

128 FERC ¶ 61,279  
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. ER09-1525-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued September 28, 2009)

1. On July 30, 2009, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted, under section 205 of the Federal Power Act,<sup>1</sup> proposed revisions to section 40.2.12 of the Midwest ISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)<sup>2</sup> providing clarifications to the timeline for submitting interchange schedules.<sup>3</sup> In this order, the Commission accepts the Tariff revisions, effective July 31, 2009, as requested.

**I. Background**

2. The Midwest ISO Tariff permits interchange schedules to begin or end every fifteen minutes on the hour, quarter past the hour, the half-hour or quarter-till the hour. In addition, the Midwest ISO requires that all interchange schedules be submitted at least 30 minutes prior to the start of the interchange schedule. The Midwest ISO states that the Tariff effectively allows a market participant to submit or modify an interchange schedule for the last fifteen minutes of an operating hour up to fifteen minutes into the same operating hour, therefore allowing the market participant to view the real-time locational marginal price (LMP) for a portion of the hour in which the transaction will take place. The Midwest ISO's market settlement rules also provide for the integration of five minute prices over the operating hour to create an integrated hourly LMP at which

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> FERC Electric Tariff, Fourth Revised Volume No. 1.

<sup>3</sup> Interchange Schedules are defined in the Tariff at section 1.319 as: An Import Schedule, Export Schedule or Through Schedule. Midwest ISO, FERC Electric Tariff, Fourth Revised Vol. No. 1, Original Sheet No. 181.

all transactions in the operating hour are settled. The Midwest ISO explains that interchange scheduling flexibility coupled with the settlement of transactions at the integrated hourly LMP regardless of the length of the transaction has created an incentive for market participants to submit or modify interchange schedules in order for the schedule to take effect during the last fifteen minutes of the operating hour in a manner that may not result in efficient dispatch for that fifteen minute period, but when settled at the hourly LMP, may result in a profitable transaction.

3. The Midwest ISO's independent market monitor (IMM) addressed intra-hour physical scheduling in its 2007 and 2008 State of the Market Reports for the Midwest ISO. The IMM recognized that large changes in net scheduled interchange caused by intra-hour schedules can lead to price volatility and operational challenges.<sup>4</sup> Further, the IMM explained that intra-hour schedules affect prices because the Midwest ISO may have to ramp generation up or down substantially to accommodate the schedules.<sup>5</sup> Intra-hour schedules settle at the integrated hourly price in the hour in which they occur, which impacts market participant incentives because a fifteen minute schedule may be profitable on a hourly basis, even if it is inefficient and unprofitable during the fifteen minute schedule period in which it occurs. The IMM also stated that an intra-hour schedule may not bear the full cost of the schedule's impact on the revenue sufficiency guarantee because the impact on net scheduled interchange from the schedule is effectively divided by four in the hourly settlement.<sup>6</sup>

4. In order to address the incentive that leads market participants to schedule large quantities of intra-hour imports and exports during the last quarter of the hour, the IMM in its 2007 State of the Market Report recommended that the Midwest ISO consider the

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<sup>4</sup> Midwest ISO July 30, 2009 Transmittal Letter at 1 (citing the 2007 State of the Market Report for the Midwest ISO prepared by Potomac Economics, Independent Market Monitor for the Midwest ISO (2007 State of the Market Report) at 121).

<sup>5</sup> *Id.* at 2 (citing the 2007 State of the Market Report at 121).

<sup>6</sup> *Id.* (citing the 2007 State of the Market Report at 122 (the IMM provides an example of the issue recognizing that in the Midwest ISO market, a fifteen minute export of 400-MW is treated as a 100-MW hourly export and is paid at the hourly-integrated price)).

feasibility of settling external transactions on a fifteen minute basis.<sup>7</sup> The Midwest ISO evaluated the feasibility of a fifteen minute settlement period and determined that such a settlement timeline is infeasible.<sup>8</sup>

5. As an attempt to remedy the issues identified by the IMM, the PJM Interconnection, LLC (PJM) in coordination with the Midwest ISO implemented a business practice change prohibiting intra-hour scheduling in May 2008 by requiring that transactions be scheduled for at least one hour. The Midwest ISO states that while there has been a decline in fifteen minute schedules corresponding with the PJM rule change, it is nevertheless necessary for the Midwest ISO to modify its scheduling deadline to prevent a market participant from scheduling a transaction for the fourth-quarter of an operating hour, after the market participant has viewed the LMP for the operating hour in which the transaction will be settled.<sup>9</sup>

## **II. Proposed Tariff Revisions**

6. The Midwest ISO proposes to revise section 40.2.12 of the Tariff to clarify that a market participant may not submit, or modify, interchange schedules during the operating hour except for reliability purposes as determined by the Midwest ISO. The Midwest ISO states that the proposed clarification is intended to maintain flexibility for the submission of interchange schedules while implementing the IMM's recommendation that market participants be prohibited from submitting schedules for the fourth-quarter during an operating hour after viewing the LMPs that will be included in the integrated hourly settlement price for that operating hour. The Midwest ISO presented the proposed revisions to the Tariff and Business Practice Subcommittee meeting and received no comments.

