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July 25, 2013

Ms. Patty Van Gerpen  
Executive Secretary  
South Dakota Public Utilities Commission  
State Capitol Building, 1st Floor  
500 East Capitol Avenue  
Pierre, SD 57501

Re: Application to Terminate Mandatory PURPA Purchase Obligation  
Docket No. QM13-3-000

Dear Ms. Patty Van Gerpen:

This letter is in reference to an Application filed on July 23, 2013 with the Federal Energy Regulatory Commission by Missouri River Energy Services, on behalf of itself and twenty-four of its members, pursuant to section 292.303(a) of the Commission's regulations, 18 CFR 292.303(a), requesting relief on a service territory-wide basis from the mandatory purchase obligation under the Public Utility Regulatory Policy Act of 1978, 16 USC 824a-3(m) (2006). A copy of the filing is enclosed.

Please be advised that all interventions, protests and comments in response to the Application must be filed on or before Tuesday, August 20, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

Sincerely,

A handwritten signature in blue ink that reads "Derek Bertsch".

Derek Bertsch, Staff Attorney  
Legal

Enc.



UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Missouri River Energy Services ) Docket No. QM13-\_\_

**APPLICATION OF MISSOURI RIVER ENERGY SERVICES  
ON BEHALF OF ITSELF AND TWENTY-FOUR OF ITS MEMBERS  
TO TERMINATE MANDATORY PURPA PURCHASE OBLIGATION**

Missouri Basin Municipal Power Agency, doing business as Missouri River Energy Services (“MRES”), on behalf of itself and 24 of its members (“Filing Members”),<sup>1</sup> hereby submits this Application to be relieved of the requirement under Section 210 of the Public Utility Regulatory Policies Act of 1978, as amended (“PURPA”) (16 U.S.C. § 824a-3), and under the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) implementing regulations to enter into new contracts or obligations to purchase energy and capacity made available by qualifying facilities (hereinafter, “PURPA Purchase Obligation” and “QF” respectively) that have a net capacity greater than 20 megawatts (“MW”) and are located within the Midcontinent Independent System Operator, Inc. (“MISO”).<sup>2</sup> This Application is filed pursuant to Section

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<sup>1</sup> The 24 MRES members on behalf of whom MRES files this Application are municipal electric distribution utility members of MRES with service territories located within the footprint of the Midcontinent Independent System Operator, Inc. (MISO). Twenty-three of these members purchase all of their supplemental electricity requirements from MRES. One member, Pella, Iowa, purchases all of its electrical requirements from MRES. The list of the Filing Members is attached to this Application as Attachment 1.

<sup>2</sup> As explained in Section I, *infra*, MRES and 23 of the 24 Filing Members have sought and obtained from FERC a waiver of the Filing Members’ obligation, as individual electric utilities, to purchase power directly from QFs, and established “Rules for Compliance with FERC Order No. 69 Cogeneration and Small Power Production” pursuant to which MRES and the Filing Members carry out their respective and distinct obligations to purchase from and provide service to a QF. *Missouri Basin Mun. Power Agency*, Letter Order, Docket No. EL09-13-000 (Feb. 6, 2009). See also *Missouri Basin Mun. Power Agency*, 69 FERC 62,250 (1994). Pella, Iowa has become a member of MRES since the Commission granted the previous waiver request of MRES in 2009. MRES, on behalf of itself and Pella, Iowa, is concurrently filing with this Application a petition seeking the same waiver for MRES and Pella, Iowa.

210(m) of PURPA,<sup>3</sup> 16 U.S.C. § 824a-3(m), and Sections 292.309 and 292.310 of the Commission's regulations, 18 C.F.R. §§ 292.309 and 292.310 (2012). MRES is not seeking relief from its PURPA Purchase Obligation with respect to QFs in the service territory of MRES members located outside the MISO footprint. As explained herein, MRES satisfies the requirements of PURPA Section 210(m), as implemented through 18 C.F.R. §§ 292.309 and 292.310, and should be relieved of its PURPA Purchase Obligation within MISO with respect to QFs larger than 20 MW in the Filing Members' service territories or interconnected to MRES's transmission system,<sup>4</sup> effective July 23, 2013, the date of this Application.<sup>5</sup>

#### **I. DESCRIPTION OF MRES**

MRES is a municipal joint-action agency formed under Chapter 28E of the Iowa Code and existing under the intergovernmental cooperation laws of the States of Iowa, Minnesota, North Dakota, and South Dakota. MRES is comprised of 61 member municipal electric distribution utilities located in these four states, each of which operates its own electric system.

The 24 Filing Members on behalf of whom MRES files this Application have service territories located within the MISO footprint. The 24 Filing Members are identified in Attachment 1 to this Application. Twenty-three of the Filing Members are MRES S-1 members and purchase all of their supplemental requirements from MRES under a long-term Power Sale

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<sup>3</sup> 16 U.S.C. § 824a-3(m) (2010). To implement PURPA section 210(m), FERC issued Order No. 688 and promulgated new regulations, 18 C.F.R. § 292.309 and 18 C.F.R. § 292.310. *See New PURPA Section 210(m) Regulations Applicable to Small Power Production and Cogeneration Facilities*, Order No. 688, 71 Fed. Reg. 64,342 (Nov. 1, 2006); FERC Stats. & Regs. ¶ 31,233 (2006), *order on reh'g*, Order No. 688-A, 72 Fed. Reg. 35,871 (June 22, 2007), *aff'd sub nom.*

<sup>4</sup> MRES is not seeking relief from its PURPA Purchase Obligation with respect to QFs that are 20 MW or less in the service territory of the Filing Members. MRES and the Filing Members, however, reserve the right to file for such relief at a future time if deemed appropriate.

