

139 FERC ¶ 61,062
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Midwest Independent Transmission
System Operator, Inc.

Docket Nos. ER11-2923-000
ER12-1175-000
Not Consolidated

ORDER ACCEPTING COMPLIANCE FILING AND GRANTING
WAIVER OF TARIFF

(Issued April 23, 2012)

1. On February 18, 2011, as amended on March 31, 2011, and updated on September 13, 2011, in Docket No. ER11-2923-000, the Midwest Independent Transmission System Operator, Inc. (MISO) submitted requests for extensions of time and waivers regarding its compliance with Order No. 676-E (Compliance Filing).¹
2. Subsequently on February 23, 2012, in Docket No. ER12-1175-000, MISO submitted a request for a limited, one-time waiver of certain provisions of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) and from 18 C.F.R. § 38.2(a)(2)² (Tariff Waiver Filing). As discussed below, we grant the requested extensions of time and waivers.

I. Background

3. On November 24, 2009, the Commission issued Order No. 676-E, which revised its regulations to incorporate by reference the latest version (Version 002.1) of certain standards adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) and directed public utilities, including MISO, to either

¹ *Standards for Business Practices and Communication Protocol for Public Utilities*, Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 (2009).

² Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards.

incorporate them into their jurisdictional tariffs or seek a waiver from the Commission.³ NAESB's Version 002.1 standards include new standards and modifications to existing Version 002.0 standards. They include standards adopted by NAESB in response to Order Nos. 890, 890-A, and 890-B.⁴ The standards establish a set of business practice standards and communications protocols (Standards WEQ-001, -002, and -003) for the electric industry that replace the Commission's existing Open Access Same-Time Information Systems (OASIS) standards, and also include business practices to complement reliability standards of the North American Electric Reliability Council (NERC) (Standards WEQ-004, -005, -006, and -007).

4. Order No. 676 provides public utilities the option of applying for a waiver of the standards, in whole or in part. Further, Order No. 676 states that utilities, including Independent System Operators (ISO) and Regional Transmission Organizations (RTO), that have existing waivers of certain OASIS standards may reapply for such waivers using simplified procedures. These procedures require an applicant to identify the specific standard(s) from which it is seeking waiver and provide the caption, date, and docket number of the proceeding in which it received its waiver. In addition, an applicant must certify that the circumstances warranting its waiver(s) have not changed.⁵

II. Filings

A. Compliance Filing

5. In its filing to comply with Order No. 676-E, MISO requests: (1) an extension of time until August 1, 2011 to implement the NAESB WEQ business practice standards (Standards) WEQ-001-14, WEQ-001-15, WEQ-013-2.6.7.2, and WEQ-013-3.3.1 in order to address software issues; (2) waiver of Standards WEQ-001-4.10 and WEQ-001-4.12; and (3) waiver of Standards WEQ-002-4.2.3.1(d),⁶ and WEQ-002-3.4(b)(i). Finally,

³ Order No. 676-E, FERC Stats. & Regs. ¶ 31,299 at P 128.

⁴ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261, *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

⁵ *Standards for Business Practices and Communication Protocol for Public Utilities*, Order No. 676, FERC Stats. & Regs. ¶ 31,216, at P 79 (2006).

⁶ MISO's March 31, 2011 amendment at page 1 mistakenly refers to Standard WEQ-002-4.3.2.1(d). However, the discussion in the March 31, 2011 amendment at page 8 correctly refers to Standard WEQ-002-4.2.3.1(d).

MISO requests continuation of its existing waiver of Standard WEQ-001-4.13 to the same extent that the Commission granted it such waiver in 2007 as the circumstances for that waiver have not changed.⁷

6. In the March 31 Filing, MISO requests waiver of Standards WEQ-001-4.10 and WEQ-001-4.12. The former standard requires MISO to allow customers to change the status of an accepted or counter offered transmission service request (TSR) to rebid for a lower amount of transmission capacity. The latter standard requires MISO to place the request for rebid in decline status to the extent that MISO determines not to engage in capacity negotiation. MISO states that when a TSR is submitted via MISO's OASIS, an evaluation of available flowgate capacity (AFC) is performed automatically and this evaluation is not updated or revised prior to being processed by MISO's Tariff Administration group.⁸ Given the timing of AFC evaluations, MISO has coded an alternative implementation. In particular, when a customer attempts to engage in capacity negotiation through a rebid request, MISO's OASIS returns an error message to the customer indicating that MISO does not engage in capacity negotiation. MISO states that its alternative implementation is consistent with or superior to the implementation required by NAESB Standards WEQ-001-4.10 and WEQ-001-4.12 as it allows the customer to retain its queue position and continue with its original capacity as requested.⁹

