

129 FERC ¶ 61,058  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Midwest Independent Transmission System  
Operator, Inc.

Docket No. ER08-394-019

ORDER ON COMPLIANCE FILING

(Issued October 23, 2009)

1. On March 23, 2009, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted revisions to comply with the Commission's order issued February 19, 2009 directing the Midwest ISO to modify Module E to clarify that demand resources can be netted from a load serving entity's (LSE) load forecast.<sup>1</sup> This order conditionally accepts the Midwest ISO's compliance filing, effective January 6, 2009, subject to a further compliance filing, as discussed below.

**I. Background**

2. In the February 19 Order,<sup>2</sup> the Commission clarified its October 20, 2008 order<sup>3</sup> prohibiting the netting of behind-the-meter generation from a LSE load forecast. The February 19 Order made clear that while an LSE could not net behind-the-meter generation from its load forecast, it could net demand resources from its forecast.<sup>4</sup> The Commission required the Midwest ISO to: (1) submit tariff revisions to clarify that demand resources can be netted from an LSE's load forecast;<sup>5</sup> and (2) to revise the tariff

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<sup>1</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 126 FERC ¶ 61,143 (2009) (February 19 Order).

<sup>2</sup> *Id.*

<sup>3</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,061 (2008) (October 20 Order).

<sup>4</sup> February 19 Order, 126 FERC ¶ 61,143 at P 14.

<sup>5</sup> *Id.* P 33.

to indicate that the Midwest ISO will submit resource adequacy information to state authorities for LSEs that are subject to regulation or using delivery services, rates, terms or conditions established by such state regulatory authority.<sup>6</sup>

## **II. Compliance Filing**

3. The Midwest ISO states in its compliance filing that it has revised Module E of its tariff to clarify that demand resources will be netted against an LSE's forecasted demand unless the LSE requests that the demand resource be treated like other Planning Resources.<sup>7</sup> In addition, the Midwest ISO submitted revisions to ensure that if a demand resource is netted, it will not receive double credit by also being used as another Planning Resource. The Midwest ISO also submitted tariff revisions that clarify that behind-the-meter-generation cannot be netted.

4. The Midwest ISO proposes that the quantity of demand resources that have been designated by an LSE to be used for netting against the LSE's forecasted demand will be multiplied by one (1) plus the planning reserve margin applicable to the LSE's demand in determining if the LSE has sufficient Planning Resources in an amount greater than or equal to the forecast LSE requirement – adjusted for netting – multiplied by one (1) plus the applicable planning reserve margin to meet the LSE's resource adequacy requirement. The Midwest ISO asserts that its gross up for netting achieves the netting requirement mandated by the February 19 Order.

5. The Midwest ISO also proposes to modify its tariff to require the Midwest ISO to submit resource adequacy information to the applicable state authority for LSEs subject to regulation or using delivery services rates, terms or conditions established by such state regulatory authority.

## **III. Notice of the Compliance Filing and Responsive Pleadings**

6. Notice of the Midwest ISO's compliance filing was published in the *Federal Register*, 74 Fed. Reg. 14,795 (2009), with interventions and protests due on or before April 13, 2009. None was filed.

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<sup>6</sup> *Id.* P 37.

<sup>7</sup> Planning Resources are capacity resources or load modifying resources that can be used to satisfy resource adequacy requirements. Midwest ISO FERC Electric Tariff, Fourth Revised Volume No. 1, Original Sheet No. 245.

**IV. Discussion**

**Commission Determination**

7. We accept the Midwest ISO's compliance filing, subject to a further compliance filing. The Midwest ISO has met the requirements of the February 19 Order by revising its tariff to provide for netting of demand resources from an LSE's load forecast and to prohibit the netting of behind-the-meter generation. The compliance filing also complies with the February 19 Order's requirement for reporting of resource adequacy information to state authorities.

8. However, we find that the Midwest ISO's proposal to gross up the demand resources that have been designated by the LSE to be used as a netting adjustment appears to be beyond the scope of the compliance requirements of the February 19 Order. We direct the Midwest ISO to revise proposed Substitute Original Sheet No. 1442A to remove the gross up provision and provide that demand resources that have been designated by an LSE pursuant to section 69.2.2 can be netted from the Forecast LSE requirement, as required by the February 19 Order. Our ruling in this proceeding is without prejudice to the Midwest ISO making a proposal in a section 205 filing.

The Commission orders:

(A) The proposed tariff revisions submitted in the compliance filing are hereby accepted, as modified, and discussed in the body of this order. The proposed tariff revisions regarding the gross up of demand resources are rejected, as discussed in the body of this order.

(B) The Midwest ISO is hereby directed to make a compliance filing 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.