

# Midwest Transmission Dependent Utilities Score Major Win Against Capacity Market Bifurcation

February 2, 2017 | *Cynthia S. Bogorad, William S. Huang*

## FERC Rejects MISO's Competitive Retail Solution

Midwest Transmission Dependent Utilities—Great Lakes Utilities, Madison Gas and Electric, Missouri Joint Municipal Electric Utility Commission, Midwest Municipal Transmission Group, Missouri River Energy Services, and WPPI Energy—asked FERC to reject the Midcontinent Independent System Operator, Inc.'s ("MISO") Competitive Retail Solution filing, and in early February, FERC did so. MISO's proposal would have created a three-year forward capacity auction to cover the less than 10% of MISO's footprint located in Illinois and Michigan that participates in retail choice. This bifurcated approach would have threatened the traditional resource adequacy construct relied upon by the remainder of MISO's footprint, which includes (as an adjunct to self-supply) a voluntary residual prompt capacity auction conducted a few months in advance of the relevant Planning Year. Many parties protested different aspects of the proposal in several rounds of pleadings before FERC. Spiegel attorneys Cynthia Bogorad, William Huang, and Jessica Bell worked to ensure that the concerns of the Midwest Transmission Dependent Utilities with this untested and unprecedented proposal were heard at FERC.

In its [February 2 order](#), issued only one day before FERC lost its quorum, FERC rejected the Competitive Retail Solution in its entirety. FERC recognized the concern that bifurcation could have uncertain and potentially adverse impacts on price formation in both the new, forward auction, as well as MISO's current prompt auction. FERC also noted that the new tariff language MISO proposed to implement the Competitive Retail Solution was ambiguous and not sufficiently explained.

MISO has indicated it does not plan to seek rehearing of FERC's order. Noting the recent passage of legislation in Illinois and Michigan, as well as other factors, MISO has determined that near term resource adequacy circumstances have improved. Stating that it will continue to work on solutions focused on competitive retail areas that do not implicate the traditionally regulated areas of the MISO region, MISO said it will be focused on coordination with Illinois state officials and stakeholders on a state-based approach.

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