

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Quest Energy, L.L.C.

Docket No. EL05-86-000

v.

Midwest Independent Transmission
System Operator, Inc.

ORDER ON COMPLAINT

(Issued May 31, 2005)

1. On March 31, 2005, Quest Energy, L.L.C. (Quest) filed a complaint against the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), alleging that Midwest ISO violated its Transmission and Energy Markets Tariff (TEMT) by unilaterally modifying Quest's Load Zone Commercial Price Node. In this order, the Commission denies Quest's complaint. This order benefits customers by ensuring that Midwest ISO's commercial model and pricing zones remain stable.

Background

2. Quest is engaged in the retail marketing of electricity in Michigan, and serves customers in the service territories of Detroit Edison Company and Consumers Energy (Consumers). Quest is a Market Participant in the Midwest ISO.

3. Leading up to the start of market operations and the commencement of Locational Marginal Pricing¹ in the Midwest ISO footprint on April 1, 2005, Midwest ISO and its

¹ TEMT section 1.174, Second Revised Sheet No. 93 (defining Locational Marginal Price (LMP) as the market clearing price for Energy at a given Commercial Node in the Transmission Provider Region which shall be equivalent to the marginal cost of serving demand at the Commercial Node).

Market Participants engaged in a process of establishing a Commercial Model. The Commercial Model represents the relationships of Market Participants, their resources and transactions in the Midwest ISO energy markets.² An underlying element of the Commercial Model is the Elemental Pricing Node (EPNode), which the Midwest ISO Business Practices Manual for Market Registration defines as “[a] node for which a price [exists].”³ The manual further states that “there is an EPNode for every point where energy is injected or withdrawn from the system.”⁴ The Commercial Model also includes Commercial Nodes that are used to schedule and settle market transactions.⁵

4. A Load Zone comprises multiple EPNodes and/or Commercial Nodes.⁶ A “Load Zone” is defined in the TEMT as:

[a] Zone determined by Market Participants representing the aggregate area for consumption for a single Load Serving Entity within a single Control Area and used for the purposes of scheduling, reporting withdrawal volumes and settling Energy transactions at aggregated Load levels, approved and maintained by the Transmission Provider to facilitate transactions.⁷

The TEMT further defines “Zonal LMP” as “an aggregate price for a Zone, defined as an aggregation of Buses, calculated from the load-weighted averages from each of the nodal LMPs defined in that aggregation of Buses.”⁸

5. Quest’s complaint relates to the determination of the correct number of EPNodes, which establishes its Load Zone.

² TEMT section 1.32, Second Revised Sheet No. 55.

³ See Midwest ISO Business Practices for Market Registration, Version 4.0 (January 15, 2005) at section 4.2.1.

⁴ Id.

⁵ TEMT section 1.33, Second Revised Sheet No. 57.

⁶ Additionally, a Commercial Node can be made up of one or more EPNodes. See Answer of Midwest ISO at 2, n.3.

⁷ TEMT section 1.173, Second Revised Sheet No. 93.

⁸ TEMT section 1.348, Second Revised Sheet No. 142.

Quest's Complaint

6. In its complaint, Quest alleges that Midwest ISO unilaterally modified the definition of its Load Zone in the Consumers Energy control area, in violation of the TEMT, and then refused to restore the original definition of its Load Zone in the Consumers Energy control area. Quest asserts that Midwest ISO's action has put Quest at substantial risk in the LMP market. Quest asks the Commission to order Midwest ISO to take immediate action to restore Quest's Load Zone definition effective April 1, 2005.

7. Quest argues that under the TEMT, a Load Zone is established only by the Market Participant, in this case, Quest, and that Midwest ISO has no discretion to make changes. Quest states that it registered its Load Zone with Midwest ISO on September 30, 2003 as a "slice" of the Michigan Electric Transmission Company (METC) area, consisting of 300 EPNodes in the Consumers control area.⁹ Quest states that it did not seek to change, nor did it change the definition of its Load Zone. Quest discovered on February 2, 2005, however, that the Load Zone allocable to it in the Consumers control area consisted of only seven EPNodes, not the 300 originally submitted by Quest. On February 10, 2005, Quest states that it began communicating with Midwest ISO regarding this Load Zone definition.¹⁰ According to Quest, despite acknowledging that Quest's Load Zone definition was inconsistent with what Quest had initially submitted, Midwest ISO did not restore Quest's Load Zone definition and stated that no changes could be made prior to September 2005, when the Commercial Model may be adjusted.¹¹ Quest notes that each of the other retail access suppliers in the Consumers control area except Quest retained the 300 EPNode "slice" that was initially established. Based on this chain of events, Quest argues that Midwest ISO unilaterally modified Quest's Load Zone definition in violation of the TEMT and without notifying Quest that the change had been made.¹²

