

125 FERC ¶ 61,320
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission
System Operator, Inc.

Docket Nos. ER08-1256-000
ER08-1256-001

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS
AND REQUIRING FURTHER COMPLIANCE FILINGS

(Issued December 18, 2008)

1. The Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)¹ to change how it determines real-time ex post prices. The Midwest ISO also filed an amendment to its proposal. We conditionally accept the proposed Tariff revisions, as amended, effective on the launch date for the Midwest ISO's ancillary services market (ASM), which is planned for January 6, 2009. We direct the Midwest ISO to submit two compliance filings, due within 30 days of the date of this order and 90 days after the ASM launch date.

I. Background

2. Last year, the Midwest ISO filed its revised proposal to implement day-ahead and real-time markets for operating reserves (ASM Proposal).² As part of the ASM Proposal, the Midwest ISO proposed to consolidate balancing authority responsibility in the Midwest ISO in order to allow for the centralized management of ancillary services. The Midwest ISO stated that it would engage in extensive operational testing before

¹ Midwest ISO, FERC Electric Tariff, Fourth Revised Vol. No. 1.

² Midwest ISO September 14, 2007 Filing, Docket No. ER07-1372-000, and Midwest ISO September 19, 2007 Filing, Docket No. ER07-1372-001 (jointly, ASM Proposal).

launching the ASM to ensure that the systems, processes, and procedures will correctly function.³ The Commission conditionally accepted the Midwest ISO's ASM Proposal.⁴

3. Currently, the Midwest ISO uses its security constrained economic dispatch algorithm to dispatch the cost-minimizing set of resources and determine ex ante prices for each five-minute period. While ex ante prices reflect *expected* system conditions and corresponding dispatch instructions, a different set of ex post prices based on *actual* system conditions are used for settlement purposes. Ex post prices are determined after each five-minute period using the same data as ex ante prices, except that the Midwest ISO uses telemetered load data to determine ex post prices instead of the short-term load forecast used to determine ex ante prices.⁵ During ASM operational testing, the Midwest ISO found that ex ante and ex post prices differed noticeably.⁶

4. To address this problem, the Midwest ISO proposes revisions to section 40.2.1.8 of its Tariff to modify its method of determining five-minute ex post locational market prices and market clearing prices effective on the date that it launches its ASM. Rather than continue determining ex post prices using actual system demand, the Midwest ISO proposes to use its short-term forecast of system demand so that ex ante prices and ex post prices will be nearly identical.⁷ The Midwest ISO argues that its proposal will prevent the divergence between ex ante and ex post prices observed during ASM operational testing. The Midwest ISO concludes that preventing this price divergence will ensure that market participants have proper incentives to offer their full unit capabilities and to follow dispatch instructions. This will improve system reliability and avoid the costs and uplift payments associated with additional unit commitments.⁸

³ Midwest ISO September 14, 2008 Filing, Docket No. ER07-1372-000, at 55-56.

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,172 (ASM Order), *reh'g denied*, 123 FERC ¶ 61,297 (2008).

⁵ *See Jones Test* at 2-3.

⁶ To the extent that the short-term load forecast differs from telemetered load data, the ex ante prices used to dispatch resources will differ from the ex post prices used to provide corresponding compensation.

⁷ Ex post prices will continue to be adjusted by the Midwest ISO to correct any data input errors and to ensure that prices comply with the Tariff. This may infrequently cause ex post prices to differ from ex ante prices.

⁸ Midwest ISO July 11, 2008 Filing, Docket No. ER08-1256-000.

5. The Midwest ISO originally requested an effective date for the proposal of “September 9, 2008, to be effective simultaneous with the launch of the ASM.”⁹ However, before the planned launch date, the Midwest ISO submitted a Notice of Deferral of Effective Dates to inform the Commission that service under the ASM proposal would be deferred (Notice of Deferral).¹⁰ In that filing, the Midwest ISO also requested that the Commission defer action in all ASM-related proceedings, including this docket.

