

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Quest Energy, L.L.C.

Docket No. EL05-86-001

v.

Midwest Independent Transmission
System Operator, Inc.

ORDER DENYING REHEARING

(Issued November 2, 2005)

1. On June 30, 2005, Quest Energy, L.L.C. (Quest) filed a request for rehearing of the Commission's order issued on May 31, 2005 in this proceeding.¹ In this order, the Commission denies rehearing of the May 31 Order.

Background

2. On March 31, 2005, Quest filed a complaint against the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) alleging that Midwest ISO violated its Transmission and Energy Markets Tariff (TEMT) by unilaterally modifying Quest's Load Zone Commercial Price Node. Quest is engaged in the retail marketing of electricity in Michigan and serves customers in the service territories of Detroit Edison Company and Consumers Energy (Consumers). Quest is a Midwest ISO Market Participant.

3. Prior to the start of market operations and the commencement of Locational Marginal Pricing (LMP) in the Midwest ISO on April 1, 2005, Midwest ISO and its participants engaged in a process to establish a Commercial Model representing the relationships of Market Participants, their resources and transactions in the Midwest ISO

¹ *Quest Energy, L.L.C. v. Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,298 (2005) (May 31 Order).

energy markets.² The Commercial Model includes an Elemental Pricing Node (EPNode) for every point where energy is injected or withdrawn from the system. Such a node is defined as “a node for which a price exists.”³ The Commercial Model also includes Commercial Nodes that are used to schedule and settle market transactions.⁴ A Load Zone comprises multiple EPNodes and/or Commercial Nodes, and is defined in the TEMT as:

[a] Zone determined by Market Participants representing the aggregate area of consumption for a single Load Serving Entity within a single Control Area and used for the purposes of scheduling, reporting withdrawal volumes and settling Energy transactions at aggregated Load levels, approved and maintained by the Transmission Provider to facilitate transactions.⁵

4. Quest’s complaint related to the determination of the correct number of EPNodes, which established its Load Zones. Quest alleged in its complaint that Midwest ISO unilaterally modified the definition of its Load Zone in the Consumers Energy control area, in violation of the TEMT, and then refused to restore the original definition of its Load Zone in the Consumers Energy control area.

5. Specifically, Quest stated that it initially registered its Load Zone with Midwest ISO on September 30, 2003 as a “slice” of the Michigan Electric Transmission Company (METC) area, consisting of 300 EPNodes in the Consumers control area. According to Quest’s complaint, it discovered on February 2, 2005 that its Load Zone had been modified to consist of only seven EPNodes. In its answer, Midwest ISO acknowledged that it had changed the number of EPNodes from 300 to seven, stating that it did so to ensure the proper representation of Quest load in the Commercial Model in accordance with the provisions in the TEMT and the Midwest ISO Business Practices Manual for Market Registration relating to the establishment of Load Zones. Specifically, Midwest ISO, after finding that there were several unclaimed EPNodes, sought input from Consumers (the host control area for Quest’s Load Zone), and on the basis of the information it gathered, Midwest ISO altered Quest’s Load Zone to reflect seven

² TEMT section 1.32, Third Revised Sheet No. 55.

³ See Midwest ISO Business Practices for Market Registration, Version 6.0 (July 20, 2005) at section 4.2.1.

⁴ TEMT section 1.33, Third Revised Sheet No. 57.

⁵ TEMT section 1.173, Second Revised Sheet No. 93.

EPNodes.⁶ Midwest ISO then asked Quest to confirm its Load Zone designation through an Asset Registration Tool, which Quest did.⁷ In a further response, Quest asserted that while it had confirmed its Load Zone through the Asset Registration Tool, it had no indication that any changes to the EPNodes had been made behind the four Load Zone sinks listed in the Midwest ISO system.⁸

6. Based on this chain of events, described in more detail in the May 31 Order, Quest asserted that the TEMT only allowed the Market Participant (in this case Quest) to establish a Load Zone, and that Midwest ISO had no discretion to make changes. Quest argued that it would likely suffer significant financial harm as a result of the change because its Zonal LMP would be calculated using only the seven EPNodes, which creates a mismatch of energy supply LMPs and load LMPs. Finally, Quest stated that it had proposed to Midwest ISO that, until the Commercial Model could be changed, that all of Quest's settlements be based on the LMP for the 300 EPNodes originally requested, which Quest stated would simulate the correct definition in the settlement system, outside of the modeling system. According to Quest, Midwest ISO refused out of concern that this resolution would alter the settlements of other Market Participants. Quest asked the Commission in its complaint to order Midwest ISO to restore Quest's Load Zone definition, replacing the seven EPNodes with the initial 300 EPNodes in Consumers control area.

