135 FERC ¶ 61,008
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Ameren Services Company
Northern Indiana Public Service Company

v. Docket No. EL07-86-014

Midwest Independent Transmission System Operator, Inc.

Great Lakes Utilities
Indiana Municipal Power Agency
Missouri Joint Municipal Electric Utility Commission
Missouri River Energy Services
Prairie Power, Inc.
Southern Minnesota Municipal Power Agency
Wisconsin Public Power Inc.

v. Docket No. EL07-88-014

Midwest Independent Transmission System Operator, Inc.

Wabash Valley Power Association, Inc.

v. Docket No. EL07-92-014

Midwest Independent Transmission System Operator, Inc.

ORDER ON COMPLIANCE FILING

(Issued April 7, 2011)

1. In an order issued on August 30, 2010,[1] the Commission accepted in part and rejected in part a filing that the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) made on February 23, 2009 (Redesign Proposal), subject to a compliance filing. The Midwest ISO submitted this compliance filing on October 29, 2010 (October Compliance Filing). In this order we accept in part and reject in part the October Compliance filing, and require a further compliance filing.

I. Background

2. On April 25, 2006, in Docket No. ER04-691-065, the Commission issued an order rejecting the Midwest ISO's proposal to, among other things, remove references to virtual supply from the provisions of its Transmission and Energy Markets Tariff (tariff) related to calculating real-time Revenue Sufficiency Guarantee charges.[2] The Commission further found that because the Midwest ISO had not been including virtual supply offers in its Revenue Sufficiency Guarantee calculations, it had violated its tariff and must make appropriate refunds.[3] The Commission subsequently exercised its discretion on rehearing and held that these refunds were not required.[4]

3. In August 2007, three groups of utilities (Complainants) filed complaints under section 206(b) of the Federal Power Act (FPA),[5] alleging that the real-time Revenue

[1] *Midwest Indep. Transmission Sys. Operator, Inc.*, 132 FERC ¶ 61,186 (2010) (Compliance Order).

[2] *Midwest Indep. Transmission Sys. Operator, Inc.*, 115 FERC ¶ 61,108, at P 48-49 (Revenue Sufficiency Guarantee Order), *order on reh'g*, 117 FERC ¶ 61,113 (2006) (First Rehearing Order), *order on reh'g*, 118 FERC ¶ 61,212 (Second Rehearing Order), *order on reh'g*, 121 FERC ¶ 61,131 (2007) (Third Rehearing Order).

[3] Revenue Sufficiency Guarantee Order, 115 FERC ¶ 61,108 at P 26.

[4] First Rehearing Order, 117 FERC ¶ 61,113 at P 92-96.

[5] 16 U.S.C. § 824e (2006). The Complainants are Ameren Services Company and Northern Indiana Public Service Company (Ameren/Northern Indiana); Great Lakes Utilities, Indiana Municipal Power Agency, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Prairie Power, Inc., Southern Minnesota

(continued…)

Sufficiency Guarantee charge contained in the Midwest ISO's tariff unduly discriminated among classes of market participants. The Commission found that the Complainants had shown that the rate in question may be unjust, unreasonable or unduly discriminatory, but that they had not shown that their proposed alternative rate was just and reasonable.[6] In order to develop a more complete record, the Commission established a refund effective date of August 10, 2007, and set the complaints for paper hearing and investigation to review evidence and to establish a just and reasonable Revenue Sufficiency Guarantee cost allocation methodology.[7] The Commission held the paper hearing in abeyance pending the conclusion of a then-ongoing stakeholder proceeding that was seeking to identify possible improvements to the Revenue Sufficiency Guarantee cost allocation methodology, or February 1, 2008, whichever is earlier.

4. On February 1, 2008, the Midwest ISO made an informational filing stating that it was not able to meet the February 1, 2008 deadline because the Revenue Sufficiency Guarantee Task Force was still in negotiations. The Midwest ISO proposed to file specific tariff provisions and supporting documentation on or about March 3, 2008.

