125 FERC ¶ 61,322
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Midwest Independent Transmission System Operator, Inc.	Docket Nos. ER07-1372-009 ER07-1372-010
Midwest Independent Transmission System Operator, Inc.	Docket Nos. ER06-1552-000 ER06-1552-002 ER06-1552-003

ORDER DENYING REHEARING AND CONDITIONALLY ACCEPTING IN PART AND REJECTING IN PART COMPLIANCE FILING

(Issued December 18, 2008)

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1. In an order issued February 25, 2008, the Commission accepted the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed ancillary services market (ASM), as modified, and ordered compliance filings.[1] On June 23, 2008, the Commission conditionally accepted the Midwest ISO's compliance filing in response to the February 25 Order subject to a further compliance filing.[2] On July 23, 2008, several parties filed requests for rehearing of the June 23 Order and the Midwest ISO filed a compliance filing in response to the June 23 Order (July 23 Compliance Filing). For the reasons discussed below, we deny the requests for rehearing of the June 23 Order and conditionally accept in part and reject in part the July 23 Compliance Filing. We also make certain sheets conditionally accepted in Docket No. ER06-1552-000, *et al.*, effective on January 6, 2009, as discussed below.

I. Background

2. In the February 25 Order, the Commission accepted the Midwest ISO's ASM proposal, as modified, and ordered compliance filings. Under the proposal, the Midwest ISO will determine operating reserve requirements and procure operating reserves from all qualified resources, in place of the current system of local management and procurement of reserves by the 24 local balancing authorities. The Midwest ISO will also transfer and consolidate balancing authority responsibility in the Midwest ISO so that it may become the North American Electric Reliability Council-certified balancing authority for the entire Midwest ISO balancing authority area. The Commission found that balancing authority consolidation will allow for more centralized and efficient management of ancillary services.

3. In the February 25 Order, the Commission also praised the proposal's simultaneous co-optimization approach, which seeks to minimize overall production costs in the Midwest ISO markets by coordinating the market-based procurement of energy and operating reserves. The Commission found that the simultaneous co-optimization approach will provide for the efficient acquisition and pricing of operating reserves, noting that variations of this approach are already in use by existing ISOs and regional transmission organizations that provide ancillary services through market-based mechanisms.

4. In the June 23 Order, the Commission conditionally accepted the Midwest ISO's 60-day compliance filing, which was filed in response to the February 25 Order, subject

[1] *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,172 (2008) (February 25 Order).

[2] *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,296 (2008) (June 23 Order).

to a further compliance filing. The Commission also directed the Midwest ISO to submit a compliance filing within 30 days of the date of the June 23 Order containing a revised cost allocation for carved-out grandfathered agreements and clarifying other issues.

II. Description of Filings

5. On July 23, 2008, in compliance with the June 23 Order, the Midwest ISO filed its compliance filing in Docket No. ER07-1372-010 (July 23 Compliance Filing). The Midwest ISO's compliance filing contains a revised cost allocation for carved-out grandfathered agreements, modified mitigation plans for constrained reserve zones and for Real-Time Offer Revenue Sufficiency Guarantee and Day-Ahead Margin Assurance Payments, and other clarifications. In its compliance filing, the Midwest ISO also notifies the Commission that it is ready to implement, coincident with the launch of the ASM, certain make-whole payments that were previously conditionally accepted by the Commission in Docket No. ER06-1552-000, *et al.*

6. Requests for rehearing were filed in Docket No. ER07-1372-009 by: Indianapolis Power & Light Company (Indianapolis P&L), FirstEnergy Service Company (FirstEnergy), and Hoosier Energy Rural Electric Cooperative, Inc. and Southern Illinois Power Cooperative (Hoosier & Southern Illinois).

III. Notice of Filing and Responsive Pleadings

7. Notice of the Midwest ISO's July 23, 2008 filing in Docket No. ER07-1372-010 was published in the *Federal Register*, 73 Fed. Reg. 45,753 (2008), with interventions and protests due on or before August 13, 2008. EPIC Merchant Energy, L.P. (EPIC) filed a motion to intervene. Hoosier & Southern Illinois filed a protest. The Midwest ISO filed an answer to Hoosier & Southern Illinois' protest and Hoosier & Southern Illinois filed an answer to the Midwest ISO's answer.

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motion to intervene of EPIC serves to make it a party to the proceeding in Docket No. ER07-1372-010.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers of the Midwest ISO and Hoosier & Southern Illinois because they have provided information that assisted us in our decision-making process.

B. **Substantive Matters**

1. **Requests for Rehearing (Docket No. ER07-1372-009)**

a. **Self-Scheduling and Self-Supply**

i. **June 23 Order**

10. In the June 23 Order, the Commission found that the Midwest ISO's commitment to undertake stakeholder discussions on the cost allocation for self-scheduling entities was a sufficient indication that the Midwest ISO intends to address the concerns of market participants. The Commission explained that the discussions should be substantive in nature and should focus on refinements to the allocation of ASM costs to self-scheduling market participants in recognition of the fact that self-scheduling entities can reduce the amount of operating reserves that the Midwest ISO must procure.[3]

11. The Commission also found[4] that sellers in the Midwest ISO market that are authorized to sell energy at market-based rates are authorized to also sell ancillary services at market-based rates in the ASM upon inclusion in their market-based rate tariffs of the following standard ancillary services provision:

> Midwest ISO: Seller offers regulation service and operating reserve service (including 10-minute spinning reserve and 10-minute supplemental reserve) for sale to the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and to others that are self-supplying ancillary services to Midwest ISO.

ii. **Requests for Rehearing**

12. On rehearing, Indianapolis P&L faults the Commission for not directing the Midwest ISO to revise its cost allocation rules for self-scheduling entities. Indianapolis P&L requests that the Commission direct the Midwest ISO to alter the cost allocation rules for self-scheduling entities to allow for a true self-supply option. Indianapolis P&L also states that the Midwest ISO has not initiated any stakeholder discussions on the cost allocation for self-scheduling entities, leaving these entities without a perfect hedge, in violation of prior precedent on self-supply. Indianapolis P&L further asserts that the Commission has recognized the potential for unjust and unreasonable cost allocations in

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[3] *Id.* P 82.