<sup>5</sup> Order No. 688-A at P 144 ("If the Commission finds that the requirements of section 210(m)(1) of PURPA have been met, then the purchase requirement for that electric utility ends as of the date of the PURPA petition.").

Agreement (“S-1 Agreement”).<sup>6</sup> All of the S-1 members receive hydroelectric preference allocations from the Western Area Power Administration (“WAPA”) and have power purchase agreements with WAPA for power and energy from those allocations. Under the S-1 Agreement, each S-1 member is required to purchase, and MRES is required to supply, all of the S-1 member’s requirements for electric power and energy above the amount purchased from WAPA. One of the Filing Members, Pella, Iowa, purchases all of its electrical requirements from MRES and is not considered an S-1 member.

MRES and the 23 Filing Members that are S-1 members have sought and obtained from FERC a waiver of the Filing Members’ obligation, as individual electric utilities, to purchase power directly from QFs, and established “Rules for Compliance with FERC Order No. 69 Cogeneration and Small Power Production” (“Rules for Compliance”) pursuant to which MRES and the Filing Members carry out their respective and distinct obligations to purchase from and provide service to a QF.<sup>7</sup> The Rules for Compliance are provided in Attachment 2 to this Application. Under the FERC regulations and Rules for Compliance, each Filing Member is generally obligated to interconnect and operate in parallel with a QF, while MRES is required to purchase electricity from those QFs who qualify under FERC standards.

Pella, Iowa became a member of MRES after the Commission granted the previous waiver request of MRES in 2009. MRES, on behalf of itself and Pella, Iowa, is concurrently filing with this Application a separate petition seeking the same waiver for MRES and Pella, Iowa.

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<sup>6</sup> “S-1 Members” are the 57 member cities of MRES that have each executed a Power Sale Agreement (S-1) under which MRES has the obligation to provide all of their supplemental power needs.

<sup>7</sup> *Missouri Basin Mun. Power Agency*, Letter Order, Docket No. EL09-13-000 (Feb. 6, 2009). See also *Missouri Basin Mun. Power Agency*, 69 FERC 62,250 (1994).

MRES has power purchase agreements for the output of four wind projects. The output MRES receives from these wind resources include 18.7 MW of renewable energy from the Marshall Wind Project located near Marshall, Minnesota, 20 MW of renewable energy from the Odin Wind Project located near Odin, Minnesota, 40 MW of renewable energy from the Rugby Wind Project located near Rugby, North Dakota, and 3.3 MW of renewable energy from the Hancock Wind Project located near Britt, Iowa.

MRES is a transmission-owning member of MISO but does not own significant transmission assets within the MISO footprint.<sup>8</sup> MRES recognizes that this Application is the first request to terminate a PURPA Purchase Obligation by an entity that is not a major transmission owner and whose purchase obligation does not arise from direct interconnection with a QF. However, the termination of the PURPA Purchase Obligation of MRES would be consistent with similar requests submitted by other MISO transmission owners, including but not limited to Otter Tail Power Company, ALLETE, Inc., Xcel Energy, Alliant Energy Corporation, Duke Energy Corporation, and MDU Resources Group.<sup>9</sup> Each of these entities relied on the rebuttable presumption set forth in Section 292.309(e) that MISO provides QFs larger than 20 MW with nondiscriminatory access to independently administered, auction-based day ahead and real-time markets for sale of electric energy, and to wholesale markets for long-term sales of capacity and electric energy. Consistent with this precedent, pursuant to Sections 292.309(a) and (e), MRES similarly should be relieved from its PURPA Purchase Obligation within MISO with

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<sup>8</sup> Western Minnesota Municipal Power Agency (“Western Minnesota”) owns the majority of generating and transmission facilities that MRES uses to serve its members. Pursuant to a declaratory order issued by the Commission, MRES and Western Minnesota are permitted to combine their financial information for the purpose of calculating MRES’s transmission rates. *Missouri River Energy Services, et al.*, 125 FERC ¶ 61,300 (2008).

<sup>9</sup> See *Otter Tail Power Co.*, Letter Order, 140 FERC ¶ 62,229 (2012); *ALLETE, Inc.*, 138 FERC ¶ 61,108 (2012); *N. States Power Co.*, 136 FERC ¶ 61,093 (2011); *Duke Energy Shared Services, Inc., et al.*, 119 FERC ¶ 61,146 (2007); *Alliant Energy Corporate Services, Inc., et al.*, 123 FERC ¶ 61,155 (2008); *Montana-Dakota Utilities Company*, 126 FERC ¶ 61,121 (2009).



respect to QFs larger than 20 MW in the service territory of the Filing Members or interconnected to MRES's transmission system.