8. Quest contends that it will likely suffer financial harm upon commencement of energy market operations because its Zonal LMP will be calculated using only seven nodes, rather than the 300-node "slice" previously submitted by Quest pursuant to the TEMT and Midwest ISO procedures. According to Quest, this creates a mismatch of energy supply LMPs and load LMPs, exposing it to financial harm. It asserts that the

⁹ See Quest Complaint at Exhibit 1 (September 29, 2003 correspondence from Midwest ISO wherein Midwest ISO states that the requested EPNodes were assigned based on the ratio of Quest's peak MW's per Load Zone to the control area's total peak MW's for each of Quests four registered Load Zones).

¹⁰ Quest Complaint at 6, Exhibit A.3.

¹¹ *Id.* at 6.

¹² *Id.* at 5-6, 8.

LMP for the “slice” of 300 EPNodes, dispersed throughout the METC area, would have been relatively stable to changes in congestion to one or several EPNodes. Quest states that it does not know at present exactly where and how suppliers will financially “deliver” energy to Quest: suppliers could deliver to the Consumers generation zone, to a slice Load Zone, or to the Michigan Hub. Given that each potential delivery zone consists of many dispersed EPNodes throughout the Michigan Electric Transmission Company area, the associated LMPs would have been expected to not differ much from the LMP of the “slice” of the Load Zone. Thus, had the “slice” definition of the Load Zone been used, it is more probable that the difference in congestion costs between the Load Zone and the financial “delivery” point would have been small.¹³

9. Quest states that it proposed to Midwest ISO that, until the Commercial Model could be changed, that all of Quest’s settlements be based on the LMP for the slice, which is easily calculable. This, says Quest, would simulate the correct definition in the settlement system, outside of the modeling system. However, according to Quest, Midwest ISO refused, stating that this resolution might have required Midwest ISO to alter settlements with other Market Participants to remain “neutral” in the settlement process.¹⁴ Quest now requests that the Commission order Midwest ISO to restore Quest’s Load Zone definition, replacing the seven EPNodes with the “slice” of 300 EPNodes in the Consumers control area that Quest says have been changed in violation of the TEMT, effective April 1, 2005.¹⁵

Notice of Filing and Responsive Pleadings

10. Notice of Quest’s complaint was published in the *Federal Register*¹⁶ with comments, interventions or protests due on or before April 20, 2005. On April 28, 2005, Consumers filed a motion to intervene out-of-time and comments, arguing that Quest’s complaint is solely with Midwest ISO and not with Consumers. On May 5, 2005, Quest filed a response to Midwest ISO’s answer, stating that it wishes to dispute what it contends are unsupported factual assertions.

Midwest ISO’s Answer

11. Midwest ISO filed a timely answer in which it acknowledges changing the number of EPNodes in Quest’s Load Zone from the original 300 to seven. It states that this

¹³ See Quest Complaint, Alexander J. Zakem Affidavit at 4.

¹⁴ Quest Complaint at 10.

¹⁵ *Id.* at 12.

¹⁶ 70 Fed. Reg. 17,683 (2005).

change was made to ensure the proper representation of the Quest load in the Midwest ISO Commercial Model, and was performed in a manner consistent with the TEMT's provisions relating to the Load Zone definition, and in conformance with the process for establishing Load Zones in the Midwest ISO's Business Practices Manual for Market Registration. Midwest ISO further maintains that the changes were implemented only after they were presented to Quest and confirmed by Quest in writing.¹⁷

12. Midwest ISO states that as a part of the process of establishing Commercial Nodes and Load Zones for the Midwest ISO's Commercial Model, Midwest ISO requested and received information from Quest on its preferred Load Zone designations. Midwest ISO confirms that on September 29, 2003, it modeled the Quest Load Zone as a "slice of the system," resulting in Quest's Load Zone having 300 EPNodes. However, according to Midwest ISO, the modeling of Load Zones (for Quest and other Market Participants) left several unclaimed EPNodes. Midwest ISO then sought additional information from Consumers, the host control area for the Quest Load Zone, regarding the proper designation of EPNodes within the Load Zone. Midwest ISO says that on February 23, 2004, Consumers reviewed the Load Zone definitions for Market Participants in its control area, and forwarded to Midwest ISO a suggested set of definitions for the Quest Load Zones. According to Midwest ISO, Consumers identified only seven EPNodes that should be included in the Quest Load Zone. Midwest ISO acknowledges altering the Commercial Model with the new information to reflect only seven EPNodes for Quest as a part of its responsibility to evaluate and approve appropriate Load Zone designations.¹⁸

