Notwithstanding, adding only 2,000 MW of annual capacity supply to PJM in 2014/15 would have reduced customer costs by approximately \$0.7 billion and this benefit represents a single year of savings as a result of increased utilization of the physical transmission system.

Barriers exist and the primary barrier is the reliance on disjointed point-to-point firm transmission evaluation and reservation processes for assuring cross-border deliverability, instead of a reliance on network service or "network deliverability" processes. MISO raises the following non-exhaustive list of barriers to cross-border capacity transactions resulting from disjointed point-to-point processes: (1) Firm transmission capability is awarded to entities that do not use that capability to support capacity sales, potentially depriving other prospective sellers that could better utilize the capability; (2) Lack of liquidity and transparency in the secondary market makes it difficult to reassign firm transmission rights to those who value the rights more; (3) Failure to distinguish between energy and capacity usage of the transmission allows energy usage to preclude capacity usage; (4) No mechanism exists for netting out counter-flow capacity obligations; (5) Incremental point-to-point evaluation may understate available transmission because it assumes a static generation dispatch with a discrete, incremental transfer from a generation source to a specific sink point; (6) MISO and PJM use inconsistent modeling processes, which can result in different determinations of the total quantity of firm transmission that can be awarded; (7) No provision requires that all long-term firm awards for capacity transactions be allocated over the June-May delivery year, meaning that firm transmission may be awarded January-December, thereby tying up transmission capability spanning two delivery

years without enabling a capacity sale in either delivery year; (8) Firm transmission rights can be awarded to two different entities on either side of the border, with no entity holding the complete path required for a capacity sale; and (9) An inadequate cost-benefit analysis is being done of the appropriate quantity of CBM that should be set aside and not awarded for transmission sales.

Existing intra-RTO benefits of efficient network service evaluation techniques can be extended on an inter-RTO basis, for capacity delivery between RTOs, by replacing incremental point-to-point deliverability processes with aggregate network deliverability processes. Aggregate network deliverability processes would provide greater transparency with respect to physical transmission limits, the value of a transmission upgrade, and optimal locations for new generation capacity or demand response development. Moreover, without processes in place to fully utilize the existing transmission system for delivery of capacity and energy, future transmission expansions identified and built through Order 1000 joint planning processes will either not be identified or underutilized if identified.

There are misconceptions regarding MISO's proposal. First, some critics have suggested that MISO's proposal to eliminate capacity deliverability barriers would negatively impact PJM by somehow reducing reliability in that system by delivering a lower quality of capacity resource, but there is no basis for this claim. Second, another argument against MISO's proposal is that the transmission system is already fully subscribed, but this is only the case when viewing the availability of transmission service from the current inefficient incremental point-to-point analysis perspective. Third, another misconception is that efficient capacity transfers require identical capacity market designs on either side of the MISO-PJM seam, but no alignment is necessary to enable increased capacity transfers and the assertion that the markets need to be the same is a red herring. Fourth, it has been suggested that the CBM, used when determining reserve margin requirements, makes increasing capacity transfers infeasible, but this is also a misconception.

MISO sets forth its straw proposal (also referred to as the Capacity Deliverability Whitepaper) with seven elements to resolving capacity deliverability across the MISO/PJM seam: (1) Establish Total Transfer Capability Across the Seam: This limit would represent the maximum amount of MWs that one RTO can import from the other to count for capacity purposes, similar to the Capacity Emergency Transfer Limit ("CETL") used within PJM and the zonal Capacity Import Limit ("CIL") used within MISO. (2) Identify Resource Eligibility Criteria and Performance Requirements: Generation resources offering capacity into either RTO would be subject to the qualification, measurement and verification procedures of the RTO into which the offer is to be submitted, regardless of where the unit is physically located. (3) Coordinate Modeling of Zonal Transfer Limits in Capacity Auctions: Each RTO would model the other as an external capacity Zone or Local Deliverability Area ("LDA") (or as multiple external zones) within its capacity auction, and could procure capacity from that external location up to the import transfer limit. (4) Establish a Firm Transmission Product Across the Seam: Generators clearing in an external RTO's capacity auction would be awarded a transmission right that is distinct from other firm and non-firm point-to-point rights that are awarded for other purposes today, and these transmission rights would represent the right and obligation to sell capacity across the border into the other RTO, schedule energy during emergency conditions, and offer energy to comply with must offer requirements. (5) Enforce Must-Offer Obligations: Any generator committed as a capacity resource has a must offer requirement to offer its generation into the energy market of the RTO where its capacity is committed, and there will be a joint

process for establishing the transfer capability limits between RTOs. (6) Respect Existing Holders of Firm Transmission Used to Already Sell Capacity: Existing firm reservations, if currently used to support cross-border capacity sales, should be grandfathered and be compensated to be held harmless, and this can be accomplished by utilizing financial Capacity Transfer Rights (“CTR”). (7) Establish Operating Procedures During Emergency Conditions: MISO and PJM will work together to develop procedures for when and how each RTO would call upon capacity resources located inside the other RTO to assure that 100% of the cross-border capacity obligation is fulfilled and non-recallable during a reliability event.

MISO relies on the analysis documented in Appendix A of the Capacity Deliverability Whitepaper (the “MISO Whitepaper”). The analysis identified a range of physical transfer capability values between 5,300 and 6,300 from MISO to PJM, and the volume of capacity that could potentially clear would be based on how many zones are modeled between MISO and PJM, the allocation of the total transfer capability between these zones, and the economic offers made into an auction. MISO estimates that the cleared volumes could be as high as the transfer capability minus any volumes withheld for the CBM, and the total cleared volumes could be as high as 4,000 to 5,000 MW above historical levels if the CBM is set to zero.

The Commission must act quickly and require MISO and PJM to remove barriers to efficient capacity transfers. The Commission’s directive should include some guidance to MISO and PJM on the essential elements that the joint proposed solution should include. MISO suggests that the essential elements include (1) a reconciliation of the disjointed transmission service evaluation and reservation processes that limit utilization of the transmission system, and (2) a process that allocates physical transmission capability for capacity sales through their respective locational capacity auction mechanisms. In addition, MISO asks that the Commission directive stipulate that the RTOs and stakeholders develop a proposal that includes the seven elements identified in MISO’s straw proposal once the elements have been refined according to the input provided by both RTO’s stakeholders and market monitors through the JCM initiative. Ultimately, MISO and PJM must codify the solution in the appropriate sections of their tariffs. Further the MISO/PJM Joint Operating Agreement would be amended to memorialize the solutions and necessary data exchanges required to implement the solution that will result from the collaborative JCM process. Ultimately, MISO and PJM must codify the solution in the appropriate sections of their tariffs. Further the MISO/PJM Joint Operating Agreement would be amended to memorialize the solutions and necessary data exchanges required to implement the solution that will result from the collaborative JCM process.

