

110 FERC ¶ 61,049
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission
System Operator, Inc.

Docket No. ER04-691-011

Public Utilities With Grandfathered Agreements
in the Midwest ISO Region

Docket No. EL04-104-010

ORDER ON COMPLIANCE FILING

(Issued January 24, 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, when implemented, will allow the Midwest ISO to initiate Day 2 operations in its 15-state region.¹ The Midwest ISO's Day 2 operations will 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 ISO's – PJM Interconnection, L.L.C. (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 and confidence-building measures at market start-up and for a transition period.

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), *reh'g pending*. 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.

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 Midwest ISO requests that the proposed tariff sheets included in its compliance filing become effective on March 1, 2005, which is the energy market start-up date.

3. Today's order requires the Midwest ISO to specify in more detail its plan to cut over to decentralized power system operations in the event of failure of Day 2 market operations as it refines these procedures in its testing program. Additionally, we will require that the Midwest ISO update the Commission on its progress toward conforming its day-ahead energy market trading deadline to the PJM energy market deadlines. Finally, we will approve all the major elements of the price correction procedures in the event of software flaws, systemic equipment malfunction or outages and we will accept the Midwest ISO Readiness Advisor Verification Plan because it complies with the requirements of the TEMT II Order. Our 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. On December 20, 2001, the Commission found that the Midwest ISO's proposal to become a Regional Transmission Organization (RTO) satisfied the requirements of Order No. 2000,² and thus granted the Midwest ISO RTO status.³ The Commission also determined that the Midwest ISO's proposal for congestion management was a reasonable initial approach to managing congestion that satisfied the requirements of Order No. 2000 for Day 1 operation of an RTO, but directed it to develop a market-based approach to manage congestion to satisfy the requirements for Day 2 operations under Order No. 2000.

² *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (2000), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Feb. 25, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd*, *Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

³ *Midwest Independent Transmission System Operator, Inc.*, 97 FERC ¶ 61,326 (2001) (RTO Order), *reh'g denied*, 103 FERC ¶ 61,169 (2003).

5. Subsequently, the Midwest ISO filed a petition for declaratory order – the culmination of over a year of stakeholder discussions⁴ – that sought the Commission’s endorsement of the general approach represented in three proposed market rules (Market Rules). The Market Rules proposed in the filing would provide for: (1) a security-constrained, centralized bid-based scheduling and dispatch system (*i.e.*, day-ahead and real-time market rules); (2) FTRs for hedging congestion costs; and (3) market settlement rules. The Commission approved the general direction of the Midwest ISO’s proposals, reserving judgment on some issues and providing guidance on others.⁵

6. On July 25, 2003, the Midwest ISO filed a proposed TEMT pursuant to section 205 of the FPA (July 25 Filing). The July 25 Filing included terms and conditions necessary to implement a day-ahead energy market, a real-time energy market and FTRs. The July 25 Filing met with numerous protests, many of which alleged that the filing was incomplete and premature. Following a stakeholder vote, the Midwest ISO filed a motion to withdraw the proposed TEMT, but it requested “any and all guidance the Commission can give the Midwest ISO and its stakeholders on the matters presented in the July 25th Filing.”⁶

7. The Commission granted the Midwest ISO’s motion to withdraw the July 25 Filing and provided, on an advisory basis, guidance on a number of issues raised in that filing.⁷ The Commission stated in the TEMT I Order that it expected its guidance to better enable the Midwest ISO to prepare and file a complete version of the TEMT or a similar proposal. The Commission instructed the Midwest ISO to include five elements in its revised energy markets filing: (1) a *pro forma* System Support Resource Agreement; (2) a marginal loss crediting mechanism; (3) a methodology for initial FTR allocations; (4) creditworthiness provisions; and (5) market mitigation measures.

⁴ See Doying testimony at 4 (March 31, 2004).

⁵ *Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,196 (Declaratory Order), *order on reh’g*, 103 FERC ¶ 61,210 (2003) (Declaratory Order Rehearing).

⁶ Motion to Withdraw Without Prejudice the July 25 Energy Markets Tariff Filing at 5, Docket No. ER03-1118-000 (Oct. 17, 2003).

⁷ *Midwest Independent Transmission System Operator, Inc.*, 105 FERC ¶ 61,145 (2003) (TEMT I Order), *reh’g dismissed*, 105 FERC ¶ 61,272 (2003).

8. The Midwest ISO filed a revised TEMT on March 31, 2004 (March 31 Filing), raising an issue that will be important to the operation of the proposed energy markets. The Midwest ISO stated in its transmittal letter, and through the testimony of two witnesses, that it would be unable to operate its energy markets without integrating an estimated 300 pre-OATT GFAs that are currently effective in the Midwest ISO region. It also concluded that up to 40,000 megawatts of transmission service – about 40 percent of total load in the region⁸ – was likely to be associated with the GFAs.⁹ The Midwest ISO argued that allowing holders of GFAs scheduling rights similar to their current practice would require a physical reservation, or carve-out, of transmission capacity in the day-ahead energy market and until the scheduling deadline prior to real-time dispatch. It stated that this “cannot be accomplished without negatively impacting the Midwest ISO’s ability to reliably operate the Energy Markets and without placing excessive financial burden on other Market Participants.”¹⁰

9. In an order issued May 26, 2004, the Commission gave an initial response to the threshold GFA issue.¹¹ The Commission explained that “the development of the Midwest ISO as an RTO has reached a point at which the Commission must examine the potential conflict between our desire to preserve the GFAs and our instructions that the

⁸ The Midwest ISO stated that, after reviewing all of the contracts listed in Attachment P of the OATT, the specific details of the contracts, such as usage, scheduling requirements and megawatt quantity or capacity, were not readily apparent on the face of some of the contracts. The Midwest ISO added, however, that about half the contracts had a specific megawatt value associated with them, and that in the aggregate those contracts accounted for approximately 20,000 megawatts of capacity. The Midwest ISO projected that the remaining half of the GFAs were likely to be associated with a similar number of megawatts.

⁹ The Midwest ISO’s analysis assumed a peak capacity of 97,000 megawatts. See McNamara testimony at 84 n.5 (March 31, 2004).

¹⁰ Midwest ISO Transmittal Letter at 9 (March 31, 2004).

¹¹ *Midwest Independent Transmission System Operator, Inc.*, 107 FERC ¶ 61,191 (2004), *reh’g pending* (Procedural Order).

Midwest ISO should develop a market-based system of congestion management.”¹² The Commission identified a need for further information about the GFAs and a desire to better understand how the GFAs and the proposed energy markets would affect one another. Accordingly, the Commission initiated an investigation, under section 206 of the FPA, of the GFAs “to decide whether GFA operations can be coordinated with energy market operations, whether and to what extent the [Transmission Owners] should bear the costs of taking service to fulfill the existing contracts and whether and to what extent the GFAs should be modified.”¹³

10. The Commission issued two orders addressing the merits of the March 31 Filing. The first of these – 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 on GFAs and Schedules 16 and 17 of the Midwest ISO Tariff.¹⁴ The Commission also accepted certain tariff sheets to be effective on August 6, 2004, subject to conditions and further order on GFAs. 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.