## II. COMMUNICATIONS AND CORRESPONDENCE

The following MRES representatives are to be added to the official service list in this proceeding and are the people to whom communications concerning this Application should be directed:<sup>10</sup>

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*\* Denotes person to be designated for service under the Commission's rules.*

## III. BACKGROUND

Pursuant to Section 210(m) of PURPA, as implemented pursuant to 18 C.F.R. § 292.309(a), an electric utility may petition the Commission to be exempted from its PURPA Purchase Obligation if certain conditions are met. Specifically, the Commission's regulations establish that an electric utility shall be relieved of its PURPA Purchase Obligation with respect

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<sup>10</sup> 18 C.F.R. § 292.310(d)(8) (2012).

to a QF if the Commission finds that the QF has nondiscriminatory access to one of three categories of wholesale power markets listed in 18 C.F.R. § 292.309(a), including:

- (1)(i) Independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and
- (ii) Wholesale markets for long-term sales of capacity and electric energy.<sup>11</sup>

Section 292.309(e) of the Commission's regulations provides that the:

*Midwest Independent Transmission System Operator (MISO), PJM Interconnection, L.L.C. (PJM), ISO New England, Inc. (ISO-NE), and New York Independent System Operator (NYISO) qualify as markets described in § 292.309(a)(1)(i) and (ii), and there is a rebuttable presumption that qualifying facilities with a capacity greater than 20 megawatts have nondiscriminatory access to those markets through Commission-approved open access transmission tariffs and interconnection rules, and that electric utilities that are members of such regional transmission organizations or independent system operators (RTO/ISOs) should be relieved of the obligation to purchase electric energy from the qualifying facilities. (emphasis added).*

Section 292.310 of the Commission's regulations sets forth the procedures that an electric utility must follow when petitioning the Commission for termination of the electric utility's PURPA Purchase Obligation. Among other things, the relevant utility must explain why PURPA Section 210(m), as implemented through 18 C.F.R. §§ 292.309 and 292.310, has been satisfied. If the relevant electric utility's petition is granted, then its PURPA Purchase Obligation is deemed relieved as of the date of the electric utility's submission of its petition to the Commission.<sup>12</sup>

#### **IV. APPLICATION**

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<sup>11</sup> 18 C.F.R. § 292.309(a)(1)(i) and (ii) (2012).

<sup>12</sup> Order No. 688-A at P 144("If the Commission finds that the requirements of section 210(m)(1) of PURPA have been met, then the purchase requirement for that utility ends as of the date of the PURPA petition.").



Pursuant to Section 292.310 of the Commission's regulations, each electric utility seeking termination of its PURPA Purchase Obligation is required to file an application explaining how it meets the conditions of Section 292.309(a), and to provide notice of the application to "potentially affected" QFs. Specifically, the application must demonstrate that the affected QFs within the applicant's service territory have non-discriminatory access to one of the wholesale markets described in Section 292.309(a) of the Commission's regulations. The electric utility must state whether it is relying on the rebuttable presumption adopted in Section 292.309(e) to support its application. Additionally, the electric utility must include in its application certain information on transmission studies and reports, including information relating to congestion, transmission availability, and interconnection.

MRES satisfies the requirements of PURPA Section 210(m)(1), as implemented through 18 C.F.R. §§ 292.309 and 292.310, for the reasons discussed herein. Consequently, MRES should be relieved of its PURPA Purchase Obligation within MISO with respect to QFs larger than 20 MW in the Filing Members' service territories or interconnected to MRES's transmission system, effective as of the date of this Application.

**A. MRES satisfies Section 292.309(a)(1) because of the participation of MRES in MISO**

Section 292.310 of the Commission's regulations requires an electric utility seeking relief from its PURPA Purchase Obligation to explain how it meets the conditions of Section 292.309(a)(1), (2), or (3). MRES meets the requirements for relief under Section 292.309(a)(1), as explained below.

Section 292.309(a) of the Commission's regulations provides that after August 8, 2005, an electric utility may be relieved of its PURPA Purchase Obligation if FERC finds that the QFs located in the electric utility's service territory have nondiscriminatory access to certain

wholesale markets, including MISO. Section 292.309(e) establishes a rebuttable presumption that QFs with capacity greater than 20 MW have nondiscriminatory access to MISO markets through the FERC-approved open access transmission tariff and interconnection rules of MISO. MRES seeks to rely on the rebuttable presumption contained in Section 292.309(e) to satisfy the conditions in Section 292.309(a)(1).

MRES is a MISO Transmission Owner and has transferred operational control over its transmission facilities to MISO.<sup>13</sup> Accordingly, MRES satisfies the criteria adopted in 18 C.F.R. § 292.309 for termination of its PURPA Purchase Obligation within MISO with respect to QFs larger than 20 MW in the service territory of the Filing Members or interconnected to MRES's transmission system. To serve its total load of approximately 313 MW of the 24 Filing Members located in the MISO footprint, MRES offers energy in the day ahead and real time markets and purchases energy in these same markets to serve its MISO member load. Thus, MRES is a full participant in, and depends on the MISO energy markets to the same extent that it proposes for QFs exceeding 20 MW under this Application.