[4] *Id.* P 46.

its past orders to those entities that self-schedule and the need for refinements to the cost allocation methodology,[5] and therefore it must grant rehearing.

13. As support for its position, Indianapolis P&L cites to Commission precedent that transmission providers are required to facilitate their customers' efforts to meet operating reserve obligations with their own generating resources[6] and ISOs may implement supply through a market process only if the market would place a customer in the same financial position as supplying ancillary services on its own behalf.[7] Indianapolis P&L concludes from this that the Midwest ISO can utilize a self-scheduling option only if it provides a full hedge. Indianapolis P&L contends that the Commission erred in finding that stakeholder discussions on cost allocation are sufficient. According to Indianapolis P&L, the Midwest ISO ASM program violates Commission precedent and cost causation principles because there is a potential mismatch between the amounts charged to load-serving entities for the amount of ancillary services they are required to obtain and the payments made to these same entities for the amounts that they self-schedule.[8]

14. FirstEnergy requests rehearing of the standard ancillary services provision specified by the Commission in the June 23 Order. FirstEnergy believes that the provision should be revised by deleting the phrase "and to others that are self-supplying ancillary services to Midwest ISO." FirstEnergy explains this revision is needed because the Midwest ISO tariff provisions applicable to the ASM do not permit entities to meet their ancillary service procurement obligations by self-supplying regulating reserve

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[5] February 25 Order, 122 FERC ¶ 61,172 at P 324; June 23 Order, 123 FERC ¶ 61,296 at P 82.

[6] *See Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, (1996), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, 82 FERC ¶ 61,046 (1998), *aff'd in part and remanded in part, sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

[7] *See New York Indep. Sys. Operator, Inc.*, 97 FERC ¶ 61,155, at 61,677 (2001).

[8] Indianapolis P&L also cites to the California ISO tariff, which states that the California ISO procures ancillary service requirements net of self-provided ancillary services and that charges for ancillary services are assessed to scheduling coordinators on a volumetric basis, applied to each scheduling coordinator's obligation for the specific ancillary service concerned that it has not self-provided.

service and/or operating reserve services to the Midwest ISO. FirstEnergy also claims that load serving entities will be required to procure regulation service and operating reserve services through the Midwest ISO at prices determined by the Midwest ISO.

15. FirstEnergy argues that the Midwest ISO tariff does not allow load serving entities to avoid their obligation to procure ancillary services through the ASM by entering into bilateral transactions with sellers of regulating and operating reserves. According to FirstEnergy, the failure of load serving entities to purchase and pay for ancillary services through the ASM would have an adverse effect on the liquidity and transparency of the market.

iii. Commission Determination

16. We deny the requests for rehearing on this issue. In the February 25 Order, the Commission found that the Midwest ISO's proposed cost allocation for self-scheduling entities is reasonable and found that it is not appropriate to exempt self-scheduling entities from the costs of the ASM since the management of ancillary services by the Midwest ISO provides reliability benefits for all market participants, including self-scheduling entities.[9] Therefore, the Commission's statement encouraging the exploration of a more refined cost allocation does not represent a finding that the proposed cost allocation is unreasonable. Accordingly, we deny Indianapolis P&L's request on rehearing that we direct the Midwest ISO to revise its self-scheduling provisions.

17. Moreover, we consider a full self-supply hedge neither practical nor reasonable in an ISO context. The Midwest ISO, as the sole Balancing Authority for its region, has the responsibility to ensure reliability for all market participants, including self-scheduling entities. Accordingly, the Midwest ISO must procure reserves for all contingencies, including the contingency that self-scheduled reserves do not perform. Indianapolis P&L, as a Midwest ISO market participant, benefits from the reserve market management by the Midwest ISO and therefore it is reasonable that it be allocated ASM costs. Indianapolis P&L receives the benefit of its self-scheduling since fewer ASM reserves must be procured by the Midwest ISO and therefore lower costs are allocated to Indianapolis P&L.

18. We also find that our determination in the June 23 Order is consistent with the Commission precedent cited by Indianapolis P&L on rehearing. The Midwest ISO ASM program provides a self-scheduling option that facilitates efforts by customers to meet operating reserve obligations with their own generating resources, and therefore meets the requirements of Order No. 888 cited by Indianapolis P&L. Similarly, the New York ISO precedent cited by Indianapolis P&L refers to a Commission ruling requiring the

[9] February 25 Order, 122 FERC ¶ 61,172 at P 324.

New York ISO to give market participants the option to self-supply without requiring them to bid into the New York ISO markets. Since self-scheduling market participants are not required to bid into Midwest ISO markets, the Midwest ISO's proposed treatment of self-scheduling is consistent with the New York ISO precedent and we therefore deny Indianapolis P&L's request on rehearing that we direct the Midwest ISO to revisit its treatment of self-scheduling.

19. We also deny FirstEnergy's request on rehearing that we revisit the standard ancillary services provision specified in the June 23 Order. Contrary to FirstEnergy's claim, market participants can bilaterally contract for reserves in the ASM. While market participants must self-schedule their reserves in the Midwest ISO ASM, the Commission has determined that the self-schedule option provides all the features of self-supply and is essentially the same as self-supply.[10] Accordingly, we maintain our finding in the June 23 Order that market participants are authorized to sell ancillary services to both the Midwest ISO and to others that are self-supplying ancillary services, and we deny the request for rehearing.

b. Cost Allocation Among Reserve Zones

i. June 23 Order

20. In the June 23 Order, the Commission accepted the Midwest ISO's proposed zonal allocation of ASM costs for binding reserve zones and the non-binding reserve zone.[11] The proposal allocates costs to binding zones when constraints are binding and to the non-binding zone when there is a single price for all reserve zones. The Commission explained that the costs of reserves in a zone are allocated to load in the zone because the Midwest ISO locates reserves in the zone to manage reliability in that zone. The Commission also noted that when a reserve resource in a constrained zone provides reserve MWs greater than the needs of load in the zone, and therefore provides reserve MWs to adjoining zones, such a result is not the cause of the costs of reserves and is instead a secondary outcome unrelated to the primary reliability purpose of the reserve in the constrained zone.[12] The Commission also accepted the proposed allocation of costs

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[10] *Id.*

[11] June 23 Order, 123 FERC ¶ 61,296 at P 26. Binding reserve zones are reserve zones with market clearing prices for reserves greater than the minimum market clearing price for reserves in all reserve zones in the day-ahead and real-time reserve markets. The non-binding reserve zone is the combination of all reserve zones that are not binding reserve zones.

