

123 FERC ¶ 61,126
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 6, 2008

In Reply Refer To:
Midwest Independent Transmission
System Operator, Inc.
Docket Nos. ER08-622-000 and
ER08-622-001

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Attention: Michael L. Kessler
Counsel for the Midwest Independent Transmission System Operator, Inc.

Reference: Revisions to Credit Requirements for FTR Auction

Dear Mr. Kessler:

1. On February 29, 2008, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed Part I of its proposed revisions to the credit policy in Attachment L of its Open Access Transmission and Energy Markets Tariff (TEMT or tariff).¹ In Part I, Midwest ISO proposes to revise the credit requirements for submitting bids (Bid Credit Requirements) in the Midwest ISO Financial Transmission Rights (FTR) auctions. Midwest ISO seeks waiver of the 60-day notice requirement² so that the proposed Bid Credit Requirements can become effective on April 28, 2008. The Commission will grant the requested waiver and accept Midwest ISO's proposed tariff sheets for filing, subject to the conditions stated below, effective April 28, 2008, as proposed.

¹ Midwest ISO, FERC Electric Tariff, Third Revised Volume No. 1.

² 16 U.S.C. § 824d(d) (2000); 18 C.F.R. § 35.3(a) (2007).

2. On March 31, 2008, in Docket No. ER08-622-001, Midwest ISO submitted Part II of its proposed revisions to the credit policy in Attachment L of the TEMT as an amendment to its Part I Bid Credit Requirements. In Part II, Midwest ISO proposes to revise the credit requirements for holding FTRs acquired through the FTR auctions (Hold Credit Requirements). Midwest ISO seeks waiver of the 60-day notice requirement so that the proposed Hold Credit Requirements can become effective on May 12, 2008. In this order, the Commission addresses only the Part I Bid Credit Requirements. The Commission will address in a future order the proposed Part II Hold Credit Requirements, as well as the issues intervenors raised in response to that proposal.

3. Attachment L to the TEMT requires any entity that intends to submit FTR offers or FTR bids during Midwest ISO's FTR auctions to demonstrate that it meets the Midwest ISO's credit requirements. In addition, a portion of an entity's total credit limit must be allocated to the FTR auctions if the entity opts to participate in such auctions.³ There are four types of FTR auction activity: (1) bids to purchase "positive" FTRs; (2) bids to obtain "negative" FTRs; (3) offers to sell "positive" FTRs; and (4) offers to sell "negative" FTRs.⁴

4. Midwest ISO states that it conducted an analysis and found that as the clearing prices in the FTR auction for both positive and negative FTRs approached zero, the weaker the correlation became between the expected value of the FTR and the price paid at auction.⁵ These results are similar to those of an analysis that the New York Independent System Operator, Inc. (NYISO) recently conducted on its own markets. The Midwest ISO draws similar conclusions to NYISO's from that analysis and proposes a similar remedy.⁶

5. Quoting NYISO, the Midwest ISO explains that as the value of an FTR approaches zero, its clearing prices may not accurately indicate what congestion charges and payments will be during its life. For example, low positive FTRs run a disproportionately large risk of reversing, and therefore becoming negative FTRs for

³ TEMT, Attachment L at Section III.B

⁴ Holstein Test. at 3. A positive FTR is one for which an entity makes a payment, and then the FTR holder expects to receive payments funded by the congestion component of Locational Marginal Prices (LMPs). A negative FTR is one for which an entity receives a payment to become an FTR holder and then is required to make payments back to the market based on the congestion component of LMPs.

⁵ Holstein Test. at 8.

⁶ Holstein Test. at 6-7. *See also New York Indep. Sys. Operator, Inc.*, 122 FERC ¶ 61,124 (2008).

which the holder is expected to make, rather than receive, congestion payments. Midwest ISO is concerned that its credit policy may not adequately protect against non-payment by purchasers and holders of negative, zero, and low-positive priced FTRs.

6. Midwest ISO states that to reduce the risk of default of FTRs acquired at auction, it is implementing a minimum bid requirement applicable to bids to buy negative FTRs, as well as bids to purchase zero and low-priced FTRs. These minimum bids vary by type of bid and by season. The effect of the minimum bids, according to Midwest ISO, will be an increase in the amount of credit available to meet the credit requirements associated with holding FTRs.

7. Midwest ISO states that time is of the essence and that the Part I Bid Credit Requirements need to be in effect prior to its 2008 FTR auction, with an effective date of April 28, 2008.⁷

8. Notice of Midwest ISO's February 29 filing was published in the *Federal Register*, 73 Fed. Reg. 20,282 (2008), with interventions, comments, and protests due on or before March 21, 2008. Motions to intervene were timely filed by Public Service Electric and Gas Companies, American Municipal Power-Ohio, DC Energy, LLC, Ameren Services Company, Constellation Energy Commodities Group, Inc. and Constellation New Energy Inc., Dynegy Power Marketing, Inc., and SESCO Enterprises, LLC. Motions to intervene and comments were timely filed by Morgan Stanley Capital Group Inc. (Morgan Stanley), Exelon Corporation (Exelon), and Alliant Energy Corporation Services (Alliant). EPIC Merchant Energy, LP (EPIC) filed a timely motion to intervene and limited protest. Midwest ISO filed an answer on April 7, 2008.