5. On March 3, 2008, the Midwest ISO filed what it referred to as "indicative" tariff revisions that reflect an alternative mechanism for allocating Revenue Sufficiency Guarantee charges and costs. The Midwest ISO explained that these provisions represent a new real-time Revenue Sufficiency Guarantee cost allocation methodology that was developed based on the principles agreed upon in stakeholder discussions, but that had not yet been conformed to incorporate the Midwest ISO's new Ancillary Services Markets market design elements. The Midwest ISO asked the Commission to determine whether the language in the indicative revisions represented a just and reasonable basis for a subsequent FPA section 205[8] filing that would replace the Revenue Sufficiency Guarantee cost allocation methodology for the Ancillary Services Markets. The Midwest ISO stated that if the Commission determined that the proposed indicative tariff language

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Municipal Power Agency, and Wisconsin Public Power Inc.; and Wabash Valley Power Association, Inc.

[6] *Ameren Servs. Co. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 121 FERC ¶ 61,205 (2007) (Order on Revenue Sufficiency Guarantee Complaints), *order on reh'g*, 125 FERC ¶ 61,162 (2008).

[7] *Id.* P 94. The Commission held the paper hearing in abeyance pending the completion of a stakeholder process. *See* P 4 *infra*. The Commission commenced the paper hearing in August 2008. *See* P 7 *infra*.

[8] 16 U.S.C. § 824d (2006).

is a just and reasonable basis for further developing provisions that would adapt the new Revenue Sufficiency Guarantee cost allocation methodology to the Ancillary Services Markets context, it would agree to file Ancillary Services Markets-specific tariff provisions reflecting this suggested new allocation methodology.

6. On August 21, 2008, the Commission issued an order commencing a paper hearing.[9] The Commission noted that under section 206(b) of the FPA, Complainants, not the Midwest ISO, carry the burden of proof and therefore must demonstrate, on the basis of substantial evidence, both that the rate in effect is unjust and unreasonable and that their proposed alternative rate is just and reasonable.[10]

7. On November 10, 2008, the Commission issued an order in which it found that the Midwest ISO's indicative tariff sheets provide a just and reasonable basis for future Revenue Sufficiency Guarantee cost allocations.[11] The Commission recognized that the Midwest ISO could not implement the Indicative Rate before the start of the Ancillary Services Markets, and that further adjustments would be necessary to conform the indicative allocation to the Ancillary Services Markets. The Commission therefore allowed the Midwest ISO to file its indicative allocation when it had a complete and final proposal. The Midwest ISO responded by making a compliance filing on February 23, 2009, which it designated the Redesign Proposal. The Commission accepted the Redesign Proposal in part, subject to a compliance filing, and rejected it in part in the Compliance Order.

8. In the October Compliance Filing, as corrected on November 3, 2010, the Midwest ISO proposes a number of revisions to its tariff to conform it to the requirements of the Compliance Order, including: (1) combining the intra-hour demand change and deviation charges into one cost allocation category; (2) revising the definition of headroom to conform to the indicative allocation; (3) deleting a proposed section on exemptions from Revenue Sufficiency Guarantee charges that the Commission determined was beyond the scope of this proceeding; (4) including a second-pass charge; and (5) specifying a cut-off level for the Constraint Contribution Factor.

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[9] *Ameren Servs. Co. v. Midwest Indep. Transmission Sys. Operator, Inc.,* 124 FERC ¶ 61,173 (2008), *reh'g denied*, 131 FERC ¶ 61,214 (2010).

[10] *Id.* P 9.

[11] *Ameren Servs. Co. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,161 (2008) (Order on Paper Hearing), *order on reh'g*, 127 FERC ¶ 61,121 (2009), *reh'g pending*.

II. Notice of Filing and Responsive Pleadings

9. Notice of the October Compliance Filing was published in the *Federal Register*, 75 Fed. Reg. 68,779 (2010), with interventions and protests due on or before November 18, 2010. Notice of an errata reflecting changes to the October Compliance Filing was published in the *Federal Register*, 75 Fed. Reg. 69,432 (2010), with interventions and protests due on or before November 24, 2010. E.ON Climate & Renewables North America, LLC filed a timely motion to intervene. MidAmerican Energy Company (MidAmerican) and EPIC Merchant Energy, LP, DC Energy Midwest, LLC (DC Energy), Ameren Services Company (Ameren), EPIC Merchant Energy, LP, SESCO Enterprises LLC, Big Bog Energy LP, Jump Power, LLC, Solios Power, LLC, JPTC, LLC (collectively Financial Marketers) and Midwest TDUs[12] filed timely motions to intervene and comments. Xcel Energy Services Inc. (Xcel) filed comments six days out of time.

10. The Midwest ISO filed an answer to the protests, and Financial Marketers filed an answer to the Midwest ISO's answer.

