

was previously accepted by the Commission as a subset of the price volatility make-whole payment (PV MWP) in Docket No. ER06-1552-000, *et al.*, but the implementation of the PV MWP program was delayed due to software limitations.

3. On March 4, 2008, the Commission issued an order (Manual Redispatch Order) conditionally accepting Midwest ISO's January 4 filing to be effective February 1, 2008, and requiring further compliance. The Commission directed Midwest ISO to: (1) modify the ramp rate eligibility criteria; (2) address settlement issues; (3) explain its use of meter submission data when recalculating the MRD MWP; (4) revise the Tariff to correct typographical and pagination errors; (5) revise the Tariff to accommodate implementation of the ancillary services market (ASM); and (6) clarify its plan to monitor and, if appropriate, mitigate the MRD MWP.

4. On September 14, 2007, in a related proceeding in Docket No. ER07-1372-000, *et al.*,⁴ Midwest ISO filed a proposal to establish an Ancillary Services Market (ASM proposal) to become effective June 1, 2008. In that proposal, Midwest ISO modified the PV MWP program to: (1) include operating reserve revenues and costs in the calculation of payments; and (2) restructure the original PV MWP program into its two separate components, i.e., the Real-Time Offer Revenue Sufficiency Guarantee Payment applicable to the dispatch of energy above day-ahead schedules either economically or through manual redispatch, and the Day-Ahead Margin Assurance Payment, applicable to the dispatch of energy below day-ahead schedules either economically or through manual redispatch. The Commission conditionally accepted the ASM proposal and subsequently accepted Midwest ISO's request to delay implementation of the ASM from June 1, 2008 to September 9, 2008.⁵

II. Compliance Filing

5. On March 25, 2008, Midwest ISO submitted clarifications and two sets of proposed Tariff revisions, effective February 1, 2008 and September 9, 2008, respectively, in compliance with the Manual Redispatch Order. The proposed Tariff sheets effective February 1, 2008 modify the ramp rate eligibility criteria, correct typographical errors, and provide a method to monitor and mitigate the MRD MWP. The proposed Tariff sheets effective September 9, 2008 accommodate the implementation of the ASM, including the manual redispatch of certain demand resources. Among other

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,172, *order on temporary waiver*, 123 FERC ¶ 61,135 (ASM Temporary Waiver Order), *order on compliance*, 123 FERC ¶ 61,296 (ASM Compliance Order), *order on reh'g*, 123 FERC ¶ 61,297 (2008).

⁵ See ASM Compliance Order, 123 FERC ¶ 61,296 at P 16.

clarifications, Midwest ISO explains its procedures for providing MRD MWP settlement statements to market participants and states that it would revise its Market Settlements Business Practices Manual to reflect this process.⁶

6. In response to the compliance requirement to clarify its plan to monitor and, if appropriate, mitigate the MRD MWP,⁷ Midwest ISO explains that manual redispatch generally relieves a binding transmission constraint(s) and activates Broad Constrained Area and/or Narrow Constrained Area mitigation measures. Specifically, Midwest ISO states that the IMM will apply the existing conduct thresholds for economic withholding and uneconomic production in TEMT sections 64.1.2 and 64.1.3, respectively, and the existing impact thresholds for revenue sufficiency guarantee (RSG) payments in section 64.2.1.d to identify any behavior to extract excessive MRD MWPs. In the event that a market participant's offer exceeds those conduct and impact thresholds, the IMM will apply the existing mitigation measures in section 65. Midwest ISO adds that the IMM will make a Commission referral pursuant to existing section 53.3 if it identifies gaming that would not be subject to the mitigation measures.⁸

III. Notice of Filing

7. Notice of Midwest ISO's filing was published in the *Federal Register*, 73 Fed. Reg. 18,523 (2008), with comments, protests, or motions to intervene due on or before April 15, 2008. None were filed.

IV. Discussion

A. Monitoring and Mitigation Plan

8. Midwest ISO proposes to use the existing Tariff provisions of Module D to monitor and mitigate the MRD MWP in a manner similar to its treatment of RSG

⁶ See Midwest ISO March 25, 2008 Compliance Filing at 4-5, n.13.

⁷ The Commission specifically required Midwest ISO to consider: (1) the types of behavior the Independent Market Monitor (IMM) will monitor for; (2) the types of impacts the IMM should monitor; (3) whether monitoring and any mitigation will occur only when there is a binding transmission constraint; (4) whether mitigation should apply only within certain constrained electrical areas; (5) any specific mitigation thresholds that will apply; and (6) whether the IMM may apply any mitigation or sanctions in response to gaming activities.

