

effective January 6, 2009 and June 1, 2009² subject to further revision, as described below, and subject to the outcome of the proceedings in Docket Nos. ER07-1372-000, *et al.*,³ ER09-24-000,⁴ and ER06-1552-000, *et al.*,⁵ which involve tariff sheets that are being addressed in orders being issued concurrently with this order. Our acceptance here is also subject to the outcome of the pending compliance filings (identified by the Midwest ISO in Tab C of its filing) from which proposed tariff language has been included in the Clean-Up Filing and indicated through highlighting. We note that the Midwest ISO commits that, going forward, any tariff provisions pending acceptance before the Commission and/or accepted on compliance will be substituted for corresponding language included in this filing after the Commission has accepted such pending tariff language.

I. Background

4. On July 9, 2008, in Docket No. ER08-1244-000, the Midwest ISO submitted a revised volume of its tariff to consolidate existing tariff provisions with those provisions that have been revised and accepted (or accepted subject to compliance) through the ASM proceeding in Docket Nos. ER07-1372-000, *et al.* (July 9 Filing). The July 9 Filing was also intended to incorporate tariff provisions that had been accepted by the Commission in: (1) the demand response proceeding in Docket No. ER08-404-000,⁶ (2)

² Midwest ISO, FERC Electric Tariff, Fourth Revised Vol. No. 1 will become effective on January 6, 2009. The proposed tariff sheets that require a December 31, 2008 effective date must be designated under the 3rd Revised Tariff, as discussed in this order.

³ *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,318 (2008); *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,319 (2009).

⁴ *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,318 (2008).

⁵ *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,322 (2008).

⁶ *Midwest Independent Transmission System Operator, Inc.*, 123 FERC ¶ 61,070 (2008).

the resource adequacy proceeding in Docket No. ER08-394-000,⁷ and (3) the Module F (Coordination Services) proceeding in Docket No. ER08-637-000, *et al.*⁸

5. The Midwest ISO requested an effective date of September 9, 2008 (the date that the ASM was scheduled to start),⁹ with the exception of certain tariff revisions regarding resource adequacy, as well as ASM compliance filings that contained requested effective dates in 2009.

6. On August 26, 2008, the Midwest ISO notified the Commission that it was in the process of addressing certain issues that had developed during the market testing process for the systems required to operate the Midwest ISO's proposed ASM. As a result, the Midwest ISO stated that the September 9, 2008 effective date for the commencement of service under the ASM proposal would be deferred, and requested that the Commission defer action in certain ASM-related dockets, including the July 9 Filing in Docket No. ER08-1244-000. On October 1, 2008, the Midwest ISO withdrew the July 9 Filing.¹⁰

II. The Midwest ISO's Clean-Up Tariff

7. On October 1, 2008, in Docket No. ER09-15-000, the Midwest ISO proposed a "Clean-Up Tariff," which, like the July 9 Filing, is intended to replace in its entirety the currently existing Tariff. The Midwest ISO states that the Clean-Up Tariff is based on the July 9 Filing and incorporates certain additional revisions proposed in the Midwest ISO's September 2, 2008 answer in response to comments and protests concerning the July 9 Filing as well as corrections to minor, non-substantive mistakes found on review of the July 9 Filing. As such, the Midwest ISO submitted the Clean-Up Tariff in lieu of amending the July 9 Filing.

8. Like the July 9 Filing, the Clean-Up Tariff includes provisions for the Midwest ISO's proposed ASM, as accepted by and pending acceptance on compliance by the

⁷ *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,283 (2008).

⁸ *Midwest Independent Transmission System Operator, Inc.*, 123 FERC ¶ 61,265 (2008).

⁹ The Commission granted the Midwest ISO's request to change the ASM launch date from June 1, 2008 to September 9, 2008. *Midwest Independent Transmission System Operator, Inc.*, 123 FERC ¶ 61,296 (2008).

¹⁰ *See Midwest Independent Transmission System Operator, Inc.*, Docket No. ER08-1244-000 (November 10, 2008) (unpublished letter order).

