

142 FERC ¶ 61,188
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission
System Operator, Inc.

Docket Nos. ER08-416-003
ER06-1552-005

ORDER DENYING REHEARING AND CLARIFICATION

(Issued March 18, 2013)

1. In this order we deny Midwest Independent Transmission System Operator, Inc.'s (MISO) requests for clarification and rehearing of the Commission's order in *Midwest Indep. Transmission Sys. Operator, Inc.*, 124 FERC ¶ 61,169 (2008) (Manual Redispatch Compliance Order).

I. Background

2. On January 4, 2008, in Docket No. ER08-416-000, MISO submitted proposed revisions to its Open Access Transmission and Energy Markets Tariff (TEMT or Tariff)¹ to compensate generation units that it manually redispatches (Manual Redispatch Filing). Such compensation was previously accepted by the Commission as a subset of the price volatility make-whole payment (PV MWP) in Docket No. ER06-1552-000, *et al.*, but the implementation of the PV MWP program was delayed due to software limitations.²

3. On March 4, 2008, the Commission conditionally accepted MISO's Manual Redispatch Filing, to be effective February 1, 2008, and directed further compliance.³ The Commission directed MISO to: (1) modify the ramp rate eligibility criteria; (2) address settlement issues; (3) explain its use of meter submission data when recalculating the Manual Redispatch Make-Whole Payment; (4) revise the Tariff to

¹ Midwest ISO, FERC Electric Tariff, Third Revised Vol. No. 1.

² See *Midwest Indep. Transmission Sys. Operator, Inc.*, 119 FERC ¶ 61,160, at P 6 (2007).

³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,198, *reh'g denied*, 124 FERC ¶ 61,137 (2008) (Manual Redispatch Order).

correct typographical and pagination errors; (5) revise the Tariff to accommodate implementation of the Ancillary Services Market; and (6) clarify its plan to monitor and, if appropriate, mitigate the Manual Redispatch Make-Whole Payment.

4. On September 14, 2007, in a related proceeding, in Docket No. ER07-1372-000, *et al.*,⁴ MISO filed a proposal to establish an Ancillary Services Market effective June 1, 2008. Among other things, MISO modified the PV MWP program to: (1) include operating reserve revenues and costs in the calculation of payments; and (2) restructure the original PV MWP program into its two separate components, i.e., the Real-Time Offer Revenue Sufficiency Guarantee Payment, applicable to the dispatch of energy above day-ahead schedules either economically or through manual redispatch, and the Day-Ahead Margin Assurance Payment, applicable to the dispatch of energy below day-ahead schedules either economically or through manual redispatch. As relevant here, the Commission conditionally accepted the Ancillary Services Market proposal and subsequently accepted MISO's request to delay implementation of the Ancillary Services Market from June 1, 2008 to September 9, 2008.⁵

5. On March 25, 2008, in Docket Nos. ER08-416-001 and ER06-1552-000, *et al.*, MISO submitted a compliance filing (Manual Redispatch Compliance Filing) to the Commission's Manual Redispatch Order. The Manual Redispatch Compliance Filing included clarifications and two sets of proposed tariff revisions, to be effective February 1, 2008 and September 9, 2008, respectively. As relevant here, MISO proposed certain tariff sheets to be made effective February 1, 2008, in order to implement the Manual Redispatch Make-Whole Payment program and to reserve Schedule 27, "Real-Time Energy Market Price Volatility Make-Whole Payment," (Schedule 27) until the start up of the Ancillary Services Market.

6. Additionally, as relevant here, MISO submitted a revised Tariff Sheet No. 116, pertaining to defined terms, in order to make explicit the effective date of February 1, 2008.

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,172, *order on temporary waiver*, 123 FERC ¶ 61,135 (ASM Temporary Waiver Order), *order on compliance*, 123 FERC ¶ 61,296 (ASM Compliance Order), *order on reh'g*, 125 FERC ¶ 61,322 (2008).

⁵ *See* ASM Compliance Order, 123 FERC ¶ 61,296 at P 16. MISO subsequently deferred the Ancillary Services Market start to provide additional time through the fall of 2008 to undertake extensive market tests. Further deferral was sought until January 6, 2009. *See generally* *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,318, at P 10 (2008).

7. On August 18, 2008, the Commission issued an order that conditionally accepted in part and rejected in part MISO's Manual Redispatch Compliance Filing and required a further compliance filing.⁶ The Commission noted that Schedule 27 had already been conditionally accepted in Docket No. ER06-1552-000, *et al.*, but that its effective date was contingent on MISO filing a notice with the Commission that the necessary software had been put in place. The Commission found that, in order to allow MISO to reserve Schedule 27 for future use, MISO's proposed pagination of certain revised tariff sheets, reserving Schedule 27 for future use, provided the necessary notice. The Commission made the tariff sheets for Schedule 27, previously conditionally accepted in Docket No. ER06-1552, effective on the same day as the revised tariff sheets reserving Schedule 27 for future use, i.e., February 1, 2008, and thus the tariff sheets implementing Schedule 27 were immediately overtaken by revised tariff sheets that reserved Schedule 27 for future use.