¹² *Id.* at P 65. *See also* Declaratory Order at P 29-32, 64 (“We continue to believe that customers under existing contracts, both real or implicit, should continue to receive the same level and quality of service under a standard market design.”); Declaratory Order Rehearing at P 27-31; *cf.* TEMT I Order at P 22 (encouraging the Midwest ISO to resubmit its Energy Markets proposal).

¹³ Procedural Order at P 67.

¹⁴ Schedule 16 provides for a deferral of costs related to the development and implementation of the system and processes required to administer FTRs and the recovery of those deferred costs and the costs related to the ongoing administration of FTRs. Schedule 17 provides for a deferral of start-up costs related to the establishment of energy markets and recovery of such deferred costs and the ongoing costs of providing Energy Markets Service once the markets are operational.

11. On September 16, 2004, the Commission issued an order that concluded its investigation of the GFAs and addressed how the GFAs should be treated in the Midwest ISO's energy markets.¹⁵ The GFA Order divided the GFAs into several categories, with differing consequences for their treatment in the Midwest ISO's energy and FTR markets. Among other things, the GFA Order required the Midwest ISO to carve some of the GFAs out of its markets and accepted the tariff sheets that described the prospective treatment of GFAs.

12. On November 8, 2004, the Commission issued an order on rehearing of the TEMT II Order. The TEMT II Rehearing Order denied rehearing and reaffirmed the TEMT II Order on most issues, including market start-up safeguards, application of marginal losses, mitigation, the resource adequacy program and the System Supply Resources (SSR) program, except in limited instances. It granted rehearing and clarification with regard to certain issues raised regarding FTR allocation and postponed the establishment of Automatic Mitigation Procedures (AMP). The TEMT II Rehearing Order also provided clarification on various other issues.

II. Compliance Filing

13. 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 compliance filing includes: (1) proposed rules providing for corrective measures in the event of temporary inability to calculate accurate market prices, under specified circumstances; (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 EST to 1100 EST; and (4) a Readiness Advisor Verification Plan. The Midwest ISO requests that the proposed tariff sheets included in its compliance filing become effective on March 1, 2005, which is the energy market start-up date.

14. Notice of the Midwest ISO's filing was published in the *Federal Register*, 69 Fed. Reg. 71,808 (2004) with interventions and protests due on or before December 17, 2004 at 5:00 p.m. Cinergy Services, Inc. (Cinergy); FirstEnergy Service

¹⁵ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 (2004), *reh'g pending* (GFA Order).

Company (FirstEnergy); the Midwest ISO Transmission Owners (Midwest ISO TOs)¹⁶ and Wisconsin Electric Power Company (WEPCO) filed protests and comments on the compliance filing, as detailed below. WPS Resources Corporation (WPS Resources) attempted to file a protest after 5:00 p.m. on December 17, 2004. On December 20, 2004, it submitted a motion for acceptance of the protest one day out of time. WPS Resources re-filed its protest, together with a revised motion for acceptance of the protest out of time, on January 5, 2005. The Midwest TDUs¹⁷ filed a protest, including a request for late acceptance thereof, on December 21, 2004.

III. Discussion

A. Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will accept WPS Resources' and the Midwest TDUs' protests out of time.

¹⁶ The Midwest ISO TOs are: Ameren Services Company, as agent for Union Electric Company d/b/a AmerenUE, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Co. d/b/a AmerenCilco, and Illinois Power Company d/b/a AmerenIP; Alliant Energy Corporate Services, Inc. on behalf of its operating company affiliate Interstate Power and Light Company (f/k/a IES Utilities Inc. and Interstate Power Company); American Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp.; Aquila, Inc. d/b/a Aquila Networks (f/k/a Utilicorp United, Inc.); City Water, Light & Power (Springfield, Illinois); Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; LG&E Energy LLC (for Louisville Gas and Electric Company and Kentucky Utilities Company); Lincoln Electric System; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northwestern Wisconsin Electric Company; Otter Tail Corporation d/b/a Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); and Wabash Valley Power Association, Inc.

¹⁷ 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 Power Agency, Upper Peninsula Transmission Dependent Utilities and Wisconsin Public Power, Inc.

B. Reversion Plan

1. Background

16. As directed in the TEMT II Order, the Midwest ISO included in its compliance filing a Real-Time Operations Reversion Plan (Reversion Plan).¹⁸ The Midwest ISO requests authority to implement the Reversion Plan, in accordance with its terms and without further notice, in the event that the Reversion Plan is needed.

17. According to the Midwest ISO, the Reversion Plan 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 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 Midwest ISO proposes to execute this reversion in three phases.

18. Phase I of the Reversion Plan begins when the Midwest ISO determines that there has been a failure of the unit dispatch system. At the beginning of Phase I operations, the Midwest ISO will notify 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 their Day 1 system. During Phase I operations, Standards of Conduct will be suspended. Backup unit dispatch tools will operate to dispatch generation for 2 to 3 hours while the Midwest ISO, Balancing Authorities and the market participants prepare to convert the LMP market into a bilateral transactions market under the Day 1 process.

19. The Midwest ISO states that the backup unit dispatch system tool is a spreadsheet-based tool that calculates unit dispatch to meet load and Midwest ISO interchange schedules. The backup unit dispatch system does not contain the same financial optimization as the primary unit dispatch system, but it does dispatch generation in financial order. The backup system cannot solve for congestion, but the Midwest ISO

¹⁸ TEMT II Order at P 58 (“[N]o later than three months prior to the start of the Day 2 market, the Midwest ISO [must] file with the Commission a detailed plan, including demonstration of successful testing of the plan, for cutover to decentralized power system operations in the event of a serious failure of Day 2 operations.”).

states that congestion can be managed using generation pairs and blocking generation by adjusting maximum and minimum limits on the units. The backup unit dispatch system does not receive feedback from generating units and, as a result, there may be a difference between the information generated by the backup system and actual unit output. To correct any discrepancies between the backup system and actual output, the unit dispatch system tool will be manually updated during Phase I with the most recent State Estimator solution.¹⁹ As more time elapses between the most recent State Estimator solution and the current backup unit dispatch system solution the risk increases that the backup tool is relying on stale, and therefore inaccurate, information. Therefore, the Midwest ISO proposes that Phase I will only be in effect for a maximum of 2 to 3 hours before the Midwest ISO decides to move to Phase II operations. However, if market systems return to acceptable service before the start of Phase II, the Midwest ISO will promptly return to the standard Day 2 market operation using the unit dispatch system.