Commission¹¹ as well as revisions to conform the remaining tariff provisions with these ASM provisions. However, the Midwest ISO states that the Clean-Up Tariff does not include tariff provisions from several pending section 205 filings.¹² The Midwest ISO states that it intends to separately revise and incorporate the tariff language for these proceedings.

9. The Clean-Up Tariff incorporates certain amendments and deletions that arose as a result of Commission orders concerning Module F (Coordination Services) and Attachment Q (NERC Transmission Loading Relief Procedures Reference).¹³ For example, the Clean-Up Tariff has removed the Market Coordination references from section 43.2.1.a (Registration of Existing Entitlements) of the Tariff. The Clean-Up Tariff also incorporates the Wholesale Electric Quadrant (WEQ) standards required by Order No. 676-C.¹⁴ Moreover, Attachment L of the Tariff (Credit Policy) has been corrected for clarity and to appropriately apply the defined terms therein, and

¹¹ The Midwest ISO notes that accepted language pending compliance has been highlighted to indicate that the language is still pending final Commission approval. The Midwest ISO states that, going forward, any tariff provisions pending acceptance before the Commission and/or accepted on compliance will be substituted for corresponding language included in this filing after the Commission has accepted such pending tariff language.

¹² These proceedings are briefly described in Tab D of the filing and include the following Docket Nos.: ER08-925-000; ER08-1043-000; ER08-1256-000; ER08-1252-000; ER02-1257-000; ER08-1285-000; ER08-1309-000; ER08-1370-000; ER08-1405-000; ER08-1435-000, *et al.*; ER08-1486-000; ER08-1461-000; ER08-1485-000; ER08-1505-000; ER08-1556-000; and ER07-478-007.

¹³ See *Midwest Independent Transmission System Operator, Inc.*, 123 FERC ¶ 61,265 (2008) (*Module F Order*); *Standards for Business Practices and Communication Protocols for Public Utilities*, 124 FERC ¶ 61,070 (2008) (Order No. 676-C).

¹⁴ *Order No. 676-C*, 124 FERC ¶ 61,070.

Attachments E, H, H-1, OO, PP and QQ have been revised to update the index of Midwest ISO customers.¹⁵

10. As to the Midwest ISO's proposed stored energy resource provisions, these sheets have been conformed to the ASM provisions in the Clean-Up Tariff and reflect the changes being proposed elsewhere in the Clean-Up Tariff. However, the stored energy resource-specific tariff sheets are being included separately on sheets with June 1, 2009 effective dates, are paginated as First Revised and are intended to replace the specific Original sheets within the Clean-Up Tariff.¹⁶

11. On October 20, 2008, in Docket No. ER09-97-000, the Midwest ISO filed additional revised tariff sheets. These tariff revisions concern section 40.7.1 (Inadvertent Energy Accounting) of the currently effective Tariff. The Midwest ISO states that these provisions were inadvertently deleted when the Midwest ISO made previous tariff filings. The Midwest ISO states that while the substantive language has not changed, updates have been made to the language to account for the deletion of the term Control Area. The Midwest ISO requests effective dates of December 31, 2008 and January 6, 2009 for the tariff sheets filed on October 20, 2008 in Docket No. ER09-97-000.

12. The Midwest ISO requests that the proposed Clean-Up Tariff generally become effective on January 6, 2009 (the scheduled ASM start date). However, the Midwest ISO requests an earlier effective date of December 31, 2008 for section 39, addressing the Day-Ahead Energy and Operating Reserve Market Processes and Settlement, and section 40, addressing the Real-Time Energy and Operating Reserve Market and Operating Day Processes and Settlement. The Midwest ISO states that the earlier effective date is required to permit Market Participants to commence the submission of Bids and Offers into the Day-Ahead Energy and Operating Reserves Market and the Day-Ahead Reliability Assessment Commitment process seven days prior to the commencement of

¹⁵ Index Of Point-To-Point Transmission Service Customers; Index of Network Integration Transmission Service Customers; Index Of Interconnection Agreement Customers; Index of Wholesale Distribution Customers; Index Resale, Reassignment, or Transfer of Point-To-Point Transmission Service Customers; and Index of Market Participant Customers.