B. PJM

PJM believes that great strides have been made in seams coordination between PJM and MISO, and that the key to the success of the MISO/PJM JOA JCM efforts has been an incremental approach with extensive opportunity provided for stakeholder input. PJM states that coordination issues have been successfully resolved through joint stakeholder processes in the past, and that there is no reason to doubt the RTOs' and their joint stakeholders' ability to do so with respect to the issues highlighted by the Commission in this docket. Therefore, PJM suggests that the Commission should carefully monitor these developments, but refrain from acting prematurely at this early stage of the MISO/PJM joint stakeholder process.

PJM also believes that the word "barriers" is misleading and sets the wrong tone for this proceeding. According to PJM, the barriers to interregional capacity deliverability are in fact actual physical constraints and reliability limits identified by analysis that is required by NERC's reliability standards, the Commission's rules and regulations and the requirements of the PJM Tariff. The process improvements with respect to the evaluation of long-term firm transmission service requests would be beneficial to market participants seeking to move capacity across the two regions; and as part of the renewed seams coordination effort being launched, PJM has committed to reviewing existing processes in an effort to improve the overall process for granting network external designated transmission service.

While PJM states that interregional capacity deliverability is subject to actual physical constraints and reliability limits which are not artificial barriers, PJM believes that there may be certain coordination opportunities which can and should be explored, and when appropriate implemented to ensure that the capability of the transmission system is fully utilized given the physical constraints and reliability limits. These opportunities should be explored through the JCM process.

In the first JCM meeting held in Chicago on July 16, 2012, the attendees identified and discussed various resource adequacy capacity deliverability initiatives. The high priority and near-term initiatives are (1) coordination of long-term transmission service requests, and (2) coordination of a capacity product definition. The medium priority and mid-term initiatives are (1) coordination of capacity deliverability modeling and assumptions, and (2) coordination of capacity auction timing. The longer-term initiatives are (1) a combined capacity market, and (2) a joint deliverability analysis and common commitment timeframe.

PJM believes MISO's and the MISO Market Monitor's continued reliance on the Brattle Report study as the basis for MISO's straw proposal is flawed in two important respects. First, the level of PJM capacity imports from the West has been significantly greater than the Brattle Report indicates, and this significant level of imports clearly indicates the ability for market participants to trade capacity across the seam between the two RTOs and contradicts claims that there are institutional barriers to MISO generation participation in the PJM capacity auction. Second, the Brattle Report failed to account for the PJM CBM, which provides significant reliability and economic benefits for the PJM region, and this omission overstates the amount of transfer capability between MISO and PJM.

The JOA between PJM and MISO is clearly the correct vehicle for consideration and implementation of additional coordination opportunities identified by the RTOs and the joint stakeholders to help mitigate the impact of physical constraints and reliability limits.

C. Ameren

Ameren strongly supports MISO's proposed solution in the MISO Whitepaper. The capacity deliverability problem will not be solved without Commission action, and requests that the Commission issue an order by October 26, 2012 directing MISO and PJM to make a joint Federal Power Act ("FPA") Section 205 filing addressing the barriers to capacity deliverability. Ameren requests that the FPA Section 205 filing be made no later than February 1, 2013, which should be an acceptable amount of time for PJM and MISO to engage in their stakeholder processes and prepare the filing.

According to Ameren, reducing barriers to capacity deliverability between RTOs will (1) enhance the efficiencies of the JCM, (2) assist in meeting the reliability needs of the JCM, (3) result in competitive markets that are nondiscriminatory to all resources, and (4) achieve significant savings in the JCM. It is time for the unfair treatment of generating resources and market inefficiencies created by the irregular MISO-PJM seam to be addressed. The seam is created by tie-line meters, but the metered boundary should not create an artificial barrier for capacity deliverability. Capacity deliverability studies should ignore the tie-line meters and simply study the electrical deliverability of a set of generators to load in a given area.

In its support of the MISO Whitepaper, Ameren states that agreeing to a Total Transfer Capability amount across the seam and agreeing to develop a network service across the seam will reduce some of the restrictions on capacity deliverability to PJM. Ameren also states that MISO's proposal to use a deliverability analysis and studies akin to network resource interconnection service ("NRIS") and network integration transmission service ("NITS"), combined with modeling physical transmission constraints across the seam, will result in a more accurate and efficient deliverability analysis as compared to the current point-to-point deliverability analysis.

Existing JOA procedures that address real time congestion and ensure the transferability of energy between the RTOs also unnecessarily limit the deliverability of external capacity to each RTO, and result in an inefficient and skewed market where the convergence of capacity prices between the RTOs is limited, capacity utilization is less efficient, higher costs are absorbed by consumers, and there is unfair discrimination of resources. Further, capacity costs are greater for consumers in the higher cost capacity market, and consumers in the RTO where the external generators are physically located must deal with the effects of less efficient use of that capacity.

The fact that MISO is a substantial net importer of energy in the day-ahead and real-time markets illustrates other competitive inefficiencies associated with restrictions on capacity deliverability between PJM and MISO, and the relative ease of the transferability of energy between PJM and MISO means that energy prices over the entire JCM can converge to a greater degree than capacity prices. While resources located in PJM are able to efficiently seek and deliver energy to the higher cost locations in MISO, resources located in MISO are restricted relatively in efficiently seeking and being able to deliver capacity to the higher capacity cost locations in PJM.

PJM suppliers benefit from selling energy efficiently, but MISO resources do not benefit from selling capacity efficiently and the result is a non-competitive capacity market due to the unfair

discrimination between resources that ultimately results in higher total costs to the collective consumers in the JCM.

Ameren comments on market provisions and rules that restrict the deliverability of capacity from external generators to the MISO and PJM capacity markets, and divides them into two categories: (1) total capability of the systems to support imports into PJM and the availability of firm transmission into PJM; and (2) accounting or netting of capacity commitments in opposite directions and must offer requirements.

First, the current inefficient and uncoordinated process of needing to acquire both MISO point-to-point service and PJM NITS to deliver capacity to PJM is a major reason why many entities, including Ameren, have not been able to utilize all the reserved MISO point-to-point long term firm transmission service to make capacity sales. The two primary restrictions are (1) the absence of a coordinated and agreed-upon amount of transfer capability across the seam, and (2) the relative limitations of using firm point-to-point transmission service to study the transmission needs and deliverability of external resources to the internal footprint of MISO or PJM. As opposed to baseline planning studies and deliverability studies associated with NRIS and NITS, the point-to-point transmission studies are less efficient.

Second, restrictions on capacity deliverability includes lack of a mechanism to net out capacity transactions in opposite directions and must offer requirements that are common to the differently designed capacity markets for PJM and MISO.

Netting is routine for the market designs internal to each RTO, but it is not done for import capacity transactions in opposite directions; and if the two RTOs are going to operate the JCM in a coordinated manner, then the internal and external between RTOs evaluation processes should mirror each other as closely as possible. The absence of netting of cross-border capacity commitments in opposite directions limits the availability of capacity, and Ameren supports the netting of capacity transactions in opposite directions along the MISO-PJM seam consistent with system reliability requirements.

