

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Midwest Independent Transmission System Operator, Inc.	Docket Nos. ER04-691-026 ER04-691-027 ER04-691-028
Public Utilities With Grandfathered Agreements in the Midwest ISO Region	Docket Nos. EL04-104-025 EL04-104-026 EL04-104-027

ORDER ON REHEARING AND COMPLIANCE FILINGS

(Issued May 6, 2005)

1. In an order dated August 6, 2004, the Commission approved the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed Transmission and Energy Markets Tariff (TEMT), which has allowed the Midwest ISO to initiate Day 2 operations in its 15-state region.¹ The Midwest ISO's Day 2 operations include, among other things, day-ahead and real-time energy markets and a financial transmission rights (FTR) market for transmission capacity. These markets incorporate the major features used successfully in three eastern ISOs – PJM Interconnection, L.L.C.

¹ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (TEMT II Order), *order on reh'g*, 109 FERC ¶ 61,157 (2004) (TEMT II Rehearing Order), *order on reh'g*, 111 FERC ¶ 61,043 (2005) (Compliance Order III). The TEMT contemplates that all services provided pursuant to its terms and conditions will be provided by a Transmission Provider. In turn, the TEMT defines "Transmission Provider" as the Midwest ISO or any successor organization. *See* Module A, section 1.320, Original Sheet No. 133. For clarity, we will refer to the Midwest ISO wherever the TEMT refers to the Transmission Provider.

(PJM), New York Independent System Operator, Inc. (NYISO) and ISO New England (ISO-NE). In order to address the Midwest ISO's unique features, the TEMT II Order required the Midwest ISO to implement specific safeguards at market start-up and for a transition period.

2. On December 1, 2004, the Midwest ISO filed the third in a series of compliance filings that the TEMT II Order required it to make prior to energy market start-up. The Commission ruled on that filing on January 21, 2005,² and required the filing of additional provisions. The Midwest ISO made compliance filings on February 23, 2005 and March 7, 2005.

3. Today's order accepts certain proposed revisions to the TEMT that relate to the Midwest ISO plan to cut over to decentralized power system operations in the event of failure of Day 2 market operations (Reversion Plan) and the trading deadline for the day-ahead energy market. Additionally, this order addresses a request for rehearing of Compliance Order II. This order benefits customers because it provides additional guidance and clarification to the Midwest ISO and its stakeholders regarding the details of the Midwest ISO's Day 2 energy market operations.

I. Background

4. The TEMT II Order accepted and suspended the proposed TEMT and permitted it to become effective March 1, 2005, subject to conditions and further orders. The Commission also accepted certain tariff sheets (pertaining to FTRs) to be effective on August 6, 2004, subject to conditions and further order. In order to address the Midwest ISO's unique features, such as the fact that it lacks experience operating as a single power pool and has only a short period of experience operating under a single reliability framework, the Commission ordered the Midwest ISO to implement additional safeguards to ensure additional protections for wholesale customers during startup and transition to fully-functioning Day 2 energy markets. Separately, the Commission analyzed the grandfathered agreements (GFAs) that will be effective in the Midwest ISO region past the time of energy-market startup, and divided them into categories with differing consequences for their treatment in the energy markets.³ In an order issued

² *Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,049 (2005) (Compliance Order II).

³ *See Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 (2004) (GFA Order).

February 17, 2005, the Commission granted the Midwest ISO's motion to change the effective date of the TEMT to April 1, 2005.⁴

5. The Commission has accepted, subject to modification, the Midwest ISO's first three filings to comply with the TEMT II Order. Compliance Order I addressed the first two of those filings, which, *inter alia*: (1) proposed to revise the TEMT to eliminate Michigan-specific energy imbalance provisions; (2) developed tariff language for market startup safeguards; (3) modified the FTR allocation process; (4) made new proposals for automatic market power mitigation and control area mitigation; and (5) revised various other aspects of the TEMT.⁵ The Midwest ISO was required to make further filings to comply with Compliance Order I, which the Commission subsequently ruled on.⁶

6. Compliance Order II, which was issued on January 21, 2005, accepted: (1) proposed rules providing for corrective measures in the event of a temporary inability to calculate accurate market prices; (2) a proposed plan for cutover to decentralized power system operations in the event of a serious failure of the Day 2 energy market operations; (3) an update on the Midwest ISO's effort to adjust the day-ahead energy trading deadline from 0900 Eastern Standard Time (EST) to 1100 EST, and (4) a Readiness Advisor Verification Plan.