¹⁶ The Midwest ISO proposed the creation of a new Resource type to be designated as a stored energy resource on April 25, 2008, in Docket No. ER07-1372-007 (the Midwest ISO's 60-Day Compliance Filing submitted pursuant to the Commission's ASM Order). In that docket, the Midwest ISO submitted proposed tariff sheets for implementation on June 1, 2009 to incorporate energy storage technologies into the Energy and Operating Reserve Market.

ASM. Finally, for the tariff sheets reflecting the stored energy resource proposal pending before the Commission at the time of this filing, the Midwest ISO is requesting an effective date of June 1, 2009.

III. Notice and Responsive Filings

13. Notice of the Midwest ISO's October 1, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 61,106 (2008), with interventions or protests due on or before October 22, 2008. Exelon Corporation (Exelon), Duke Energy Corporation (Duke),¹⁷ Ameren Services Company (Ameren),¹⁸ Southwestern Electric Cooperative, Inc., and DC Energy Midwest, LLC filed timely motions to intervene. The Midwest ISO Transmission Owners,¹⁹ Beacon Power Corporation (Beacon Power), the Midwest

¹⁷ Duke submitted the filing on behalf of its affiliates, Duke Energy Indiana, Inc., Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc. and Duke Energy Business Services, LLC.

¹⁸ Ameren submitted the filing on behalf of its affiliated public utility operating companies, Union Electric Company, AmerenUE, Central Illinois Public Service Company, Central Illinois Light Company, and Illinois Power Company, and on behalf of its affiliated marketing and generating companies, Ameren Energy Marketing Company and Ameren Energy Generating Company and AmerenEnergy Resources Generating Company.

¹⁹ The Midwest ISO Transmission Owners include: Ameren Services Company, as agent for Union Electric Company, Central Illinois Public Service Company, Central Illinois Light Co., and Illinois Power Company; American Transmission Company LLC; American Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp.; City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Business Services, LLC for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; Michigan Public Power Agency; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

TDUs,²⁰ and the Detroit Edison Company (Detroit Edison) filed timely motions to intervene and comments. Hoosier Energy Rural Electric Cooperative and Southern Illinois Power Cooperative (Hoosier & Southern Illinois) filed a timely motion to intervene and protest. Integrys Energy Group (Integrys)²¹ filed a motion to intervene out of time and comments. On November 12, 2008 the Midwest ISO filed an answer.

14. Notice of the Midwest ISO's October 20, 2008 filing was published in the *Federal Register*, 73 Fed. Reg. 64,313 (2008), with interventions or protests due on or before November 10, 2008. Exelon, Ameren, and Consumers Energy Company filed timely motions to intervene.

IV. Discussion

A. Procedural Issues

15. 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 the proceedings in which they intervened.

16. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R § 385.214(d) (2008), the Commission will grant Integrys' late-filed motion to intervene in Docket No. ER09-15-000 given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

17. 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 unless otherwise ordered by the decisional authority. We will accept the Midwest ISO's answer because it has provided information that assisted us in our decision-making process.

B. Analysis

18. We conditionally accept the Clean-Up Tariff, as filed in Docket No. ER09-15-000, and the tariff revisions filed in Docket No. ER09-97-000, effective January 6, 2009 and

²⁰ The Midwest TDUs include: Great Lakes Utilities, Indiana Municipal Power Agency, Madison Gas & Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, and Wisconsin Public Power Inc.

²¹ The Integrys Energy Group includes Integrys Energy Group, Inc., and its subsidiaries, Wisconsin Public Service Corporation, Upper Peninsula Power Company and Integrys Energy Services, Inc.

June 1, 2009 subject to further revision, as described below, and subject to the outcome of the proceedings in Docket Nos. ER07-1372-000, *et al.*, ER09-24-000, and ER06-1552-000, *et al.*, which involve tariff sheets that are being addressed in orders being issued concurrently with this order. Our acceptance here is also subject to the outcome of the pending compliance filings (identified by the Midwest ISO in Tab C of its filing) from which proposed tariff language has been included in the Clean-Up Filing and indicated through highlighting. We note that the Midwest ISO commits that, going forward, any tariff provisions pending acceptance before the Commission and/or accepted on compliance will be substituted for corresponding language included in this filing after the Commission has accepted such pending tariff language.