20. Under Phase II of the Reversion Plan, the LMP market will be suspended and the initial Day 1 operation will begin with converted market flows to bilateral transactions for one hour of operation. Balancing Authorities will use the converted schedules to create and approve tag-like schedules and calculate their new Net Scheduled Interchange (NSI).²⁰ During this time, control area-based NSIs from internal and external Midwest ISO commerce will be derived from bilateral interchange schedules. The Midwest ISO states that control area-based NSIs, net of new bilateral schedules, should produce approximately the same NSI as under the LMP market operation. Balancing Authorities will operate their resources during Phase II to meet load and these bilateral schedules for one hour. Market participants will operate according to Day 1 where they will purchase or sell energy, arrange transmission, and create North American Electric Reliability Council (NERC) tags for purposes of meeting load, congestion and reserve requirements.

¹⁹ “The State Estimator uses real-time Supervisory Control and Data Acquisition system (SCADA) data supplied by data links to member control areas to calculate the current conditions for the entire transmission system. It does this by calculating values for those points in the system where no actual measurements are available, thus providing a ‘state estimation’ of the system. The Midwest ISO State Estimator calculates a solution reflecting current conditions every 90 seconds.” Testimony of Ronald R. McNamara at 8, Docket No. ER04-691-000 (Mar. 31, 2004).

²⁰ A Balancing Authority “[m]aintains load generation interchange balance within a Balancing Authority Area and supports interconnection and frequency in real-time.” Module A, section 1.17, Substitute Original Sheet No. 51. A Balancing Authority Area is a “collection of resources, transmission systems, and loads within the metered boundaries of Balancing Authority.” *Id.* at section 1.18., Substitute Original Sheet No. 51.

All such reservations and scheduling activities must be closely coordinated with the Midwest ISO for safe and reliable operation. Similar to Phase I operations, in Phase II the Standards of Conduct for members will be suspended. Should market systems return to acceptable service before the start of Phase III, the Midwest ISO will notify transmission owners and return to Day 2 market operations.

21. The Midwest ISO states that the temporary suspension of the Standards of Conduct in Phase I and II is needed to ensure reliable operations as the Midwest ISO transitions from Day 2 to Day 1 operations. The Midwest ISO cites prior Commission approvals of suspension of the Standards of Conduct to help alleviate emergency conditions.²¹ The Midwest ISO also states that it will report to the Commission and on its OASIS, within 24 hours, the circumstances surrounding any decision to suspend the Standards of Conduct pursuant to the Reversion Plan.

22. The Midwest ISO states that all bilateral schedules from Phase II will be carried over into Phase III of the Reversion Plan. The onset of Phase III signals the completion of the transfer from Day 2 market operations to Day 1 operations. During Phase III, the system will operate under the Day 1 framework as it exists prior to the implementation of the energy markets of TEMT. When market systems return to acceptable operating conditions after the start of Phase III, the discretion to return to Day 2 market operation will reside with the 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.

23. 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.²² In addition, the Commission required that if the Reversion Plan is activated, the four-week window will begin again upon the restart of the Midwest ISO Day 2 operations.²³ The Midwest ISO states that it interprets this requirement as meaning that the four-week window of successful Day 2 operations will begin again only

²¹ See Midwest ISO Transmittal Letter at 8 (Dec. 1, 2004) (citing *American Electric Power Service Corporation*, 81 FERC ¶ 61,332 (1997), in which the Commission noted that subject to certain reporting requirements, its regulations on Standards of Conduct permit transmission providers to take all necessary steps to keep the system in operation in emergency circumstances that affect reliability).

²² See TEMT II Order at P 58.

²³ See *id.*

when the Midwest ISO must operate under Phase II of the Reversion Plan. The Midwest ISO states that it will not be reverting back to Day 1 operations in Phase I, therefore it does not interpret the TEMT II Order to mean that it needs to reset the four-week window unless it actually enters Phase II operations.

24. The Midwest ISO states that if it is required to temporarily shut down the energy markets and revert back to Day 1 operations, it will also have to revert back to providing service under the provisions of its current OATT. To accommodate this reversion, the Midwest ISO states that it is necessary for Balancing Authorities, control area operators and market participants to maintain all of their Day 1 legacy systems until the Reversion Plan has expired (*i.e.*, upon the completion of four weeks of market operation without utilizing the Reversion Plan). Therefore, the Midwest ISO requests that during the time when the Reversion Plan is in effect, the Commission: (1) temporarily suspend the application of the Midwest ISO OATT (to be revived upon a reversion to Day 1 operations); and (2) require all Midwest ISO Balancing Authorities, control area operators and market participants take all actions, including the maintenance of current operating equipment, necessary to preserve their ability to revert back to Day 1 legacy operations. The Midwest ISO further states that the aforementioned requirements are consistent with the Balancing Authority Agreement, which was filed with the Commission on October 5, 2004, in Docket No. ER04-691-000.²⁴

25. The Midwest ISO states that the Reversion Plan has been subject to stakeholder review and comment. Further, it states that the Reversion Plan was developed and reviewed by an external focus group comprised of control area operators, transmission operators and market participants. The plan was also reviewed by the Control Area Working Group, the Reliability Subcommittee and the Market and Reliability Subcommittee. The Midwest ISO states that on November 30, the Market and Reliability Subcommittee voted 8-1 to approve a resolution stating that the procedures contained in the Reversion Plan were “viable plans to be used if the Midwest ISO loses certain systems during Market operations.” However, the Midwest ISO states that it will continue to improve the Abnormal Operating Procedure (AOP) Business Practices Manuals that support this Reversion Plan consistent with on-going stakeholder input.

²⁴ The Balancing Authority Agreement describes the division of responsibilities under the energy markets between the Midwest ISO and the Balancing Authorities assuming that parties are not utilizing a back-up system pursuant to paragraph 58 of the TEMT II Order. If a back-up plan is in place, then the division of responsibilities according to the Balancing Authority Agreement shall not be applicable, instead, the applicable portions of the alternate plan [the Reversion Plan] shall be controlling. *See* Balancing Authority Agreement, section 4.13.4.

In addition, the Midwest ISO plans to conduct a Reversion Plan exercise with the Midwest ISO control areas, transmission operators and market participants in January 2005. Lastly, the Midwest ISO states that if any changes are made to the Reversion Plan after the January 2005 exercise, it will file those changes with the Commission prior to market start-up.

2. Protests and Comments

26. WEPCO states that the Midwest ISO's compliance filing largely complies with the TEMT II Order, but certain aspects of the Reversion Plan are deficient regarding the details of the procedures to be followed in the event of a failure of Day 2 market operations. Therefore, WEPCO asks the Commission to require the Midwest ISO to expand certain sections of the Reversion Plan to ensure that adequate safeguards are in place before Day 2 operations begin. Specifically, WEPCO asks that the Commission not approve the Reversion Plan until it has been practically tested and additional detail is provided.