13. Midwest ISO says that on August 21, 2004 it submitted the Load Zone definitions and EPNode designations for the Quest Load Zone (with seven EPNodes) to Consumers for review to ensure that the model for the initial allocation of Financial Transmission Rights (FTRs) was correct. When Consumers noted no changes, Midwest ISO says that it asked, as it does for all Market Participants, Quest to review the modeling of its Load Zone in the Commercial Model and to confirm that the EPNode designations for its Load Zone were correct.¹⁹

14. Midwest ISO says that before Quest could complete the Asset Confirmation Sheet, Quest was required to log onto the Asset Registration Tool and to review the Midwest ISO's Commercial Model to verify that their Load Zones were properly modeled. Midwest ISO also points to language on the confirmation sheet, signed by Quest, which states that the Candidate Market Participant (Quest) has the duty "to inform the Midwest

¹⁷ Answer of Midwest ISO at 2.

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 4-5.

ISO of any change in the representation of assets listed” in the confirmation sheet. According to Midwest ISO, on September 7, 2004, Quest confirmed its Load Zone designations in writing. With Quest’s confirmation of the Load Zones, Midwest ISO says it then modeled Quest’s Load Zone in the Commercial Model with the seven EPNodes identified by Consumers.²⁰

15. Midwest ISO asserts that by completing and submitting the asset confirmation sheet, Quest confirmed to Midwest ISO that the seven EPNode modeling of its Load Zone in the Consumer's control area was correct and waived any right to contest this Load Zone definition prior to the next scheduled update of the commercial zone.²¹

16. Midwest ISO also states that, contrary to Quest’s claims, the TEMT authorizes it to seek input from Market Participants other than the party requesting the Load Zone, to determine the appropriate definition of Load Zones in the Commercial Model. Midwest ISO acknowledges that while the definition certainly suggests that Quest should have some input in the proper definition of its Load Zone as a Market Participant representing the aggregate area of consumption, the definition specifically states that a Load Zone can be determined using the input of multiple Market Participants. Midwest ISO also points out that any Load Zone definition must also be approved by Midwest ISO itself.²²

17. Midwest ISO further maintains that its actions in altering Quest’s designated nodes from 300 to seven were consistent with the Midwest ISO’s Business Practices Manual for Market Registration, which states in section II of Attachment H.7 that “Load Zone definitions will be reviewed by [the Midwest ISO] and, in some cases, by the host Control Area.” Midwest ISO states that the review process is necessary to ensure that the Load Zone definitions in the Commercial Model accurately reflect the assets represented by Market Participants in each Load Zone.²³

18. Midwest ISO states that had it been informed earlier, it would have been in a position to work with Quest to come up with a mutually agreeable alternative definition of the Quest Load Zone. Midwest ISO says that it was not until February 2005 that Quest requested that its Load Zone be re-defined to be the 300 EPNodes it initially requested. Midwest ISO asserts that incorporating Quest’s requested changes to the Commercial Model in February 2005 would have had a substantial impact on market operations that

²⁰ *Id.* at 8, n.10.

²¹ *Id.* at 10.

²² *Id.* at 5-6.

²³ *Id.* at 7, *citing* Midwest ISO Business Practices Manual for Market Registration at H-20.

could not have been resolved prior to commencement of such operations, including creating inconsistencies with the recently completed FTR allocation, which allocated FTRs to Market Participants, in part, based on the Commercial Model Load Zone definitions for each Market Participant.²⁴ Midwest ISO states that it informed Quest that it would consider and potentially incorporate Quest's suggested changes to its EPNodes during the next scheduled update of the Commercial Model in September 2005, when such changes will not have consequences for the settled expectations of other Market Participants.²⁵

Consumer's Comments

19. Consumers states first that Quest's dispute lies solely with Midwest ISO and that it takes no position regarding the merits of Quest's complaint.²⁶ Furthermore, Consumers contends that it would be inappropriate for Consumers to submit a definition for any Market Participant's Load Zone, except its own, and that it never sought to do so.²⁷ Consumers submits a copy of an email from itself to Midwest ISO dated October 24, 2003, wherein Consumers responded to a Midwest ISO request for information and stated that it would "verify the load zones and their ownership," but noted that it was "**not** a meter agent for others."²⁸