19. Finally, regarding the pending compliance filings for which as filed language has been included in the Clean-Up Tariff, we direct Midwest ISO to submit compliance filings 30 days after the date of each Commission order acting in these proceedings to remove any tariff sheets that are rejected in those proceedings and that give rise to no compliance requirement as to the rejected tariff sheets.

1. Docket No. ER09-15-000

**a. Discrepancies Identified by the Midwest ISO
Transmission Owners**

**i. The Midwest ISO Transmission Owners’
Comments**

20. The Midwest ISO Transmission Owners state that they have identified a few discrepancies that they are working with the Midwest ISO to resolve. They believe that they can resolve most, if not all, of these issues through discussions directly with the Midwest ISO.

21. The Midwest ISO Transmission Owners state that some of the discrepancies include the apparently mistaken removal of the definition of “Inoperable Capacity” from the Tariff; variation between the stored energy resource provisions included in the Clean-Up Filing and those in the Midwest ISO’s 60-Day Compliance Filing in Docket No. ER07-1372-007, which the Midwest ISO identifies as the basis for those stored energy resource provisions; use of the term “Transmission Provider Commitment Period” instead of “SCUC [Security Constrained Unit Commitment] Instructed Hours of Operation” and the incomplete removal of the Market Coordination Service provisions proposed in the Module F Filing.

ii. Midwest ISO’s Answer

22. The Midwest ISO responds that it has been working with the Midwest ISO Transmission Owners to identify discrepancies in the Clean-Up Filing and, if so ordered

by the Commission, the Midwest ISO agrees to make the changes described by the Midwest ISO Transmission Owners.

iii. Commission Determination

23. We appreciate the willingness of the Midwest ISO and the Midwest ISO Transmission Owners to work together to resolve discrepancies in the Clean-Up Tariff. With the exception of the mistaken removal of the definition of “Inoperable Capacity,” the Midwest ISO Transmission Owners have not provided sufficient detail for the Commission to validate what errors exist in the Clean-Up Filing – nor has the Midwest ISO explained what specific corrections it believes are required. Therefore, we direct the Midwest ISO, in a compliance filing to be submitted within 30 days of the date of this order, to indicate the specific changes required to the Clean-Up Tariff to which it and the Midwest ISO Transmission Owners have agreed and the reasons for such changes.

b. Scarcity Pricing and Ramp Flexibility Issues

i. Comments

24. Detroit Edison filed comments concerning ramp rates in Docket Nos. ER09-15-000 and ER09-24-000. Its comments in both dockets are identical.

25. Similarly, Integrys filed comments in Docket No. ER09-15-000 stating that it generally supports the Midwest ISO’s ASM filing in Docket No. ER09-24-000, subject to its comments in Docket No. ER09-24-000, which concern ramp sharing.

ii. The Midwest ISO’s Answer

26. The Midwest ISO responds to Detroit Edison’s comments and states that Detroit Edison focused on provisions relating to the Midwest ISO’s October 2, 2008 filing addressing scarcity pricing issues in Docket No. ER09-24-000. To the extent that Detroit Edison continues to have concerns with those provisions, the Midwest ISO states that it will address those concerns, if deemed appropriate, in that proceeding.

iii. Commission Determination

27. The issues raised by Detroit Edison and Integrys are being addressed in an order in Docket No. ER07-1372-002, *et al.*, that is being issued concurrently with this order.²²

²² Docket No. ER09-24-000 is included in the order in Docket No. ER07-1372-002, *et al.*, *Midwest Independent System Operator, Inc.*, 125 FERC ¶ 61,318 (2008).

Accordingly, we will accept the proposed tariff sheets with respect to these issues subject to the outcome of Docket No. ER07-1372-002, *et al.*

c. Grandfathered Agreements

i. Hoosier and Southern Illinois' Comments

28. Hoosier & Southern Illinois protest the specific language proposed by the Midwest ISO in section 39.3 (Day-Ahead Energy and Operating Reserve Market Settlement). They argue that the proposed language might improperly imply that particular grandfathered agreements have not been carved out of both the energy and ancillary services markets.²³ Hoosier & Southern Illinois propose alternative language.