7. In the May 31 Order, the Commission denied Quest's complaint, finding that the Midwest ISO acted appropriately under the TEMT and its Business Practices Manual for Market Registration in adjusting Quest's Load Zone definition. The Commission rejected Quest's assertion that a Load Zone is only established by a Market Participant without input from other Market Participants or approval by the Midwest ISO.⁹ The Commission based this rejection on the TEMT's definition of "Load Zone," which the Commission found provides that the Midwest ISO will "approve and maintain the Load Zone to ensure that the resulting Commercial Model is workable and facilitates

⁶ See May 31 Order at P 12, *citing* Answer of Midwest ISO (April 20, 2005) at 4.

⁷ See May 31 Order at P 13, *citing* Answer of Midwest ISO (April 20, 2005) at 4-5.

⁸ See May 31 Order at P 22, *citing* Response of Quest (May 5, 2005) at 4.

⁹ See May 31 Order at P 26.

transactions.”¹⁰ Further, the Commission stated that it was not persuaded that Midwest ISO acted outside of its authority under either the TEMT or the Business Practices for Market Registration. The Commission noted that Midwest ISO, after finding several unclaimed EPNodes, sought input from the host control area, and on the basis of that input asked Quest to verify its assets. The Commission found that throughout this course of events, Midwest ISO acted within its authority to approve and maintain Load Zones, including seeking input from other Market Participants as the TEMT contemplates, and followed the procedures for confirming Load Zone registration as set forth in the Business Practices for Market Registration.¹¹ Finally, the Commission noted that once Midwest ISO received a signed confirmation from Quest, it had no reason to believe that the underlying EPNodes were incorrect.

Rehearing Request

8. Quest argues that the Commission erred in finding Midwest ISO’s actions to be consistent with the TEMT. Particularly, Quest objects to the Commission’s ruling that the definition of Load Zone in the TEMT provides that Market Participants determine their Load Zones and Midwest ISO, as the Transmission Provider, approves and maintains the Load Zones to ensure that the resulting Commercial Model is workable and facilitates transactions. Quest asserts that this ruling is inconsistent with the TEMT and directly contravenes assertions made by Consumers in an affidavit. First, Quest contends that Midwest ISO did not approve or maintain the Quest Load Zone, but instead modified Quest’s EPNodes without informing Quest of the change. Quest argues that there is no language in the TEMT that allows Midwest ISO to make such a unilateral modification of Quest’s EPNodes. According to Quest, under the TEMT Midwest ISO may approve or maintain such information, or may reject it (if it did not approve it), but in that case must, at a minimum, give notice to Quest that its EPNodes were rejected.

9. Quest also contends that the Commission incorrectly interprets the definition of Load Zone in the TEMT to permit one Market Participant to make changes to another Market Participant’s EPNodes or Load Zone. Quest argues that the term “Market Participants” in that definition refers only to the fact that a control area or zone may have more than one Market Participant. Any other interpretation of that term, according to Quest, would “distort the RTO/ISO markets and create an environment where customers could meddle with other customers to suit their needs.”¹² This environment, Quest

¹⁰ *Id.*

¹¹ *Id.* at P 28.

¹² Request for Rehearing of Quest at 6.

contends, would contravene the fundamental premise of fairness to all market participants upon which open access transmission is based, and could unfairly give one Market Participant with better access to information (such as a control area operator) a competitive advantage.