7. In addition, MISO seeks waiver of Standard WEQ-002-4.2.3.1(d) although MISO asserts that it is technically compliant with this standard. This standard relates to MISO's ability to "update," among other things, every AFC and Available Transfer Capability (ATC) value posted in its offering and system data templates. When MISO attempted to "update" every value regardless of a substantive change, the system performance of its OASIS became impaired as a result of MISO's large number of ATC paths and flowgates and the advanced recalculation features of its AFC methodology. To address this problem, MISO's OASIS vendor developed a coding that compares updated values to the currently posted values and when the values are equal, neither the posted value nor the time of last update is updated.¹⁰

8. MISO also seeks waiver of Standard WEQ-002-3.4(b)(i). This standard relates to the manner in which MISO's OASIS vendor set its registered uniform resource locator

⁷ February 18 Filing at 2-3 (citing *Waiver of NAESB Standards (Midwest Indep. Transmission Sys. Operator, Inc.)*, 118 FERC ¶ 61,033 (2007)).

⁸ March 31 Filing at 7-8.

⁹ *Id.* at 7-8 & Exh. 1 (Zhu Affidavit).

¹⁰ *Id.* at 9.

(URL) address when its OASIS software platform was originally delivered. MISO states that modification of its URL address may result in OASIS unavailability for customers and could affect automated scripts and queries that its customers currently utilize to query and download information from its website. Accordingly, MISO requests waiver of this standard to avoid those potential inconveniences.¹¹ According to MISO, its registered URL address has not adversely affected the operation of its OASIS or otherwise affected access to its customers and market participants.

B. Tariff Waiver Filing

9. In this filing, MISO states that it has identified a need to upgrade its OASIS because its current OASIS and associated functionality limits the ability for MISO to comply with specific Tariff provisions. As such MISO requests waiver of certain requirements of the following Commission regulations and Tariff provisions: 18 C.F.R. § 38.2(a)(2) (OASIS standards and communications protocols) and Tariff sections 13.2, 14.2, 19.7 and 27.A.7.7 and Attachment Q.¹² MISO states that it requests these waivers only for the period of time during which it addresses the deficiencies discussed below.

10. MISO seeks waiver of certain requirements of Attachment Q and 18 C.F.R. § 38.2(a)(2) until April 30, 2012. Specifically, MISO states that it has discovered that it is unable to post data on its security template as required by NAESB's Business Practices and Communications Protocols. According to MISO, due to the technical and real-time nature of the information required to be posted in the security template, e.g., the procedure type, initiating party, and facility name, as well as the need for development or revision of operations personnel information sharing processes, MISO requires time to design, establish and implement the functionality, interfaces, and internal processes necessary to post security information. MISO anticipates that it will be able to post data to the security template in the OASIS by April 30, 2012.¹³ As such, MISO requests waiver of Attachment Q and 18 C.F.R. § 38.2(a)(2), to the extent necessary, until that time.

11. MISO seeks waiver of certain requirements of the Commission's regulations at 18 C.F.R. § 38.2(a)(2) and Tariff sections 13.2, and 14.2, and Attachment Q until December 31, 2012.¹⁴ Tariff sections 13.2 and 14.2 require that preemption be

¹¹ *Id.* at 10.

¹² MISO incorporates NAESB requirements in Attachment Q of its Tariff.

¹³ Tariff Waiver Filing at 4.

¹⁴ *Id.* at 4-5.

performed when the Transmission System is oversubscribed, i.e., all requests for transmission service that involve the same source or sink Local Balancing Authority or controllable device/contract path Interface cannot be granted, for firm and non-firm TSRs, respectively. MISO discovered that its current OASIS functionality does not support performance of preemption activities for either firm or non-firm TSRs and furthermore, such activities cannot be performed manually by MISO due to the highly complex implementation and timing requirements associated with preemption activities. MISO states that in order for it to fully and completely implement preemption, MISO will have to upgrade its OASIS. MISO anticipates that such upgrade will be completed by December 31, 2012.

12. Finally, MISO also seeks waiver of certain requirements of Tariff sections 19.7 and 27.A.7.7 until December 31, 2012. These Tariff sections require MISO to extend partial service offers when firm TSRs cannot be accommodated in full, i.e., when all requests for transmission service that involve the same source or sink Local Balancing Authority or controllable device/contract path Interface cannot be granted in full. However, MISO discovered that its current OASIS functionality does not support the auto-calculation of offers for partial service for short-term TSRs. MISO states that the performance of such activities cannot be performed manually on a consistent basis due to the highly complex nature of the identification of competing requests and calculation of capacity available for an offer of partial service. An upgrade to MISO's OASIS is required to implement auto-calculations of offers of partial service for short-term TSRs and to allow for reevaluation of TSRs in queue depending on the withdrawal, counteroffer, or preemption of earlier queued TSRs. MISO anticipates that such an upgrade will be completed by December 31, 2012, and as such requests waiver of Tariff sections 19.7 and 27A.7.7, as necessary, until that time.¹⁵

13. MISO states that waiver should be granted because it meets the Commission's four main criteria to permit Tariff waivers: (1) the entity seeking waiver acted in good faith; (2) the waiver is of limited scope; (3) a concrete problem needs to be remedied; and (4) the waiver will not have undesirable consequences.¹⁶ MISO states that it has made the Tariff requests in good faith, it identified the need for the requested waivers through an internal compliance initiative intended to discover any potential compliance issues. MISO also states that the waivers being requested are of limited scope and are being requested for a one time only. MISO states that a corrective plan is in place to correct

¹⁵ *Id.* at 6-7.