⁸ See *id.* at 6-8.

payments.⁹ We find that this method should appropriately mitigate the corresponding market power risks. While the MRD MWP has eligibility criteria that are designed, in part, to prevent the exercise of market power, we note that these eligibility criteria have been waived during ASM operational testing.¹⁰ Thus, the application of monitoring and mitigation is appropriate here in order to address the potential for gaming. We require Midwest ISO to submit further Tariff revisions or clarifications, however, to ensure that Module D fully reflects Midwest ISO's explanation of its monitoring and mitigation plan.

9. Midwest ISO explains that the exercise of local market power to raise the MRD MWP and RSG payments is similar and, thus, it proposes to monitor and mitigate the MRD MWP in a manner similar to the mitigation of RSG payments. To reflect this similarity and to ensure that the monitoring and mitigation plan in Module D of the TEMT adequately incorporates the MRD MWP, we require Midwest ISO to submit, in the compliance filing ordered below, revisions to Module D in order to refer to the MRD MWP in the sections where Module D refers to RSG payments, including sections 63.2.a.ii, 64.2, 64.2.1.a, 64.2.2.a, 64.2.3, 64.3.a, 65.3.1.c, and 67, or, alternatively, an explanation of why such revisions are unnecessary.

10. Midwest ISO proposes a number of revisions to Module D of its Tariff. It proposes, in section 53.1.a, that the IMM will monitor certain offers, "including, but not limited to, [o]ffers resulting in any [RSG] payments, including MRD MWP." However, we conclude that it is inaccurate to characterize the MRD MWP as a subset of RSG payments because the definition of "[o]ffer [RSG] [p]ayment" in section 1.229 does not include the MRD MWP.¹¹ Furthermore, the proposed revisions appear to be unnecessary to clarify Midwest ISO's proposed monitoring plan, because the existing, general

⁹ *See id.*

¹⁰ *See* ASM Temporary Waiver Order, 123 FERC ¶ 61,135 at P 28-29. In this order, the Commission granted Midwest ISO's motion for temporary waiver of Tariff sections 1.121, 33.8.1, 33.8.2, and 33.8.3, subject to refund, to allow Midwest ISO to provide the MRD MWP to market participants that participate in ASM operational testing and thereby ensure adequate compensation. The Commission waived the MRD MWP eligibility criteria of section 33.8.2 to remove potential barriers to receiving the MRD MWP and maximize participation in ASM operational testing. Because some of the eligibility criteria are designed to prevent potential MRD MWP gaming and Midwest ISO's monitoring and mitigation plan did not apply to the MRD MWP, the Commission made its temporary waiver subject to refund and the outcome of this proceeding.

¹¹ Midwest ISO, FERC Electric Tariff, Third Revised Vol. No. 1, Third Revised Sheet No. 109.

provisions of section 53.1.a already require the IMM to monitor all offers submitted in Midwest ISO. Thus, we reject the “including, but not limited to, [o]ffers resulting in any [RSG] payments, including MRD MWP” language proposed in section 53.1.a.

11. Midwest ISO also proposes in section 53.1.a the following language: “[i]n monitoring [RSG] payments, the IMM 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.” We agree that this proposed Tariff revision is needed to provide that economic withholding and uneconomic production associated with the MRD MWP may warrant mitigation. However, we have two concerns: (1) the proposed language may make certain existing mitigation thresholds inapplicable to RSG payments, and (2) the proposed language is not properly located here. The proposed revision does not provide that the IMM 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 RSG payments, which as stated above do not include the MRD MWP. As to our second concern, section 53.1.a is located in the Tariff’s monitoring section, but the proposed language concerns mitigation measures. Accordingly, the proposed language should be included in section 63 of the Tariff, which concerns mitigation. To ensure that the Tariff is clear and to be consistent with Midwest ISO’s mitigation proposal described in its transmittal letter, we require Midwest ISO to submit, in the compliance filing ordered below, revised Tariff language to say, in TEMT section 63, “[i]n monitoring the MRD MWP, the IMM 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.” Thus, we will reject the proposed revisions to section 53.1.a.¹²

12. In its transmittal letter,¹³ Midwest ISO proposes that the IMM use the existing RSG impact thresholds in section 64.2.1.d to determine whether conduct that increases the MRD MWP warrants mitigation. However, Midwest ISO does not propose any associated Tariff revisions to this section, and the existing Tariff language only specifies that the impact threshold will be used to “determine a substantial change in [o]ffer [RSG]

¹² Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Fourth Revised Sheet No. 713.