29. Specifically, Hoosier & Southern Illinois protest the following tariff language proposed by the Midwest ISO: “[a]ll [d]ay-[a]head [s]chedules in the [d]ay-[a]head [e]nergy and [o]perating [r]eserve[s] [m]arket shall be financially binding, except for [grandfathered agreement] [s]chedules associated with [c]arved-[o]ut [grandfathered agreements] as described under [s]ection 38.8.4 of this [t]ariff.” Hoosier & Southern Illinois state that the specific language proposed by the Midwest ISO improperly implies that schedules associated with carved-out grandfathered agreements are in the day-ahead energy and operating reserves market, when, in fact, just the opposite is true (i.e., the Commission has directed that these particular grandfathered agreements are to be carved out of both the energy and ancillary services markets). Hoosier & Southern Illinois therefore propose alternative language to clarify that schedules associated with carved-out grandfathered agreements are not financially binding without implying that they are “in the market.” Hoosier & Southern Illinois propose that this section be rewritten to state that: “[a]ll [d]ay-[a]head [s]chedules in the [d]ay [a]head [e]nergy and [o]perating [r]eserve[s] [m]arket shall be financially binding. [Grandfathered agreement] [s]chedules associated with [carved-out grandfathered agreements] as described under [s]ection 38.8.4 of this [t]ariff shall not be financially binding.”²⁴

²³ Hoosier & Southern Illinois are parties to grandfathered agreements that have been carved out of the Midwest ISO energy markets.

²⁴ We note that Hoosier & Southern Illinois are not protesting the last sentence in this section, which states that “[t]he fees and charges set forth in this Section shall be assessed to Market Participants with Day-Ahead Schedules and FTRs [financial transmission rights].”

ii. Midwest ISO's Answer

30. The Midwest ISO responds that Hoosier & Southern Illinois' suggested revision to section 39.3 is unnecessary and does not provide any additional clarity.

iii. Commission Determination

31. We agree with Midwest ISO that the suggested revisions are unnecessary. The carved-out grandfathered agreement schedules must be taken into account in the operation of its energy and operating reserve markets. The only distinction between carved-out schedules and other schedules are the financial settlement provisions applied to those schedules, and we do not believe that further clarification is necessary.

d. Business Practices Manual**i. Hoosier and Southern Illinois' Comments**

32. Hoosier & Southern Illinois protest section 68.2.3 (Planning Resource Must Offer Requirement) as proposed in the Clean-Up Tariff, arguing that the section would be used to require compliance with the Midwest ISO's Business Practices Manuals. Hoosier & Southern Illinois state that they have long been concerned with the conflating of materials in the Tariff, which must be accepted by the Commission, with materials that appear in the Business Practices Manuals, which are subject to no corresponding regulatory oversight. They state that, at the minimum, the Midwest ISO should be required to specifically identify those provisions of the Business Practices Manuals that it believes bear on the submission of self-schedules and offers.

ii. Midwest ISO's Answer

33. The Midwest ISO responds that the argument regarding this section is unfounded and that the Commission has approved the Midwest ISO's references to Business Practices Manuals in other instances throughout the Tariff.

iii. Commission Determination

34. The proposed revision to this section²⁵ requires self-schedules or offers for energy and contingency reserves to be submitted for capacity resources consistent with the requirements specified in sections 39 and 40 of the tariff and in the "Business Practices

²⁵ We note that while Hoosier & Southern Illinois and the Midwest ISO refer to this section as section 68.2.3, this section is designated as 69.2.3 in the Clean-Up Tariff filed by the Midwest ISO.