III. Discussion

A. Procedural Matters

11. Pursuant to 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. In light of its interest in this proceeding, the early stage of the proceeding and the lack of prejudice to other parties, we will accept Xcel's late-filed comments.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept the answers of the Midwest ISO and Financial Marketers because they have provided information that assisted us in our decision-making process.

13. DC Energy asks the Commission to direct the Midwest ISO to implement the tariff provisions of the October Compliance Filing as soon as possible rather than allowing the

[12] Midwest TDUs consist of Great Lakes Utilities, Indiana Municipal Power Agency, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Prairie Power, Inc., Southern Minnesota Municipal Power Agency and WPPI Energy.

currently-effective rate to remain in effect, stating that the Midwest ISO energy markets are suffering under the current rate. DC Energy expresses concern that the Midwest ISO does not plan to implement the October Compliance Filing four-bucket approach, based on its understanding of the Midwest ISO's plans as discussed in stakeholder meetings.

14. Xcel recommends that the Commission act expeditiously on the October Compliance Filing and the forthcoming FPA section 205 filing. Xcel also recommends that the Midwest ISO Independent Market Monitor evaluate the justness and reasonableness of the tariff revisions related to the new Revenue Sufficiency Guarantee charge and submit a report by April 1, 2012. Alternatively, Xcel recommends that the Independent Market Monitor be required to monitor the allocation of Revenue Sufficiency Guarantee costs.

15. In its answer, the Midwest ISO clarifies that it intends to implement the Redesign Proposal, as accepted in the Compliance Order, as soon as the relevant systems and processes are ready. The Midwest ISO notes that it is preparing to implement incremental modifications to the Revenue Sufficiency Guarantee Redesign proposed in Docket No. ER11-2275, but it does not expect these modifications to delay implementation of the Redesign Proposal. The Midwest ISO states that the Redesign Proposal can be implemented on March 1, 2011, whether or not the Commission has accepted the incremental changes proposed in Docket No. ER11-2275.

16. We consider the Midwest ISO's explanation that it intends to implement the Redesign Proposal in a timely manner an appropriate response to the concerns of commenters. We will not require the filing of reports by the Market Monitor. It is the Commission's responsibility, not the Independent Market Monitor's, to determine whether the Redesign Proposal and other tariff revisions are just and reasonable. The Commission would unfairly prejudice other parties if it provided the Independent Market Monitor with an additional opportunity to comment on this issue. We will also not require the Independent Market Monitor to monitor the allocation of costs. This allocation process is the responsibility of the Midwest ISO as part of its implementation of Commission orders.

B. Cut-off Level for Constraint Management Charge

1. Compliance Order

17. In the Compliance Order, the Commission required the Midwest ISO "to explain in its compliance filing how it determines the Constraint Contribution Factor, and to propose tariff language that will specify cut-off levels and any limits to the application of

this rate element."[13] The Midwest ISO proposes to set the cut-off value for the Constraint Contribution Factor at two percent. It states that for purposes of its assessment of potentially significant effects on constraints, the proposed two percent value strikes an appropriate balance between the six percent default level established by section 63.4.2.d of the tariff (which applies to the Generation Shift Factor[14]) and a level that is so low as to amount to an implicit exemption.

2. **Comments and Protests**

18. Midwest TDUs consider the cut-off value for the Constraint Contribution Factor to be a departure from the terms of the indicative allocation. Midwest TDUs assert that it would be inconsistent to allow the Midwest ISO to make this change while rejecting all other changes that did not track the indicative allocation. For these reasons, Midwest TDUs recommend rejection of this proposal.

19. The Midwest TDUs state that if the Commission does not reject the proposal on procedural grounds, they consider the proposed 2 percent cut-off to be unjust and unreasonable because it would arbitrarily limit the application of congestion-related Revenue Sufficiency Guarantee charges and thus constitute an exemption for deviations below the cut-off level.

20. Midwest TDUs note that the cut-off produces cost shifts that the Commission found to be unacceptable when rejecting the Midwest ISO proposal to exempt intermittent generation from Revenue Sufficiency Guarantee charges.[15] Midwest TDUs cite to examples in which the Midwest ISO proposal results in a small number of market

[13] Compliance Order, 132 FERC ¶ 61,186 at P 101. The Constraint Contribution Factor is the impact that an incremental increase or decrease in flow on a constraint of one MW has on a given active transmission constraint. This factor is determined through an analysis of relative contingencies. For the purposes of calculating the real-time Revenue Sufficiency Guarantee constraint management charge, the minimum value for the Constraint Contribution Factor will be two (2) percent. Midwest ISO FERC Electric Tariff, Fourth Revised Volume No. 1, Substitute First Revised Sheet No. 103.