¹³ *See id.* at 7-8.

[p]ayments.”¹⁴ We require Midwest ISO to include, in the compliance filing ordered below, revisions to section 64.2.1.d¹⁵ to apply the impact thresholds to the MRD MWP as well.

13. In proposed section 65.3.5,¹⁶ Midwest ISO proposes that the IMM will seek Commission approval to make a market participant ineligible for the MRD MWP if the IMM determines that a market participant is “gaming the [RSG] mechanism.” We reject proposed section 65.3.5 for the same reasons outlined in the Manual Redispatch Order regarding similar proposed mitigation measures.¹⁷ As previously explained, we are concerned that proposed section 65.3.5 could be interpreted as limiting the ability of the IMM to propose and justify other potential mitigation measures when making a referral to the Commission, in accordance with section 62.c, or to restrain the Commission’s discretion to determine any appropriate sanctions in response to such a referral. Furthermore, we find that this specific mitigation measure for the MRD MWP is unnecessary because Midwest ISO proposes that the existing provisions of section 65, including the imposition of a default offer or the application of penalties by referral to the Commission, may apply to gaming of the MRD MWP.

14. In the Price Volatility Order, the Commission required Midwest ISO to file a report no later than 12 months from the effective date of the PV MWP program that discusses the effectiveness of the program, identifies any problems, and addresses other issues, including alternative methods of meeting intervenors’ concerns.¹⁸ While the Commission accepted the proposed eligibility criteria, the Commission required Midwest

¹⁴ Midwest ISO, FERC Electric Tariff, Third Revised Vol. No. 1, Third Revised Sheet No. 781.

¹⁵ *Id.*

¹⁶ Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Third Revised Sheet No. 796.

¹⁷ Manual Redispatch Order, 122 FERC ¶ 61,198 at P 55.

¹⁸ *See* Price Volatility Order, 117 FERC ¶ 61,325 at P 41-42. Midwest ISO has since split the PV MWP into three separate programs (the MRD MWP, Real-Time Offer Revenue Sufficiency Guarantee Payment, and Day-Ahead Margin Assurance Payment), and the programs have different effective dates. The Commission in the Manual Redispatch Order clarified that Midwest ISO is still required to file a report, as outlined in the Price Volatility Order, regarding each of the payments programs in their respective proceedings no later than 12 months following each program’s respective effective date. *See* Manual Redispatch Order, 122 FERC ¶ 61,198 at P 57.

ISO to endeavor to loosen the eligibility criteria, as Midwest ISO acquires operational experience with the payment program, to encourage greater participation while preventing gaming.¹⁹ We anticipate that the waiver of the eligibility criteria during ASM operational testing may provide data to aid the Commission in assessing the risks associated with loosening the eligibility criteria. We require Midwest ISO to work with the IMM to include, in its report due within 12 months of the effective date of the MRD MWP, a comparison of the MRD MWP applied during manual redispatch events versus ASM operational testing, including: (1) a description of the relative gaming risks and any identified gaming activities; (2) an assessment of the utility of the eligibility criteria in preventing gaming activity; and (3) an assessment of methods to mitigate or otherwise address gaming risks other than the eligibility criteria.²⁰

B. Other Compliance Issues

15. In the Price Volatility Order, Docket No. ER06-1552-000, *et al.*, the Commission conditionally accepted the PV MWP program effective “ten (10) days after Midwest ISO files with the Commission a notice that the necessary software and other systems are in place to implement the [PV MWP program].”²¹ In its compliance filing, Midwest ISO requests that the Commission make Sheet Nos. 94, 115, 116, and 117, accepted in Docket No. ER06-1552, effective on February 1, 2008.²² However, the Commission previously made Sheet Nos. 94, 115, and 116 effective on February 1, 2008 in the Manual Redispatch Order.²³ While Sheet Nos. 94 and 115 contain changes required by the Manual Redispatch Order, we did not require Midwest ISO to revise Sheet No. 116 in its compliance filing. Sheet No. 117 was neither submitted nor accepted in Docket No. ER06-1552 and, thus, is outside the scope of this proceeding. Thus, we reject proposed Sheet Nos. 116 and 117.²⁴

¹⁹ See Price Volatility Order, 117 FERC ¶ 61,325 at P 40.

²⁰ See *supra* n.10

²¹ *Id.* at Ordering Paragraph A.