6. Due to the revised ASM launch date, the Midwest ISO submitted an amendment to its proposal to modify the requested effective date. The Midwest ISO explains that it has requested in another proceeding to change the launch date of the ASM to January 6, 2009.¹¹ Thus, the Midwest ISO has requested that the Commission recommence action in all ASM-related proceedings included in the Notice of Deferral, including this docket.¹² The Midwest ISO has also proposed to implement certain market operations necessary to launch the ASM one week before the launch date, on December 31, 2008.¹³ To reflect those proceedings, the Midwest ISO requests in its amendment that the proposal be made effective on December 31, 2008 and revises the proposed Tariff sheet accordingly. The Midwest ISO notes that the substantive tariff revisions in its initial proposal have not been changed by the amendment.¹⁴

⁹ *Id.* at 7. The ASM Order accepted the Midwest ISO’s proposed effective date of June 1, 2008. At the time the Midwest ISO filed the instant proposal, the Commission had granted the Midwest ISO’s request to change the ASM launch date from June 1, 2008 to September 9, 2008. *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,296 (2008).

¹⁰ Midwest ISO August 26, 2008 Notice of Deferral of Effective Dates, Docket Nos. ER07-1372-002, *et al.*

¹¹ Midwest ISO October 2, 2008 Filing, Docket No. ER09-24-000.

¹² Midwest ISO November 3, 2008 Notice Regarding Commission Action, Docket Nos. ER07-1372-002, *et al.*

¹³ Midwest ISO October 1, 2008 Filing, Docket No. ER09-15-000 (Tariff Clean-up Filing).

¹⁴ In its Tariff Clean-up Filing, the Midwest ISO submitted a proposed Fourth Revised Vol. No. 1 of its Tariff. To ensure that the pagination and any section numbers and references of the proposed Tariff sheet are consistent with that filing, the Midwest ISO requests that the Commission permit it to withdraw Tariff Sheet No. 1065 submitted in its initial proposal and to substitute the revised Tariff sheet included in the amendment.

II. Notice of Filings and Responsive Pleadings

7. Notice of the Midwest ISO's July 11, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 43,217 (2008), with comments, interventions or protests due on or before August 1, 2008. Exelon Corporation; Consumers Energy Company; Indianapolis Power & Light Company; Hoosier Energy Rural Electric Cooperative, Inc. along with Southern Illinois Power Cooperative; Duke Energy Corporation (Duke);¹⁵ Wisconsin Electric Power Company; Xcel Energy Services, Inc. (Xcel);¹⁶ DC Energy Midwest, LLC; Constellation Energy Commodities Group, Inc. along with Constellation NewEnergy, Inc.; and Midwest Transmission Dependent Utilities (Midwest TDUs)¹⁷ filed timely motions to intervene. Ameren Service Company (Ameren)¹⁸ and the Independent Market Monitor for the Midwest ISO, Potomac Economics Ltd. (Independent Market Monitor) filed timely motions to intervene and comments.

8. Ameren generally supports the Midwest ISO's proposal, but it is concerned that there was not enough operational testing of the proposed ex post pricing method. To address this concern and avoid delaying the launch of the ASM, Ameren requests that the Commission require the Independent Market Monitor to observe the market effects of the proposed revisions and report the results to the Commission within 90 days of the launch of the ASM. The report should address whether the new pricing method minimizes the divergence between ex ante and ex post prices and whether it causes any adverse financial effects. Ameren argues that this report will facilitate efficient ASM implementation and help protect market participants if the new method is ineffective.

¹⁵ Duke filed its motion to intervene on behalf of its franchised utility affiliates, Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., Duke Energy Kentucky, Inc., and Duke Energy Business Services, LLC.

¹⁶ Xcel filed its motion to intervene on behalf of its four utility operating company affiliates, including Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation.

¹⁷ Midwest TDUs include Madison Gas & Electric Co., Missouri River Energy Services, Southern Minnesota Municipal Power Agency, and Wisconsin Public Power Inc.

¹⁸ Ameren filed its motion to intervene on behalf of the Ameren Companies. The Ameren Companies include Central Illinois Light Co., Central Illinois Public Service Co., Illinois Power Co., Union Electric Co., Ameren Energy Marketing Co., Ameren Energy Generating Co., and AmerenEnergy Resources Generating Co.