[14] The Generation Shift Factor is the ratio equal to the incremental increase or decrease in flow on a flowgate divided by the incremental increase or decrease in a generation resource's output. Midwest ISO FERC Electric Tariff, Fourth Revised Volume No. 1, First Revised Sheet No. 163.

[15] Midwest TDUs November 18, 2010 Protest at 3 (citing *Midwest Indep. Transmission Sys. Operator, Inc.,* 132 FERC ¶ 61,184, at P 88 (2010)).

participants paying most of the Revenue Sufficiency Guarantee costs that were caused by deviations below the cut-off level, such as when many market participants have small deviations.

21. Ameren maintains that the Midwest ISO offers no support for its proposed cut-off level. Ameren recommends that the cut-off level for the Constraint Contribution Factor be set at the same level as the Generation Shift Factor cut-off level – 1.5 percent – to align Revenue Sufficiency Guarantee charge allocation as closely to actual system dispatch as possible. Ameren notes that the Midwest ISO Independent Market Monitor recommended that the Midwest ISO allow generating resources with minimal effects on a constraint to be redispatched, and the Midwest ISO subsequently reduced the Generation Shift Factor cut-off value from 2 percent to 1.6 percent. Ameren states that following this adjustment, the Independent Market Monitor recommended that the Midwest ISO continue to reduce the Generation Shift Factor cut-off value, and the Midwest ISO reduced the Generation Shift Factor cut-off level again to 1.5 percent, the current level. Ameren also contends that a reduction in the cut-off value reduces price volatility by providing the market with more re-dispatch options.

22. Ameren states that if the Commission does not reject the proposed 2 percent cut-off level, it should require the Midwest ISO to clarify the basis for its proposal and provide a detailed explanation of how the proposed 2 percent level is superior to the 1.5 percent level used for the Generation Shift Factor.

23. Xcel supports the proposed cut-off level on the grounds that it is a reasonable level at which to limit the allocation of Revenue Sufficiency Guarantee costs for constraints occurring on distant systems and because it is in the range used in the unit dispatch solution when selecting resources for redispatch. Xcel proposes tariff language to clarify the purpose of the Constraint Contribution Factor.

24. MidAmerican requests clarification on the proposed definition of Constraint Contribution Factor, and it proposes substitute language that it maintains is necessary to ensure that factors of less than two percent are not rounded up to a minimum of two percent.

3. <u>Answer</u>

25. The Midwest ISO states that the cut-off level should be consistent with the Generation Shift Factor cut-off, and that the Generation Shift Factor cut-off is used both to define a Broad Constrained Area and is a parameter utilized by the Unit Dispatch System to determine redispatch options for constraints. It maintains that the Broad Constrained Area cut-off level of six percent is too high for the Constraint Contribution Factor. It also maintains that to the extent that market transactions cause Revenue Sufficiency Guarantee costs by aggravating constraints beyond a *de minimis* level

specified by an appropriately low cut-off level, it is reasonable to allocate a share of those costs to such market transactions.

26. While the Midwest ISO acknowledges that the low level of the cut-off for the Constraint Contribution Factor can be similar to the range of the Generation Shift Factor used in the Unit Dispatch System, it adds that it does not consider an equivalent rate for both cut-offs to be appropriate. Since the two cut-off levels serve different purposes – economic management of transmission constraints for the Unit Dispatch System Generation Shift Factor cut-off and the allocation of Revenue Sufficiency Guarantee costs for the Constraint Contribution Factor cut-off level – they need not employ the same parameters, explains the Midwest ISO.

27. The Midwest ISO accepts in its answer the proposals of Xcel and MidAmerican to revise the definition of the Constraint Contribution Factor, and proposes to state the revisions as follows.