[12] *Id.* P 28.

across non-binding zones because all reserves in a non-binding zone are accessible for reliability management in the area and load receives a reliability benefit from all these reserves.[13]

ii. Request for Rehearing

21. Indianapolis P&L requests rehearing of the Commission's acceptance of the Midwest ISO's proposed cost allocation. Indianapolis P&L asserts that the proposed zonal allocation exposes load serving entities to potential costs resulting from under-procurement of ancillary service requirements by other participants in the same zone. This is because, according to Indianapolis P&L, the Midwest ISO ASM program does not provide a full hedge to ancillary service cost exposure, in contravention of Commission precedent and the practice in other ISOs and RTOs, and because there is no requirement that zones will be identical in size and scope to the current Balancing Authority Areas. Indianapolis P&L also claims that the Commission erred in accepting the zonal allocation because the zonal allocation can result in one zone subsidizing the costs of ancillary services exported for the benefit of another zone. Indianapolis P&L states that it supports a cost allocation under which: (1) each area of the market pays for a quantity of reserves proportional to its load; (2) the non-constrained part of the market pays for reserves at the price that would prevail if there were no constraints; (3) the constrained zone pays for reserves at its actual marginal clearing price; and (4) the revenue shortfall is allocated to constrained zones in proportion to the cost of exporting high-cost reserves to lower-cost non-constrained areas.

22. Indianapolis P&L requests clarification on the intent of the Commission's acceptance of the proposed cost allocation with respect to the non-binding zone. Indianapolis P&L requests that the Commission clarify that its intent was to allow the Midwest ISO to assign costs to load in proportion to the load's usage or requirements, so that cost allocation reflects cost causation. Indianapolis P&L also requests clarification that the costs assigned to the non-binding zone will be assigned locally in a manner that reflects the local cost characteristics within each zone. Indianapolis P&L argues that the Midwest ISO proposal would not eliminate the effect of lower-cost regions subsidizing higher-cost regions and would result in regions with greater resources aiding regions with fewer resources. Indianapolis P&L posits that in the circumstance of binding constraints in Wisconsin, the Upper Peninsula of Michigan, Illinois and Missouri, the zonal cost allocation would assume that load to the west of the constrained areas would supply reserves to Indiana and Ohio and vice versa, an outcome Indianapolis P&L characterizes as nonsensical.

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[13] *Id.* P 29.

iii. Commission Determination

23. We deny the request for rehearing of Indianapolis P&L, but clarify the Commission's determination. As discussed in the preceding section, the procurement of reserves by the Midwest ISO benefits all market participants, including those self-supplying their reserves, because reserves procured by the Midwest ISO will provide back-up reserves in the event that the market participant's reserves do not perform and in emergency conditions when reserves are scarce. Inasmuch as the reserves procured by the Midwest ISO provide a general reliability benefit to all market participants, we maintain our finding in the June 23 Order that a cost allocation to all market participants – including self-scheduling market participants – is reasonable. Considering the reliability benefit to all market participants of reserve procurement by the Midwest ISO, we reject Indianapolis P&L's argument on rehearing that self-supplying market participants will subsidize market participants that "under procure" reserves.

24. The Commission has already addressed the potential for exports from constrained zones in prior orders. The Commission has explained that the primary purpose of reserves in a zone is to manage local reliability in the zone, that the Midwest ISO would not procure reserves in the zone unless they were needed to manage reliability in the zone, and that a zonal allocation therefore best reflects cost causation.[14] While exports from constrained zones are possible, they do not alter the cost causation basis for allocating the costs of reserves in the zone to load in the zone and the basis for the Commission determination that such a cost allocation is reasonable. Indianapolis P&L offers no new arguments on this issue and therefore we deny its request for rehearing.

25. The Commission previously accepted the Midwest ISO's proposal to allocate costs among market participants in the non-binding zone based on real-time load. We clarify that, in accepting the Midwest ISO's proposed zonal cost allocation, it was not the Commission's intent to approve an allocation of costs in the non-binding zone based on reserve usage or reserve requirements, rather than real-time load. As discussed in the preceding section, we found this cost allocation reasonable because it reflects that all market participants, including self-scheduling market participants, benefit from the reserves procured by the Midwest ISO.

26. We also note that the non-binding zone is defined as the combination of all reserve zones that are not binding reserve zones in which there is a single price. Therefore, addressing the example posed by Indianapolis P&L, two areas separated by constraints will only be considered part of the non-binding zone if there is no price separation between the two areas. In the event that there is price separation, market participants in

[14] *See* February 25 Order, 122 FERC ¶ 61,172 at P 418; *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,297, at P 19-20 (2008).

each zone would pay for the costs of their reserves based on the reserve costs in their respective zone. In accepting the proposed cost allocation in the June 23 Order, the Commission found this result to be consistent with cost causation, and we maintain that finding.

c. Allocation of Ancillary Services Costs to Grandfathered Agreements

i. February 25 and June 23 Orders

27. In the February 25 Order, the Commission found that the Midwest ISO should allow parties to carved-out grandfathered agreements[15] to meet their ancillary service requirements through the provisions in their grandfathered agreements instead of requiring that the parties procure such services under the ASM. However, to the extent that the parties to a carved-out grandfathered agreement do not schedule sufficient reserves, the Commission found that they were not meeting their reserve requirements and were relying on the ASM. In these circumstances, the Commission found it appropriate for the Midwest ISO to assess the transmission owner providing service under the carved-out grandfathered agreement charges for the reserves supplied in real-time through the ASM.[16]

28. In the June 23 Order, the Commission required that parties to carved-out grandfathered agreements pay the costs of the reserves in the zone where their load is located, to ensure consistency with the zonal cost allocation.[17]

ii. Request for Clarification

29. Hoosier & Southern Illinois believe that the Commission intended in the June 23 Order to require parties to carved-out grandfathered agreements to pay only the costs of the reserves in the zone where their load is located only if those parties have failed to schedule sufficient reserves in real-time, and not to pay for the entirety of the reserves needed by the carved-out grandfathered agreement's load. Hoosier & Southern Illinois

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[15] Carved-out grandfathered agreements are agreements held by Midwest ISO market participants that elected not to include these agreements in the Midwest ISO energy market and did not choose one of the settlement options made available by the Commission at the start of the Midwest ISO energy market. *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,236 (2004).