²² In the Manual Redispatch Order, the Commission made effective on February 1, 2008 certain PV MWP Tariff sheets needed to implement the MRD MWP and required Midwest ISO to identify any additional PV MWP Tariff sheets that should also be made effective. See Manual Redispatch Order, 122 FERC ¶ 61,198 at P 47.

²³ See *id.* P 47, n.25.

²⁴ Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Sixth Revised Sheet No. 116 and Fourth Revised Sheet No. 117.

16. Midwest ISO proposes to reserve Schedule 27 for future use.²⁵ However, Schedule 27 was accepted in Docket No. ER06-1552-000, *et al.*, and its effective date was contingent on Midwest ISO filing a notice with the Commission that the necessary software has been put in place. In order to allow Midwest ISO to reserve Schedule 27 for future use, we find that the proposed pagination of First Revised Sheet No. 1050Z.06 constitutes the required notice,²⁶ and Sheet Nos. 1050Z.06-1050Z.17 previously accepted in Docket No. ER06-1552 will be made effective on February 1, 2008.²⁷

17. In the Manual Redispatch Order, the Commission found that several Tariff sheets had paginations that overlapped with sheets accepted in the ASM proceeding, Docket No. ER07-1372-000, *et al.*, and required Midwest ISO to revise its proposed Tariff sheets to ensure that they have unique and appropriate paginations.²⁸ However Midwest ISO did not make these corrections. As such, we require Midwest ISO to submit, in the compliance filing ordered below, revisions to appropriately paginate the Tariff sheets.²⁹

²⁵ To do this, Midwest ISO has paginated the first sheet of Schedule 27 as the “First Revised Sheet No. 1050Z.06 Superseding Original Sheet No. 1050Z.06 and 1050Z.17.” While the proposed First Revised Sheet indicates that the language on the Original Sheets accepted in Docket No. ER06-1552 should be deleted, the Commission has not yet made Original Sheet Nos. 1050Z.06-1050Z.17 effective and, thus, these sheets may not be superseded in this manner.

²⁶ See Price Volatility Order, 117 FERC ¶ 61,325 at Ordering Paragraph A.

²⁷ Midwest ISO September 29, 2006 Filing, Docket No. ER06-1552-000, FERC Electric Tariff, Third Revised Vol. No. 1, Original Sheet Nos. 1050Z.06-1050Z.17; Midwest ISO January 24, 2007 Compliance Filing, Docket No. ER06-1552-002, FERC Electric Tariff, Third Revised Vol. No. 1, Substitute Original Sheet Nos. 1050Z.08, 1050Z.11, 1050Z.13, and 1050Z.17.

²⁸ See Manual Redispatch Order, 122 FERC ¶ 61,198 at P 50, n.34.

²⁹ Midwest ISO January 4, 2008 Filing, FERC Electric Tariff, Third Revised Vol. No. 1, First Revised Sheet Nos. 330C, 330C.01, 330C.02, and 330D; Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Eighth Revised Sheet Nos. 10 and 14, Fourth Revised Sheet Nos. 41A and 94, Substitute Fourth Revised Sheet No. 115, Second Revised Sheet Nos. 330C.01 and 330C.02, and First Revised Sheet No. 1050Z.06.

We also require Midwest ISO to change all subsequent sheets in effect from February 1, 2008 forward to reflect the revised paginations, in accordance with Order No. 614.³⁰

18. The Commission also directed Midwest ISO in the Manual Redispatch Order to move the zero before the comma in part of the formula for the calculation of the MRD MWP, such that it reads “max {0, (...” instead of “0 max {, (...”.³¹ Midwest ISO did not comply with this directive, and we require it to submit, in the compliance filing ordered below, Tariff revisions to reflect this change.³² We also require Midwest ISO to submit, in that compliance filing, the following Tariff revisions: in section 1.176c, the definition for MRD MWP includes the words “manually redispatched” and should be capitalized to reference the term “Manual Redispatch” defined in TEMT section 1.176b;³³ on Sheet No. 41A, “Provider that software has been implemented” incorrectly appears along with the effective date and should be removed;³⁴ and Sheet No. “1050Z.06” should instead be paginated as “Sheet Nos. 1050Z.06-1050Z.17.”³⁵ In addition, we note that in the Table

³⁰ *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). Midwest ISO should refer to the examples regarding squeezed and retroactive sheets in the Tariff, Rate Schedule, and Service Agreement Paginations Guidelines located in the Appendix. For example, Midwest ISO should paginate proposed “Second Revised Sheet” No. 330C.01 superseding the “First Revised Sheet” (in Docket No. ER08-416-001 effective February 1, 2008) as the “First Revised Substitute Original Sheet” superseding the “Substitute Original Sheet.” To reflect this revised pagination, Midwest ISO should submit, in Docket No. ER08-416, revisions to Substitute First Revised Sheet No. 330C.01 (accepted in Docket No. ER07-1372-001 effective September 9, 2008) to repaginate the sheet as the “Second Substitute First Revised Sheet” superseding the “First Revised Substitute Original Sheet.” Midwest ISO should also submit revisions to Second Revised Sheet No. 330C.01 (in Docket No. ER08-416-001 effective September 9, 2008) to repaginate the sheet as the “Substitute Second Revised Sheet” superseding the “Second Substitute First Revised Sheet.”