10. Further, Quest states that even if it were appropriate for one Market Participant to modify the EPNodes of another Market Participant, in this case Consumers, the other Market Participant in question, expressly stated in an affidavit that it did not request a change to Quest's EPNodes and disagreed with the premise that it had any ability to do so. Quest states that the Commission, in its order, "appears to have accepted [Midwest ISO's] excuse that Consumers told [Midwest ISO] to change Quest's EPNodes."¹³

11. Quest also contends that, contrary to the Commission's statement that Midwest ISO approves and maintains Load Zones under the TEMT to ensure that the resulting Commercial Model facilitates transactions, Midwest ISO's unilateral modification of Quest's EPNodes results in a Commercial Model that does not facilitate transactions. According to Quest, this modification has increased its costs by approximately \$60,000 per month since the start of the Midwest ISO markets because the Marginal Loss Component of the seven-node Load Zone is higher than the Marginal Loss Component of a 300-node Load Zone. Quest states that this amount will reach \$300,000 by the time the Commercial Model is revised on September 1, 2005.

12. In addition to objecting to the Commission's interpretation of the Midwest ISO TEMT, Quest also objects to the following rationale in the order:

Upon finding that there were several unclaimed EPNodes, Midwest ISO sought input from Consumers. Based on the information gathered, Midwest ISO required that Quest verify its assets (Load Zone) through the Asset Registration Tool. Quest confirmed, in a written confirmation sheet that the final Load Zone Commercial Nodes established for Quest were accurate and correct.¹⁴

Quest argues that this rationale is incorrect. First, it notes that Consumers did not order or even suggest that Quest's EPNodes be modified, and in fact stated that it would be inappropriate to do so. According to Quest, Consumers simply identified Quest as the

¹³ *Id.* at 6-7.

¹⁴ *See* May 31 Order at P 27.

entity to whom the seven unclaimed EPNodes belonged, and Midwest ISO proceeded to make the unilateral change, despite the fact that every other retail supplier had a 300 EPNode “slice” of the Consumers control area.

13. Quest also argues that Midwest ISO never required that it verify its assets (Load Zone) through the Asset Registration Tool. According to Quest, it was locked out of the Asset Registration Tool after it initially registered its assets, and when it obtained new access to check its Load Zone names, it found that those were correct (and had no indication that any changes beneath those names had been made) and exited the tool the only way it could, by signing the confirmation sheet.

14. Similarly, Quest argues that the Commission’s statement that Quest was asked to review and confirm the Commercial Model prior to the allocation of financial transmission rights (FTRs) is incorrect. According to Quest, if a Market Participant initially registered its assets through the Asset Registration Tool, there was no need to confirm or review the EPNodes prior to the allocation of FTRs. Also, Quest objects to the Commission’s statement that Quest could have and should have verified its EPNodes, stating that there was no way for it to know that the EPNodes had been changed, and that once it confirmed that its Load Zones were correct, it had no reason to investigate further and confirm the 300 EPNodes.

15. Finally, Quest argues that the Commission’s statement that granting Quest the relief requested in its complaint would upset the settled expectations of other Market Participants is irrelevant because those expectations are based on a flawed Commercial Model. Quest contends that the expectations of others have no relevance when compared with the fact that Midwest ISO did not follow the TEMT and modified Quest’s EPNodes in a manner inconsistent with Quest’s use of the transmission system and the treatment of all other retail suppliers in the Consumers control area. According to Quest, “there is a simple solution that would not require changes to the ‘expectations’ of others,” namely, that Midwest ISO replace the LMP for the seven-node Load Zone with the LMP for the 300-node Load Zone.

Discussion

16. The Commission denies rehearing. Quest has not provided any additional evidence or arguments that persuade the Commission that Midwest ISO acted outside of its authority under the TEMT or the procedures in the Business Practices for Market Registration in these circumstances.

17. We again reject Quest's interpretation of the term Load Zone in the TEMT and the responsibilities that Quest argues flow from that definition. Under that definition, Midwest ISO approves and maintains the Load Zones.¹⁵ Midwest ISO, acting under its authority to "approve and maintain" Load Zones, gathered information from the host control area (Consumers) regarding unclaimed EPNodes in that control area and, on the basis of that information, Midwest ISO made corrections to what it believed were faulty inputs in Quest's Load Zone definition, and then asked that Quest (along with all Market Participants) verify its Load Zone definition prior to August 30, 2004.¹⁶ The TEMT permits the Midwest ISO to take actions to maintain Load Zones; thus, Midwest ISO's actions were consistent with the TEMT. Quest has offered no new arguments that persuade the Commission to revisit this conclusion.