> The ~~impact that an~~ incremental increase or decrease in flow on a ***given Active Transmission*** Constraint of ***a*** one MW ***deviation*** ~~has on~~ ***at*** a ***Commercial Pricing Node*** ~~given Active Transmission Constraint~~. This factor is determined through an analysis of relevant contingencies. For the purposes of calculating the Real-Time Revenue Sufficiency Guarantee Constraint Management Charge, ~~the minimum value for the~~ Constraint Contribution Factor***s*** ~~will be~~ ***of less than*** two (2) percent ***will be set equal to zero.***

4. Commission Determination

28. As detailed in the concurrent order on rehearing, the Commission did not accept the notion of a Constraint Contribution Factor cut-off level in the Compliance Order.[16] The proposal underlying that order did not include a Constraint Contribution Factor cut-off level, because the Midwest ISO had planned to leave that matter to the Business Practices Manuals. The Commission has determined only that it is not just and reasonable to do so; it has not yet evaluated the merits of the cut-off.[17]

29. We agree with commenters that the Midwest ISO has not justified or otherwise supported its proposed cut-off value. We do not consider the justification proferred by the Midwest ISO – that its proposal strikes a balance between the six percent default

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[16] *Ameren Services Company and Northern Indiana Public Service Company v. Midwest Independent System Operator, Inc.*, 135 FERC ¶ 61,007, at P 16 (2010).

[17] *Id.*

value it uses for Generation Shift Factors and a level that is so low as to amount to an implicit exemption – to represent a reasoned basis for a just and reasonable rate. Accordingly, we reject the proposal.

30. Our rejection is without prejudice to the Midwest ISO submitting a new proposal that justifies the use of a cut-off value, and that supports a specific cut-off value. As guidance for the Midwest ISO, such justification will require analysis of the extent to which its cut-off proposal would result in an exemption from Revenue Sufficiency Guarantee costs for a significant number of transactions and megawatts that can cause the incurrence of Revenue Sufficiency Guarantee costs.

31. Because we are rejecting the proposed cut-off value, the Midwest ISO must not apply it to the new cost allocation that it implemented on March 1, 2011. In this respect, the cost allocation on that date will reflect the indicative allocation methodology that did not include a cut-off value. Accordingly, we require that the Midwest ISO submit a revised Constraint Contribution Factor definition that deletes the cut-off value, effective March 1, 2011, in a compliance filing within 30 days of the date of this order.

32. We accept the revisions that commenters propose and the Midwest ISO agrees to for those revisions that do not pertain to the cut-off value because they specify the definition and calculation of the Constraint Contribution Factor with greater clarity. We require that these revisions be included in the compliance filing.

C. Other Issues

1. Protests and Answers

33. DC Energy and MidAmerican note that the October Compliance Filing did not delete all references to headroom charges and that it did not condition the calculation of the Day-Ahead Deviation Rate on the exclusion of the Intra-Hour Demand Charges, as required by the Compliance Order.

34. DC Energy and MidAmerican state that the October Compliance Filing does not include the clause "excluding Resources committed in any [Reliability Assessment Commitment] processes conducted for the Operating Day" at the end of section 40.3.3.a.iii(2) as the Compliance Order requires.[18]

35. DC Energy asserts that the Midwest ISO did not submit tariff pages demonstrating that it deleted the revised definition of Economic Maximum Dispatch and restored the

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[18] *See* Compliance Order, 132 FERC ¶ 61,186 at P 117.

indicative allocation definition. DC Energy requests that the Midwest ISO re-submit section 40.3.3.a in its entirety in order to minimize potential confusion.

36. MidAmerican asserts that in separating the charges for intra-hour demand changes and deviations, the October Compliance Filing creates discrepancies in how the tariff proposes to recover residual or excess amounts that are not recovered in the other Revenue Sufficiency Guarantee charges. MidAmerican recommends removing duplicate language where possible and making the language that remains consistent.

37. The Midwest ISO states in its answer that it is willing to make several of the corrections proposed by the parties, including removal of redundant references to topology adjustments and transmission derates, removal of the combined reference to Day-Ahead Schedule Deviation and Headroom Charges, and addition of a reference to Intra-hour demand change charge.

38. Financial Marketers assert that the October Compliance Filing fails to propose tariff revisions to restore exempt deviations to the denominator used to calculate the Revenue Sufficiency Guarantee charge, and this charge therefore is artificially inflated. Financial Marketers state that the omission results in the continuing subjection of virtual transactions to a rate that does not reflect any assignment of costs to the deviations that the Midwest ISO proposed to exempt, and that this is contrary to the intent of the Compliance Order. Financial Marketers contend that the October Compliance Filing could result in an overcollection of Revenue Sufficiency Guarantee costs because there would be no exemptions, the charge would be artificially inflated, and it could create another rate mismatch.