Ameren believes that must-offer requirements should apply to internal and external (or imported) resources, and the issue is whether the additional risks facing an external resource that has successfully participated in an RTO's capacity market and that has an appropriate must-offer requirement can be reduced or mitigated in some way. The need for the must offer condition means that the risks of clearing in two different markets likely will remain for external resource participants in the MISO or PJM capacity markets. Ameren supports MISO and PJM investigating whether greater coordination of their day-ahead markets might lessen the risk on external capacity market participants in satisfying their must-offer energy obligations.

If the inefficiencies on capacity deliverability are reduced, MISO and PJM could optimize CBM as between the two regions such that a lower amount of CBM would need to be reserved as between the two regions. Total costs to procure capacity could be reduced in PJM even if the amount of CBM reserved by PJM went down by some amount due to (i) the reduction in restrictions on capacity deliverability, (ii) an increase in the amount of capacity participating in the RPM, and (iii) less of a need for, or a more efficient optimization of, CBM by MISO and PJM. Ameren concludes that CBM used by both RTOs could be optimized or lowered by increasing capacity deliverability across the JCM.

D. AEP

AEP does not believe that artificial capacity deliverability barriers exist, and notes that in the most recent PJM Base Residual Auction (“BRA”) for the 2015/16 Planning Year, over 4,300 MW of capacity external to PJM’s footprint was committed to serving capacity requirements within PJM. AEP acknowledges physical, as opposed to artificial, restrictions on the movement of capacity from one RTO to the other, but declares that these limitations are dictated by the actual physical limits of the transmission grid and are strictly observed to ensure reliability.

AEP disagrees with a characterization by the MISO IMM that PJM’s use of CBM adversely affects the capacity market and reliability. CBMs are a standard practice applied by most Balancing Authorities to allow for the probability that, on any given peak or emergency condition, assistance will come from other surrounding regions.

AEP states that it is also important to consider the common use of CBM by other Balancing Authorities external to PJM, and the reduction/elimination of PJM’s CBM could place the systems of both an external Balancing Authority and PJM in peril, as that external Balancing Authority which utilizes CBM could be relying on imports flowing across the PJM footprint.

According to AEP, any perceived barriers associated with the two capacity markets are most likely the result of the lack of a robust, market-oriented capacity market in MISO. AEP makes five suggestions to mitigate barriers between the two RTOs, which do not directly involve capacity deliverability: (1) coordination of generation construction queues; (2) communication and coordination of deliverability assumptions used in planning analyses; (3) communication and joint planning of inter-regional transmission facilities; (4) communication and enhancements around dispatch operations on units impacting flowgates at the seams; and (5) development of cost allocation methods for new systems that encourage cooperation among the RTOs.

While AEP does not believe that barriers exist in the capacity market, the value of capacity and energy that could feasibly be transferred from one RTO to the next should be a common value utilized by both RTOs and lack of full coordination of network modeling and transmission planning assumptions results in dissimilar results.

AEP is adamant that changes to the market should be fully vetted and approved in the stakeholder process.

E. Calpine

Calpine believes that there are already robust capacity imports into PJM, and supports seeking improvements on consensus aspects of seams issues via a collaborative stakeholder process. Calpine requests that MISO respect the stakeholder process. For Calpine, it is more important to "get it right" rather than to rush to find a quick fix to the capacity deliverability concerns raised. Calpine supports the initial comments of the PJM Power Provider's Group ("P3") with respect to flaws in MISO's proposal and in the MISO Whitepaper. Calpine is encouraged that MISO and PJM have chosen to revive their JCM initiative, leading to a productive discussion between MISO, PJM and their respective stakeholders.

F. DPL

DPL asks that the Commission reject any proposals to promote MISO capacity portability in a manner that would jeopardize PJM's multifaceted and proven transmission planning process, which has demonstrably ensured system reliability, capacity deliverability, and capacity markets that work.

DPL is unaware of any particular market rule or operating protocol barriers that inappropriately restrict generation capacity deliverability between the MISO and PJM markets. DPL believes that the barriers that do exist are primarily the result of fundamentally different capacity markets as established by the two RTOs and the nearly full use of available physical transmission transfer capability between the two RTOs.

DPL cannot identify any revisions that should be made regarding transfer capability across the PJM/MISO seam.

DPL believes that any changes to be implemented should be documented as a modification in the JOA, and that MISO and PJM need to work together and with stakeholders through the JCM initiative.

G. Detroit Edison

Detroit Edison supports the analysis and recommendations in the MISO Whitepaper, and encourages the Commission to enact MISO's recommendations. Alternatively, should the Commission be unable to agree upon an appropriate resolution for dealing with identified capacity deliverability barriers, Detroit Edison respectfully requests that the Commission convene a technical conference.

H. Duke

Duke believes that the root concern driving MISO to raise capacity portability issues is that it may lose more members. Duke states that the suggested differences in capacity prices between MISO and PJM are the result of faulty analysis; and when one actually compares the numbers for like products, the result shows price convergence and that capacity portability is not currently a pressing issue.

Duke does to identify any material barriers to capacity portability other than physical limits of the transmission system, and states that there is no evidence (in the form of price separation) that the PJM and MISO markets are not efficiently transacting in capacity.

Duke suggests that the Commission should not alter the energy or capacity markets in either RTO, or embark on a path of investigating and creating a new transmission service across both RTOs. Instead, Duke believes that the best approach is to tackle the small areas where improvement is possible on a bottom up stakeholder basis.

Duke believes that any improvements are most appropriately addressed by the JCM processes that have been occurring since the development of the JOA, and that the JOA and related bottom-up stakeholder processes is still the appropriate vehicle for addressing issues related to the seam.

I. Dynegy

Dynegy believes that the capacity market design differences between MISO's capacity construct and PJM's RPM limit the volume of capacity transactions that can be traded across the MISO-PJM seam. Dynegy further believes that MISO's capacity construct has several fundamental flaws that must be addressed in order to be better aligned with PJM's RPM.

According to Dynegy, MISO's capacity market rules act as a barrier, and this overall market design must be fundamentally revised to allow for capacity price convergence at the seam, where, for example, MISO-sourced capacity seeks to satisfy the capacity requirements for load located within PJM West.

Dynegy states that the MISO stakeholder process is the proper venue to work toward the further evolution of MISO's capacity construct that is necessary to achieve price convergence for capacity with PJM. In particular, Dynegy suggests that MISO stakeholders use the MISO Supply Adequacy Working Group to pursue these market design changes. Meanwhile, Dynegy proposes several operational, scheduling, and planning processes that can be addressed in the near term through the JCM initiative.

J. Environmental Stakeholders

Environmental Stakeholders believe that Commission regulatory intervention is not necessary at this time. Environmental Stakeholders support continued work at the MISO and PJM stakeholder level through the JCM process, and support the Commission holding a technical conference to facilitate an open discussion with MISO and PJM staff and stakeholders.