27. WEPCO requests additional detail regarding the procedures for the transition back to Day 2 market operations if Phase II or III of the Reversion Plan is activated. WEPCO is also unclear if a transition back to Day 2 operations would require Midwest ISO Board approval, with 30 days' notice, or whether the Midwest ISO would be able to switch between Day 1 and Day 2 systems in an attempt to restart the market. WEPCO contends that Midwest ISO should provide a decision and communication protocol for the transition from Day 1 to Day 2 market operations after a failure of Day 2 operations. WEPCO is also concerned that the Reversion Plan does not account for transitional pricing difficulties market participants might experience in the event of market failures. Therefore, WEPCO requests that the Commission require the cost-based bidding period of 60 days²⁵ to take into account any delays in the transition caused by the use of the Reversion Plan, and that the Commission direct that market participants need two months of continual Day 2 operations before transitioning from the cost-based bidding procedures to market-based ones.

28. WPS Resources states that the Midwest ISO's Reversion Plan lacks enough detail to critique the plan. However, WPS Resources does note areas where specific information is needed, such as the conversion of market energy flows into bilateral schedules. WPS Resources states that before it will be able to resume the responsibility for managing flows in its control area, it must understand what information the Midwest

²⁵ See TEMT II Order at P 63 for a discussion of the cost-based bidding requirement.

ISO will provide to each control area regarding generator sources, ramp rate limitations, operating characteristics, maximum and minimum unit outputs. In addition, WPS Resources states that the Midwest ISO should explain how it will change generation dispatch, and provide a settlement process, to accommodate control areas with insufficient operating generation, before the Midwest ISO switches from a financially-based dispatch to one based on control areas. WPS Resources also wants the Midwest ISO to validate that the back-up unit dispatch system exists, and if it does not, WPS Resources requests that the Commission require the Midwest ISO to make available its schedule for the back-up unit dispatch system development, operator training, and system testing.

29. WPS Resources also states that the Midwest ISO should establish objective criteria that must be met before transitioning from the Reversion Plan back to Day 2 operations. One such objective criterion is Midwest ISO assurance, through a presentation to stakeholders and the Commission with an opportunity for questions and answers, that the Midwest ISO has completely corrected the problems that caused the Midwest ISO to implement the Reversion Plan. WPS Resources requests clarity from the Midwest ISO regarding its intention to maintain a back-up unit dispatch system after the four-week period successfully terminates. WPS Resources asserts that the Commission should require that the Midwest ISO maintain a back-up system or a redundant operational dispatch system. Finally, WPS Resources requests the Commission to direct the Midwest ISO to explain how settlement will work during the Reversion Plan.

30. Cinergy is concerned that the testing required by the TEMT II Order has not yet occurred and that the current Reversion Plan lacks critical information for the January Day 2 market test or to support a successful reversion to Day 1 operations should a Day 2 market failure occur.²⁶ Cinergy identified concerns with sections of the Reversion Plan, including: 6.4.1.1, 6.4.3, note following 6.4, 6.5, and 6.8.

31. Specifically, Cinergy is concerned that section 6.4.1.1 directs Balancing Authorities to use the converted schedules to create and approve the tag-like schedules and calculate their new NSI during Phase II, but does not give any guidance about how these schedules are to be converted and there have been no discussions with the Midwest ISO describing the conversion of the schedules. Section 6.4.3 provides that market participants shall purchase or sell energy, arrange transmission, and create NERC tags for the purpose of meeting load, congestion and reserve requirements during Phase II.

²⁶ The TEMT II Order required a demonstration of successful testing of the cutover plan. TEMT II Order at P 58.

32. Cinergy asks the Midwest ISO to clarify that this section does not require market participants to purchase or sell energy, and the methodology for market participants to arrange transmission, including if the Midwest ISO will be able to sell firm transmission and if that is compatible with the present tariff. Regarding the note following section 6.4, Cinergy has numerous questions, including: (1) how the Midwest ISO will allocate an internal transaction if there are multiple market participants within a Balancing Authority; (2) how market participants will be able to contract to avoid having their transactions treated as inadvertent energy; (3) whether these contracts can be settled bilaterally; and (4) whether market participants who are control area operators have different financial or scheduling rights as compared to market participants who are not Balancing Authorities. Cinergy also states that the Midwest ISO should revise section 6.5 to state that it will inform all market participants of its decision “to promptly return to standard market operations,” not just Transmission Providers. Finally, Cinergy notes that section 6.8 provides no guidance regarding the notification method or permissible time frame for returning to Day 2 Operations. Cinergy asks the Commission to direct the Midwest ISO to make the aforementioned clarifications prior to the Day 2 market test in January. Lastly, Cinergy requests that the Commission direct the Midwest ISO to publish the results of the January market test no later than February 1, 2005 and give market participants an opportunity to comment on those results to prompt further clarifications as needed prior to the Day 2 market launch.

33. In addition, Cinergy submitted an answer on December 21, 2004 to WEPCO’s protest, in which WEPCO asks the Commission to extend the 60-day cost-based bidding period should the Reversion Plan be activated during the 60-day transition period. Cinergy argues that WEPCO’s request is an impermissible collateral attack on the Commission’s orders in this proceeding because WEPCO did not challenge the duration of the cost-based bidding period in its requests for rehearing of the TEMT II Order or the TEMT II Rehearing Order. Cinergy notes that the Commission held that the cost-based transition period “should be in place no longer than absolutely necessary” and that there was “no basis upon which to extend the term of the safeguard.”²⁷ Cinergy also states that WEPCO’s proposal would undermine certainty in the start of market-based offers and the hedging of transactions accordingly.

34. Midwest TDUs contend that the Midwest ISO did not comply with the Commission’s requirement that it file a detailed plan, including demonstration of successful testing of the plan, for cutover to decentralized power system operations in the event of a serious failure of Day 2 operations no later than three months prior to the start of Day 2 market.

²⁷ See TEMT II Rehearing Order at P 83.

35. The Midwest TDUs ask the Commission to require the four-week window for continuous operation of the Day 2 market to be reset for each activation of the Reversion Plan, regardless of whether or not the plan proceeds beyond Phase I.

36. The Midwest ISO TOs filed in support of the Midwest ISO's compliance filing, particularly the Reversion Plan. The Midwest ISO TOs state that the Reversion Plan will facilitate the transition from LMP-based markets to bilateral control area markets and minimize the impact on all affected parties in the event of a unit dispatch system failure. In addition, the Midwest ISO TOs support the Midwest ISO's proposal to conduct a Reversion Plan test in January 2005, stating that this will allow the entities involved to prepare to implement the reversion process.

3. Discussion

37. We conditionally accept the Midwest ISO's Reversion Plan as compliant with the Commission's prior directives, but we agree with protestors in limited respects and order the modifications discussed below. We find the Reversion Plan gives the Midwest ISO the necessary authority to respond quickly to fix problems and react decisively should the market experience a catastrophic systems failure. However, the Midwest ISO's Reversion Plan did not contain sufficient details in areas, nor did it contain a demonstration of successful testing with stakeholders, and we direct the Midwest ISO to modify the Reversion Plan accordingly, as directed below.