[16] February 25 Order, 122 FERC ¶ 61,172 at P 433.

[17] June 23 Order, 123 FERC ¶ 61,296 at P 39.

assert that the Commission was not clear on this point, and therefore they request clarification. Hoosier and Southern Illinois request rehearing of the Commission's finding if the Commission intends that the directive apply to the entire reserve requirement of the load of carved-out grandfathered agreements.

iii. Commission Determination

30. We clarify that the Commission's intent was to require parties to carved-out grandfathered agreements to pay the costs of the reserves in the zone where their load is located only in those circumstances in which those parties have failed to schedule sufficient reserves in real-time. This intent is made clear in the February 25 Order's finding restricting the cost responsibility of parties to grandfathered agreements to circumstances in which they do not schedule sufficient reserves and the June 23 Order requirement that parties to carved-out grandfathered agreements pay the costs of the reserves in the zone where their load is located, to ensure consistency with the zonal cost allocation.

d. Ex Post Locational Marginal Prices

i. June 23 Order

31. In the June 23 Order, the Commission found the Midwest ISO's proposed tariff revision in section 40.2.17, which indicates that the ex post pricing calculation algorithm would be defined in the business practices manual to be in compliance with the February 25 Order. The Commission indicated that the ex post pricing calculation algorithm did not need to be incorporated in the tariff since this algorithm is a performance-monitoring process that determines resource eligibility in setting ex post prices and incorporates the analysis of state estimator results. The Commission found that this information informs market participants of the Midwest ISO's practices and the information provides greater detail that supplements the tariff and does not override the tariff, and therefore does not significantly affect rates, consistent with the Commission's "rule of reason."[18]

ii. Request for Rehearing

32. Hoosier & Southern Illinois contend that the Commission's finding cannot be reconciled with the Midwest ISO tariff, which states that ex post LMPs and ex post marginal clearing prices are used to settle real-time energy and operating reserve deviations. Hoosier & Southern Illinois assert that ex post LMPs and marginal clearing

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[18] February 25 Order, 122 FERC ¶ 61,172 at P 489-90 (*citing Cal. Indep. Sys. Operator Corp.,* 116 FERC ¶ 61,274, at P 1358 (2006)).

prices do more than monitor performance and that they are instrumental in setting marginal prices that customers pay. Under the Commission's own precedent, Hoosier & Southern Illinois argue, the algorithm for calculating ex post LMPs and marginal clearing prices must be included in the tariff.

iii. Commission Determination

33. We note that the Midwest ISO revised its ex post pricing procedures in a filing submitted on July 11, 2008 in Docket No. ER08-1256, and that the Commission is accepting that revision in an order being issued concurrently with this order. The provision at issue here has been superseded by this revision and the revised and accepted tariff no longer includes the language that Hoosier & Southern Illinois find objectionable. Thus, the issue raised by Hoosier & Southern Illinois is moot, and we dismiss the request for rehearing.

2. Compliance Filing (Docket No. ER07-1372-010)

a. Allocation of Ancillary Services Costs to Grandfathered Agreements

i. February 25 and June 23 Orders

34. In the February 25 Order, the Commission required the Midwest ISO to allocate a portion of the real-time ancillary services costs to carved-out grandfathered agreements that do not meet the reserve requirements caused in real-time, consistent with cost causation principles.[19] In the June 23 Order, the Commission required the Midwest ISO to revise its proposed cost allocation so that carved-out grandfathered agreements pay the costs of the reserves in the zone where their load is located and to ensure that the proposed cost allocation recovers all of the reserve costs and that the additional amounts do not have to be recovered in a deficiency rate.[20]

ii. July 23 Compliance Filing

35. The Midwest ISO submitted a revised cost allocation in its July 23 Compliance Filing. The Midwest ISO proposes a charge applicable to carved-out grandfathered agreements in Schedules 3, 5 and 6. The charge is derived by subtracting the lesser of the costs of the market participant's reserve schedules associated with the carved-out grandfathered agreement or its reserve obligation for the zone from the product of the

[19] February 25 Order, 122 FERC ¶ 61,172 at P 440.

[20] June 23 Order, 123 FERC ¶ 61,296 at P 39-40.

grandfathered agreement reserve procurement rate[21] and the actual energy withdrawal for the market participant.

iii. Protest

36. Hoosier & Southern Illinois assert that, under the proposal, parties to carved-out grandfathered agreements will pay charges based on changes in actual energy withdrawals by non-grandfathered parties, even if the parties to carved-out grandfathered agreements accurately forecast their load and then self-schedule sufficient resources to cover both their load and the required reserves. Hoosier & Southern Illinois argue that this requirement conflicts with the Commission's directive that parties to carved-out grandfathered agreements may be charged for ASM procurement costs only to the extent that they do not schedule sufficient reserves in real time. Hoosier & Southern Illinois also note that the Commission stated that subjecting carved-out grandfathered agreements to Schedules 3, 5, and 6 would disrupt the scheduling practices provided under the carved-out grandfathered agreements and essentially modify them.[22] Hoosier & Southern Illinois state that they are electric cooperatives and therefore the Commission has no authority to modify these contracts by subjecting them to Schedules 3, 5, and 6. Hoosier & Southern Illinois contend that the Midwest ISO must continue to honor their contracts.