18. In the May 31 Order, the Commission did not interpret the TEMT to permit one Market Participant to make unilateral changes to another Market Participant's EPNodes or Load Zone, as Quest asserts. As we noted in the May 31 Order and reiterate here, Midwest ISO, during the process of establishing the Commercial Model, altered Quest's Load Zone definition on the basis of information it collected from the host control area (Consumers). Midwest ISO then asked that all Market Participants, including Quest, verify their assets (including EPNodes and Load Zones) prior to the FRT allocation process.¹⁷ As Consumers noted in its affidavit, Consumers did not direct that any changes be made to Quest's EPNodes or Load Zone definition. Moreover, the record does not show that Midwest ISO took action because Consumers told it to do so, as Quest contends. Rather, the record demonstrates that Midwest ISO required the host control area (Consumers) to provide Midwest ISO with information, and then Midwest ISO corrected what it believed were faulty inputs. Midwest ISO then asked Market Participants - including Quest - to validate their assets. It was this record evidence that the Commission relied on in the May 31 Order.

19. Quest has not persuaded the Commission that it was never required to verify its assets (Load Zone), as it asserts in its request for rehearing. Midwest ISO stated in its answer to the complaint that it asked all Market Participants, including Quest, to review

¹⁵ See May 31 Order at P 26.

¹⁶ See May 31 Order at P 28, *citing* Answer of Midwest ISO (April 20, 2005) at 7-8; Response of Quest (May 5, 2005) at 9.

¹⁷ *Id.*

the Commercial Model and confirm the definition of their Load Zones prior to August 30, 2004.¹⁸ While Quest attempted to refute this statement in its response to Midwest ISO's answer, Quest states that it accessed the Asset Registration Tool prior to that date to review its Load Zone Commercial Price Nodes.¹⁹ At that point, Midwest ISO and Quest both state that Quest confirmed its assets. Quest has not provided any further information in its request for rehearing that convinces the Commission that it was not in fact requested by Midwest ISO to verify its assets by a specific date, which Quest did, or that Quest could not have confirmed the EPNodes underlying its Load Zone Commercial Price Nodes at that time.

20. As noted above, Quest asserts that its costs have increased by approximately \$300,000 as a result of the higher Marginal Loss Component of a seven-node Load Zone. As the Commission noted in the May 31 Order, we are not insensitive to the financial risk to Quest that may have resulted from it having mismatched pricing points in the LMP market. However, as we found in the May 31 Order and reiterate here, Midwest ISO did nothing in this chain of events that violated the TEMT or deviated from the Business Practices for Market Registration. Furthermore, Quest verified its Load Zone definition. Quest's financial claims alone, which are unsupported by evidence, do not give the Commission a basis for revisiting its ruling in this docket.

21. We disagree with Quest's contention that the likely impact on other Market Participants of granting the relief it sought in the complaint is irrelevant because Midwest ISO violated the TEMT, resulting in a flawed Commercial Model. As noted above, Midwest ISO did not act outside of its authority under the TEMT in these circumstances. Additionally, the Federal Power Act requires the Commission to ensure that rates are just and reasonable. Quest requested that the Commission order Midwest ISO to restore its 300 EPNode Load Zone definition, and replace the seven EPNode Load Zone definitions. To do so, however, would necessarily involve reallocating revenues among affected Market Participants. Such a reallocation could result in an unjust and unreasonable

¹⁸ Answer of Midwest ISO (April 20, 2005) at 7-8.

¹⁹ Response of Quest (May 5, 2005) at 9-10. Additionally, we note that Quest states on rehearing that it was "locked out" of the Asset Registration Tool, and therefore could not have been required to verify its Load Zone through that tool. However, as noted above, Quest also states that it was able to obtain new access to the Asset Registration Tool in order to review its Load Zone Commercial Price Nodes. Therefore, Quest was not "locked out" as it asserts.

outcome for other Market Participants who took actions in the market based on the Commercial Model as it existed, and which had been confirmed by Market Participants (including Quest), during the time period in question.

The Commission orders:

The request for rehearing of Quest is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.