20. Consumers submits a copy of another email dated February 23, 2004, and believes that this separate email is what Midwest ISO uses to assert that "[o]n February 23, 2004, Consumers reviewed the Load Zone definitions for Market Participants in its Control Area (including Quest's 300 EPNodes) and forwarded to Midwest ISO a new set of definitions for the Quest Load Zone" and that "[t]his new information from Consumers identified only seven EPNodes that were appropriate for inclusion in the Quest Load Zone."²⁹ Consumers states that the data in the February email was not intended to provide an exclusive list of the EPNodes that should comprise Quest's Load Zone or the Load Zone of any other Market Participant, but was instead intended merely to suggest to Midwest ISO the Market Participant to whom each of the unclaimed EPNodes should be assigned. Any change that was made to the 300 EPNode Load Zone definition that Quest

²⁴ Answer of Midwest ISO at 9-10.

²⁵ *Id.* at 9.

²⁶ Comments of Consumers at 3, 5.

²⁷ *Id.* at 4.

²⁸ *Id.* at Exhibit B (emphasis in original).

²⁹ *Id.* at 5, *citing* Answer of Midwest ISO at 4.

originally submitted to Midwest ISO, Consumers asserts, was made by Midwest ISO alone, and was not made or recommended by Consumers.³⁰

Quest's Response to Midwest ISO's Answer

21. In its response to Midwest ISO's answer, Quest provides a copy of an April 29, 2004 e-mail from Midwest ISO to Market Participants stating that:

[o]ne of the requirements to becoming a Market Participant in the Midwest Markets is verification of assets in the MISO Asset Registration Tool. This requirement must be fulfilled ... in order to prepare for the initial FTR Allocation. Those who have not registered their assets are required to do so by June 11, 2004. The Tool will be unavailable beginning June 12, 2004. Market Participants who have already registered their assets, but would like to re-enter the tool to modify their information are asked to contact their Client Account Representative to re-activate their account.

Quest states that the June 11, 2004 deadline was later extended to August 2004. Quest further states that there was no obligation of a Market Participant which had gone through the Asset Registration Tool to take any further action to "re-confirm its Assets."³¹ Indeed, it says that once it submitted its confirmation sheet in September 2003, it was "locked out" of the system.³² Quest also highlights that Consumers, in its comments, says that it did not tell MISO to swap Quest's 300 EPNodes in the load zone for the seven EPNodes it said should be allocated to Quest. Quest also says that given the communication from Quest, it is unclear why seven EPNodes weren't simply added into the "slice" of 300 EPNodes included in the Load Zone.³³

22. Quest further states that in August 2004, a Quest employee reactivated the Quest account in order to confirm that the four Load Zone Commercial Nodes were listed in the Midwest ISO system. Quest's search produced the names of the appropriate four Load Zone sinks. It says that the list of assets (Load Zones)³⁴ did not entail or reveal that any changes had been made behind those Load Zones. After determining that the four Load

³⁰ Comments of Consumers at 5-6.

³¹ Response of Quest at 9.

³² *Id.* at 3.

³³ *Id.* at n.2.

³⁴ *Id.* at 8 (stating that for purposes of this process and the issue at hand, an "Asset" is a Load Zone).

Zones were listed by name, the Quest employee exited the Asset Registration Tool the only possible way – by signing and returning a confirmation. Quest states that its employee had no reason “to believe that the assets it registered in 2003 had changed” and thus required checking, especially since it was locked out of the system and could not and did not make any changes during that period.³⁵

23. Quest states that it is suffering “substantial financial risk” in the Day 2 LMP markets and that as a result of Midwest ISO’s “unilateral and unjustified actions, Quest now estimates, based on limited experience in the Day 2 LMP market, that its financial harm is in the hundreds of thousands of dollars.”³⁶

Discussion

A. Procedural Matters

24. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure,³⁷ we will grant the motion to intervene out-of-time of Consumers, given their interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or burden. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure³⁸ prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept Quest’s answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

25. The Commission will deny Quest’s complaint. As discussed in greater detail below, we find that Midwest ISO acted appropriately under the TEMT and its Business Practices Manual for Market Registration in adjusting Quest’s Load Zone definition.

26. We reject Quest’s assertion that, under the TEMT, a Load Zone is established only by the Market Participant without input by other Market Participants or approval by the Midwest ISO. As noted above, the TEMT defines “Load Zone” as follows:

[A] Zone determined by *Market Participants* representing the aggregate area of consumption for a single Load Serving Entity within a single Control Area and

³⁵ *Id.* at 4.

³⁶ *Id.* at 12.

³⁷ 18 C.F.R. § 385.214 (2004).