Environmental Stakeholders encourage PJM, MISO, and the Commission to explore the possibility that the requirement for firm point-to-point transmission service for resources from one RTO to serve as capacity in another RTO artificially limits the development of renewable resources that would otherwise exist if network services were used instead.

By removing the firm point-to-point transmission requirement and extending network services between RTOs, Environmental Stakeholders believe that it might be possible to increase deliverability. Therefore, the Environmental Stakeholders encourage the Commission to conduct a technical conference in part to help resolve disagreements between the RTOs about the feasibility of creating network services across seams, and this would include studying the effects on renewable and demand-side resources. The Environmental Stakeholders conclude that, in the near-term, it is likely easier to address the problems with joint transmission planning coordination rather than to address capacity deliverability.

The Environmental Stakeholders (1) urge the Commission to organize a technical conference that encourages information sharing between the RTOs, stakeholders, and the Commission, and (2) encourage continued coordination and discussion at the recently resumed JCM initiative.

K. EPSA

EPSA requests that the Commission let the JCM discussions run their course, and defer to the MISO and PJM stakeholder processes before weighing in on these issues.

L. Exelon

Exelon supports the initial comments of AEP, FirstEnergy, and P3. Exelon believes that the only barriers that exist between the two RTOs are found in MISO's capacity market, and that the only way to gain any measureable capacity market efficiencies for the benefit of all would be for MISO to adopt an open and competitive capacity market similar to PJM's RPM. Exelon recommends that MISO's proposal be rejected, and that this proceeding be terminated. Finally, Exelon believes that enhancements to seams operations should be addressed through the JCM initiative.

M. FirstEnergy

FirstEnergy believes that these matters should be left to PJM, MISO, and their respective stakeholders to resolve, as needed, on a consensual basis. According to FirstEnergy, there is no need for Commission action, which may derail or otherwise hamper the JCM stakeholder process.

N. Invenergy

Invenergy believes that significant foundational differences between PJM and MISO market constructs, including capacity markets, energy scheduling models, reliability planning processes, and facility interconnection processes, among others, must be reconciled prior to initiating a meaningful discussion around the deliverability of capacity across the PJM/MISO seam. Otherwise, Invenergy supports the initial comments of Dynegy.

O. ITC

ITC believes that the true barrier to capacity deliverability is the lack of an appropriate cost allocation methodology, one that on an inter-regional basis will facilitate the development and construction of transmission facilities needed to improve capacity deliverability. According to ITC, getting the appropriate cost allocation methodology in place will lead to new transmission projects being built that can address congestion on the system and increase capacity deliverability.

P. Indiana Utility Regulatory Commission (“IURC”)

The IURC recommends that the Commission act to assure that the RTOs’ tariffs, rules, and modeling assumptions are not acting as artificial barriers to the deliverability of capacity across the PJM-MISO seam. IURC cites to the transfers of membership from MISO to PJM as evidence of these artificial barriers. While it finds the resurrection of the JCM initiative is encouraging, IURC states that the issue of capacity deliverability has been given a low priority by PJM, and therefore IURC raises concerns that this issue will not be addressed without Commission intervention.

Q. MISO IMM

According to MISO's IMM, MISO resources rarely participate in the PJM RPM market due to existing barriers to participation. Of these barriers, MISO's IMM states that: (1) substantially less long-term firm transmission capability is available to be reserved for imports from MISO into PJM than the actual demonstrated capability of the system to support such imports; (2) current transmission reservation processes allow participants to hold a large quantity of the long-term firm transmission into PJM that is not used to make capacity sales into the PJM RPM market, despite the economic incentives to do so; and (3) obligations of external suppliers that sell capacity into the RPM are uncertain, costly, and potentially discriminatory, and serve as a deterrent to sell external capacity into the PJM RPM.

MISO's IMM believes that these barriers provide strong incentives for participants to change RTO membership; and although the Commission has ruled that RTO membership decisions are ultimately voluntary, it is highly disruptive and costly to RTO markets when significant membership changes occur. A Commission mandate to address these issues is necessary to compel the necessary cooperation to address these issues.

MISO's IMM emphasizes that the main barrier for MISO resources to participate in the PJM capacity market is the lack of firm transmission capability into PJM that is required by PJM to support capacity imports, and the PJM transmission service (known as Network External Designated Service) is generally not available because the interface with MISO is fully subscribed.

MISO's IMM believes that the use of a CBM adversely affects both the capacity market and reliability, and discriminates against external capacity suppliers. The only justification for the CBM is that refusing to sell firm capacity transfer capability into the market provides capacity benefits to the system, but these benefits accrue solely because the system is claiming a reliability benefit for external capacity that is not being procured by the RTO and that may or may not be available during an emergency. MISO's IMM recommends that any CBM between PJM and MISO be eliminated and be made available to market participants.

R. Midwest TDUs

The Midwest TDUs ask the Commission to (1) support reexamination and renewal of the JCM initiative, and (2) provide for periodically updating of the reference date used for the calculation of Reciprocal Coordinated Flowgate capacity allocated to MISO and PJM.

S. NextEra

NextEra urges the Commission to be highly engaged in addressing these seams concerns and opines that, while inter-RTO discussions should likewise continue, progress is unlikely without Commission attention.

NextEra believes that any inadequacy associated with MISO's internal capacity market is not a reason to postpone removal of any barriers between capacity trading, since this would delay providing benefits to consumers. NextEra believes the argument that the RTOs' respective capacity markets must be similar ignores the purpose of capacity markets, which is to enable the RTOs to obtain sufficient energy to reliably meet the needs of consumers within their region. While the design of each market clearly affects the benefits to consumers, unnecessary restrictions on the sale of capacity by a generator in one market to another market are not justified by the internal market rules in the generator's host market, and generators in each market should be able to choose in which market to sell capacity and comply with that market's rules for such sales.

NextEra suggests that a focused discussion around these transmission-related issues at a Commission technical conference will help clarify both possible barriers and potential solutions, and thereby help advance capacity portability. While the RTOs have signaled that they intend to resume their discussions under the JCM initiative, NextEra states that those discussions have left many issues unresolved, and that Commission attention is needed to help achieve appropriate resolutions.

T. NRG

NRG supports the initial comments of P3 and EPSA. NRG believes that the increased level of imports into PJM, along with the experiences of individual companies (such as NRG) successfully providing external capacity into PJM, demonstrates the lack of an institutional barrier to generation in, or wheeling through MISO, providing capacity to PJM.

U. ODEC

ODEC requests that the Commission allow the JCM process to run its course before taking any further action in this proceeding.

V. OMS

OMS acknowledges the existence of physical limitations to capacity delivery, and suggests that the appropriate question is whether the current limitations used for planning and operation purposes are appropriate and reasonable. The use of different models and assumptions by each RTO and for various purposes has resulted in misunderstandings among MISO, PJM and various stakeholders, and it is not clear that these modeling differences represent barriers. OMS views the JCM initiative as an opportunity to improve the sharing of assumptions and modeling as a means to reduce controversy and to improve upon the analysis of the capacity deliverability issue.