7. The Midwest ISO was required to make further filings to comply with Compliance Order II, and those filings are addressed in this order. Cinergy Services, Inc. (Cinergy) filed a request for rehearing of Compliance Order II.

II. Compliance Filings

8. On February 23, 2005, the Midwest ISO made a compliance filing (February 23 Filing) responding to requirements of Compliance Order II. The compliance filing includes: (1) clarifications and revisions to the proposed Reversion Plan; (2) results of the Reversion Plan Test; and (3) an update on the Midwest ISO's effort to adjust the day-

⁴ *Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,169 (2005).

⁵ Most of these changes were proposed in a Midwest ISO compliance filing dated October 5, 2004 (October 5 compliance filing).

⁶ *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,053 (2005) (Compliance Order IV).

ahead energy trading deadline from 0900 EST to 1100 EST.⁷ The Midwest ISO requests that the proposed tariff sheets included in its compliance filing become effective on April 1, 2005, which was the energy market start-up date.

9. On March 7, 2005, the Midwest ISO made a further compliance filing (March 7 Filing), responding to the requirements of Compliance Order II, to move the trading deadline for the day-ahead energy market from 0900 EST to 1100 EST. The Midwest ISO requested that the proposed tariff sheets included in its compliance filing become effective March 24, 2005.

10. Notice of the Midwest ISO's February 23 Filing was published in the *Federal Register*, 70 Fed. Reg. 11,002 (2005) with interventions and protests due on or before March 16, 2005. Notice of the March 7 Filing was published in the *Federal Register*, 70 Fed. Reg. 13,023 (2005), with interventions and protests due on or before March 28, 2005. American Transmission Company LLC (ATCLLC) filed comments on the February 23 Filing. The Midwest Transmission Dependent Utilities (Midwest TDUs)⁸ filed comments on the March 7 Filing, and Wisconsin Electric Power Company (WEPCO) filed a protest. Cinergy filed an emergency motion to shorten the comment period for the March 7 Filing and alternatively requested an expedited order setting the effective date for that filing. FirstEnergy Service Company (FirstEnergy) filed comments in support of that motion.

III. Discussion

A. Procedural Matters

11. Cinergy filed a motion requesting a shortened comment period on the issue of changing the day-ahead trading deadline and urged the Commission to grant the Midwest ISO's request to make that change effective as of March 24, 2005, but no later than March 29, 2005. Alternatively, Cinergy requested that the Commission issue an

⁷ The filing also includes an explanation of tariff provisions applicable to price correction procedures that complies with Compliance Order II.

⁸ The Midwest TDUs are: Great Lakes Utilities, Indiana Municipal Power Agency, Lincoln Electric System, Madison Gas and Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, Upper Peninsula Transmission Dependent Utilities and Wisconsin Public Power Inc.

expedited order setting March 7, 2005 as the effective date for the proposed tariff sheets. FirstEnergy filed comments in support of Cinergy's motion.

12. In consideration of the fact that the Midwest ISO changed the day-ahead trading deadline prior to energy market start-up, as indicated in the March 7 Filing and discussed further below, we see no need to address Cinergy's motion. Accordingly, the motion is dismissed.