37. Hoosier & Southern Illinois recommend that the Commission reject the Midwest ISO's proposed provisions regarding operating reserve cost allocation to carved-out grandfathered agreements or, in the alternative, accept the provisions subject to revision of the Midwest ISO's proposal to provide that the charges to carved-out grandfathered agreements are dependent only upon withdrawals pursuant to those carved-out grandfathered agreements.

iv. Answers

38. The Midwest ISO responds that its compliance filing is consistent with the June 23 Order and notes that the Commission did not recommend that the formula be limited to carved-out grandfathered agreements with scheduling deficiencies, as claimed by Hoosier & Southern Illinois. The Midwest ISO argues that Hoosier & Southern Illinois are seeking the same carved-out grandfathered agreement treatment initially proposed by the Midwest ISO, and that the Commission rejected that proposal. The Midwest ISO

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[21] The grandfathered agreement reserve procurement rate is the reserve procurement cost divided by the total actual energy withdrawal in the binding zone or the non-binding zone.

[22] February 25 Order, 122 FERC ¶ 61,172 at P 436.

requests that the Commission reject the Hoosier & Southern Illinois protest as a collateral attack on the June 23 Order.

39. Hoosier & Southern Illinois reply that the Midwest ISO answer ignores the Commission's directive in the February 25 Order requiring that ASM charges be allocated to parties to carved-out grandfathered agreements only to the extent that parties to a carved-out grandfathered agreement do not schedule sufficient reserves in real-time. Hoosier & Southern Illinois note that the Commission did not grant rehearing on this issue in the June 23 Order and assert that compliance filings must be limited to the specific directives ordered by the Commission. Hoosier & Southern Illinois also argue that the Midwest ISO ignores the fact that the rate formulation in the July 23 filing would be unlawful since it modifies the grandfathered agreements and therefore would disrupt their scheduling practices. Hoosier & Southern Illinois further claim that the Commission did not make a finding that its contracts harm consumers and the Midwest ISO provides no basis upon which the Commission could find that allowing parties to carved-out grandfathered agreements to meet their ancillary service requirements through the provisions in their grandfathered agreements would harm consumers.

v. <u>Commission Determination</u>

40. Since the proposed charge ensures that carved-out grandfathered agreements pay only for ASM procurement costs that exceed the cost of the amounts scheduled, it is consistent with the Commission's directives. We find the proposed cost allocation provision to be in compliance with the requirements of the June 23 Order and accordingly we accept the provision.

41. Inasmuch as the Midwest ISO is procuring reserves for the entire zone, and cannot procure reserves for individual market participants, the allocation formula must be based on a zonal average cost of reserves. Therefore, the proposed allocation by necessity must reflect the impacts of non-grandfathered agreement load. While we understand the desire of Hoosier & Southern Illinois for a reserve cost allocation that is unaffected by the activities of other market participants, such an allocation is not reflective of how the Midwest ISO actually procures reserves and therefore it is not a realistic or practical alternative.

42. With regard to Hoosier & Southern Illinois' concern with the applicability of Schedules 3, 5, and 6 to grandfathered agreements, we note that the grandfathered agreement procurement rate proposed by the Midwest ISO is consistent with the June 23 Order's definition of the procurement rate as procurement costs in the zone divided by total actual energy withdrawals, including carved-out grandfathered agreements.[23] We

[23] June 23 Order, 123 FERC ¶ 61,296 at P 40.

do not consider it unreasonable for carved-out grandfathered agreements to pay the same procurement rate as other market participants for reserves, for the reasons discussed above.

b. Mitigation in Reserve Zones

i. February 25 and June 23 Orders

43. In the February 25 Order, the Commission found that applying the mitigation measures in Module D of the Midwest ISO's tariff to constrained reserve zones, in addition to Broad Constrained Areas and Narrow Constrained Areas,[24] should address the additional gaming opportunities posed by minimum operating reserve requirements within constrained reserve zones.[25] As such, the Commission required the Midwest ISO to submit tariff revisions to reflect the imposition of mitigation measures in constrained reserve zones. The Commission also required the Midwest ISO to clarify the relationship between mitigation within Broad Constrained Areas, Narrow Constrained Areas, and constrained reserve zones.[26]

44. In the June 23 Order, the Commission accepted the Midwest ISO's clarification that constrained reserve zones, along with binding transmission constraints, may cause the Independent Market Monitor to define a Broad Constrained Area and to apply any applicable mitigation measures. To distinguish between constrained reserve zones and binding transmission constraints, however, the Commission required the Midwest ISO to define "[r]eserve [z]one [c]onstraint" separately from "[b]inding [t]ransmission

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[24] The Midwest ISO applies mitigation when there are binding transmission constraints in Broad Constrained Areas, which are defined dynamically when constraints arise on transmission flowgates, or in Narrow Constrained Areas, which are defined in advance and are potentially more subject to the exercise of market power.

[25] The Midwest ISO defines reserve zones on a quarterly basis or as system conditions warrant to ensure the reliable dispersion of operating reserves through the Midwest ISO balancing authority area. It calculates minimum operating reserve requirements for each zone on a daily basis. February 25 Order, 122 FERC ¶ 61,172 at P 221-22.

[26] *Id.* P 167.

[c]onstraint."[27] The Commission also required the Midwest ISO to revise its tariff, as appropriate, to reflect this new definition.[28]

ii. July 23 Compliance Filing

45. In its compliance filing, the Midwest ISO revises section 1.48a to define a binding reserve zone constraint as "a constraint that causes a change in the dispatch or commitment of one or more [e]lectric [f]acilities to meet the [r]eserve [z]one's minimum [o]perating [r]eserve requirements."[29] To reflect this definition, the Midwest ISO revises the tariff's current references to "[b]inding [t]ransmission [c]onstraint" in Module D to also refer to "[b]inding [r]eserve [z]one [c]onstraint."

iii. Commission Determination

46. We note that the Midwest ISO's proposal now indicates, for the first time, that binding reserve zone constraints will be included in the calculation of the Narrow Constrained Area threshold for identifying economic withholding, and other tariff revisions in its July 23 Compliance Filing indicate that Narrow Constrained Area mitigation also applies to constrained reserve zones. We consider it reasonable to include constrained reserve zones in Narrow Constrained Areas, and therefore we find that the Midwest ISO's tariff revisions are in compliance with the Commission's requirement that the Midwest ISO clarify the relationship between constrained reserve zones and Narrow Constrained Area mitigation.[30] However, to ensure that the mitigation plan is working effectively, we require the IMM to provide, in an informational report due within 90 days of the start of the ASM, an update on the incorporation of constrained reserve zones into Narrow Constrained Areas.[31] In this update, we require the IMM to submit the following information: (1) outline any plans to either add or revise Narrow Constrained Areas, to reflect constrained reserve zones; (2) if there have been no revisions to Narrow Constrained Areas or there are no plans to make changes, explain the reasons behind this

[27] June 23 Order, 123 FERC ¶ 61,296 at P 75.