7. The Midwest ISO requests that the Commission waive its 60-day notice requirement and grant an effective date of July 31, 2009 for the proposed Tariff revisions.

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

8. Notice of the Midwest ISO's filing was published in the *Federal Register*, 74 Fed. Reg. 39,687 (2009), with interventions, comments and protests due on or before August 20, 2009. American Municipal Power, Inc. (AMP) filed a motion for leave to intervene on August 6, 2009, and filed comments on August 19, 2009. Consumer Energy

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<sup>7</sup> *Id.* (citing the 2007 State of the Market Report at p. xvii).

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* (citing the 2008 State of the Market Report at 141-142).

Company, Duke Energy Corporation, Constellation Energy Commodities Group, Inc., Constellation NewEnergy, Inc., and Wisconsin Electric Power Company filed motions to intervene.

9. On September 2, 2009, the Midwest ISO filed a motion for leave to answer and answer to the comments submitted in this proceeding by AMP.

#### **IV. Discussion**

##### **A. Procedural Matters**

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the Midwest ISO's answer because it has provided information that assisted us in our decision-making process.

##### **B. Substantive Matters**

###### **1. AMP's Comment**

12. AMP states that it supports the Midwest ISO's effort to correct the inefficient market participant incentives under the Tariff's current provisions. However, AMP requests that an exception be granted for interchange schedules "submitted by market participants on the quarters of the hour in cases when a multi-hour schedule has been denied due to system ramp limitations under the Midwest ISO's Tariff."<sup>10</sup> AMP argues that this discrete exception will preserve the flexibility that market participants require to respond to changing operational circumstances on the Midwest ISO system, and will do so without creating perverse pricing incentives.

###### **2. Midwest ISO Answer**

13. The Midwest ISO states in its answer that allowing modifications to schedules denied due to ramp limitations within the operating hour creates an opportunity for market participants to effectively circumvent the intent of the proposed revisions. The Midwest ISO argues that the data available to market participants regarding ramp limitations enables market participants to submit interchange schedules just before the top of the hour knowing that the interchange schedule will be denied due to ramp

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<sup>10</sup> AMP August 19, 2009 Comments at 3.

limitations. During the first quarter of the operating hour, the market participants could modify the start time of the interchange schedule to a period with available ramp, resulting in a start time fifteen minutes earlier than the denied schedule. The Midwest ISO contends that this effectively allows the market participant to view the LMPs during the first quarter of the operating hour in which the schedule will be settled, which is the exact issue the proposed language is intended to address.

14. Additionally, the Midwest ISO states that AMP's requested exception would place a burden on the Midwest ISO to determine whether intra-hour schedule modifications associated with a denied interchange schedule are legitimate modifications or are intended to take advantage of knowledge of intra-hour LMPs. The Midwest ISO requests that the Commission deny AMP's requested exception.

### **3. Commission Determination**

15. We find that the proposed Tariff revisions are just and reasonable and thus we accept them. As explained by the Midwest ISO, the Tariff revisions maintain flexibility for the submission of interchange schedules while implementing the IMM's recommendation that market participants be prohibited from submitting interchange schedules for all or a portion of an operating hour after having the opportunity to view the LMPs that will be included in the integrated hourly settlement price for that operating hour, because that may not result in efficient dispatch for that fifteen minute period. The Tariff provisions also clarify the scheduling requirements and at the same time allow market participants to continue to submit or modify interchange schedules up to thirty minutes prior to the start of a transaction to the extent that the submission or modification does not occur within the operating hour.

16. The Commission rejects AMP's request for an exception because AMP failed to adequately justify the exception. The Commission agrees with the Midwest ISO that the requested exception would allow market participants to view the LMPs during the first quarter of the operating hour in which the schedule will be settled and thus the exception undermines the purpose of the proposed revision. Also, the Commission agrees that the exception would place an unnecessary burden on the Midwest ISO to determine whether intra-hour schedule modifications are legitimate or are intended to take advantage of the knowledge of intra-hour LMPs.

17. The Commission finds there is good cause to grant waiver of the 60-day notice requirement and grants an effective date of July 31, 2009, as requested.<sup>11</sup>

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<sup>11</sup> *Central Hudson Gas and Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992); and *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

The Commission orders:

The Midwest ISO's revisions to section 40.2.12 of the Midwest ISO Tariff are accepted, effective July 31, 2009, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.