OMS believes that it is not necessary for MISO to have a forward capacity market similar to the PJM forward capacity market in order for generation located within MISO to participate in the PJM capacity market, or for generation located in PJM to participate in the MISO capacity market.

As identified in the July 16, 2012 JCM meeting, MISO attaches a higher priority to the capacity deliverability issue than does PJM. Accordingly, OMS believes that it may be useful for the Commission, if it has a position on what priority this issue should be given, to make that position known.

W. PJM IMM

PJM's IMM does not agree that PJM market rules create barriers to entry to resources located in MISO. On the contrary, the rules make explicit and appropriate provisions for imports that ensure comparability with capacity obtained from internal resources. PJM's IMM states that capacity located outside of PJM that meets all the requirements to be a capacity resource can provide capacity to PJM customers, and that capacity falling short of these standards should not be allowed to offer into PJM. PJM's IMM opines that MISO's capacity market is not comparable to the PJM capacity market because it lacks key features of a functioning capacity market and depends on the existence of rate base rate of return recovery in place of a capacity market. Therefore, according to PJM's IMM, any comparison between PJM and MISO capacity prices is not meaningful, and whether capacity prices converge in PJM and MISO is irrelevant.

PJM's IMM suggests that traditional approaches to evaluating resource adequacy should be revisited on a global basis to consider whether they could be improved for all areas and not just for PJM. If such a review is desirable, the IMM recommends that initiated in a forum designed to address technical resource adequacy issues. The PJM IMM does believe that a review of all PJM rules, which affect the ability to import and export capacity, would be appropriate.

PJM's IMM believes that it may be appropriate to implement rules providing for a more transparent evaluation of Available Transfer Capability transmission capacity in both RTOs, but it is clear that firm transmission service used for energy delivery competes with firm transmission used for capacity deliverability.

The PJM IMM does not believe that any inappropriate barriers exist to imports from MISO into the PJM capacity market and so does not propose a mechanism to address them. However, the PJM IMM does support continued improvement and refinement of the MISO/PJM JOA in order to achieve an efficient dispatch in the RTOs' respective energy markets.

X. PJM Power Provider’s Group (“P3”)

P3 believes that (1) PJM’s rules on transfer capability ensure the deliverability of capacity resources necessary for reliable bulk power service, and without such rules more costly and complex measures would be necessary to ensure the same level of reliability, such as upgrades to the transmission system or universal dispatch control across both RTOs by a single transmission provider; and (2) there is no evidence that deliverability issues or market rules are impeding imports of capacity into PJM.

Absent single dispatch across the RTOs, P3 believes that PJM’s current requirement for firm point-to-point transmission service is crucial to ensure deliverability of external resources committed to the PJM capacity market, while respecting competing uses of transmission capability.

P3 agrees with PJM that some of MISO’s individual suggestions merit further analysis, especially calls for more closely coordinating long-term transmission service requests and capacity product definitions.

P3 agrees that the renewed JCM discussions provide an appropriate forum for considering the issues addressed in this proceeding, but P3 is cautious about concepts advanced without open stakeholder input and deliberation.

Y. PSEG

PSEG supports readily achievable incremental improvements in planning coordination identified as ‘low hanging fruit’ during recent JCM discussions, but does not support any proposed changes that would allow external generators to bypass deliverability requirements or otherwise obtain preferential access to PJM markets. PSEG states that MISO generation owners seeking access to PJM’s RPM markets must follow PJM’s existing rules that require the out-of-region resource to have specific, firm point to point transmission service from the capacity resource into the PJM region. PSEG believes that these issues are already being addressed through existing processes and proceedings, thus eliminating the need for this comment docket.

Z. Xcel

Xcel believes that the amount of transfer capability available for forward capacity transactions should mimic the amount of transfer capability available in real time during a capacity emergency. According to Xcel, the current practice that utilizes a non-simultaneous study to identify the transfer capability across the seam underestimates the actual amount of transfer capacity available during real-time emergencies, and does not accurately reflect the amount of import and export limits. Xcel believes that transmission service, deliverability status or capacity accreditation should be granted based on transfers that are simultaneously feasible in both areas and based on equitable allocations of flowgate capacity.

II. CAPACITY PORTABILITY REPLY COMMENTS SUMMARIES

AD12-16-000

A. IURC

IURC raises two main concerns in response to comments urging the Commission not to act at this point in time: (A) the priority need for modeling and analysis; and (B) the completion of the JCM stakeholder process prior to any Commission action.

According to IURC, improved reliability analysis and infrastructure studies could identify where transmission upgrades are needed for capacity deliverability. Additionally, this modeling and analysis should be taking place now and jointly between the RTOs for the purposes of transmission planning. Considering how critical capacity deliverability could be in solving potential reliability issues caused by the EPA regulations, and the potential savings in energy and capacity costs, IURC believes that PJM and MISO need to work together, perform the appropriate study or studies, and make this essential determination.

If resource adequacy has been met within either MISO or PJM and an entity has excess capacity to sell into the adjacent RTO with adequate firm transmission, IURC believes that this could help lower the capacity prices and provide savings that could be passed onto end-users and consumers.

IURC supports the RTOs' stakeholder processes, but cautions that the stakeholder processes should not be used to unnecessarily delay study and resolution of the capacity deliverability issue. Accordingly, IURC recommends that the Commission require MISO and PJM to jointly study and determine the amount of capacity deliverability that exists between these two RTOs. IURC further requests that the Commission establish a joint reporting deadline for MISO and PJM to report on the status of stakeholder processes on this issue. IURC also requests that the Commission require the RTOs to amend their planning and modeling assumptions and eliminate any unnecessary barriers across the seam, based on the information gathered in a technical conference and the results of the joint studies.

B. The Office of the Ohio Consumers' Counsel ("OCC")

OCC states that PJM is not convinced of the existence of inappropriate barriers to inter-RTO capacity trade. PJM has, however, identified a list of other seams issues for further PJM and MISO stakeholder discussions. OCC believes that, absent Commission action, progress will not be made on this issue.

The OCC generally shares the same concerns around barriers to capacity portability as expressed by MISO, the MISO IMM, the Organization of MISO States, and other parties.

OCC supports a high priority, results-oriented approach to the capacity portability issue, such as proposed by MISO. OCC also shares the expressed concerns regarding the likelihood of timely action on the issue absent Commission action.

OCC urges the Commission to go beyond MISO's recommendations and initiate an investigation to: (a) identify the market rules or the inconsistencies between MISOs and PJM's market rules that may be creating barriers for capacity deliverability; (b) identify potential solutions to eliminating or mitigating those barriers; (c) prioritize solutions for implementation; and (d) develop a timeline to implement those solutions.