[28] *Id.* n.48.

[29] Midwest ISO July 23 Compliance Filing, FERC Electric Tariff, Fourth Revised Vol. No. 1, First Revised Sheet No. 90.

[30] February 25 Order, 122 FERC ¶ 61,172 at P 167.

[31] We expect that the IMM and the Midwest ISO will be making filings to designate new or revised Narrow Constrained Areas, as required by the tariff, to incorporate constrained reserve zones.

determination; and (3) explain how the ASM and constrained reserve zones have impacted the process for designating Narrow Constrained Areas since the start of the ASM.

47. We find the Midwest ISO's new definition of "[b]inding [r]eserve [z]one [c]onstraint" and inclusion of this term in places where the existing tariff refers to binding transmission constraints in regard to Broad Constrained Area mitigation to be in compliance with the June 23 Order. However, we are concerned that additional sections of the tariff, including those that refer to binding "transmission constraints" generally, should also mention the new definition of binding reserve zone constraint, consistent with the June 23 Order.[32] To improve tariff clarity and to distinguish between mitigation provisions that apply to binding reserve zone constraints and/or binding transmission constraints, we require the Midwest ISO to submit, in the compliance filing ordered below, tariff revisions to refer to the defined terms "[b]inding [t]ransmission [c]onstraint" and/or "[b]inding [r]eserve [z]one [c]onstraint," as appropriate, throughout its monitoring and mitigation plan and any associated definitions, including in sections 1.54, 1.433, 63.4.1.c, 63.4.1.e, 63.4.2.a, 65.2.2.b, and 65.3.1.d.[33]

c. **<u>Price Volatility Make-Whole Payment</u>**

48. According to the Midwest ISO, the Price Volatility Make-Whole Payment program in Docket No. ER06-1552-000, *et al.*, is designed to protect from financial harm generators that provide dispatch flexibility, follow their dispatch instructions, and, in doing so, incur losses due to the differences that arise between the ex ante, five-minute prices used to dispatch units and the ex post, hourly market prices used to settle the markets. The Commission conditionally accepted in part and rejected in part this payment program "effective ten (10) days after [the] Midwest ISO files with the Commission a notice that the necessary software and other systems are in place to

[32] For example, the definition of Broad Constrained Area in section 1.54 refers to only binding "transmission constraints," and the definition of Narrow Constrained Area in section 1.433 refers only to "[b]inding [t]ransmission [c]onstraints."

[33] Midwest ISO, FERC Electric Tariff, Fourth Revised Tariff Vol. No. 1, Original Sheet Nos. 92, 219, 1388, 1389, 1391, 1419, and 1425.

implement the proposed filing."[34] The Price Volatility Make-Whole Payment program has not been implemented in its entirety due to software delays.[35]

i. <u>February 25 and June 23 Orders</u>

49. In the February 25 Order, the Commission conditionally accepted the Midwest ISO's proposal to rename the Price Volatility Make-Whole Payment program and split it into two components: the Real-Time Offer Revenue Sufficiency Guarantee Payment program will apply to suppliers dispatched above their day-ahead schedules either economically or through manual redispatch; and the Day-Ahead Margin Assurance Payment program will apply to affected suppliers dispatched below their day-ahead schedules. The Commission required the Midwest ISO to clarify its monitoring and mitigation plan for the payment programs and include any associated tariff revisions in a compliance filing.

50. In the June 23 Order, the Commission conditionally accepted the Midwest ISO's monitoring and mitigation plan for the Real-Time Offer Revenue Sufficiency Guarantee and Day-Ahead Margin Assurance Payment programs. The Commission required the Midwest ISO to submit tariff revisions to reflect that the Independent Market Monitor will apply the existing mitigation thresholds in sections 64.1.2.iii and 64.1.2.iv to screen for gaming of the payments.[36] The Commission also required the Midwest ISO to delete both repetitions of the phrase "including, but not limited to, [o]ffers resulting in any [r]evenue [s]ufficiency [g]uarantee payments, Price Volatility Make-Whole Payments, and other similar payments" from section 53.1 because that language was previously rejected by the Commission.[37] To allow certain tariff sheets previously accepted in Docket No. ER06-1552-000, *et al.*, associated with the payment programs to be made

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[34] *Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,325, at Ordering Paragraph (A) (2006) (December 22 Order), *order on compliance*, 119 FERC ¶ 61,160, *reh'g denied*, 119 FERC ¶ 61,176 (2007), *order on compliance*, 122 FERC ¶ 61,198 (2008) (March 4 Order).

[35] We note that only the section of the Price Volatility Make-Whole Payment that is given to certain generation resources that are manually redispatched by the Midwest ISO (i.e., the Manual Redispatch Make-Whole Payment) has been made effective. *See* March 4 Order, 122 FERC ¶ 61,198 at P 47; *see also Midwest Indep. Transmission Sys. Operator, Inc.*, 124 FERC ¶ 61,169, at P 16 (2008) (August 18 Order).

[36] June 23 Order, 123 FERC ¶ 61,296 at P 95.