As discussed above in Section I of this Application, the termination of the PURPA Purchase Obligation of MRES would be consistent with similar requests submitted by other MISO transmission owners that have been relieved of their PURPA Purchase Obligation.<sup>14</sup> Each of these entities relied on the rebuttable presumption set forth in Section 292.309(a) that MISO provides QFs larger than 20 MW with nondiscriminatory access to independently administered, auction-based day ahead and real-time markets for sale of electric energy, and to wholesale

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<sup>13</sup> See *Missouri River Energy Services, et al.*, *supra* note 8.

<sup>14</sup> See *Otter Tail Power Co.*, Letter Order, 140 FERC ¶ 62,229 (2012); *ALLETE, Inc.*, 138 FERC ¶ 61,108 (2012); *N. States Power Co.*, 136 FERC ¶ 61,093 (2011); *Duke Energy Shared Services, Inc., et al.*, 119 FERC ¶ 61,146 (2007); *Alliant Energy Corporate Services, Inc., et al.*, 123 FERC ¶ 61,155 (2008); *Montana-Dakota Utilities Company*, 126 FERC ¶ 61,121 (2009).

markets for long-term sales of capacity and electric energy. Consistent with this precedent, pursuant to Sections 292.309(a) and (e), MRES similarly should be relieved from its PURPA Purchase Obligation within MISO with respect to QFs larger than 20 MW in the service territory of the Filing Members or interconnected to MRES's transmission system.

**B. Transmission Studies and Related Information:**

Section 292.310(d)(3) of the Commission's regulations requires an applicant to submit certain transmission studies and related information when seeking to be relieved of its PURPA Purchase Obligation. MRES submits the following information to satisfy § 292.310(d)(3):<sup>15</sup>

(1) **Long-Term Transmission Planning:** The Commission's regulations require applicants to provide information about their long-term transmission planning, whether conducted by the applicant, regional transmission organization, independent system operator, or other relevant entity.<sup>16</sup> MRES is a MISO Transmission Owner; consequently, long-term transmission planning of MRES is conducted through the FERC-approved transmission planning process of MISO, including the MISO Transmission Expansion Process ("MTEP").

i. **MISO Planning:** A description of the planning processes of MISO, including a link to the MISO Transmission Expansion Plan 2012 ("MTEP12"), is available at:

<https://www.midwestiso.org/Planning?TransmissionExpansionPlanning?pages/TransmissionExpansionPlanning.aspx>.

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<sup>15</sup> In Order No. 688-A, the Commission confirmed that utility applicants may provide hyperlinks to relevant studies on the internet rather than submitting copies of documents attached to the applications for relief from PURPA Purchase Obligations. Order No. 688-A at P 112 ("We clarify, moreover, that an applicant can provide a hyperlink to the relevant studies, if available, rather than submitting complete studies and reports").

<sup>16</sup> See 18 C.F.R. § 292.310(d)(3)(i) (2012).

ii. **MTEP 2012:** The entire MTEP12 report is available online at:

<https://www.midwestiso.org/Library/Repository/Study/MTEP/MTEP12/MTEP12%20Report.pdf>.<sup>17</sup>

(2) **Transmission Constraints:** The Commission's regulations require applicants to provide information about known and anticipated transmission constraints on their respective transmission systems, as well as any proposed mitigation, including transmission construction plans.<sup>18</sup> As part of its transmission planning process, MISO and its stakeholders utilize a comprehensive planning approach, which includes performing various studies to identify transmission issues, such as transmission constraints, and evaluating projects in the context of addressing these issues. MTEP12 discusses MISO transmission constraints (*see* MTEP12, Sections 4 and 7 and Appendix D) and proposed mitigation plans, including construction (*see* MTEP12, Section 7 and Appendix A [projects that have been or are expected to be approved by the MISO Board of Directors]).

(3) **Congestion:** The Commission's regulations require applicants to provide information regarding the levels of congestion on their transmission systems, if available.<sup>19</sup> As part of the transmission planning process of MISO, MISO performs several congestion-based studies, which not only include in-depth analyses of the most congested flowgates in the MISO footprint, but also give careful consideration to identifying transmission investments that would be required to address chronic congestion. MTEP12 Section 7 and Appendix D include information related to MISO congestion-based studies.

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<sup>17</sup> The MISO Board of Directors approved MTEP 2012 at the December 13, 2012 board meeting.

<sup>18</sup> 18 C.F.R. § 292.310(d)(3)(ii) (2012).

<sup>19</sup> 18 C.F.R. § 292.310(d)(3)(iii) (2012).



(4) **System Impact Studies:** The Commission’s regulations require applicants to provide information concerning relevant system impact studies for the generation interconnections for the applicant’s transmission systems that are already completed.<sup>20</sup> Because MISO is the transmission provider for MRES for its load within the MISO footprint, all system impact studies for generation interconnections to the MRES transmission system are performed under the direction of MISO. Information on generation interconnections is available from MISO at: <https://www.midwestiso.org/Planning/GeneratorInterconnection/Pages/GeneratorInterconnection.aspx>. Relevant generation interconnection requests and system impact studies are listed in the table available through the link entitled, “Interactive Queue.” The relevant entries contain “MRES” in the “Transmission Owner” column of the table.