Manuals.” The Commission previously accepted the following more specific language: “Business Practices Manuals *for Resource Adequacy*.” We will require that the Midwest ISO explain, in the compliance filing to be submitted within 30 days of the date of this order, the reason for its proposed revision.

e. Stored Energy Resources

i. Beacon Power’s Comments

35. Beacon Power requests that, if the Commission decides to rule on the proposed stored energy resource tariff provisions in the instant proceeding, then the Commission should consider Beacon Power’s positions as set forth in its comments, answer and supplemental comments that were submitted in Docket No. ER07-1372-007 (supporting acceptance of the stored energy resource tariff provisions) in this proceeding.

ii. Commission Determination

36. We will not rule on the merits of the stored energy resource tariff provisions in this order. Rather, the Commission is addressing stored energy resources in Docket No. ER07-1372-007 in an order that is being issued concurrently with this order. Accordingly, we will accept the proposed tariff sheets with respect to this issue, subject to the outcome of the proceeding in Docket No. ER07-1372-007.²⁶

f. Attachments Q and L

37. The Midwest ISO states that it is making substantive changes to Attachment Q (NERC Transmission Loading Relief Procedures Reference) in compliance with Order No. 676-C.²⁷ These modifications are accepted for filing. However, the Midwest ISO is directed to correct typographical errors on Sheet No. 2891A, in a compliance filing to be submitted within 30 days of the date of this order. Specifically, “WEQ-011” should replace “WEQ-001” and “012-0.1” should replace “012.0-1.”

38. The Midwest ISO also states that it is making changes to clarify and appropriately use defined terms in Attachment L (Credit Policy). We will accept these minor corrective and clarifying changes.

²⁶ *Midwest Independent System Operator, Inc.*, 125 FERC ¶ 61, 319 (2008).

²⁷ Midwest ISO’s October 1, 2008 Filing at 7-8. The Midwest ISO notes that the Commission granted waiver of WEQ Standard 001-4.13 in *Waiver of NAESB Standards*, 118 FERC ¶ 61,033 (2007).

g. Recodification of the Tariff

i. The Midwest TDU's Comments

39. The Midwest TDUs state that, given the size of the filing and the available time and resources, the Midwest TDUs are unable to represent that they have succeeded in fully vetting the filing for any respects in which it might go beyond merely ministerially “consolidating” changes reviewed and approved elsewhere. They state that it seems doubtful that any party could succeed in such an undertaking. The Midwest TDUs state that the Commission should state explicitly its understanding that this recodification of the Tariff is intended to be ministerial and that Commission acceptance of the filing should not represent acceptance of any substantive changes to the Tariff. They also state that such acceptance should not prejudice the ability of a party to raise concerns in the future about any modification included in the filing that, in effect, turns out to be substantive, and that the Midwest ISO should not be permitted to claim that Commission action on this filing precludes a party from raising such concerns, or from pointing to the preexisting Tariff provision as relevant to interpreting the Clean-Up Tariff.

ii. Commission Determination

40. In this order we are not accepting any revisions to the Tariff that the Midwest ISO did not specifically bring to our attention. Under section 35.10 of the Commission’s Rules and Regulations, filers are required to submit marked versions of proposed tariff changes showing their proposed additions and deletions.²⁸ In Order No. 714, the Commission expanded on this requirement and adopted new filing regulations that provide that only the sections of a tariff document appropriately identified in a filing will be considered part of the filing and any acceptance of a filing by the Commission will not constitute acceptance of an unmarked tariff change.²⁹ Specifically, section 35.10 of the Commission’s Rules and Regulations, as adopted in Order No. 714, requires filers to list in the transmittal letter of their filing the tariff sheets or sections revised, and file a marked version of the tariff showing additions and deletions. Only those revisions appropriately designated and marked constitute the filing. Revisions to unmarked portions of the tariff are not considered part of the filing and acceptance of the filing by the Commission does not constitute acceptance of such unmarked changes.

²⁸ 18 C.F.R. § 35.10(c) (2008).