38. As the Commission previously noted, a relevant benchmark for the Midwest ISO's Reversion Plan is NYISO's Cutover Plan, filed in 1999.²⁸ Although the New York and Midwest markets have substantial differences, such as the number of control areas and a legacy of centralized power pool dispatch, the need for a plan to revert back to in the event of systems failure during market start-up is the same, and therefore, the comparison is appropriate. We find the Midwest ISO's proposal for a Reversion Plan is sufficiently consistent with the NYISO Cutover Plan, which the Commission previously approved, to also merit approval.²⁹ In response to the issue of Board approval for Midwest ISO decisions to transition between Day 1 and Day 2 systems, raised by WEPCO, we note that the NYISO Cutover Plan did not require Board approval for NYISO decisions. In light of this precedent and the need for quick response to operational issues, we will not make this a requirement for the Midwest ISO Cutover Plan.

²⁸ See TEMT II Order at P 57.

²⁹ See *New York Independent System Operator, Inc.* 88 FERC ¶ 61,228 at 61,755-56, *reh'g denied*, 89 FERC ¶ 61,168 (1999).

39. With respect to the Midwest ISO's request in its Transmittal Letter for a limited waiver of the Standards of Conduct,³⁰ we find that a waiver is unnecessary. With respect to keeping a system operating during emergency circumstances affecting system reliability, the Commission has previously directed Transmission Providers to take whatever steps are necessary to keep the system in operation, and then report to the Commission, and post on the OASIS, each emergency that resulted in any deviation from the Standards of Conduct within 24 hours under Order Nos. 889 and 2004.³¹ Although the Midwest ISO is not subject to the Standards of Conduct of Order No. 2004,³² they provide a model and guidance on handling emergency circumstances. Therefore, a waiver of the Standards of Conduct is not required if during Phases I and II of the Reversion Plan, the Midwest ISO needs to suspend its Standards of Conduct to maintain system reliability, but the Midwest ISO should file with the Commission a report explaining to the Commission the circumstances that resulted in the deviation within 24 hours in an "EY" docket.

40. The Reversion Plan itself indicates that during Phase I and Phase II operations, "Midwest ISO Standards of Conduct will be suspended . . . and the Midwest ISO will notify Members of the 1998 Transmission Owners Agreement . . . that they will be exempt from their Standards of Conduct during Phase II operations."³³ As described above, the Midwest ISO will activate the Reversion Plan only in an emergency that would result in the loss of market operations. For the reasons described above, we approve the Midwest ISO's proposal to suspend its own Standards of Conduct³⁴ during such an incident. The Transmission Owners remain subject to the Commission's Order No. 889 and Order No. 2004 Standards of Conduct. The Commission's regulations also provide them with the ability to take whatever steps are needed in an emergency to keep their systems in operation, subject to reporting requirements.³⁵

³⁰ See Midwest ISO Transmittal Letter at 8-9 (Dec. 1, 2004).

³¹ See 18 C.F.R. § 358.4(a)(2) (2004).

³² See 18 C.F.R. § 358.1(c) (2004) (stating that Part 358 does not apply to a public utility Transmission Provider that is a Commission-approved Independent System Operator (ISO) or Regional Transmission Organization (RTO)).

³³ Reversion Plan at section 2.1.

³⁴ Transmission Owners Agreement, Appendix A, Original Sheet Nos. 94-100.

³⁵ 18 C.F.R. § 358.4(a)(2) (2004).

41. We agree with Cinergy that WEPCO's request is a collateral attack on previous Commission orders. Therefore we will not revisit our prior decision on extending the 60-day transition period on cost-based bids here. We do not expect at this time that the Reversion Plan will interfere with the transition period for a long enough period to impact market participants' ability to gain market experience during the transition period in the event the Reversion Plan is activated during that period. Rather, there are other safeguard mechanisms, such as the price correction process, to ensure that prices are accurate when normal market operations resume. However, we agree that it is unclear from the present Reversion Plan proposal how the Midwest ISO intends to correct prices under the Reversion Plan or if it intends to use the Price Correction Authority at any time during the Reversion Plan. Therefore, we direct the Midwest ISO to explain how it intends to correct prices under the Reversion Plan and if it intends to use the Price Correction Authority at any time when the Reversion Plan is in effect, through a compliance filing 30 days after the issuance of this order.

42. We grant the Midwest ISO's request to reset the four-week window for continuous operation only when the Midwest ISO must activate Phases II or III of the Reversion Plan.³⁶ We find the Midwest ISO's Reversion Plan is sufficiently clear that in Phase I the Midwest ISO will continue to dispatch units using a centralized system and that the control areas will not take over this responsibility until the later phases. Therefore, we are not persuaded by the Midwest TDUs' and WPS Resources' arguments to reset the four-week window for any activation of Phase I of the Reversion Plan. The Commission's intent regarding the four-week requirement was to demonstrate that the markets can operate in the Day 2 format without a total market shutdown and we find that no market shutdown will occur during Phase I. In addition, Phase I is only effective for a maximum of three hours, so serious problems that cannot be solved within that limited time frame will cause the Midwest ISO to activate Phase II and reset the four-week window. We also note that the Midwest ISO has a higher standard of four weeks without the need to revert back to Day 1 operations before the expiration of the Reversion Plan, whereas the NYISO's Cutover Plan only required two weeks without a market shutdown prior to the plan's expiration. However, for clarity we direct the Midwest ISO to state in the Reversion Plan that the four-week window will only be reset if Phases II or III are activated.

43. We find that the Midwest ISO must work to reinstitute its Day 2 systems as quickly as possible should a unit dispatch failure occur. Therefore, we find it imprudent to require the Midwest ISO to conduct detailed presentations, as suggested by WPS Resources, before transitioning back to Day 2 market operations. We agree with WPS

³⁶ See Midwest ISO Transmittal Letter at 7 (Dec. 1, 2004).

that the Midwest ISO should maintain the back-up unit dispatch system after successful completion of four weeks of continuous operations without a market failure in order to provide an additional tool to manage its system in the event of market problems.

44. We agree with parties that more explanation of the Reversion Plan is needed to ensure a smooth process. In its testing of the Reversion Plan, we direct the Midwest ISO to explain to market participants how market flows will be converted to bilateral transactions as well as how transactions will settle in Phase II. We also direct the Midwest ISO to consider options to ensure that the OASIS scheduling at the start of Day 1 operations in Phase III (section 6.7.3) can process all required transactions by market participants in the short period of time available.