(5) **Available Transfer Capability and OASIS:** The Commission’s regulations require applicants to provide information pertinent to showing whether the applicant has available transfer capability (“ATC”), as well as a link to the applicant’s OASIS from which a QF may obtain the applicant’s ATC information.<sup>21</sup> MISO is the transmission provider for MRES for the 24 Filing Members. Information about available transmission capability can be found at MISO’s OASIS: <https://www.oasis.oati.com/MISO/index.html>.

### **C. Process for QFs to Arrange Transmission Service**

Section 292.310(d)(4) of the Commission’s regulations requires the applicant to describe the process, procedures, and practices that QFs interconnected to the applicant’s system must follow to arrange for transmission service to transfer power to purchasers other than the applicant.

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<sup>20</sup> 18 C.F.R. § 292.310(d)(3)(iv) (2012).

<sup>21</sup> 18 C.F.R. § 292.310(d)(3)(v)-(vi) (2012).

A QF directly interconnected to MRES or a Filing Member's system must follow MISO procedures for interconnecting and requesting transmission service to transfer power to purchasers other than MRES.

- The MISO generation interconnection page is available at:

<https://www.midwestiso.org/Planning/GeneratorInterconnection/Pages/GeneratorInterconnection.aspx>.

- The MISO OASIS is available at:

<https://www.oasis.oati.com/MISO/index.html>.

- The MRES OASIS is available at:

<https://www.oasis.oati.com/MRET/index.html>.

A QF seeking to transfer power directly to MRES over the Filing Member's distribution systems must follow MISO procedures for interconnection if the QF's total nameplate capacity is greater than the expected distribution system minimum load.

#### **D. Interconnection Agreements**

Section 292.310(d)(5) of the Commission's regulations requires that, if QFs will be required to execute new interconnection agreements or to renegotiate existing agreements so that they can effectuate wholesale sales to third-party purchasers, the applicant must explain the procedures for obtaining such new agreements; detail any applicable charges; and explain any differences in these two factors for QFs as compared to other generators or applicant-owned generation.

Any generator seeking to engage in wholesale sales to third-party purchasers must follow the procedures of MISO for interconnecting and requesting transmission service. The MISO generation interconnection page is available at:



<https://www.midwestiso.org/Planning/GeneratorInterconnection/Pages/GeneratorInterconnection.aspx>.

## **E. Notice to Potentially Affected QFs**

1. **Notice Requirements:** Sections 292.310(b) and (c) of the Commission's regulations provide that a utility seeking to terminate its PURPA Purchase Obligation must identify in its application all potentially affected QFs,<sup>22</sup> including names and addresses of such QFs, as well as certain other information.<sup>23</sup> As reflected in Attachment 3 to this Application, MRES has provided the information required by the Commission's regulations, or used due diligence to attempt to locate and provide the information required by the Commission's regulations, for each potentially affected QF that may be subject to this Application. To the extent docket information or other information is not included in Attachment 3, MRES seeks a waiver of the requirement to provide that information, as MRES has engaged in extensive efforts and gone to considerable lengths to gather the information required by the Commission's regulations. MRES also seeks a blanket waiver of the need to identify in Attachment 3 any QFs 1 MW or smaller. Two states in

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<sup>22</sup> 18 C.F.R. § 292.310(c)(1)-(5) defines all potentially affected QFs to include: "(1) Those qualifying facilities that have existing power purchase contracts with the applicant; (2) Other qualifying facilities that sell their output to the applicant or that have pending self-certification or Commission certification with the Commission for qualifying facility status whereby the applicant will be the purchaser of the qualifying facility's output; (3) Any developer of generating facilities with whom the applicant has agreed to enter into power purchase contracts, as of the date of the application ..., or are in discussion as of the date of the application filed pursuant to this section, with regard to power purchase contracts; (4) The developers of facilities that have pending state avoided cost proceedings, as of the date of the application ...; and (5) Any other qualifying facilities that the applicant reasonably believes to be affected by its application filed pursuant to 18 C.F.R. § 292.310(a) (2012)."

<sup>23</sup> Under 18 C.F.R. § 292.310(c) (2012), an electric utility seeking to terminate its PURPA Purchase Obligation must submit the following information in its application for each potentially affected QF: (1) the docket number assigned if the QF filed for self-certification or an application for Commission certification of QF status; (2) the net capacity of the QF; (3) the location of the QF depicted by state and county, and the name and location of the substation where the QF is interconnected; (4) the interconnection status of each potentially affected QF, including whether the QF is interconnected as an energy or a network resource; and (5) the expiration date of the energy and/or capacity agreement between the applicant utility and each potentially affected QF.

which MRES operates, Minnesota and North Dakota, have instituted net metering programs, a development which has contributed to the increased number of QFs in these states, especially smaller QFs. In Order No. 732, the Commission provided, on a generic basis, limited relief from the obligation to submit information in PURPA Section 210(m) applications about QFs that are 1 MW and smaller, recognizing that the filing utility may not possess the information required by 18 C.F.R. § 292.310.<sup>24</sup> Therefore, much of the information required by the Commission's regulations may not be publicly available for inclusion in this Application with respect to QFs that are 1 MW or less.

MRES will provide a copy of the Application to all potentially affected QFs listed in Attachment 3 and the state commissions listed in Attachment 5. Notice of the Application will be posted to the MRES OASIS.