¹⁶ *Id.* at 7

each issue being addressed, and finally, MISO also states that the waivers being requested will not have any undesirable impacts, including on third-parties.¹⁷

III. Notice of Filings and Responsive Pleadings

14. On February 22, 2011, notice of the Compliance filing was published in the *Federal Register*, 76 Fed. Reg. 12,098 (2011), with interventions or protests due on or before March 11, 2011. Timely motions to intervene, raising no substantive issues, were filed by Consumers Energy Company, Duke Energy Corporation, American Municipal Power, Inc., and Wisconsin Electric Power Company.

15. On February 29, 2012, notice of the Tariff Waiver Filing was published in the *Federal Register*, 77 Fed. Reg. 13,587 (2012), with interventions or protests due on or before March 15, 2012. Timely motions to intervene, raising no substantive issues, were filed by Consumers Energy Company and Wisconsin Electric Power Company.

IV. Discussion

A. Procedural Matters

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

1. Compliance Filing

17. We will grant MISO's continued waiver of Standard WEQ-001-4.13 set forth in its Compliance Filing. MISO has stated that the circumstances warranting the waivers have not changed.

18. We will grant MISO waiver of Standards WEQ-001-4.10 and WEQ-001-4.12, as MISO has coded an alternative implementation to address the functionality targeted by those NAESB Standards. We will grant waiver of Standards WEQ-002-4.2.3.1(d), relating to MISO's ability to "update," among other things, every AFC and ATC value posted in its offering and system data templates, to the extent necessary. We will also grant waiver of WEQ-002-3.4(b)(i) relating to its URL address, for the reasons set forth by MISO.

¹⁷ *Id.* at 8

19. We find that MISO's request for extension of time, in Docket No. ER11-2923, to comply with Order No. 676-E has been overtaken by MISO's request for waiver in Docket No. ER12-1175; and as discussed below, we grant the necessary waivers for MISO to comply with Order No. 676-E.

2. Tariff Waiver Filing

20. Separately from its compliance with Order No. 676-E, MISO seeks a one-time waiver of certain requirements of Attachment Q and 18 C.F.R. § 38.2(a)(2) and Tariff sections 13.2, 14.2, 19.7 and 27.A.7.7. We will grant all tariff waivers requested by MISO given that MISO has acted in good faith, the waivers are of limited scope, MISO has identified the problems needed to fully comply and is working to remedy them, and finally the waivers being requested do not have undesirable consequences to third parties.¹⁸

21. MISO states that it is unable to comply with these Tariff requirements due to problems with MISO's OASIS functionality. MISO states that the only way that these problems can be remedied is by upgrading its OASIS and that it anticipates that the updates will be completed by April 30, 2012 and December 31, 2012.

22. We will grant the requested waiver of requirements of Attachment Q and 18 C.F.R. § 38.2(a)(2) regarding posting data to the security template in the OASIS until April 30, 2012. We anticipate that MISO will be able to post its security information on the security template of its OASIS by April 30, 2012, as it specified in its Tariff Waiver Filing. We will grant waiver of Tariff sections 13.2 and 14.2 until December 31, 2012, as requested by MISO. By that time we anticipate MISO will be able to perform preemption activities for both firm and non-firm TSRs as outlined in Tariff sections 13.2 and 14.2. We also grant waiver until December 31, 2012 of Tariff sections 19.7 and 27A.7.7 as MISO works towards addressing its OASIS functionality of calculating offers for partial service for short-term TSRs.

The Commission orders:

(A) MISO's requested waiver of certain NAESB standards requested by MISO in its Compliance Filing, as well as the extension of time, is hereby granted, as discussed in the body of this order.

(B) MISO's requested waiver of Attachment Q and 18 C.F.R. § 38.2(a)(2) is hereby granted to be in effect until April 30, 2012, as discussed in the body of this order.

¹⁸ We specifically note the absence of adverse comments here.

(C) MISO's requested waiver of Tariff Sections 13.2, 12.2, 19.7 and 27A.7.7, Attachment Q and 18 C.F.R. § 38.2(a)(2) is hereby granted to be in effect until December 31, 2012, as requested.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.