9. The Independent Market Monitor supports the Midwest ISO's proposal and argues that the proposal will address several inefficiencies caused by the Midwest ISO's current method of determining ex post prices. It contends that the current ex post pricing method does not provide resources with efficient incentives to follow dispatch instructions. This is because a unit that does not follow dispatch instructions does not usually cause significant real-time price changes and, if such price changes occur, the unit is not substantially harmed if primarily scheduled in the day-ahead market. According to the Independent Market Monitor, the current ex post pricing method may also diminish suppliers' incentives to follow ex ante dispatch instructions when prices in the congested area are volatile. In addition, the Independent Market Monitor argues that the current pricing method causes ex post prices to generally exceed ex ante prices.¹⁹ The Independent Market Monitor concludes that the proposed revisions will eliminate such inefficiencies, provide better incentives for suppliers to respond to dispatch instructions, and improve the overall operation of the Midwest ISO system.

10. Notice of the Midwest ISO's October 10, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 65,596 (2008), with comments, interventions or protests due on or before October 31, 2008. No comments, interventions or protests were filed in response to this filing.

III. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Issues

12. We conditionally accept the Midwest ISO's proposed Tariff revisions, as amended, effective on the ASM launch date, January 6, 2009. Based on the pleadings offered by the Midwest ISO and comments of the Independent Market Monitor, we find that the proposal will prevent the divergence between ex ante and ex post prices observed during ASM operational testing. By preventing such a divergence, the proposal will remove disincentives for units to offer their full operational capabilities into the real-time market. This will improve system reliability and avoid the costs and uplift payments associated with additional unit commitments.

¹⁹ The Independent Market Monitor states that ex post prices are generally three percent higher than ex ante prices. Independent Market Monitor July 31, 2008 Comments at 6-7.

13. However, to address Ameren's concern that there may have been insufficient operational testing of the proposed Tariff revisions, we require the Independent Market Monitor to submit, in a compliance filing due no later than 90 days after the launch of the ASM, an informational report discussing whether the revised ex post pricing methodology prevents the divergence between ex ante and ex post prices and whether it causes any adverse financial or system effects.

14. In addition, while we agree that the Midwest ISO should implement the proposal one week before the ASM launch date, we deny the Midwest ISO's requested effective date of December 31, 2008 for the amended Tariff sheet proposed under the Fourth Revised Vol. No. 1 of the Tariff. The Fourth Revised Vol. No. 1 of the Tariff has been submitted for Commission approval with a requested effective date of January 6, 2009 to coincide with the ASM launch date.²⁰ In the order conditionally accepting the Tariff Clean-up Filing, the Commission found that the Midwest ISO cannot make portions of the Fourth Revised Vol. No. 1 effective on December 31, 2008 because corresponding sections of the Third Revised Vol. No. 1 of the tariff would also be effective during the week before the ASM launch. Thus, overlapping tariff sections in the two tariffs could create confusion. In accordance with and subject to the outcome of the Tariff Clean-up Filing proceeding, we conditionally accept the proposed Tariff sheet, as amended, effective on the ASM launch date, which is planned for January 6, 2009.²¹ We also require the Midwest ISO to submit, in a compliance filing due within 30 days from the date of this order, tariff revisions to reflect the ex post pricing proposal under the Third Revised Vol. No. 1 of the tariff, effective on December 31, 2008, one week before the ASM launch date.

The Commission orders:

(A) The Midwest ISO's proposed Tariff sheet, as amended, is hereby conditionally accepted for filing, effective on the ASM launch date, which is planned for January 6, 2009, as discussed in the body of this order.

²⁰ *Midwest Indep. Transmission Sys. Operator, Inc.* 125 FERC ¶ 61,321, Docket No. ER09-15-000 (2008) (issued concurrently with this order).

²¹ The effective date of the Midwest ISO's proposed tariff sheet submitted under the Fourth Revised Vol. No. 1 of the Tariff, as amended, will be changed to January 6, 2009. Thus, further compliance is not needed to address this issue.

(B) The Independent Market Monitor is hereby directed to submit a compliance filing, due within 90 days after the ASM launch date, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.