**2. Garvin Wind Project:** On September 1, 2012, MRES received a letter from Ecos Energy, LLC ("Ecos") informing MRES that Ecos plans to construct a 20 MW wind facility near Garvin, MN. The facility will interconnect with Xcel Energy Inc. subsidiary Northern States Power Company at a new substation described in the G520 Large Generator Interconnection Agreement.<sup>25</sup> The facility is not located within any of the Filing Members' service territories. In its September 1 letter, Ecos indicated that it would like to negotiate a power purchase agreement with MRES for sale of power from the proposed facility. The facility was self-certified as a QF on February 15, 2011.<sup>26</sup> Except for the Garvin Wind project, MRES knows of no other potentially affected QFs.

#### **F. Signature of Authorized Individual**

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<sup>24</sup> Order No. 732, 130 F.E.R.C. ¶ 61,214, at P 41 n.36.

<sup>25</sup> MISO Project G520 Large Generator Interconnection Agreement (Oct. 17, 2011).

<sup>26</sup> See Garvin Wind, LLC Self-Certification, Docket No. QF11-140 (Feb. 15, 2011).

Section 292.310(d)(7) of the Commission's regulations requires applicants to provide the signature of an authorized individual evidencing the accuracy and authenticity of information provided by the applicant. MRES has provided the required signature and verification of Thomas J. Heller, Chief Executive Officer of Missouri River Energy Services, in Attachment 4 to this Application.

V. **CONCLUSION AND REQUEST FOR RELIEF**

WHEREFORE, for the foregoing reasons, MRES respectfully requests that the Commission grant this application to relieve MRES from its PURPA Purchase Obligation within MISO with respect to QFs with a capacity greater than 20 MW in the service territory of the Filing Members or interconnected to MRES's transmission system, effective July 23, 2013.

Respectfully submitted,

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Counsel to Missouri River Energy Services

Dated: July 23, 2013

**ATTACHMENT 1**

List of Filing Members

## Attachment 1

### Filing Members\*

<u>Iowa</u>	<u>North Dakota</u>	<u>South Dakota</u>	<u>Minnesota</u>
Pella	Cavalier Hillsboro Northwood	Big Stone City	Adrian Alexandria Barnesville Benson Breckenridge Detroit Lakes Elbow Lake Henning Jackson Lakefield Lake Park Melrose Ortonville St. James Sauk Centre Staples Wadena Westbrook Worthington

\*The Filing Members are members of Missouri River Energy Services that are located within the Midcontinent Independent System Operator (MISO) market area.

**ATTACHMENT 2**

Rules for Compliance with Federal Energy Regulatory Commission Order No. 69  
Cogeneration and Small Power Production



**RULES FOR COMPLIANCE  
WITH  
FEDERAL ENERGY REGULATORY COMMISSION ORDER NO. 69  
COGENERATION AND SMALL POWER PRODUCTION**

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1. Introduction
  - 1.1 The Public Utility Regulatory Policies Act of 1978 (PURPA), under Section 210, requires the Federal Energy Regulatory Commission (FERC) to develop rules which encourage Cogeneration and Small Power Production. Pursuant to Section 210, regulations have been prepared by FERC and published in the Federal Register (45 FR 12214, February 25, 1980). Missouri Basin Municipal Power Agency, d.b.a. Missouri River Energy Services ("Utility") and its member municipal utilities ("Member"), which are nonregulated electric utilities, will implement, to the extent possible, the procedures and requirements of FERC Order no. 69, pursuant to these rules.
  - 1.2 These rules apply to all entities willing and able to enter into an agreement with the Utility and its Members. Provisions of these rules shall not supersede existing contracts. Entities who have the status of "qualifying small power production facility" and/or "qualifying cogeneration facility" hereinafter referred to collectively as qualifying facility, pursuant to FERC Order No. 70 (45 FR 17959, March 20, 1980) are eligible to apply for service under these rules.
  - 1.3 These rules represent general guidelines since the nature, size, and character of qualifying facilities can vary widely. The Utility reserves the right to evaluate qualifying facilities on a case by case basis.
  - 1.4 The Utility is a wholesale supplier of power and energy to municipal Utilities; and as such, has no sales other than sales for resale. Qualifying facilities which seek to do business with the Utility shall interconnect with the Members, since the Utility has no sales for retail supplemental power, back-up power, maintenance power, and interruptible power.
2. Definitions: Terms as defined in Order No. 69 (18 CFR Part 292) shall have the same meaning for these rules unless further defined.
  - 2.1 Accredited Capacity: The electrical rating given to generating equipment that meets the Utility's criteria for uniform rating of generating equipment. This criteria includes, but is not limited to, reliability, availability, type of equipment, and the degree of coordination between the qualifying facility and the Utility.
  - 2.2 Capacity Costs: The costs associated with providing the capability to deliver

energy. They consist of the capital costs of facilities used to generate and transmit electricity or the cost to purchase such capacity from other utilities.

