

132 FERC ¶ 61,192
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 31, 2010

In Reply Refer To:
Midwest Independent Transmission
System Operator, Inc.
Docket No. ER10-1648-000

Duane Morris LLP
505 9th Street, NW
Washington, DC 20004-2166

Attention: Daniel M. Malabonga, Esq.

Reference: Tariff Revisions Regarding Reassignment of Revenues for Auction
Revenue Rights Due to Load Shifts

Dear Mr. Malabonga:

1. On June 30, 2010, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff). The proposed revisions concern the reassignment of revenues associated with auction revenue rights (ARR) based on load shifts.
2. Midwest ISO states that the Tariff requires that ARR revenues be reassigned to follow any shifts in load within each ARR zone, subject to Midwest ISO's verification of any reports and evidence of such load shifts. Consistent with the requirement that market participants report and substantiate any load shifts, Midwest ISO's Financial Transmission Rights (FTR) and ARR Business Practices Manual (BPM) specifies the load shift reporting procedure.¹ Midwest ISO states that the proposed Tariff revisions are

¹ Midwest ISO Transmittal Letter at 2. Midwest ISO states that the BPM's load shift reporting procedure relies on the submission of load shift data for each ARR zone by an entity designated by all market participants serving network load in the ARR zone. Under the BPM's procedure, when there is no accurate report of load shifts for the prior

(continued...)

intended to address recent stakeholder concerns that Midwest ISO's BPM procedure concerning the reporting of load shifts was inconsistent with the Tariff.²

3. In the instant filing, Midwest ISO states that it believes that the BPM procedure is consistent with the current Tariff. But, it proposes a Tariff revision to provide additional clarity as to how ARR revenue reassignment will be handled when load shifts are not reported accurately. In particular, it proposes to add the following sentence at the end of section 43.7.2 of the Tariff: "In the absence of an accurate report on Load shifts for the prior month, the Transmission Provider shall use data from the last accurate report on Load shifts, if any, in accordance with the procedure set forth in the applicable Business Practices Manuals." (Emphasis added). Midwest ISO requests an effective date of September 1, 2010.

4. Notice of Midwest ISO's filing was published in the Federal Register, 75 Fed. Reg. 40,814 (2010), with protests or motions to intervene due on or before July 21, 2010. Timely motions to intervene were filed by MidAmerican Energy Company, The Detroit Edison Company, American Municipal Power, Inc., Consumers Energy Company, Wisconsin Electric Power Company, Ameren Services Company, and Exelon Corporation. On July 26, 2010, Xcel Energy Services Inc. (Xcel) filed a late motion to intervene. No protests or adverse comments were filed.

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2010), Xcel's late-filed motion to intervene is granted, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

6. We conditionally accept Midwest ISO's proposed revisions. The Commission finds it reasonable that Midwest ISO use data from the last accurate report on load shifts to determine ARR revenues. However, the proposal, in the phrase "in accordance with the procedure set forth in the applicable Business Practices Manuals," is based on a procedure set forth in Midwest ISO's BPM. Since business practice manuals should

month, Midwest ISO shall rely on the last accurate report previously received by Midwest ISO. *Id.*

² At an August 5, 2009 meeting of Midwest ISO's FTR Working Group, Duke Energy raised concerns that Midwest ISO's BPM procedure concerning the reporting of load shifts was inconsistent with Midwest ISO's Tariff. After further discussion and study, Midwest ISO agreed to address the matter in a filing with the Commission. Midwest ISO Transmittal Letter at 2-3.

comply with the terms of the Tariff, and not the other way around,³ we require Midwest ISO to submit a compliance filing within 30 days of the date of this order with revised Tariff sheets deleting this phrase.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

³ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 115 FERC ¶ 61,108, at P 29 (2006) (citing *Dynegy Midwest Generation, Inc. and Dynegy Power Marketing, Inc. v. Commonwealth Edison Company*, 101 FERC ¶ 61,295 (2002), *reh'g dismissed*, 108 FERC ¶ 61,175 (2004)).