8. The Commission also found that Tariff Sheet No. 116 had previously been made effective on February 1, 2008 in the Manual Redispatch Order and that no changes to Tariff Sheet No. 116 had been required in the Manual Redispatch Order.⁷ The Commission rejected MISO's proposed revision to Tariff Sheet No. 116.⁸ On September 17, 2008, MISO filed a request for clarification and rehearing.

II. Discussion

9. MISO seeks clarification that the Commission does not intend Paragraph 16 of the Manual Redispatch Compliance Order—stating that the “proposed pagination” of Schedule 27 “constitutes the required notice” that MISO's systems are prepared to implement the pre-Ancillary Services Market version of PV MWP—to obligate MISO to make, or entitle Market Participants to claim, PV MWP or Manual Redispatch payments based on the pre-Ancillary Services Market version of PV MWP.⁹ MISO asserts that the Manual Redispatch Compliance Filing, in Docket No. ER08-416-001, “neither had the intent nor effect of providing notice that the Midwest ISO's systems are ready to implement the pre-ASM [Ancillary Services Market] version of PV MWP....”¹⁰ MISO highlights that the Manual Redispatch Order expressly acknowledged that “[t]he

⁶ Manual Redispatch Compliance Order, 124 FERC ¶ 61,169.

⁷ *Id.* P 15.

⁸ *Id.*

⁹ Rehearing Request at 5.

¹⁰ *Id.* at 6.

proposed PV MWP is not currently effective, because Midwest ISO has not notified the Commission that the software for the PV MWP has been implemented.”¹¹ In addition, MISO points out that the Manual Redispatch Filing in Docket No. ER08-416-000 was premised on the fact that MISO was not ready to implement the pre-Ancillary Services Market version of PV MWP, thereby necessitating the proposed Tariff changes to enable MISO to implement Manual Redispatch Make-Whole Payment payments separately from the PV MWP.¹²

10. MISO adds that the requested clarification is necessary because otherwise “any compensation for Manual Redispatch based on the pre-Ancillary Services Market version of Schedule 27 would be fundamentally inconsistent with the core purpose of the instant proceeding to allow Manual Redispatch to be compensated separately from the original PV MWP provisions (including Schedule 27) prior to Ancillary Services Market start.”¹³

11. MISO also seeks rehearing of the Commission’s rejection of MISO’s proposed effective date of February 1, 2008 for Tariff Sheet 116. The Commission’s rejection, according to MISO, results in Tariff Sheet No. 116 stating an effective date that is based on notice of MISO’s readiness to implement the pre-Ancillary Services Market version of PV MWP.¹⁴

12. The Manual Redispatch Compliance Order did not intend to, and did not in fact, result in Tariff language that would require MISO to make, or Market Participants to be entitled to claim, PV MWPs or Manual Redispatch Make Whole Payments based on the pre-Ancillary Services Market version of PV MWP. Instead, the Manual Redispatch Compliance Order simply allowed previously-accepted tariff sheets that would otherwise implement the PV MVP program under Schedule 27, but with to-be-determined effective dates, to become effective on the same date as succeeding tariff sheets, which in turn reserved Schedule 27 for future use.¹⁵ Thus, no further tariff sheets need be filed in order

¹¹ *Id.* at 6 n.11 (citing Manual Redispatch Order, 122 FERC ¶ 61,198 at P 7).

¹² *Id.* at 6-7 (citing Manual Redispatch Compliance Filing at 9).

¹³ *Id.* at 7.

¹⁴ *Id.* at 8.

¹⁵ As the Commission explained, certain previously-accepted tariff sheets must be made effective in order to correct MISO’s pagination error and to allow MISO to reserve Schedule 27 for future use, as MISO requested. *See* Manual Redispatch Compliance Order, 124 FERC ¶ 61,169 at P 16 & n.25.

to effectuate the reservation of Schedule 27, for future use and no further action is required in this order.

13. We deny rehearing of our rejection of the revised Tariff Sheet No. 116. The Commission did not require revision to this tariff sheet, and thus MISO's seeking to revise it in its compliance filing was improper.¹⁶ The Commission already accepted Tariff Sheet No. 116 in the Manual Redispatch Compliance Order with an effective date of February 1, 2008.¹⁷

The Commission orders:

MISO's requests for clarification and rehearing are hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁶ *Id.* P 15.

¹⁷ *Id.*