- 2.3 Demand: The average rate in kilowatts at which electric capacity is made available as determined at the point of measurement during any 30 minute period or any other period to be determined by the Utility.
  - 2.4 Energy: Electric energy as measured in kilowatt hours at the point of measurement.
  - 2.5 Energy Costs: The variable costs associated with the production of electric energy. They represent energy related cost only, or the average cost of purchased energy. Identifiable capacity charges included in purchased power agreements shall not be included in the calculation of the cost of purchased energy.
  - 2.6 Point of Measurement: The point or points where energy and/or demand are metered.
  - 2.7 Point of Interconnection: The point or points at which the qualifying facility is to receive and/or deliver energy or capacity and energy under normal operating conditions.
  - 2.8 Prudent Utility Practice: Any of the practices, methods, and acts engaged in, or approved by, a significant portion of the electrical utility industry consistent with reliability, safety, and expedition.
3. Conditions of Service: The conditions listed in this paragraph shall apply to all qualifying facilities served under these rules.
- 3.1 The Utility shall purchase energy or capacity and energy from any qualifying facility who offers to sell energy or capacity and energy.
  - 3.2 The Member interconnected with the qualifying facility shall sell any capacity and energy that is required by the qualifying facility to the qualifying facility. The qualifying facility shall be billed under the applicable residential, general, industrial, or contractual service schedule.
  - 3.3 The Member shall offer to provide maintenance, interruptible, supplementary, and back-up power to qualifying facility if requested by the qualifying facility.
  - 3.4 The qualifying facility shall execute written agreements with the Utility and the Member to be interconnected. The Utility reserves the right to waive this requirement. The waiving of this requirement by the Utility does not relinquish the Utility's right to require the execution of a written agreement in the future.
  - 3.5 The qualifying facility shall comply with all requirements of the National

Electrical Safety Code, American National Standards Institute, Institute of Electrical and Electronic Engineers, American Society of Mechanical Engineers, and any other applicable local, state, or national code and operate its equipment according to prudent utility practice. In case of any conflict in the foregoing codes or standards, the Utility shall decide which shall govern.

- 3.6 The Member shall interconnect in parallel with the qualifying facility. The qualifying facility shall, to the point of interconnection, furnish, install, operate, and maintain in good order and repair and without cost to the Utility or the Member such relays, locks and seals, breakers, automatic synchronizers, and other control and protective equipment as shall be designated by the Member as being required as suitable for the operation of the qualifying facility in parallel with the Member's system. The qualifying facility shall take appropriate steps to insure that operating in parallel will not degrade in any fashion the quality of service that is normally maintained on the Utility's or Member's systems.
- 3.7 Switching equipment capable of isolating the qualifying facility from the Member's system shall be assessable to the Member or its agent at all times.
- 3.8 At its option, the Member may choose to operate, without notice or liability, the switching equipment described in 3.6 and 3.7 above if, in the opinion of the Member or its agent, continued operation of the qualifying facility in connection with the Member's system may create or contribute to a system emergency or safety hazard. The Utility's obligation to purchase from the qualifying facility ceases when the Member or its agent operates the switching equipment described in 3.6 and 3.7 above. The Utility and the Member shall endeavor to minimize any adverse effects of such operation on the qualifying facility.
- 3.9 The qualifying facility shall indemnify and hold harmless the Member and the Utility from any and all liability arising from the operation and interconnection of the customer's facilities. The qualifying facility shall bear full responsibility for the installation and safe operation of the equipment required to generate and deliver energy or capacity and energy to the point of interconnection.
- 3.10 The Utility shall provide, upon request, sufficient data to allow the customer to determine the cost effectiveness of the qualifying facility if it goes into operation pursuant to these rules. The data given will conform to the outline given in § 292.302 (Order no. 69 - 45 FR Part 292).
- 3.11 Any costs of interconnection incurred by the Utility or the Member due to the interconnection of the qualifying facility, which are over and above the interconnection costs that would be incurred due to the connection of a comparable non-generating customer, shall be the responsibility of the qualifying facility. Interconnection cost may be amortized over a period of time not greater than the length of the contract between the Utility and the qualifying facility.

- 3.12 The Utility may discontinue purchase from the qualifying facility if the Utility determines that purchase from the qualifying facility would result in cost greater than those which the Utility would incur if it did not make such purchases.
- 3.13 The Utility will give sufficient notice to the qualifying facility when it intends to invoke paragraph 3.12.
- 3.14 The Member may discontinue sales to the qualifying facility during a system emergency, providing that such discontinuance is on a nondiscriminatory basis.
- 3.15 By mutual agreement between the Utility and the qualifying facility, the Utility will transmit or arrange for the transmission of energy or capacity and energy to another utility for purchase by that utility. The Utility shall be fairly compensated for such transmission.
- 3.16 The qualifying facility shall provide an advance payment to the Utility if in the opinion of the Utility or the Member, as appropriate, the costs of interconnection will be excessive and/or the amount of work that must be done by the Member to provide the interconnection facilities will be excessive.
- 3.17 The Utility and the Member reserve the right to approve, inspect, and test the qualifying facility's generating equipment and all associated equipment.