45. We agree with some of Cinergy's edits suggested to clarify the Reversion Plan. We agree that section 6.4.3 should clarify whether or not market participants are required to purchase or sell energy, and how market participants are meant to arrange transmission. In addition, we direct the Midwest ISO to clarify the note following section 6.4 regarding the methodology that the Midwest ISO will use to allocate an internal transaction if there are multiple market participants within a Balancing Authority. Also, we direct the Midwest ISO to answer questions Cinergy posed, such as: how market participants may contract to avoid having their transactions treated as inadvertent energy,³⁷ whether these contracts may be settled bilaterally, and finally, whether market participants who are control area operators³⁸ have different financial or scheduling rights as compared to those that are not Balancing Authorities. Finally, we agree that the Midwest ISO should clarify section 6.5 to notify all market participants of its decision "to promptly return to standard market operations," and that section 6.8 needs to list the notification method or time frame for returning to Day 2 operations. Therefore, we direct the Midwest ISO to clarify sections of the Reversion Plan listed in this paragraph through a compliance filing within 30 days of the issuance of this order.

³⁷ "Inadvertent Energy: The difference between a Control Area's Net Actual Interchange and Net Scheduled Interchange." Module A, section 1.140, Original Sheet No. 84.

³⁸ "Control Area Operator: A company's division, personnel or affiliate that is designated as the entity with the responsibility for operating a Control Area consistent with NERC policies and procedures, and the Transmission Provider's policies and procedures." *Id.* at section 1.42, Original Sheet No. 58.

46. We also direct the Midwest ISO to file the results of the Reversion Plan exercise proposed to be conducted in January 2005 within 30 days of the date of this order through a compliance filing. We note the Midwest ISO's statement that if any changes are made in the Reversion Plan as a result of the January 2005 stakeholder exercise, the Midwest ISO will file the revised Reversion Plan with the Commission.³⁹ However, we direct the Midwest ISO to report the results of the Reversion Plan test, regardless of the need for changes, so that the Commission may validate that successful testing and training of the Reversion Plan has occurred, consistent with the Commission's prior directive.⁴⁰ However, we do not agree with protests that state that the Commission cannot rely on or approve the Reversion Plan because the Midwest ISO has not tested the Reversion Plan and educated stakeholders about its operations.⁴¹ We find that the Midwest ISO has made reasonable progress working with the committees to educate stakeholders and test the plan for the Commission to accept the Reversion Plan at present. Therefore, we accept the Reversion Plan subject to the Midwest ISO conducting a test of the Reversion Plan in January 2005, and the Midwest ISO's subsequent filing of the results with the Commission within 30 days of the issuance of this order.

47. Conditional acceptance is reasonable because stakeholders are aware of the Reversion Plan and have voted on it.⁴² We also note that the Midwest ISO TOs filed to support the Reversion Plan stating that it "will facilitate the transition from locational marginal pricing-based markets to bilateral Control Area markets and minimize the impact on Control Areas, Transmission Operators, and Market Participants in the event of a Unit Dispatch System failure."⁴³ Finally, we note that the Reversion Plan is not the

³⁹ See Midwest ISO Transmittal Letter at 9 (Dec. 1, 2004).

⁴⁰ "Hence we will require that no later than three months prior to the start of the Day 2 market, the Midwest ISO file with the Commission a detailed plan, including demonstration of successful testing of the plan, for cutover to decentralized power system operations in the event of a serious failure of Day 2 operations." TEMT II Order at P 58.

⁴¹ See WEPCO Protest at 4; Midwest TDUs Protest at 3.

⁴² See Midwest ISO Transmittal Letter at 9 n.25.

⁴³ See Midwest ISO TOs Comments at 2.

only backstop for reliability and that numerous performance metrics have been established and market trial tests of all market systems have occurred, are currently underway, and will continue to happen until energy market start-up on March 1, 2005.⁴⁴

C. Trading Deadline for the Day-Ahead Energy Market

1. Background

48. The TEMT II Order required the Midwest ISO to change its day-ahead market trading deadline to 1100 EST, from the 0900 EST deadline proposed in section 39.1.1 of the TEMT, and to file a progress report no later than 90 days prior to implementation of the day-ahead market.⁴⁵ In its compliance filing, the Midwest ISO explains that, while substantial progress has been made to ensure that software systems are capable of solving the dispatch models on a timely basis, this change cannot be implemented before the day-ahead market commences on March 1, 2005.

2. Protests and Comments

49. Parties protest the Midwest ISO's inability to conform its day-ahead trading deadline to PJM's 1100 EST deadline. Cinergy argues that the 0900 EST trading deadline will discourage transactions in the bilateral market and that, because it occurs prior to the gas nomination deadline, it results in uncertainty and unnecessary complications throughout the Eastern energy market, more dependence on real-time transactions to balance energy markets, delay in the establishment of a joint and common market with PJM, market inefficiencies and cost and operating burdens on market

⁴⁴ See "Metric Update for the MSC", a PowerPoint presentation by Roy Ragsdale to the Midwest ISO Market Subcommittee on January 4, 2005. The Commission also notes that the Midwest ISO completed their "Day in the Life" tests on December 1, 2004 and plans to conduct parallel operations tests for the three months before March 1, 2005. See Midwest ISO press release at: http://www.midwestiso.org/news/files/20041109131444prs_rel_market_readiness_update_110204_final.pdf (accessed on 1/3/05).

⁴⁵ TEMT II Order at P 522.

participants. Cinergy contends that the Midwest ISO recognized more than fourteen months ago the need to implement an 1100 EST deadline prior to commencing Day 2 operations.⁴⁶

50. Cinergy proposes an alternative at market start-up, in the event the Midwest ISO cannot complete the Security Constrained Unit Commitment process quickly enough to post day-ahead market results by 1500 EST. In this circumstance, Cinergy recommends that the Commission permit the Midwest ISO to post day-ahead market results by 1700 EST, for up to 30 days after market start-up, after which the posting deadline should revert to 1500 EST.

51. FirstEnergy avers that the 1100 EST scheduling deadline is needed because of its importance to an efficient Midwest ISO market and an efficient joint and common Market with PJM. FirstEnergy also contends that the 0900 EST deadline requires market participants to make supply scheduling decisions at 0800 EST, at the same time they have just begun to procure gas supplies. Therefore, states FirstEnergy, the 0900 EST deadline would mean that generation owners would have to commit their units based on speculative knowledge of costs. Also, since options markets and forward markets have either later deadlines or later market start times, the result would be increased prices to consumers, in the event generation owners commit units rather than make supply purchases, and turmoil in the markets in the event market participants are unable to complete forward market transactions.