OCC agrees that much of the available transmission capacity that is needed for capacity imports into PJM is held by entities that do not use it for capacity imports even when such imports would be economic if market participants are holding the transmission capacity needed for capacity imports into PJM and are not using it, and are also not making it available to others for capacity imports, such withholding would artificially inflate the RPM capacity prices that consumers ultimately pay. OCC believes that these allegations should be investigated separately from the investigation of whether current market rules or inconsistencies between MISO and PJM market rules create barriers to capacity deliverability. OCC recommends that the Commission initiate a separate, formal investigation of these matters, with directives to both the MISO and PJM IMMs to develop and file reports for comment by other parties.

C. Joint PJM Consumer Advocates (“JPCA”)

JPCA notes MISO’s estimate of \$700 million to \$1.1 billion per year in consumer savings if barriers to cross-border capacity sales are eliminated. Even if this estimate lacks precision, JPCA believes that the magnitude of the potential savings is significant and thus presents an issue of interest and concern. JPCA encourages the Commission to closely and carefully monitor the progress of the JOA joint stakeholder process and to use its supervisory authority to ensure that the work of the joint stakeholder group moves forward and is productive in addressing the capacity portability issues presented on a timely basis.

D. MISO

MISO strongly believes and has conducted analysis that confirms that the current rules related to transfer capability act as barriers to efficient capacity transfers between MISO and PJM to the detriment of consumers. MISO and PJM treat external resources differently from internal resources when evaluating deliverability to load for resource adequacy purposes. MISO believes that this differential treatment creates barriers for generation capacity transfers between the RTOs.

MISO also states that the RTOs' continue to be on different pages as to the priority level that capacity deliverability barriers should take on the JMC agenda. MISO believes that ~~barriers~~" is the correct term to describe procedures that limit competitive access to the transmission system, and that PJM attempts to lessen the impact of this issue by claiming that use of the term ~~barriers~~" sets the wrong tone or the proceeding..

To be clear, when MISO refers to ~~barriers~~" to capacity deliverability, it is referring to obstacles that limit competitive access to the transmission system for the purposes of delivering capacity between the RTOs.

According to MISO, suggested high levels of cross-border capacity transactions do not prove that barriers to capacity deliverability across the MISO-PJM seam do not exist. While PJM has quoted high levels of cross-border transactions to support the notion that there are no barriers to capacity transfers between RTOs, PJM's numbers include resources imported from PJM's entire Western Interface, which includes all areas to the west and south of PJM, including many non-MISO regions of SERC Reliability Corporation (~~SERC~~) and some non-MISO regions of ReliabilityFirst Corporation (~~RFC~~). MISO believes that the inclusion of non-MISO areas in PJM's calculation of Western Interface is inaccurate and grossly overstates actual capacity transactions between the two RTOs.

According to MISO, physical transmission capability is not a barrier to capacity deliverability. MISO analysis indicates that the transmission system is capable of reliably transferring 5,300 to 6,300 MW of capacity in the 2014/15 delivery year, if excluding transmission capability currently set aside for the CBM. However, MISO states that actual capacity sales for the 2014/15 delivery year from MISO to PJM are only approximately 400 MW net (900 MW gross).

MISO believes that wholesale capacity prices are different at the seam. Despite Duke's claims of price convergence, MISO points out that Duke's analysis still shows some price differential, and as explained in Ameren's comments, even small differences in capacity prices have the potential for huge consumer savings.

MISO emphasizes that the differences in capacity markets is not a barrier to resolving the capacity deliverability issue. The claim that efficient capacity transfers require identical capacity market designs on both sides of the MISO-PJM seam is belied by the fact that capacity transfers between the RTOs happen today even though the capacity markets are not identical. Focusing on the differences between MISO and PJM's capacity markets only distracts from the real issue at hand – the existence of barriers to capacity deliverability and ways in which such barriers can be eliminated to the benefit of end consumers.

MISO emphasizes that no progress will be made unless the Commission directs PJM and MISO to take action through the JCM process within a specified timeframe. MISO states that it has tried to engage PJM and its stakeholders on the capacity deliverability barrier issue for almost three years with no progress to date.

PJM has continuously stated that addressing capacity deliverability through increased transfer capability is a low priority and that it requires a common day-ahead market. MISO requests that the Commission require MISO and PJM to work promptly to remove barriers to capacity transfers and to revise the MISO PJM Joint Operating Agreement no later than February 1, 2013. MISO still believes that the appropriate forum for addressing the capacity deliverability barrier issue is the JCM initiative. However, evidence to date shows that absent clear direction from the Commission, this issue will not be resolved in the JCM forum.

MISO believes that its proposal will maintain reliability. Cross-border capacity sales would still be fully supported through firm transmission service with the same delivery obligations that exist today during emergency conditions. Imported capacity would be non-recallable by the host RTO and would still have the same priority as internal capacity.

MISO's clarifies that its capacity deliverability proposal requires all generators, regardless of their location in MISO and PJM, to meet the same requirements as outlined in Module E of the MISO Tariff, including firm transmission service. MISO clarifies that under its proposal capacity resources do not need to be directly dispatched by the RTO where capacity is committed.

ODEC is concerned that MISO's proposal will create issues related to dispatching capacity resources as needed by either RTO. If these issues exist under MISO's proposal, however, then ODEC would be asserting that they exist today, which they do not. External resources are committed in both MISO's and PJM's capacity markets today without operational issues related to dispatch.

Similarly, P3 suggests that under a network service paradigm, the RTO for which a unit is committed as capacity must have the authority to redispatch any generation that can affect the delivery of the committed unit; otherwise deliverability of the committed unit is not ensured during daily operations. MISO reiterates that its proposal includes firm transmission requirements and non-recall-ability requirements for units committed across the seam.

MISO clarifies that its proposal does not require elimination of the CBM. MISO believes that there are opportunities to review how CBM is used by the RTOs to drive further efficiencies in the use of the physical transmission system between the RTOs. However, MISO believes that significant consumer benefits can be achieved if current levels of CBM between MISO and PJM are maintained.

In response to Calpine's argument that the issue of capacity deliverability should not be addressed until MISO stakeholders vote to move forward, MISO states that it has sought stakeholder input and will continue to do so throughout this process.

E. PJM

PJM sees in the initial comments several areas of agreement on the question of changes which both RTOs can pursue with their stakeholders to enhance the deliverability of capacity between PJM and MISO.

PJM and MISO both agree that internal resources and external resources should be treated comparably when evaluating their deliverability to load for the purpose of qualifying as capacity resources. In this regard, PJM sees opportunities to work with the RTO's joint stakeholders to better align the processes, timelines and assumptions by which the two RTOs conduct such evaluations. Further, there are opportunities for PJM to revise its short term evaluation of Available Transfer Capability to align it better with the long term unit specific deliverability studies for external capacity resources. Other areas of agreement include the need to set appropriate levels of CBM for reliability purposes, and an agreement that differences in capacity market constructs do not create barriers to capacity portability between the RTOs' markets.

PJM believes that the appropriate role for the Commission is to closely monitor and track developments on the progress the RTOs and the joint stakeholder processes make in resolving coordination issues under the JOA.

PJM notes that there is a lack of a consensus among the parties on the problem definition itself. The concerns raised by a number of parties vary from a deliverability problem, to a CBM elimination problem, to a transmission service hoarding problem.