³¹ Manual Redispatch Order, 122 FERC ¶ 61,198 at P 48.

³² Midwest ISO January 4, 2008 Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Original Sheet No. 1050Z.23.

³³ Midwest ISO March 25, 2008 Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Fourth Revised Sheet No. 94.

³⁴ *Id.* Fourth Revised Sheet No. 41A.

³⁵ *Id.* First Revised Sheet No. 1050Z.06. We note that this pagination change will require Midwest ISO to repaginate all Sheet Nos. 1050Z.06 through 1050Z.17 in effect from February 1, 2008 forward to reflect the revised pagination.

of Contents for section 33 “Load Shedding Curtailments” should instead read “Load Shedding and Curtailments and Manual Redispatch,” and for section 34 “Rates and Charges” is incorrectly labeled to be on page “330” and should instead be on page “330F.”³⁶

19. We find that the proposed Tariff sheets effective September 9, 2008 generally reflect changes accepted in the ASM proceeding, Docket No. ER07-1372-000, *et al.*, in an appropriate manner. We conditionally accept the proposed Tariff sheets, and we require Midwest ISO to submit, in the compliance filing ordered below, the following Tariff revisions to ensure consistency with the MRD MWP and ASM proceedings or, in the alternative, an explanation describing why such revisions are unnecessary: (1) in section 33.8.2, a provision should be inserted to make manually redispatched resources exempt from real-time RSG charges and uninstructed deviation penalties;³⁷ (2) in sections 33.8.2.a.2.a, 33.8.2.a.2.a.iii, 33.8.2.b, and 33.8.2.b.iii,³⁸ “or Demand Response Resource – Type II” should be added after “[g]eneration [r]esource;”³⁹ (3) in section 33.8.2.a.1.b.i.1,⁴⁰ “must be equal to” should instead read “must be less than or equal to;”⁴¹ (4) in section 33.8.2.b.iii,⁴² “and each subsequent [h]our of the [m]annual [r]edispatch period” should be added to the end of the last sentence.⁴³ Finally, we require

³⁶ Midwest ISO March 25, 2008 Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Third Revised Sheet No. 29.

³⁷ See Midwest ISO, FERC Electric Tariff, Third Revised Vol. No. 1, First Revised Sheet No. 330C.02; see also Midwest ISO January 4, 2008 Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Original Sheet No. 330C.04.

³⁸ Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Original Sheet Nos. 330C.03 and 330C.06.

³⁹ See Manual Redispatch Order, 122 FERC ¶ 61,198 at P 49.

⁴⁰ Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Second Revised Sheet No. 330C.02.

⁴¹ See Midwest ISO, FERC Electric Tariff, Third Revised Vol. No. 1, First Revised Sheet No. 587G.

⁴² Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Original Sheet No. 330C.06.

⁴³ See Midwest ISO January 4, 2008 Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Original Sheet No. 330C.03.

Midwest ISO to revise the paginations of proposed “Original Sheet” Nos. 330C.03 and 330C.04 to ensure that they have unique and appropriate paginations.⁴⁴

The Commission orders:

(A) Midwest ISO’s compliance filing in Docket No. ER08-416-001 is hereby conditionally accepted in part and rejected in part, as discussed in the body of this order.

(B) Midwest ISO is hereby directed to make a compliance filing within 30 days of the date of this order modifying its proposed Tariff revisions, as discussed in the body of this order.

(C) Midwest ISO’s Tariff sheets previously accepted in Docket Nos. ER06-1552-000 and ER06-1552-002 are hereby made effective on February 1, 2008, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴⁴ Midwest ISO March 25, 2008 Compliance Filing, FERC Electric Tariff, Third Revised Vol. No. 1, Original Sheet Nos. 330C.03 and 330C.04. These proposed sheets, effective September 9, 2008, have identical paginations to sheets previously accepted by the Commission, effective February 1, 2008, and do not indicate the sheets that they supersede.