

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Midwest Independent Transmission System Operator,      Docket No. ER06-1356-000  
Inc.

ORDER ACCEPTING PROPOSED TARIFF REVISIONS ON CREDIT POLICY

(Issued October 10, 2006)

1. On August 11, 2006, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> proposed revisions to Attachment L of its Open Access Transmission and Energy Markets Tariff (TEMT or Tariff). Attachment L establishes the requirements of the Midwest ISO's Credit Policy and describes the methodology used to calculate credit limits for Market Participants<sup>2</sup>. In this order, the Commission accepts for filing, without modification, the Midwest ISO's proposed tariff revisions, to become effective October 10, 2006, as requested.

**Background**

2. In an order dated August 6, 2004, the Commission approved the Midwest ISO's proposed TEMT, allowing the Midwest ISO to initiate energy market operations in its 15-state region.<sup>3</sup> The August 6 Order also accepted the Midwest ISO's proposed Credit

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<sup>1</sup> 16 U.S.C. § 824d (2000).

<sup>2</sup> Market Participant is defined in the TEMT as an entity that (i) has successfully completed the registration process with the Transmission Provider and is qualified by the Transmission Provider as a Market Participant, (ii) is financially responsible to the Transmission Provider for all of its Market Activities and obligations, and (iii) has demonstrated the capability to participate in its relevant Market Activities.

<sup>3</sup> *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (2003) (August 6 Order), *order on reh'g*, 109 FERC ¶ 61,157 (2004), *order on reh'g*, 111 FERC ¶ 61,043 (2005).

Policy set forth in Attachment L.<sup>4</sup> The Midwest ISO then assigned the Credit Practices Working Group (CPWG), comprised of representatives of the Market Participants to be affected by the Tariff, to review and suggest revisions to, among other things, the TEMT Credit Policy. As a result of this stakeholder process, on August 11, 2006, the Midwest ISO proposed revisions to the TEMT Credit Policy to address five separate issues voted on and approved at various CPWG meetings.

3. First, the Midwest ISO proposes to amend section 7.14 of module A to the TEMT to grant the Midwest ISO authority to notify all Market Participants of the pending suspension of an individual Market Participant who fails to cure a financial default (including a separate and specific notice to the Provider of Last Resort, if such an arrangement exists). The notice to all Market Participants would be sent coincident with the notice to the Commission and the individual Market Participant. The suspension of the individual Market Participant would be effective at the close of the next business day should the default not be cured within the suspension notice period. Once the defaulting Market Participant cures the default, the Midwest ISO would notify all Market Participants and the Commission that the individual Market Participant has been reinstated. The Midwest ISO states that this is an important step to ensure that the ultimate customers of a defaulting Market Participant do not suffer any interruption of service. It would also provide all Market Participants with advance notice of a potential uncollected credit loss due to the failure of an individual Market Participant to cure a financial default. Of the thirty-nine Market Participants voting on this issue at the CPWG meeting, ninety-seven percent of the stakeholders (*i.e.*, all but one) voted in favor of the revision.

4. Second, the Midwest ISO proposes to modify the formula currently used to calculate estimated exposure for day-ahead and real-time energy, and congestion/losses. Under the proposed calculation, the Midwest ISO will use the same formula for Market Participants who have less than 365 days of settlements as for those Market Participants who have greater than 365 days of settlements. This replaces a two-tier system where Market Participants face different credit requirements depending on the number of actual days of settlements. The formula to calculate estimated exposure for all Market Participants is proposed to be the greater of the 7 day rolling average of daily real-time energy charges/credits from previously approved settlements times six (6) or the cumulative rolling average (cumulative up to 365 days) of daily real-time energy charges/credit from previously approved settlements times six (6).

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<sup>4</sup> See August 6 Order, 108 FERC ¶ 61,163 at P 429.

5. Third, the Midwest ISO proposes revising the timeline for calculating MPD,<sup>5</sup> one element of the formula used for determining estimated exposure. Under this revision, instead of Market Participants calculating the MPD on a monthly basis, they would calculate the MPD on a yearly basis. Specifically, the MPD would be calculated in the month of April using the previous twelve (12) months of information. The value as recalculated annually would then be implemented May 1 of each year. This would prevent Market Participants from having to make collateral adjustments on a monthly basis and eliminate the need to incur the cost of changing collateral requirements each month.