PJM claims that certain aspects of MISO's proposal contradict open access transmission service principles under Order Nos. 888 and 890 and system reliability.

F. FirstEnergy

FirstEnergy states that any efforts to degrade PJM’s reliability requirements, including its CBM or the ~~“must offer”~~ or ~~“deliverability”~~ requirements for capacity, should be rejected.

FirstEnergy believes that MISO and the MISO IMM are relying upon flawed data and that the claimed potential savings are illusory. Despite any of these alleged barriers, FirstEnergy states that over 4,300 MW of capacity imports from west of PJM cleared in the Base Residual Auction (~~“BRA”~~) in PJM for 2015/2016.

FirstEnergy believes that MISO’s suggested revisions would fundamentally alter elements of PJM’s market design and planning process that are interrelated—down to the level of technical modeling details—with other aspects of the market design and planning process so as to meet PJM’s reliability requirements. According to FirstEnergy, the proposed changes are likely infeasible without the creation of a single market and common dispatch over the combined PJM-MISO footprint, which would encompass a comprehensive redesign of all affected and linked elements of the reliability and market rules.

FirstEnergy requests that the Commission conclude this inquiry, and encourage the stakeholders to pursue more productive and practical methods of achieving operational efficiencies through the joint PJM-MISO stakeholder process.

G. P3

P3 makes the following comment on reply: (i) the claimed financial benefits of adopting MISO's capacity portability proposal are wrong ; (ii) in addition to contradicting Order No. 888 open access principles, MISO's proposal o attempts to rebundle transmission capacity and generation; (iii) MISO-based generation may not be deliverable to the transmission system operated by PJM, given overarching reliability requirements that are applied on a non-discriminatory basis to generation inside and outside of PJM; and (iv) given the current stakeholder processes addressing many of the issues raised in this proceeding, there is no need for further Commission action at this time.

According to P3, reducing the CBM to increase transmission capacity into PJM would result in a 1.8% increase in installed reserve margin ($-IRM$), requiring PJM to procure additional capacity resources and resulting in higher overall capacity prices in PJM. P3 notes that the cost impacts would not be limited only to PJM and its customers.

P3 states that MISO's proposal runs contrary to Order No. 888 principles requiring nondiscriminatory treatment of market participants seeking transmission. P3 believes that MISO is proposing to bundle specific transmission rights with external capacity sales. As P3 understands it, these transmission rights (1) would not be made available to market participants who have not cleared generation in an external RTO's capacity auction, and (2) would be given priority over other firm point-to-point transmission rights. P3 suggests that this type of bundling of products is one of the open access impediments that Order No. 888 precisely sought to eliminate.

In addition, P3 does not believe that it would be procedurally appropriate for the Commission to issue an order in this proceeding. A few commenters request that the Commission require a joint filing by MISO and PJM under section 205 of the FPA. However, P3 states that the Commission's authority to order a filing is found in section 206 of the FPA, not section 205; and as a predicate under section 206 of the FPA to issuing such an order, the Commission must first find the existing rate, rule, regulation or practice to be unjust, unreasonable, unduly discriminatory or preferential.

Finally, P3 reiterates that the parties are already working through the stakeholder process to address many of the concerns raised in these proceedings. Accordingly, while it may be useful to have Commission staff monitor this stakeholder process, further Commission action is not necessary at this time.

H. PJM IMM

The PJM IMM notes that MISO and PJM and the stakeholder community are already engaged in active and productive discussions about capacity portability issues. PJM IMM suggests that the implications of the calculations for the competing uses of the transfer capability should also be addressed. When the basic issues of transfer capability are addressed, the basis for and implications of the potentially radical market design changes proposed by some in this proceeding can be examined in a careful and analytical way.

PJM IMM states that barriers to entry should not be confused with differences in market design and differences in product definitions.

PJM IMM is concerned that proposals for resources external to PJM will weaken the deliverability and must offer standards applicable to all PJM capacity resources external to PJM that is the basis for PJM's reliability planning. That result would harm the interests of PJM customers.

To the extent RTO membership is a concern, PJM IMM suggests that MISO consider making changes to MISO's market design, so that MISO capacity prices better reflect the economic fundamentals of MISO capacity supply and demand.

Market design changes and the changes to transmission rights should be carefully evaluated, but without any presumption that a market design problem or a problem with the definition of transmission rights, much less a viable solution, has been specifically identified. Under these circumstances, PJM IMM believes that it would be premature for the Commission to establish February 1, 2013, or any other deadline for action at this time.

Contrary to the assertion of MISO, PJM IMM states that capacity market design does matter, and that the primary reason that these discussions are taking place is the difference in capacity market designs.

According to PJM IMM, the MISO capacity market design does not value capacity based on the economic fundamentals in the MISO area, including the total supply of and total demand for capacity, recognizing locational constraints. The MISO capacity market design reflects the fact that most of the LSEs maintain revenue adequacy through rate base rate of return mechanisms

PJM IMM raises an apparent misunderstanding about the level of capacity imports into the PJM capacity market from MISO. According to PJM IMM, cleared capacity imports into PJM from MISO have ranged from 1,067.7 MW to 1,895.1 MW; cleared capacity imports into PJM from MISO have ranged from 91.7 percent to 100.0 percent of all offered imports from MISO; and cleared capacity imports into PJM from MISO have comprised from 35.4 percent to 69.0 percent of all PJM capacity imports.

PJM IMM suggests that MISO's proposal would change the definition of capacity and attenuate the relationship between purchased capacity and reliability. The PJM market design reflects a conscious set of decisions about the definition of capacity and the contribution of capacity to reliability. PJM and its members could have weakened this link in the RPM market design and

reduced the value and cost of capacity. PJM and its members chose not to do so. In PJM IMM's view, MISO's proposal is asking that the Commission compel PJM and its members to weaken the PJM market relationship with regard to capacity and reliability, which goes well beyond improving the management of a seam. PJM believes that granting this request would change the PJM capacity market design, weaken the meaning of deliverability and thus weaken reliability.

PJM IMM states that MISO proposal is inconsistent with Order No. 888 with regard to redefining transmission rights. According to PJM IMM, MISO has not acknowledged the fact that firm transmission rights for energy compete with firm transmission rights for capacity, that both competing uses are legitimate, and that the same capacity cannot necessarily be used for both products at the same time.

The suggestion that existing firm transmission rights for energy should be significantly modified in order to permit greater use by capacity is not consistent with the current rules governing transmission rights and the associated current rights held by market participants in both MISO and PJM

PJM IMM states that the joint network service MISO proposes is not well defined, and does not address the single system dispatch necessary for it to work. PJM network transmission service is possible because PJM is a single, centrally dispatched, security constrained market. That is not true and cannot be true across the PJM/MISO seam without effectively creating a single RTO, which has not been proposed in this proceeding.