B. Reversion Plan

1. Background and Compliance Filing

13. The Reversion Plan approved by the Commission in Compliance Order II defines the process for operating the Midwest ISO's generation and transmission system during a loss of market operations due to failure of the unit dispatch system. In normal real-time operating conditions, the unit dispatch system executes a solution – a set of dispatch instructions – every 5 minutes or when prompted by the independent system operator. If the Midwest ISO were to experience a loss of the dispatch system during the initial start-up phase of the Day 2 energy markets, the Reversion Plan outlines how reliable operations will be maintained through suspension of the locational marginal pricing (LMP)-based Day 2 markets and reversion back to a Control Area-centric Day 1 market. The TEMT II Order required the Midwest ISO to keep the Reversion Plan in place until a four-week window of Day 2 market operations has elapsed without the need to revert to Day 1 operations.⁹

14. The Reversion Plan is divided into three phases. Phase I begins when the Midwest ISO determines that there has been a failure of the unit dispatch system and notifies each reliability coordinator, transmission operator, balancing authority and market participant through a conference call that a failure of the unit dispatch system has been detected and that they should prepare to revert to Day 1 operations. Under Phase II of the Reversion Plan, the LMP market will be suspended and Day 1 operations will begin with converted market flows to bilateral transactions for one hour of operation. During Phase III, the system will operate under the Day 1 framework as it existed prior to the implementation of the TEMT. When market systems return to acceptable operating conditions after the start of Phase III, the discretion to return to Day 2 market operations will reside with the

⁹ In addition, the Commission required that if the Reversion Plan is activated, the four-week window will begin upon the restart of the Midwest ISO Day 2 operations. *See* TEMT II Order at P 58.

Midwest ISO and will be based on the stability of market tools, the reliability of the system, and the ability to safely transition back to market operation of the systems.

15. In response to requirements of Compliance Order II, the Midwest ISO in the February 23 Filing clarified, in some cases with revised provisions: (1) how prices are corrected when the Reversion Plan is in effect; (2) the parameters of the required four-week window of continuous operations that are reset only if Phases II and III of the Reversion Plan are activated; (3) how market flows will be converted to bilateral transactions; (4) how transactions are settled during Phase II; and (5) the operation of the Open Access Same-Time Information System (OASIS) during Phase III.

16. The Midwest ISO also explained in the February 23 Filing how market participants purchase or sell energy and arrange transmission service during the Reversion Plan, how internal transactions are allocated among multiple market participants in a balancing authority, how internal transactions are settled as inadvertent energy and the impact on contracting during the Reversion Plan period, and the financial and scheduling rights of control area operators. Finally, the Midwest ISO added provisions to require that the Midwest ISO communicate an order to return to Day 2 operations, to clarify that market participants will be given appropriate time to return to Day 2 market operations and to specify that full consideration will be given to all relevant system operating conditions so that the transition will be timely and as risk-averse as possible for market participants.

17. The Midwest ISO reports in the February 23 Filing that it held a successful test of the Reversion Plan with stakeholders on February 11, 2005 and, based on the test results, that it proposes to make clarifying revisions to the Reversion Plan provisions.

2. Comments

18. ATCLLC contends that section 8.5 of the Reversion Plan must be modified to permit ATCLLC to continue to engage in generation redispatch in the event the Midwest ISO reverts to Day 1 operations. According to ATCLLC, the Reversion Plan as filed is incomplete and does not provide a basis for safe and reliable operation of ATCLLC's transmission facilities in the event of reversion to Day 1 operations. Therefore, argues ATCLLC, the Reversion Plan must be expanded to include ATCLLC as a participant in the provision of "legacy systems" in order for reliable energy deliveries to continue in the event the Midwest ISO reverts to Day 1 operations.

19. ATCLLC explains that, from the beginning of the existence of the Midwest ISO, in the event of a transmission system constraint ATCLLC has coordinated reliability

redispatch of generation that cannot be provided by any balancing authority, control area operator or other market participant in its footprint.¹⁰ In the event that a constraint results in a transmission line-loading relief (TLR) event warranting redispatch during either Phase II or Phase III of the Reversion Plan, ATCLCC states it is the only entity able to perform coordinated reliability redispatch.¹¹ ATCLCC argues the redispatch function is especially critical in the ATCLLC area, which is a narrowly- constrained market subject to significant congestion.

20. ATCLLC cites to a clarification by the Midwest ISO that the interconnection agreement between WEPCO and ATCLLC will control with respect to redispatch of WEPCO's generating facilities¹² and states that the Midwest ISO has never sought to replace its withdrawn application to provide redispatch services utilizing Attachment K.