52. WPS Resources argues that the Commission should direct the Midwest ISO to comply with PJM's 1100 EST deadline.

3. Discussion

53. We are encouraged that the Midwest ISO is making substantial progress on testing systems and reducing solution times so that the trading deadline can be conformed to the PJM deadline, and we expect that the Midwest ISO will complete this objective soon. We also recognize the importance to parties of a change in the deadline so that other related market activities can be completed efficiently and effectively. In recognition of the importance of a change in the trading deadline, we direct the Midwest ISO to file a

⁴⁶ Cinergy also notes that the TEMT II Order listed at least 15 parties, in addition to itself, that opposed the proposed 0900 EST trading deadline. *See* Cinergy Protest at 2 (citing TEMT II Order at P 520 & n.316).

compliance report within 30 days that details progress toward this objective and commits to a date by which the Midwest ISO expects to conform its trading deadline to PJM's.⁴⁷ We also direct the Readiness Advisor to submit its evaluation of progress, to be included in the compliance report.

D. Price Correction Authority

1. Background

54. The TEMT II Order noted that the Midwest ISO had proposed no mechanism to correct prices in the event of temporary market or system operational problems, as the Commission has approved for other ISO- or RTO-operated centralized dispatch markets.⁴⁸ That is, the Commission has approved means by which the ISO or RTO can correct prices that did not result from the proper application of the tariff. Such rules provide for corrective measures in the event of a temporary inability to calculate accurate market prices due to data errors, software errors, malfunction of ISO equipment (such as telecommunications or hardware), or outages of generation or transmission equipment. The order cited to an example of such a rule: the NYISO "Temporary Extraordinary Procedures," which evolved in response to operational developments and Commission guidance.⁴⁹

55. In the TEMT II Order, the Commission said that having the ISO or RTO state such rules and file them with the Commission reduces the need to rely on *ad hoc* measures when such temporary market or system operational problems occur. Given the scope of the energy markets and the complexity of its data and modeling tasks, such well-defined corrective authority is necessary to ensure just and reasonable prices in the market, particularly during the first months of operations. Thus, the Commission required the Midwest ISO to develop rules consistent with those previously accepted for other ISOs

⁴⁷ We note that Cinergy has proposed an alternative option that delays the posting deadline, and appears worthy of consideration by the Midwest ISO.

⁴⁸ TEMT II Order at P 95.

⁴⁹ New York Independent System Operator, Inc., FERC Electric Tariff Original Volume No. 1, Attachment Q, "Temporary Extraordinary Procedures for Correcting Prices Resulting from Market Implementation Errors and Emergency System Conditions," Second Revised Sheet No. 641. *See also ISO New England, Inc.*, 108 FERC ¶ 61,069 (2004) (accepting proposed revisions to ISO-NE's Market Rule 1 that clarify procedures for correcting day-ahead markets), *reh'g and settlement pending*.

and RTOs and file them with the Commission no later than three months prior to the start of the Day 2 market. Such rules are to establish: (1) what types of system problems are being addressed; (2) circumstances under which the Midwest ISO will invoke price corrections; (3) what the Midwest ISO will do to recalculate market prices; (4) when market participants will be notified of: (i) problems identified prior to market deadlines that could require price correction, (ii) problems identified after market clearing that will require price correction, and (iii) corrected prices; and (5) the process for addressing system problems that have caused the need for price corrections.⁵⁰

56. The compliance filing proposes that the Midwest ISO, with the assistance of the Independent Market Monitor (IMM) as appropriate, will monitor for possible market implementation errors and emergency system conditions. It also provides for price correction procedures as described below.

a. System Problems to be Addressed

57. The Midwest ISO's price correction authority is designed to address "market implementation errors" and "emergency system conditions" that result in prices or payments that differ from those that would be derived absent these conditions, or that result in some prices or payments not being developed at all. The filing provides definitions of the scenarios, and describes the actions that the Midwest ISO will take to inform market participants of, and to correct for, any problems. The plan is modeled after that of the NYISO.

58. Section 1.182a defines market implementation errors as flaws in the design or implementation of software that results in LMPs or other calculated prices that do not accurately reflect the application of market rates. Emergency system conditions are defined in section 1.80a as: (1) situations in which systemic equipment malfunction, including telecommunications, hardware, or software failures, prevents the Midwest ISO from operating the energy markets in accordance with the market rules; or (2) widespread electric transmission or generation equipment outages that prevent the Midwest ISO from dispatching the system in accordance with the market rules. Market rules are defined to be the rules and procedures for operation of the energy markets, including but not limited to the calculation of LMPs, in accordance with the Midwest ISO's tariff.

59. As in the NYISO procedures, the Midwest ISO limits the application of the price correction authority. In particular, the proposed tariff sheets provide that market implementation errors and emergency system conditions do not include situations in

⁵⁰ TEMT II Order at P 96.

which prices rise to levels based on demand and supply levels determined by efficient competition in times of relative surplus. The proposal also states that the Midwest ISO shall, to the extent possible, avoid interfering with these price signals.⁵¹

b. Recalculation of Prices

60. If the Midwest ISO determines that there are market implementation errors or emergency system conditions, it may impose corrective measures and take immediate action to remedy the error or condition as soon as possible. Revisions to LMPs or any other prices or payments attributable to these circumstances will occur only when: (1) one or more LMPs or any other prices or payments could not be developed; or (2) LMPs or any other prices or payments differ from what would be produced absent an identified market implementation error or emergency system condition.⁵² When time permits, the Midwest ISO will consult and cooperate with market participants and jurisdictional agencies through the process described in the Midwest ISO Transmission Owners Agreement.⁵³

61. The Midwest ISO will recalculate and substitute LMPs or other prices or payments in a manner that reflects, as much as possible, the LMPs or other prices or payments that would have resulted in the absence of the market implementation error or emergency system condition. The recalculated LMPs, prices, or payments will serve as the basis for settlement.⁵⁴

c. Notification of Market Participants

62. Consideration of Price Correction Underway: The proposed tariff sections provide that the Midwest ISO will post on its OASIS and its website, as soon as is reasonably practicable, a notice whenever it is considering a correction for a particular hour. If possible, it will post a notice and a description of the proposed correction for that specific hour. The description will be posted prior to the bids being submitted, if possible.

⁵¹ Module C, section 48.1, First Revised Sheet No. 678.

⁵² *Id.* at section 48.3.a, Original Sheet No. 679.

⁵³ *Id.* at section 48.2, Original Sheet No. 679.

⁵⁴ *Id.* at section 48.3.d, Original Sheet No. 681.

63. If the circumstances do not permit advance notice, the Midwest ISO will try to post the notice on its OASIS and website by one hour prior to the closing of bids for the day-ahead energy market for the next trading day, but in no event later than 5:00 p.m. on the calendar day following the day in which LMPs or other clearing prices would be affected by the contemplated price correction.⁵⁵

64. Description of Price Correction: Prior to making a price correction, if reasonably possible, but in no event later than five calendar days after the date on which notice of a price correction is posted, the Midwest ISO must post a description of the price correction on the OASIS and its website, or remove the notice of the potential price correction from its website. If it does not do so, the price correction will be determined to be withdrawn.⁵⁶

d. Process for Addressing System Problems

65. In any instance when the Midwest ISO makes price corrections, it shall, as soon as possible thereafter, address the market implementation errors or emergency system conditions that resulted in the incorrect prices. The proposed tariff sections state that the Midwest ISO will do so in consultation and cooperation with market participants and jurisdictional agencies, as appropriate and as time permits, through the process described in the Midwest ISO Transmission Owners Agreement.⁵⁷

2. Protests and Comments

66. WPS Resources states that the Midwest ISO's price correction proposal offers a general description, but not a procedure. It says that the proposal lacks objective rules and criteria and instead relies solely on the Midwest ISO's subjective case-by-case decisions. It believes that the initiating events – the market implementation error or the emergency system condition appear reasonably clear. However, it believes that the criteria itself and the price adjustment process are ambiguous. It cites language in the proposal, saying the Midwest ISO can correct prices when:

⁵⁵ *Id.* at section 48.3.b, Original Sheet No. 680.