²⁹ *Electronic Tariff Filings*, Order No. 714, 73 Fed. Reg. 57,515 (Oct. 3, 2008), FERC Stats & Regs ¶ 31,276 (2008).

h. Additional Issues

41. In addition to the matters discussed above, our acceptance is conditioned on the Midwest ISO submitting a compliance filing, within 30 days of the date of this order, correcting additional discrepancies. Specifically, Schedule 18 contains two sheet numbers 2077. The Midwest ISO is directed to revise the Clean-Up Tariff by renumbering the sheets so that there is only one sheet number 2077. Additionally, the Midwest ISO is directed to fix an inconsistency regarding Attachment KK in the Table of Contents. Specifically, Attachment KK is listed in the Table of Contents as “Form of Service Agreement for Reliability Coordination Service.” However, the Clean-Up Tariff contains an Attachment KK-1 with this title. Attachment KK-2 is included in the Clean-Up Tariff as “Form of Service Agreement Interconnected Operations and Congestion Management Service” but is not included in the Table of Contents.

42. We further note that the Midwest ISO states that the Clean-Up Tariff includes provisions in compliance filings that are currently pending action by the Commission.³⁰ The Midwest ISO identified these proceedings in Tab C of its filing.

2. Tariff Issues in Docket Nos. ER09-15-000 and ER09-97-000

43. With respect to the tariff sheets in these proceedings that are designated with a requested effective date of December 31, 2008, we will require the Midwest ISO to submit a compliance filing within 30 days of the date of this order. While we agree that certain of the tariff sheets should take effect on December 31, 2008 (i.e., one-week prior to the ASM launch date), these tariff sheets should be designated under the currently effective tariff (FERC Electric Tariff, Third Revised Volume No. 1) in order to apply to the period of December 31, 2008 through January 5, 2009. We cannot accept these sheets proposed under the Fourth Revised Volume No. 1 because corresponding sections of the currently effective tariff (FERC Electric Tariff, Third Revised Vol. No. 1) will be effective at the same time. Thus, overlapping tariff sections in the two tariffs could create confusion. Therefore we direct the Midwest ISO to submit, in a compliance filing due within 30 days from the date of this order, tariff revisions with the December 31, 2008 effective date under the FERC Electric Tariff, Third Revised Vol. No. 1. We note

³⁰ We note that it appears that some of the provisions in the Clean-Up Tariff filing are not identical to the provisions filed in the other proceedings listed in Tab C. We have identified a number of examples in the addendum attached to this order.

that the Midwest ISO is not required to make a compliance filing in this regard for tariff sheets under the FERC Electric Tariff, Fourth Revised Vol. No. 1.³¹

The Commission orders:

(A) We hereby conditionally accept the Midwest ISO's revised tariff sheets submitted in Docket Nos. ER09-15-000 and ER09-97-000, effective on January 1, 2009 and June 1, 2009, as discussed in the body of this order.

(B) The Midwest ISO is hereby directed to submit a compliance filing in Docket Nos. ER09-15-000 and ER09-97-000, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³¹ The tariff sheets under the Fourth Revised Volume No.1 - that currently include effective dates of December 31, 2008 - will be revised to indicate effective dates of January 6, 2008.

Addendum

This addendum lists tariff provisions that are currently pending acceptance by the Commission but that are not reflected in the Revised Clean-Up Filing.

Tariff Section/ Sheet Number	Description	Correction to Tariff that will be needed if accepted in pending proceedings
Attachment FF-4	Delete language	Delete “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”
Section 30.4	Inconsistency between compliance filing and clean-up filing	“plus power sales under a Commission-approved reserve sharing program” is not shown as a proposed change in the June 16, 2008 compliance filing in Docket No. OA08-14-004 but is shown as pending in the clean-up filing
Section 37.2	Delete Language	In the sixth line, “and Operating Reserve” should be deleted
Section 40.2.4 (a)	Contains incomplete paragraph	In the second paragraph in section 40.2.4 (a) the latter part of the last sentence is missing
Section 40.2.4 (b)	Contains incomplete paragraph	In section 40.2.4 (b) the latter part of the paragraph is missing
Section 40.2.22	Correction	In the fifth line change “Emergency Energy” to “emergency energy”
Section 53.1 (a)	Delete language	In the eighth line, delete “Offers resulting in

any revenue sufficiency
guarantee payments, DAMAP
and/or RTORSGP and other
similar payments”

Sheet No. 1801

Replace word

In the first sentence “other than”
should be replaced with “and”

Sheet No. 1823

Incomplete
paragraph

In the first paragraph the latter part of the
paragraph is missing