21. For the foregoing reasons, ATCLLC proposes to revise section 8.5 of the Reversion Plan as noted in brackets:

Section 8.5. Market Participants [or other generators interconnected to the transmission system] may purchase or sell energy, for transmission service via OASIS per Day 1 processes, or [under any applicable accepted Attachment K (Congestion Management) provision,] and create NERC tags for the purpose of meeting load, congestion, [including TLRs,] and reserve requirements.[¹³]

22. ATCLLC argues that if the Reversion Plan is not modified as it requests then an entirely new congestion management arrangement would need to be created for each TLR situation, thereby adding a level of confusion. ATCLLC requests that this modification be made effective prior to April 1, 2005.

¹⁰ According to ATCLLC, it is a transmission-only company that connects the generation and distribution loads of five balancing authorities.

¹¹ ATCLLC also claims it has arrangements to provide Day 1 legacy functions in five "must run" arrangements to provide energy to maintain the reliable operation of the transmission system. *See* ATCLLC at 4.

¹² *Midwest Independent Transmission System Operator, Inc.*, 101 FERC ¶ 61,174 (2002).

¹³ "NERC" refers to the North American Electric Reliability Council.

3. Discussion

23. We note that the Reversion Plan is no longer effective, since the Midwest ISO has operated its energy markets for more than four weeks without the need to revert to Day 1 operations. Therefore, there is no need to rule on the issues raised by ATCLLC because the issues it raises have become moot.

24. We find the Midwest ISO's proposed revisions to the Reversion Plan and completion of Reversion Plan testing are in compliance with the requirements of Compliance Order II.

B. Trading Deadline for the Day-Ahead Energy Market

1. Background

25. Compliance Order II required the Midwest ISO to file a report that detailed progress towards changing its day-ahead market trading deadline from 0900 EST to 1100 EST, which is the trading deadline for PJM, and to commit to a date by which the Midwest ISO expects to conform its trading deadline to PJM's. That order also directed the Readiness Advisor to submit its evaluation of progress, to be included in the compliance report.¹⁴

2. Request for Rehearing

26. Cinergy argues the Commission erred by not setting parameters for establishing an appropriate date for compliance and not specifying what the Midwest ISO should do in the alternative if such a date is not met. Cinergy asks the Commission to determine that the Midwest ISO should conform to an 1100 EST trading deadline by the firm date of April 1, 2005, or, alternatively, to instruct the Midwest ISO to adopt a delayed posting deadline.

27. Cinergy contends the 0900 EST trading deadline reduces the liquidity of the market, inflicts uncertainty and unnecessary complications throughout the eastern energy market, creates a commercially unreasonable environment for existing bilateral option contracts, deters new bilateral contracting, increases the volume of transactions in the real-time market, delays the establishment of a joint and common market with PJM,

¹⁴ See Compliance Order II at P 53. The Readiness Advisor is SAIC, a contractor the Midwest ISO retained for the purpose of assessing the functionality of the energy markets prior to start-up.

imposes unjust and unreasonable costs and operating burdens on market participants and unduly discriminates against energy suppliers based on their location or their participation in multiple markets.

28. Cinergy asserts that the Midwest ISO has been aware of the need to move its trading deadline for over a year. Furthermore, according to Cinergy, the Midwest ISO originally committed to implement an 1100 EST deadline on September 26, 2004, a date that has come and gone but the trading deadline still remains the same. The Commission response in Compliance Order II was to merely state that it expects the Midwest ISO to meet this objective soon, states Cinergy, and Cinergy urges the Commission to set a firm date of April 1, 2005 to adopt an 1100 EST deadline.