9. Morgan Stanley states that it supports the Midwest ISO's efforts to protect its customers from credit risk and supports Commission approval of Midwest ISO's request for waiver of the 60-day notice requirement so that changes can be made effective for the 2008 annual FTR auction. Morgan Stanley states that Midwest ISO's proposed Bid Credit Requirements will reduce the risk of default for FTRs acquired at auction.

10. Alliant states that it supports Commission approval of Midwest ISO's proposed Bid Credit Requirements, with the expectation that more comprehensive revisions to Midwest ISO's credit policy are forthcoming. It asks that in the future filing, Midwest ISO propose to treat FTRs that are converted from Auction Revenue Rights (ARRs) through an auction bid the same way that it treats FTRs that are self-scheduled.

⁷ On May 1, 2008, Midwest ISO submitted a request for expedited action on the Part 1 Bid Credit Requirements. Midwest ISO states that it is not requesting expedited action on the Part 2 Hold Credit Requirements. Request for Expedited Commission Action on Pending Tariff Revisions of Midwest ISO, Docket Nos. ER08-622-000 and ER08-622-001 (May 1, 2008).

11. Exelon states that Midwest ISO's proposed Bid Credit Requirements are a step forward compared to the existing policy. It recommends that the Commission approve the Bid Credit Requirements subject to a condition that Midwest ISO make future filings to strengthen the credit requirements even more. Exelon offers suggestions on how Midwest ISO might strengthen the credit requirements in the future filings.
12. EPIC states that it supports Midwest ISO's proposed Bid Credit Requirements but only as a temporary solution to help minimize default risk for the upcoming 2008 annual FTR auction. EPIC believes that the proposed Bid Credit Requirements could adversely affect market liquidity in the long term; as such, they are only an adequate short-term remedy and not a permanent solution. EPIC asks that the Commission find the proposed Bid Credit Requirements to be just and reasonable only for the 2008 annual FTR auction. EPIC also states that the Commission should accept the Midwest ISO's proposed Bid Credit Requirements subject to the condition that Midwest ISO file revised tariff provisions within 180 days in order to replace the proposed Bid Credit Requirements with permanent and path-specific collateral requirements.
13. In its answer, Midwest ISO agrees that the Bid Credit Requirements it proposed in the instant filing are temporary and are intended to address credit risk concerns during the 2008 annual FTR auction. Midwest ISO also states that going forward, it intends to diligently work with the FTR Task Force to develop the appropriate changes to its credit policy to address the risks of both acquiring and holding FTRs. In addition, Midwest ISO states that it intends to facilitate continued stakeholder review of credit issues and proposed solutions; in fact, it has already committed to hold bi-monthly meetings to ensure that the FTR Task Force may expedite the review and analysis. Midwest ISO commits to make meetings more frequent if needed.
14. In response to specific suggestions about future changes to the FTR credit policy, Midwest ISO states that these and other suggestions will be vetted by the FTR Task Force before a final methodology is adopted.⁸ In response to EPIC's request that Midwest ISO be required to file permanent path-specific Bid Credit Requirements, Midwest ISO states that, in addition to changes to the Hold Credit Requirements, revised, permanent Bid Credit Requirements should be filed as soon as possible.
15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

⁸ Many of the suggestions also relate to the Hold Credit Requirements, which the Commission will address in a separate order.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Midwest ISO's answer because it has provided information that assisted us in our decision-making process.

17. Upon review of the filing, the Commission finds that the Bid Credit Requirements are just and reasonable and will afford better protection than the existing credit policy to Midwest ISO's customers from credit risk and the potential risk of default in the Midwest ISO FTR auction. In response to parties suggesting further changes to Midwest ISO's credit policy, the Commission accepts Midwest ISO's commitment to continue to review its FTR-related credit policies and to submit a future filing to propose additional changes to further strengthen the credit requirements.⁹

18. For good cause shown, the Commission grants waiver of the 60-day notice requirement and accepts the revised tariff sheets, effective April 28, 2008, as requested. As previously indicated, the Commission will address in a future order the revised tariff sheets that Midwest ISO submitted on March 31, 2008.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁹ Midwest ISO's commitment to file path-specific Bid Credit Requirements as soon as possible is reasonable. The Commission will not require Midwest ISO to make such a filing within 180 days, as EPIC requested.