39. Financial Marketers argue that the Midwest ISO has failed to justify shifting costs associated with its proposed exemptions to virtual offers. They maintain that if Revenue Sufficiency Guarantee costs caused by exempt deviations are to be shifted to market participants that did not cause them, the costs must be allocated to all market participants based on market load ratio share. Financial Marketers claim that virtual offers and other deviations are being allocated excess Revenue Sufficiency Guarantee costs, and they cite to a study by the Independent Market Monitor that concludes that virtual offers have been overcharged. Financial Marketers also claim that past Midwest ISO compliance filings have deviated from Commission directives, resulting in costs shifts away from the entities that caused them. Financial Marketers state that for these reasons the Commission must require the Midwest ISO to make a supplemental compliance filing to correct is Revenue Sufficiency Guarantee rate formula.

40. The Midwest ISO argues in its answer that Financial Marketers must show that the Compliance Order requires the further tariff revisions that they propose. The Midwest ISO states the Financial Marketers have not done this.

41. Financial Marketers respond to the Midwest ISO by noting that the Midwest ISO's answer does not challenge the merits of their position. Financial Marketers also assert that the Midwest ISO has deviated from Commission directives, and therefore it has violated Commission policies with respect to compliance filings, resulting in the shifting of more costs to virtual transactions.

2. <u>Commission Determination</u>

42. We agree with DC Energy and MidAmerican that the October Compliance Filing fails to make certain required changes. We therefore require the Midwest ISO to submit, within 30 days of the date of this order, tariff revisions that: (1) delete all references to headroom charges from its tariff, (2) condition the calculation of the Day-Ahead Deviation Rate on the exclusion of the Intra-Hour Demand Charge, and (3) make the other revisions as specified in its answer to ensure compliance with the indicative allocation.

43. We agree with DC Energy that the phrase "excluding Resources committed in any RAC processes conducted for the Operating Day" should be added to proposed Substitute Second Revised Sheet No. 1099, as required by the Compliance Order.[19] We therefore require the Midwest ISO to submit this revision in the compliance filing due within 30 days of the date of this order. We will not require removal of this phrase from proposed section 40.3.3.a.ii(8) since we are making the concurrent finding on rehearing of the Compliance Order that this phrase should be retained in that section.[20]

44. We agree with DC Energy that the Midwest ISO should submit revised tariff sheets deleting the revised definition of Economic Maximum Dispatch as required by the Compliance Order.[21] We also agree with DC Energy that the compliance filing should include the complete text of section 40.3.3.a to ensure that market participants will be able to understand this provision.

45. We accept the other aspects of the October Compliance filing as consistent with the Compliance Order, including the definition of loop flow, the explanation of the impact of topology adjustments and transmission de-rates on the Constraint Contribution

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[19] Compliance Order, 132 FERC ¶ 61,186 at P 117.

[20] *Ameren Services Company and Northern Indiana Public Service Company v. Midwest Independent System Operator, Inc.*, 135 FERC ¶ 61,007 at P 19.

[21] Compliance Order, 132 FERC ¶ 61,186 at P 42.

Factor, and the allocation of the intra-hour demand charge to market participants based upon market load ratio share.

46. Financial Marketers' arguments regarding the denominator of the Revenue Sufficiency Guarantee charge are arguments that seek rehearing of earlier decisions by the Commission, and that are beyond the scope of this order. The Financial Marketers raised these arguments in connection with a compliance filing that the Midwest ISO made on December 8, 2008.[22] The Financial Marketers then requested rehearing of the Commission's determination on that compliance filing, and their request is now pending before the Commission.[23]

The Commission orders:

(A) The tariff revisions proposed by the Midwest ISO in its October Compliance Filing are conditionally accepted in part and rejected in part, as discussed in the body of this order.

(B) The Midwest ISO is hereby directed to submit 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.

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[22] Financial Marketers Dec. 29, 2009 Protest at 4-6, Docket No. ER04-691-091. The Commission addressed the Financial Marketers' arguments in *Midwest Indep. Transmission Sys. Operator, Inc.*, 132 FERC ¶ 61,185 (2010).

[23] Financial Marketers Sept. 30, 2010 Request for Rehearing, Docket No. ER04-691-095.