29. If the Midwest ISO is unable to make this change because it cannot perform the Security Constrained Unit Commitment quickly enough to post day-ahead trading results by 1500 EST, then Cinergy urges the Commission to permit the Midwest ISO to delay posting day-ahead results until 1700 EST, as necessary, for up to 30 days after the start of the market. Cinergy claims this alternative is less disruptive to the market than a trading deadline that is too early, and that the delay in the market start-up until April 1, 2005 provides ample time to implement the alternative.¹⁵

3. Compliance Filings and Responsive Pleadings

30. In the February 23 Filing the Midwest ISO states that it will use the 1100 EST trading deadline in its final trials that start on February 25, 2005. Upon successful completion of final trials, the Midwest ISO proposes to file the necessary changes to the TEMT to affect the permanent move of the trading deadline to 1100 EST.

31. In the March 7 Filing the Midwest ISO states that it can reliably move the trading deadline to 1100 EST. The Midwest ISO proposes revisions to the TEMT that implement the following timeline.

- 1100 EST Trading deadline for day-ahead energy market
- 1700 EST Posting of day-ahead energy market results

¹⁵ See *Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,169 (2005) (granting the Midwest ISO motion to delay energy market start-up from March 1, 2005 until April 1, 2005).

- 1700 – 1800 EST Offer submission period for the RAC¹⁶
- 2000 EST RAC unit start instructions sent

32. The Midwest ISO states that the timeline has been implemented successfully in the final, mandatory trials and has been communicated to market participants as the timeline that will be in effect upon implementation of the day-ahead energy market.

33. Midwest TDUs respond that, while the Midwest ISO should reduce solution times in order to post results as soon as possible, it must also address the at least one-day delay in mitigating market power exercise in the day-ahead market. Midwest TDUs cite to the Independent Market Monitor (IMM) January 6, 2005 compliance filing and express concern that the IMM will not present an alternative mitigation plan until July 15, 2005. Recognizing the Midwest ISO is making progress reducing the run-time of its software and finding 1700 EST results-posting to be acceptable, Midwest TDUs renew their request that the IMM implement automated or expedited manual mitigation as soon as possible. Midwest TDUs argue the Commission should require the Midwest ISO and the IMM to report no later than June 1, 2005 on progress made in reducing solution times and how the resulting performance gains will allow implementation of automated or expedited manual mitigation. Midwest TDUs also urge that an earlier posting time should be pursued as well, provided it can be achieved without sacrificing timely day-ahead mitigation.

34. WEPCO argues the Midwest ISO has failed to take this opportunity to alleviate the seam that it has created by not adopting Eastern Prevailing Time, which is the time standard used by PJM. By holding to a year-round Eastern Standard Time, the Midwest ISO time standard is not synchronized with the PJM market from April through October, which is a less than optimal result according to WEPCO. Therefore, WEPCO requests that the Midwest ISO be directed to work with stakeholders to resolve this issue.

4. Discussion

35. Since the Midwest ISO has changed its trading deadline, in the March 7 Filing, we believe Cinergy's concerns have been addressed and therefore we deny the request for rehearing.

36. We accept the proposed tariff sheets that change the trading deadlines. The Midwest ISO has met the Commission's goal, stated in previous orders, to conform its

¹⁶ RAC refers to the Reliability Assessment Commitment process.

trading deadlines to the PJM deadline, and market efficiency should improve as a result. While Midwest TDUs urge the Commission to require rapid implementation of both automated mitigation and reduced posting deadlines, we recognize that the Midwest ISO must prioritize its software development efforts. Inasmuch as the Commission has already indicated its desire that the Midwest ISO implement automated mitigation as soon as possible in another proceeding,¹⁷ the Commission has indicated its priority and therefore we will not require additional progress reports on posting deadlines as well. We believe our emphasis on automated mitigation and the Commission's requirement for a June 1, 2005 progress report on automated mitigation addresses Midwest TDUs' primary concern that automated mitigation be implemented as soon as possible.

37. WEPCO has raised the same issue regarding time standards in another proceeding, and in that proceeding we directed the Midwest ISO to make an informational filing detailing its progress and expected implementation schedule for a new time standard.¹⁸ We will accept the Midwest ISO's proposal to use EST as an interim solution.

The Commission orders:

The Midwest ISO's compliance filings are hereby accepted subject to the revisions described in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

¹⁷ See Compliance Order III at P 86.

¹⁸ See Compliance Order IV at P 183.