

Ancillary Services Market (ASM). Midwest ISO had proposed to eliminate the option for the owners of a jointly-owned unit to individually enter dynamic schedules for all or a portion of their interest in the jointly-owned resource. The Commission rejected that proposal without prejudice to Midwest ISO's right to file a revised proposal after discussions with the affected stakeholders.² Midwest ISO has now done so. Its revisions would permit owners of jointly-owned units to participate in the energy market by either submitting a single coordinated offer on behalf of all the owners or by pseudo-tying each ownership interest into the market with each owner making its own separate offer.

4. Midwest ISO requests an effective date of September 9, 2008, consistent with the launch date of the ASM.

Notice of the Filings

5. Notice of Midwest ISO's filing was published in the *Federal Register*, 73 Fed. Reg. 43,216 (2008), with interventions and protests due on or before August 1, 2008. The following parties filed timely motions to intervene: Exelon Corporation; Indianapolis Power & Light Company; Hoosier Energy Rural Electric Cooperative, Inc. and Southern Illinois Power Cooperative; Xcel Energy Services Inc.; Ameren Services Company; and Madison Gas & Electric Company, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, and Wisconsin Public Power Inc. Consumers Energy Company (Consumers Energy) filed a timely motion to intervene and protest. Midwest ISO submitted a motion for leave to answer and an answer.

6. On August 26, 2008, Midwest ISO notified the Commission that it is in the process of addressing certain issues that have developed during the market testing process for the systems required to operate Midwest ISO's ASM. Midwest ISO states that, as a result, the planned September 9, 2008 effective date for service under the ASM Tariff to begin will be deferred. It requested that the Commission defer action on ASM-related proceedings, including this one. Midwest ISO stated that it intended to re-file the ASM Tariff with a new effective date.

7. On October 10, 2008, Midwest ISO submitted an amendment to its original filing in this docket in order to modify the effective date, and to ensure that the pagination and any section numbers and references are consistent with its "Clean-Up" Filing in Docket No. ER09-15-000. Midwest ISO submitted new tariff sheets with effective dates of December 31, 2008, and January 6, 2009. It explains that while the ASM will begin on January 6, 2009, there are provisions in the ASM Tariff that have a proposed December 31, 2008 effective date to allow for certain Day-Ahead and Real-Time market operations. Midwest ISO states that it made no other substantive revisions to the tariff sheets.

² *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,172, at P 379 (2008).

8. Notice of Midwest ISO's amendment was published in the *Federal Register*, 73 Fed. Reg. 65,596 (2008), with interventions and protests due on or before October 31, 2008. None was filed.

Discussion

A. Procedural Matters

9. 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.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2008), 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.

B. Substantive Matters

11. Midwest ISO states that problems have arisen when jointly-owned unit owners have failed to coordinate adequately regarding the actual operating status of the jointly-owned unit, resulting in inconsistent offers, and that in the ASM such inconsistencies create even more difficulty. Midwest ISO states that in discussions with stakeholders, it has explained the difficulties posed in the ASM by continuing the dynamic scheduling option. Midwest ISO further explains that all owners of jointly-owned operating units that previously used the dynamic scheduling option have converted to using either the coordinated offer or the pseudo-tie options and all owners of the jointly-owned units in Midwest ISO will continue to have those two options to offer energy from the generation resource into the energy markets. Midwest ISO states that the proposed revisions do not unduly restrict the owners of jointly-owned units from offering individual interests in a jointly-owned unit into the ASM. Midwest ISO states that the revisions represent a careful balancing of issues it faces when attempting to accommodate multiple offers from a single generation resource along with the desire of certain owners of jointly-owned units to make individual offers of their interests. Midwest ISO further states that these revisions will remove a significant impediment to its ability to operate the ASM while continuing to accommodate individual ownership interests.

12. We agree, and will accept the proposed revisions, subject to the conditions discussed below, effective December 31, 2008, and January 6, 2009, as requested. Eliminating the dynamic scheduling option should alleviate problems arising from the coordination of offers amongst the owners under the dynamic scheduling option.

13. Consumers Energy does not oppose Midwest ISO's proposal to eliminate the dynamic scheduling option; however, its main concern is that Midwest ISO failed to include language in the proposed revisions stating that Midwest ISO will send one aggregate dispatch instruction signal to the designated operator of the jointly-owned unit. It argues that Midwest ISO should be required to aggregate dispatch instructions for each

product in order to physically dispatch the unit, while treating each ownership share's market bids separately. Consumers Energy states that the need to send one dispatch signal to the operator of the jointly-owned unit exists regardless of whether the unit is pseudo-tied and that a single dispatch signal is essential to maintain reliability.

14. Midwest ISO states in its answer that it does not oppose inserting language into the ASM Tariff as Consumers Energy suggests. Midwest ISO agrees to modify the ASM Tariff, in a compliance filing, to specify that it will send one aggregated dispatch instruction signal to the operator of the jointly-owned unit, if the Commission so orders. We will direct Midwest ISO to do so. Sending one aggregate dispatch instruction signal, while still treating each market bid separately, should help ensure reliability.

15. In addition, with respect to tariff sheets with a requested effective date of December 31, 2008, we will require Midwest ISO to submit a compliance filing within 30 days of this order. These tariff sheets must be designated under the TEMT 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 under the Fourth Revised Volume No. 1 because corresponding sections of the currently effective Third Revised Volume No. 1 will be effective at the same time. Overlapping tariff sections in the two tariffs could create confusion. Therefore, we direct Midwest ISO to submit tariff revisions with the December 31, 2008 effective date under the FERC Electric Tariff, Third Revised Volume No. 1.

The Commission orders:

(A) Midwest ISO's revisions to the ASM Tariff are conditionally accepted for filing, as discussed in the body of this order, effective December 31, 2008, and January 6, 2009.

(B) Midwest ISO is directed to file, within 30 days of this order, revisions to its ASM Tariff as discussed in the body of the order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.