6. Fourth, the Midwest ISO proposes clarifying language in the TEMT relating to the formula used to calculate the potential exposure to non-payment associated with Financial Transmission Rights (FTRs) registered in the name of Market Participants. As the formula in Attachment L for this calculation currently reads, it could be interpreted that the calculation must be performed on a monthly basis. The Midwest ISO proposes to modify language in the TEMT to clarify that the calculation should be developed annually in April of each year using the actual values for the previous twelve months, thereby eliminating monthly pricing fluctuations in this calculation.

7. Finally, to create an earlier opportunity for a Market Participant to request a reduction of its FTR Auction Credit Allocation, the Midwest ISO proposes that a Market Participant may request a reduction of its FTR Auction Credit Allocation one business day after the bid window closes. This proposal would permit the Market Participant to “free up” the unused FTR Auction Credit Allocation 8 to 10 days earlier than currently permitted under the Tariff.

### **Notice and Responsive Pleadings**

8. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 50,058 (2006), with interventions, comments and protests due on or before September 1, 2006.

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<sup>5</sup> The TEMT defines MPD as the highest differential between Day-Ahead and Real-Time Locational Marginal Prices at the 50<sup>th</sup> percentile over the previous twelve (12) months, assessed on the first day of every month, or its proxy. Though not stipulated in the Tariff, we understand MPD to be an abbreviation for Marginal Price Differential.

Motions to intervene were timely filed by the WPS Companies,<sup>6</sup> American Municipal Power-Ohio, Inc., and Consumers Energy Company (Consumers). Consumers also submitted comments.

9. Consumers objects to the Midwest ISO's proposed revision to the TEMT giving the Midwest ISO authority to notify all Market Participants of the pending suspension of an individual Market Participant who fails to cure a financial default. Consumers argues that it is neither necessary nor appropriate to notify all Market Participants of the pending suspension. Consumers contends that other Market Participants are not harmed unless the defaulting Participant fails to cure within the suspension notice period. Additionally, Consumers is concerned that under the Midwest ISO's proposed revision, notice of a pending suspension may create negative market perceptions of the potentially defaulting Market Participant's creditworthiness, even if the potentially defaulting Market Participant ultimately cures the default.

10. Consumers proposes that, in the event of a Market Participant's default and pending suspension, the Midwest ISO should only notify the Provider of Last Resort, coincident with the notice to the Commission and the individual Market Participant. Consumers asserts that the Midwest ISO should provide notice to all other Market Participants only after an actual suspension occurs when the default is not cured within the notice period.

## **Discussion**

### **A. Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the filing of timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

### **B. Analysis**

12. We will accept for filing the Midwest ISO's proposed revisions to the credit policy in its TEMT, effective October 10, 2006, as requested. The Commission has previously emphasized the importance of refining a Regional Transmission Organization's (RTO) credit policy with stakeholder input and of submitting such refinements for Commission

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<sup>6</sup> The WPS Companies are Wisconsin Public Service Corporation, Upper Peninsula Power Company, WPS Energy Services Inc., and WPS Power Development, LLC.

approval as the RTO gains more experience in its markets.<sup>7</sup> We are encouraged that the Midwest ISO is working with its stakeholders through the CPWG to vet potential TEMT revisions before submitting its proposals to the Commission. The proposed changes are reasonable adjustments based on experience gained as the Midwest ISO markets progress.

13. We disagree with Consumers' concerns regarding the Midwest ISO's proposed revision allowing the Midwest ISO to notify all Market Participants of a pending suspension. In the event of a Market Participant's financial default, section 7.13 of the TEMT gives the Market Participant an opportunity to cure the default on or before the second business day after receiving written notice of such default. Only after the defaulting Market Participant has received written notification and been given an opportunity to cure the default will the Midwest ISO have the authority to notify all Market Participants of the pending suspension. In addition, Consumers' assertion that notifying all Market Participants of a pending suspension may create negative market perceptions of the potentially defaulting Market Participant's creditworthiness is merely speculative. In any event, any potential for negative market perceptions raised by the revised notification procedures may serve to deter Market Participants from failing to cure a financial default. We find that it is appropriate for the Midwest ISO to have the authority to notify all Market Participants of the pending suspension of an individual Market Participant who fails to cure a financial default. Accordingly, we find that the proposed revisions are just and reasonable and will accept them in their entirety.

The Commission orders:

The Midwest ISO's proposed revised Attachment L (Credit Policy) of the Open Access Transmission and Energy Markets Tariff is hereby accepted for filing, effective October 10, 2006, as requested.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>7</sup> See *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,222 at P 19 (2006), *reh'g denied*, 116 FERC ¶ 61,222 (2006).