#### 4. Rates for Sales

- 4.1 The Utility shall purchase the surplus energy or surplus capacity and energy from qualifying facilities in which construction was commenced on or before November 8, 1978. The rate paid by the Utility to the qualifying facility for such surplus energy or surplus capacity and energy shall be a negotiated rate.
- 4.2 Qualifying facilities of 100 kW or less shall be paid a standard rate, except as otherwise stated in 4.1, based on avoided cost as outlined in 4.4 and 4.5. The installation of metering equipment shall be according to Utility policy.
- 4.3 For qualifying facilities of 100 kW or more, the qualifying facility may negotiate a contract with the Utility. For qualifying facilities who choose not to negotiate, or in the event of an impasse in negotiations between the Utility and the qualifying facility, avoided costs will be paid. Such avoided costs shall be determined as outlined in 4.4 and 4.5, except as otherwise stated in 4.1.
- 4.4 Avoided energy costs shall be the estimated or actual energy costs adjusted for the following items:
  - A. The costs or savings to the Utility resulting from variations in line losses from those that would have existed in the absence of purchase from the

qualifying facility, if the Utility generated or purchased an equivalent amount of energy.

- B. Sanctions imposed for noncompliance with these rules and any contract between the Utility and the qualifying facility.

4.5 Capacity payments shall be made only in those periods of time in which the Utility is able to avoid capacity purchases and the qualifying facility enters into a legally enforceable contract to provide accredited capacity. The payment for the capacity purchase from the qualifying facility shall reflect the cost of the Utility's alternate source of capacity of similar capability. The capacity payments shall take into account the following items of information.

- A. Length of the contract term.
- B. Reasonable scheduling of maintenance.
- C. Willingness and ability of the customer to allow the Utility to dispatch the customer's generation.
- D. The Utility's ability to defer a purchase from another source or to defer construction of a facility or a portion of a facility.
- E. Sanctions imposed for noncompliance with these rules and any contract between the Utility and qualifying facility.
- F. Availability and reliability of the qualifying facility.

4.6 In the event of the imposition of any tax or payment in lieu thereof on the Utility by any lawful authority on the production, transmission, sale, or purchase of energy or capacity and energy that would not occur due to a comparable non-generating customer, such tax or payment shall be the responsibility of the qualifying facility.

**ATTACHMENT 3**

List of Potentially Affected QFs  
18 C.F.R. § 292.310(c)



**Attachment 3**  
**List of Potentially Affected QFs**

<b>Facility Name</b>	<b>FERC Docket Number</b>	<b>Net Capacity (MW)</b>	<b>County</b>	<b>State</b>	<b>Substation for Interconnection</b>	<b>Energy or Network Resource</b>	<b>Expiration Date of Energy/Capacity Agreement</b>	<b>Address (including contact name)</b>
Garvin Wind, LLC*	QF11-140	20 MW	Lyon	MN	New substation tapping Lake Yankton- Lyon County 115 kV line	ER	NA	Thomas Melone Garvin Wind, LLC c/o Allco Renewable Energy Limited 14 Wall Street, 20th Floor New York, New York 10005

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\* From the understanding of MRES, Garvin Wind, LLC has entered into shared facilities arrangements with entities with pending MISO generator interconnection request no. G520 in the MISO generator interconnection queue.

**ATTACHMENT 4**

Signature and Verification of Authorized Individuals  
18 C.F.R. § 292.310(d)(7)

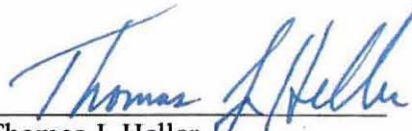
UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Missouri River Energy Services

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Docket No. QM13-\_\_

I, Thomas J. Heller, being first duly sworn, attest that I am the Chief Executive Officer of Missouri River Energy Services and I have the authority to execute this verification, as required by 18 C.F.R. §292.310(d)(7). I have read the foregoing Application of Missouri River Energy Services on behalf of itself and Twenty-Four of its Members to Terminate Mandatory PURPA Purchase Obligation, and I affirm that the facts, representations and statements set forth therein are true and accurate to the best of my knowledge, information, and belief.



Thomas J. Heller  
Chief Executive Officer  
Missouri River Energy Services

Subscribed and sworn to before me  
this 9<sup>th</sup> day of July 2013.



Notary Public



My commission expires: 04/06/18

**ATTACHMENT 5**

List of State Commissions

## Attachment 5

### State Commissions

Mr. Darrell Nitschke  
Director of Administration/ Executive  
Secretary  
North Dakota Public Service Commission  
State Capitol  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0165  
Email: [dnitschk@nd.gov](mailto:dnitschk@nd.gov)

Dr. Burl Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
Metro Square, Suite 350  
121 7<sup>th</sup> Place East  
St. Paul, MN 55101-2147  
Email: [Burl.Haar@state.mn.us](mailto:Burl.Haar@state.mn.us)

Ms. Patty Van Gerpen  
Executive Secretary  
South Dakota Public Utilities Commission  
State Capitol Building, 1st Floor  
500 East Capitol Avenue  
Pierre, SD 57501  
Email: [patty.vangerpen@state.sd.us](mailto:patty.vangerpen@state.sd.us)

Ms. Joan Conrad  
Executive Secretary  
Iowa Utilities Board  
1375 East Court Avenue, Room 69  
Des Moines, IA 50319-0069  
Email: [Joan.Conrad@iub.iowa.gov](mailto:Joan.Conrad@iub.iowa.gov)

### FERC

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