[37] *Id.* P 102 (citing March 4 Order, 122 FERC ¶ 61,198 at P 53).

effective at the launch of the ASM, the Commission reminded the Midwest ISO that it must notify the Commission that the necessary software and other systems are in place.[38]

51. In addition, the Commission required the Midwest ISO to address whether it inadvertently deleted the market impact thresholds for revenue sufficiency guarantee credits from section 64.2.1 and, if so, to include associated tariff revisions. Finally, the Commission directed the Midwest ISO to correct its monitoring and mitigation plan to refer to "[r]evenue [s]ufficiency [g]uarantee [c]redit" instead of "[r]evenue [s]ufficiency [g]uarantee [p]ayment," as appropriate.[39]

ii. July 23 Compliance Filing

52. In the July 23 Compliance Filing, the Midwest ISO adds a sentence to the end of section 53.1 to provide that the Independent Market Monitor will apply the thresholds set forth in sections 64.1.2.a.iii and 64.1.2.a.iv when monitoring for possible gaming of the Real-Time Offer Revenue Sufficiency Guarantee and Day-Ahead Margin Assurance Payments. The Midwest ISO removes only a single repetition of the required language from section 53.1.a and, instead of removing the second repetition of the phrase, modifies it to refer to different payment programs. The Midwest ISO also includes in section 53.1.a an additional sentence that was proposed in another proceeding regarding the monitoring of revenue sufficiency guarantee credits.

53. In addition, the Midwest ISO states that the necessary systems and software are ready to implement the Real-Time Offer Revenue Sufficiency Guarantee and Day-Ahead Margin Assurance Payment programs, consistent with the new terminology associated with the Price Volatility Make-Whole Payment program. As such, the Midwest ISO requests that this statement be deemed to constitute the notice required by the Commission to implement the programs at the launch of the ASM.

54. In regard to mitigation measures associated with revenue sufficiency guarantee credits, the Midwest ISO clarifies that, while it intended to delete the percentage-based market impact threshold, it meant to replace it with a threshold expressed in dollars. Accordingly, the Midwest ISO revises section 64.2.1.d to provide that the market impact threshold for revenue sufficiency guarantee credits will be $50 per MW per hour. The Midwest ISO also revises sections throughout Module D to refer to "[d]ay-[a]head or [r]eal-[t]ime [r]evenue [s]ufficiency [g]uarantee [c]redits" instead of "[r]evenue [s]ufficiency [g]uarantee [p]ayments."

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[38] June 23 Order, 123 FERC ¶ 61,296 at n.62 (*citing* December 22 Order, 117 FERC ¶ 61,325 at Ordering Paragraph (A)).

[39] *Id.* P 96.

iii. Commission Determination

55. We find that the Midwest ISO's revisions to section 53.1.a do not satisfy the Commission's requirement to revise the tariff to reflect that the Independent Market Monitor will apply the existing thresholds in sections 64.1.2.iii and 64.1.2.iv to screen for the gaming of the payments. No revisions are needed in section 53.1.a because the existing, general provisions of that section already require the Independent Market Monitor to monitor all offers submitted in the Midwest ISO, including offers that may affect the Real-Time Offer Revenue Sufficiency Guarantee and Day-Ahead Margin Assurance Payments.[40] Instead, the Midwest ISO should revise the discussion of Commission referrals in section 53.3 to clarify that it will make a referral to the Commission if the existing thresholds in sections 64.1.2.iii and 64.1.2.iv are exceeded.[41] Accordingly, we require the Midwest ISO to submit, in the compliance filing ordered below, tariff revisions to remove from section 53.1.a the sentence regarding the thresholds in section 64.1.2 and to insert in section 53.3 language that requires the Independent Market Monitor to apply the thresholds in sections 64.1.2.iii and 64.1.2.iv to determine whether to make a Commission referral regarding the payments.

56. The Midwest ISO also includes in section 53.1.a language providing that "in monitoring [d]ay-[a]head or [r]eal-[t]ime [r]evenue [s]ufficiency [g]uarantee [c]redits, the [Independent Market Monitor] will consider economic withholding, as defined in [s]ection 63.3.a.ii, and uneconomic production, as defined in [s]ection 63.3.a.iii." The Commission did not require the Midwest ISO to make this change, and it rejected similar language in another proceeding.[42] Accordingly, we require the Midwest ISO to remove this language from section 53.1.a.

57. We find that the Midwest ISO has not fully complied with the Commission's directive to remove *both* repetitions of certain language in section 53.1.a.[43] While the

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[40] August 18 Order, 124 FERC ¶ 61,169 at P 10.

[41] This change would be consistent with the existing discussion of the thresholds applicable to making Commission referrals regarding the conduct of Local Balancing Authority Area Operators and schedules from holders of expanded congestion cost hedges in sections 53.3.d and 53.3.e, respectively.

[42] In that proceeding, as here, the proposed tariff revisions did not provide that the Independent Market Monitor will consider physical withholding or uneconomic bids and virtual transactions, as defined in sections 63.3.a.i and 63.3.a.iv, respectively, when monitoring revenue sufficiency guarantee credits. *Id.* P 11.

[43] June 23 Order, 123 FERC ¶ 61,296 at P 102 (*citing* March 4 Order, 122 FERC ¶ 61,198 at P 53).

Midwest ISO removes one repetition of this phrase, it modifies, rather than removes, the second iteration.[44] Accordingly, we require the Midwest ISO to submit, in its compliance filing, revisions to section 53.1.a to remove the language that reads "including, but not limited to, [o]ffers resulting in any [d]ay-[a]head or [r]eal-[t]ime [r]evenue [s]ufficiency [g]uarantee [c]redits, [Day-Ahead Margin Assurance Payments] and/or [Real-Time Revenue Sufficiency Guarantee Payments], and other similar payments, including [Manual Redispatch Make-Whole Payments]."

58. In addition, we find that the Midwest ISO's statement that the necessary systems and software are ready constitutes the required notice to implement all of the remaining sections of the Price Volatility Make-Whole Payment program, which has been subsequently revised and renamed the Real-Time Offer Revenue Sufficiency Guarantee and Day-Ahead Margin Assurance Payment programs. We note that, while the Commission made certain related tariff sheets associated with the calculation of payments in Schedule 27 effective on February 1, 2008,[45] the Midwest ISO has requested rehearing of this issue in Docket Nos. ER08-416-003 and ER06-1552-005.[46] In the event that the rehearing request is denied, the Midwest ISO's notice in this proceeding would be unnecessary to make the tariff sheets in Schedule 27 effective. However, in the event that the rehearing request is granted, the Midwest ISO's notice in this proceeding would apply to the tariff sheets in Schedule 27. Accordingly, we make certain tariff sheets previously accepted in Docket No. ER06-1552-000, *et al.*, effective at the launch of the ASM,[47] which is currently planned for January 6, 2009, subject to the outcome of the proceeding in Docket Nos. ER08-416-003 and ER06-1552-005.