⁵⁶ *Id.* at section 48.3.c, Original Sheet No. 681.

⁵⁷ *Id.* at section 48.3.e, Original Sheet No. 681.

one or more LMPs or any other prices or payments could not be developed; or LMPs or any other prices or payments deviate from what would be derived absent the presence of an identified Market Implementation Error or Emergency System Condition.⁵⁸

WPS Resources alleges that the Midwest ISO offers no explanation of how it will determine what should have been the correct price. It also offers no explanation why this authority would include the right to alter “other prices or payments” or exactly what those other prices and payments would include.

3. Discussion

67. The price correction authority proposed is virtually identical to NYISO’s, which has been approved by the Commission.⁵⁹ In general, it appropriately balances price certainty and price accuracy for market participants. Flawed prices due to market implementation errors or emergency system conditions need to be corrected quickly, to sustain confidence in the market. At the same time, there needs to be quick notification to the market of any impending price changes, to preserve price certainty. We find that this proposal does both of these. Correcting prices to the levels that would have prevailed without the error or emergency is appropriate, especially given the tariff provision that prices will not be corrected when simple scarcity prevails. We emphasize, however, that any tariff changes would need to be filed with the Commission for approval. The price correction authority is designed to be a stopgap measure to correct prices for a short interval, and does not fix market design flaws. Nor is it designed to serve as market power mitigation, which is to be achieved through the conduct and impact test approach.

68. While we approve other aspects of the price correction authority proposed, we agree with WPS Resources that the language on prices to be corrected is ambiguous. There are a number of prices and or payments that may be affected (by software errors alone), including those of energy spot sales and purchases on the basis of LMPs, payments for start-up and no-load in the Reliability Assessment Commitment (RAC) process, charges for RAC to net buyers in real time, revenue sufficiency guarantee payments and other uplift charges, congestion charges, FTR settlements, etc. We do not

⁵⁸ WPS Resources Protest at 7 (quoting Midwest ISO Transmittal Letter at 4 (Dec. 1, 2004)).

⁵⁹ *New York Independent System Operator, Inc.*, 88 FERC ¶ 61,228, *reh’g denied*, 89 FERC ¶ 61,168 (1999).

believe that every such price or payment that could be affected by a market implementation error or emergency system condition that results in prices or payments that differ from those that would be derived absent these conditions need be detailed in the tariff. However, the language in the tariff is inconsistent between sections 1.182a and (within) section 48 in defining the price and settlement impacts of a price correction. In particular, in some places, the tariff refers to changes in LMPs or other prices, and in other places, it refers to revisions in LMPs, or other (*clearing*) prices *or payments* (emphasis added). While prices are often a primary determinant of payments, the changing focus between “LMPs, prices and payments” and “LMPs and prices” and “clearing prices” adds confusion. The Midwest ISO must clarify its tariff to refer to “changes in LMPs or other prices cleared through the Midwest ISO markets and the corresponding changes in financial settlements” as appropriate in section 1.182a and throughout section 48.

69. The tariff establishes that the Midwest ISO will recalculate and substitute LMPs or other prices or payments in a manner that reflects, as much as possible, the LMPs or other prices or payments that would have resulted in the absence of the market implementation error or emergency system condition. We expect that, when it is possible, this will involve a re-running of the market model to determine what prices should have been. However, the Midwest ISO must modify its tariff to provide more detail on the methods it will use to recalculate LMPs and other prices and the corresponding changes in financial settlements.

E. Verification Plan

1. Background

70. The TEMT II Order directed the Midwest ISO file, on an informational basis, an independently-evaluated Verification Plan.⁶⁰ The compliance filing provides a Readiness Advisor Verification Plan that details over 100 readiness metrics to independently evaluate the Midwest ISO’s progress toward implementing market readiness. The independent Readiness Advisor, Science Applications International Corporation, describes the approach it will take in verifying the completion of each readiness metric, establishes a minimum set of goals that must be achieved before it certifies a readiness metric as completed and describes follow-up procedures to be used in the event that goals are not met. The Midwest ISO states that the Readiness Advisor reports its findings and provides monthly updates directly to the Chief Executive Officer and Board of Directors of the Midwest ISO, and that these reports are shared with the Midwest ISO Advisory

⁶⁰ See TEMT II Order at P 55.

Committee. The Midwest ISO explains the Readiness Advisor also formally reports to these entities when a readiness metric has been satisfactorily completed and that the reports will be used to help the Midwest ISO determine that it has achieved an appropriate level of reliability and readiness prior to market start.

2. Protests and Comments

71. WPS Resources argues that the Readiness Advisor has failed to provide any update to stakeholders and the Commission that demonstrates progress toward satisfying the readiness metrics. WPS Resources claims that stakeholders and the Commission need to know exactly which metrics have been satisfied. WPS Resources also states that all Readiness Advisor reports should be made public and filed at the Commission, with review and sign-off on the successful completion of all metrics.

3. Discussion

72. We find the submitted Verification Plan to be in compliance with the requirements of the TEMT II Order. The Verification Plan tracking system serves its purpose to keep the Midwest ISO management and stakeholders, via the Midwest ISO Advisory Committee, apprised of progress on a monthly basis toward market start. As an informational filing, this document, and the status of each and every metric, is not intended to be adjudicated and approved by the Commission. Rather, the purpose of the Verification Plan is to provide a basis for the Midwest ISO to certify that the market is ready to start. We will base our assessment of readiness on the certification to be provided by the Midwest ISO. Inasmuch as that certification will be signed by the Chief Executive Officer of the Midwest ISO, we consider that document sufficient proof that the market is ready for start-up.

The Commission orders:

(A) The Midwest ISO's compliance filing is hereby accepted in part, as modified, and rejected in part as described in the body of this order, to become effective March 1, 2005.

(B) The Midwest ISO and Readiness Advisor are directed to file a progress report within 30 days of the date of this order to change its day-ahead trading deadline, as directed in the body of this order.

(C) The Midwest ISO is directed to file revised tariff sheets, revisions to its Reversion Plan and responses to the questions asked in the body of this order within 30 days of the date of this order, as directed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.