However, PJM IMM explains that it is possible for external capacity resources to be dynamically scheduled into PJM, which results in the capacity resources being equivalent to PJM capacity resources. Such dynamically scheduled resources are directly dispatched by PJM using PJM LMP signals. PJM IMM questions why this option is not an acceptable solution and in fact the preferable solution to facilitating the participation of MISO capacity resources in the PJM capacity market.

PJM IMM believes that MISO's example of the impact of FirstEnergy leaving MISO and joining PJM illustrates the misunderstandings underlying this view of network service.

PJM IMM states that, without firm transmission, capacity resources in MISO are not substitutes for capacity resources in PJM. If they are to compete in the PJM capacity market, MISO capacity resources must be substitutes for PJM capacity resources. PJM IMM explains that this goes back to the fundamentals of the definition of the PJM capacity product. Capacity in the PJM markets is a physical product which is tied to a specific unit with specific characteristics. The required level of capacity resources to meet reliability requirements and procured in the capacity market is based on this definition of capacity. Capacity in PJM is not a financial product, it is not a liquidated damages contract and it is not a slice of system or assurance of scheduled energy.

I. Duke

Duke identifies the main area of disagreement to be over whether several targeted measures will suffice to resolve capacity portability issues, or whether substantial top-down restructuring of the MISO and PJM markets is also needed.

Duke identifies substantial areas of potential common ground. Duke agrees that more synchronization between MISO's and PJM's processes and standards for service requests would be useful. Duke supports efforts to better align the RTOs' scheduling processes for their energy markets. Enhancing the ability to execute such commercial transactions by opening opportunities to buy or sell transmission rights, without impairing the ability of the party to maintain their long-term rights to that transmission, would be a meaningful step in this direction. Duke agrees that this issue is intuitively worth exploring through the JCM initiative stakeholder process. Some important related issues, however, would also need to be addressed in order to ensure that netting does not undermine the reliability that each RTO seeks to achieve with its resource adequacy constructs.

So while it may be possible to extend current MISO and PJM protocols to allow for capacity netting, doing so would require careful consideration of the need to avoid the risk of double-counting of capacity, and of the need to assure capacity deliverability and system security while not imposing unreasonable commercial risks on capacity suppliers. Thus, in Duke's view, it makes sense to allow alignment between annual transmission reservations and the planning year.

If MISO is suggesting that the Commission should go further and actually require that *all* yearly transmission reservations be for the June-May period, that seems unduly limiting, since it would constrain the ability of entities to freely enter into transmission reservations to match their transactions, which in turn would tend to constrain the ability of parties to freely transact on a bilateral basis and undermine efficiency of bilateral markets.

According to Duke, capacity deliverability is not really a single issue – it is a series of issues, and there are a number of uncontroversial potential common ground initiatives to address most of those issues. A disagreement around priority exists as to whether a broad overhaul of the RTO resource adequacy constructs or of OATT transmission service is a priority now, or should be postponed until the potential common ground initiatives are resolved. Duke believes that the right answer is the latter.

Dukes notes that comments on the Module E-1 Order, or that ignore that the markets have been carefully designed to be well-suited to most of their constituents, should not be addressed because they are a collateral attack and because restructuring is not necessary.

Duke states that any proposals that compromises deliverability is not consistent with the Commission's traditional emphasis on maintaining reliability and with the historic distinction between network and point-to-point service, and thus should not be considered.

Duke explains that network service refers to a specific form of service that fundamentally depends upon use of the transmission grid to integrate all network loads with all network resources, on a firm basis, and a level of resource control sufficient to permit the transmission

provider to exercise redispatch of resources were needed to achieve that integration. Conversely, point-to-point service involves designated points of entry into and exist from the transmitting utility's system, with a designated amount of transfer capability at each point. Duke believes that, in order to permit the transmission provider to achieve the fundamental purpose of network service by fully integrating load and resources on an instantaneous basis, the external resource must meet the same criteria as an internal resource. In particular, it must be subject to redispatch control, and it must be firmly deliverable via firm point-to-point service to the border of the transmission provider system.

Duke believes that MISO's proposal is inconsistent with permissible means of assuring deliverability.

According to Duke, MISO's own description of its proposal says that deliverability would only be studied, and the resource would only have to meet performance requirements (such as must-offer) in one RTO not both. If so, this proposal is inconsistent with the basic requirement that network resources be firmly deliverable because deliverability is only tested in one RTO, not along the full path.

Duke does not believe that JCM-wide network service is necessary or appropriate. However, for true JCM-wide network service, Duke suggests that a single transmission provider would be needed, not two. If MISO wants to replace the point-to-point leg of the transmission path and institute a single network service, then the resources must still be studied for deliverability the same as any other network resource. Anything else would undermine the reliability of the system.

Ameren asserts that generation resources located in MISO but geographically close to the seam could replace a capacity resource in the ComEd/PJM territory. In response, Duke states that each side of the seam has implemented its own rules to meet its own needs, and entities located on one side of the seam cannot simply ignore those rules or the fact that the RTO they are located in controls the dispatch of their units simply because they are closer to loads on the other side.

Duke states that attacks On CBM are misplaced. Duke explains that CBM is a method by which the two RTOs can realize joint savings through a diversity benefit. That is, if each RTO agrees to assist the other in emergency conditions, then each RTO can carry a lower capacity margin. The total capacity needed to maintain reliability across the entire combined footprint is lower, since CBM flows both ways. This does not mean that one RTO is stealing the other's resources, but simply represents their agreement to assist each other due to the extremely low likelihood that each will face emergency conditions at the same time.

Duke believes that MISO's consumer savings estimate is based on flawed analysis in that it does not compare apples to apples, but instead compares PJM's forward market price with MISO's spot market price.

Ameren asserts that the transferability of energy and capacity in the JCM need to be aligned with each other, and that the current situation allows for great transferability of energy from PJM to MISO as compared to capacity. Ameren claims that this means PJM suppliers benefit from selling energy efficiently, and MISO resources do not benefit from selling capacity efficiently. Duke states that Ameren's claims are unconvincing because they do not reflect the reality that energy is a different product than capacity. Energy is delivered from one RTO to another in real time, based on the specific set of circumstances that exist in real time. Energy deliverability is dependent upon the ability of the systems to be dynamically dispatched in real time, observing system operating limits.

In contrast, capacity deliverability is based on 'what might be' in the most severe credible circumstances, and is necessarily much less flexible. In order to ensure the needs of the system can be met under these circumstances, it is necessary to carefully determine which resources are to be dedicated to which load center, how the system is to be dispatched, what firm transfers must be supported, and what credible contingencies must be withstood. In this realm, the requirements must be rigid, and well understood, as flexibility does not exist, necessarily.

Duke suggestions that request for a Commission directed Section 205 filing, Section 206 investigation, or Commission technical conference should be disregarded. The Commission has no power to force public utilities to file particular rates unless it first finds the existing filed rates unlawful through a Section 206 proceeding. This proceeding was not initiated under Section 206, and none of the procedural requirements associated with a Section 206 proceeding have been met.