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[44] The Midwest ISO's reference to Manual Redispatch Make-Whole Payments is inappropriate, as the payments will cease at the launch of the ASM.

[45] August 18 Order, 124 FERC ¶ 61,169 at P 16.

[46] Midwest ISO September 17, 2008 Rehearing Request, Docket Nos. ER08-416-003 and ER06-1552-005.

[47] Midwest ISO September 29, 2008 Filing, Docket No. ER06-1552-000, FERC Electric Tariff, Third Revised Vol. No. 1, Second Revised Sheet No. 587B and Original Sheet Nos. 587C-J and 587L-T; January 24, 2008 Filing, Docket No. ER06-1552-002, FERC Electric Tariff, Third Revised Vol. No. 1, Substitute Second Revised Sheet No. 587B and Substitute Original Sheet Nos. 587C-J and 587L-T; June 18, 2007 Filing, Docket No. ER06-1552-003, FERC Electric Tariff, Third Revised Vol. No. 1, Second Substitute Second Revised Sheet No. 587B, Second Substitute Original Sheet Nos. 587C, 587F, and 587J, and Original Sheet No. 587K.

59. Finally, we accept as in compliance with the June 23 Order the Midwest ISO's revisions to specify the market impact threshold for revenue sufficiency guarantee credits in section 64.2.1.d and to refer correctly to revenue sufficiency guarantee credits throughout Module D.

d. Other Compliance Issues

60. In its July 23 Compliance Filing, the Midwest ISO submits clarifications and tariff revisions with respect to dispatch bands, mitigation thresholds and audits, reserve limits, pseudo-ties, the definition of "Midwest ISO Balancing Authority Area," and miscellaneous revisions to Module D. We find these clarifications and tariff revisions to be in compliance with the requirements of the June 23 Order,[48] except for a revision to section 53.3.d required by the Commission. To ensure compliance with this requirement, we require the Midwest ISO to submit, in the compliance filing ordered below, the following tariff revision:

> **Section 53.3.d, Referral of Anti-Competitive Behavior and Rules Violations to the Commission:** We require the Midwest ISO to revise part of section 53.3.d to read "$10 per MWh within a [l]ocal [b]alancing [a]uthority [a]rea" instead of "$10 per MWh within a [l]ocal [b]alancing [a]uthority."[[49]]

61. As a final matter, we conditionally accept in part and reject in part the Midwest ISO's clarifications and tariff revisions, as discussed above, effective on the date of the start of the ASM, January 6, 2009,[50] or, for Module C revisions,[51] effective one-week before the ASM start date, December 31, 2008, to allow the Midwest ISO to implement

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[48] June 23 Order, 123 FERC ¶ 61,296 at P 49, 50, 61, 67, 86, 90, 98, and 102, respectively.

[49] *Id.* P 102.

[50] Before the Midwest ISO's planned ASM launch date of September 9, 2008, the Midwest ISO submitted a Notice of Deferral of Effective Dates to inform the Commission that services under the ASM proposal would be deferred. Midwest ISO August 26, 2008 Notice of Deferral of Effective Dates, Docket Nos. ER07-1372-002, *et al*. The Midwest ISO later requested to change the launch date of the ASM to January 6, 2009. Midwest ISO October 2, 2008 Filing, Docket No. ER09-24-000.

[51] Midwest ISO July 23, 2008 Filing, Docket No. ER07-1372-010, FERC Electric Tariff, Fourth Revised Vol. No. 1, First Revised Sheet Nos. 731, 734, 923, 927, 981.

early certain market operations necessary to launch the ASM.[52] However, we reject all of the tariff sheets submitted in the July 23 Compliance Filing. The proposed tariff sheets reflect revisions to the Fourth Revised Vol. No. 1 of the Midwest ISO's tariff proposed on July 9, 2008,[53] which was later withdrawn by the Midwest ISO.[54] On October 1, 2008, the Midwest ISO submitted a new proposed Fourth Revised Vol. No. 1 of its tariff, which reflects the tariff revisions submitted in the July 23 Compliance Filing,[55] and which the Commission is addressing in an order being issued concurrently with this order.[56] The tariff sheets submitted in the July 23 Compliance Filing have, thus, been overtaken by recent events because they do not reflect the most recent version of the Midwest ISO's Fourth Revised Vol. No. 1 of its tariff. Thus, in making the 30-day compliance filing ordered below, the Midwest ISO must make the required revisions to the most recent version of the Fourth Revised Vol. No. 1 of its Tariff.[57]

<u>The Commission orders</u>:

(A) The requests for rehearing of the June 23 Order are hereby denied, as discussed in the body of this order.

(B) The Midwest ISO's July 23 Compliance Filing is hereby conditionally accepted in part and rejected in part, as discussed in the body of this order.

(C) The Midwest ISO is hereby required to submit a compliance filing within 30 days from the date of this order, as discussed in the body of this order.

(D) The IMM is hereby required to submit an informational report within 90 days of the start of the ancillary services market, as discussed in the body of this order.

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[52] *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,321 Docket No. ER09-15-000 (2008) (Clean-Up Filing Order) (issued concurrently with this order).

[53] Midwest ISO July 9, 2008 Filing, Docket No. ER08-1244-000.

[54] Midwest ISO October 1, 2008 Motion to Withdraw, Docket No. ER08-1244-000.

[55] Midwest ISO October 1, 2008 Filing, Docket No. ER09-15-000.

[56] Clean-Up Filing Order, 125 FERC ¶ 61,321.

[57] We do not require the Midwest ISO to submit revised tariff sheets to reflect the most recent version of the proposed Fourth Revised Vol. No. 1 of the tariff because that proposed volume reflects the tariff revisions in the July 23 Compliance Filing.

(E) The Midwest ISO's tariff sheets previously accepted in Docket No. ER06-1552-000, *et al.*, are hereby made effective on January 6, 2009, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.