³⁸ 18 C.F.R. § 385.213(a)(2) (2004).

used for purposes of scheduling, reporting withdrawal volumes, and settling Energy transactions at aggregated Load levels, *approved and maintained by the Transmission Provider* to facilitate transactions.³⁹

This tariff language provides that Market Participants will determine their Load Zones, and Midwest ISO, as the Transmission Provider, will approve and maintain the Load Zones to ensure that the resulting Commercial Model is workable and facilitates transactions.

27. We are not persuaded that Midwest ISO acted outside of its authority under the TEMT, or in contravention of the procedures it established in its Business Practices for Market Registration. Midwest ISO initially assigned Quest the 300 EPNodes, or “slice” of Consumers’ control area, as requested. Upon finding that there were several unclaimed EPNodes, Midwest ISO sought input from Consumers. Based on the information gathered, Midwest ISO required that Quest verify its assets (Load Zone) through the Asset Registration Tool. Quest confirmed, in a written confirmation sheet, that the final Load Zone Commercial Nodes established for Quest were accurate and correct.

28. Throughout this chain of events, Midwest ISO acted within its authority under the TEMT to “approve and maintain” Load Zones, sought input from other Market Participants as the TEMT contemplates, and followed the procedures for confirming Load Zone registration set forth in the Business Practices for Market Registration. Midwest ISO requested that Market Participants review the Commercial Model and confirm their Load Zones prior to August 30, 2004, so that FTRs could be allocated.⁴⁰ A Quest employee activated the Asset Registration Tool on August 25, 2004. Quest confirmed, signed and sent an asset confirmation sheet to Midwest ISO, who received the signed confirmation on September 7, 2004.⁴¹ Quest could have and, given the level of harm it believes could result from incorrect EPNodes, should have verified that the EPNodes underlying the Commercial Nodes presented by Midwest ISO for confirmation

³⁹ See TEMT section 1.173, Second Revised Sheet No. 93 (emphasis added).

⁴⁰ See Answer of Midwest ISO at 7-8; Response of Quest at 9.

⁴¹ See Response of Quest at 10.

were correct and accurate.⁴² Once Midwest ISO received a signed confirmation from Quest, it had no reason to believe that the underlying EPNodes were incorrect.⁴³

29. While we deny Quest's complaint because, as described above, Midwest ISO appropriately followed its tariff and written procedures, we nonetheless expect that when Midwest ISO revises its Commercial Model in September 2005, it will address any concerns raised by Market Participants, including Quest, with regard to the number of EPNodes in a Load Zone. The continued viability and reliability of the Midwest ISO energy markets require that Market Participants, in conjunction with Midwest ISO, operate under an appropriate Commercial Model. The Commission is not insensitive to Quest's concerns regarding the financial risk it may face when its pricing points in the LMP market are insufficient or do not adequately reflect its supply resources and load. However, as explained above, Midwest ISO's actions in this case were in accordance with its tariff and published procedures and, as a result, we deny Quest's complaint.

⁴² While we acknowledge the fact that Quest's initial designation of 300 EPNodes was changed to seven EPNodes, that fact is irrelevant for purposes of ruling on Quest's complaint because, as we note above, Midwest ISO properly followed its tariff and written procedures in this instance.

⁴³ We note that any after-the-fact modification of Load Zones, as Quest requests in its complaint, necessarily would have an effect on the settled expectations of other Market Participants, based on the Commercial Model.

The Commission orders:

Quest's complaint is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Kelly concurring with a separate statement attached.

(S E A L)

Linda Mitry,
Deputy Secretary.

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KELLY, Commissioner, *concurring*:

I am voting for this order because I am forced to conclude that the Midwest Independent Transmission System Operator (Midwest ISO) did, in fact, meet the minimum requirements of its Transmission and Energy Markets Tariff (TEMT) and Business Practice Manuals with respect to this issue. However, I am disappointed that it only met the minimum requirements.

In my opinion, the Midwest ISO's decision to alter Quest's Load Zone definition from 300 Elemental Pricing Nodes to just seven was a rather significant change. Such a significant change would seem to demand that Midwest ISO provide the affected customer, in this case Quest, with at least a detailed description of the change, if not also an explanation for why it was made.

Instead, it appears that the customer was never alerted to the specifics of this significant change and, thus, when asked to review the modeling of its Load Zone in the Commercial Model and to confirm that the EPNode designations for its Load Zone were correct, the customer did not realize that the review required enhanced attention. Granted, it is always good policy to be thorough and the customer definitely could have protected its interests better than it did. However, while this situation appears to be consistent with the TEMT and manuals, I strongly urge Midwest ISO to more fully consider its customers' informational needs in the future.

Suedeem G. Kelly