



(Business Practice Manual). According to Midwest ISO, stakeholders were actively involved in developing the load shift mechanism.

## **II. Midwest ISO's Proposed Revisions**

3. Midwest ISO proposes substantive and non-substantive changes to Tariff section 43.7.2 to make the Tariff consistent with the new load shift mechanism contained in section 3.26 of the Business Practice Manual.

4. The first substantive change updates the section to specify the reallocation or redistribution of *Auction Revenue Rights revenue*, not *Auction Revenue Rights*. Midwest ISO states that in situations where there are load shifts between Market Participants within an Auction Revenue Rights Zone, it will shift the revenue from the Market Participant losing the load to the Market Participant gaining the load. Midwest ISO notes that this reallocation will be confidential and although the Market Participant gaining the load will become aware of the nomination strategy of the Market Participant losing the load, the Market Participants will be unaware of each others' Auction Revenue Rights and market strategy.

5. Second, Midwest ISO proposes to clarify that Auction Revenue Rights revenue can be a net credit or a net charge. Midwest ISO states it is making this change based on the Commission's decision in its May 17 Order on Midwest ISO's long-term transmission rights proposal. Third, Midwest ISO states that it is deleting the sentence: "During the Annual [Auction Revenue Rights] Allocation period, new [Auction Revenue Rights] will be re-assigned to reflect Load shifts on a daily basis." According to Midwest ISO, there is no longer a need to differentiate between "new" Auction Revenue Rights (Auction Revenue Rights allocated through the Annual Auction Revenue Rights Allocation process that began in 2008) and other Auction Revenue Rights (Auction Revenue Rights bundles that were prepared from the Annual Financial Transmission Rights (FTR) Allocation in prior years), because it has completely transitioned to the allocation of Auction Revenue Rights. Midwest ISO also explains that the use of the phrase "daily basis" was a suggestion for the frequency with which Market Participants track their load; however, proposed section 43.7.2 would use a *monthly basis*.

6. Lastly, Midwest ISO proposes to delete the phrase: "plus a pro rata share of any [Auction Revenue Rights] previously received by the Market Participant pursuant to Load shifts." Midwest ISO explains that this phrase is no longer relevant because: 1) Midwest ISO's methodology is to calculate the gain/loss for a given month as opposed to the load used for the annual allocation, and the deleted phrase suggests that the revenue distribution is calculated for the month as compared to the prior month's load as the baseline; and 2) the deleted phrase is only necessary if Auction Revenue Rights are reallocated because of load shift.

7. Midwest ISO also proposes two non-substantive revisions to section 43.7.2 of the Tariff. Midwest ISO states that it is changing “forecasted Load” to “Peak Usage” in order to be consistent with the Commission’s decision in its October 19, 2007 order on compliance with the May 17 Order.<sup>3</sup> Midwest ISO notes that “Peak Usage” is defined as the forecasted load to determine the nomination caps during the annual Auction Revenue Rights allocation. Finally, Midwest ISO proposes to clarify, throughout section 43.7.2, that the load gain/loss and the revenue distribution are calculated for an Auction Revenue Rights Zone.

8. Midwest ISO requests waiver of the 60-day prior notice requirement for an effective date of August 22, 2008, one day after filing.

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

9. Notices of the Midwest ISO’s filing and amended filing published in the *Federal Register*, 73 Fed. Reg. 51,461 and 73 Fed. Reg. 51,801 (2008), with comments due on or before September 11, 2008 and September 15, 2008, respectively. Timely motions to intervene that raised no substantive issues were filed by: Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.; Ameren Services Company;<sup>4</sup> Exelon Corporation; and Duke Energy Corporation.<sup>5</sup> Timely motions to intervene with substantive comments were filed by: Wisconsin Public Power Inc. (Wisconsin Public Power); Integrys Energy Group, Inc., and its subsidiaries Wisconsin Public Service Corporation, Upper Peninsula Power Company and Integrys Energy Services, Inc. (collectively, Integrys); and Consumers Energy Company (Consumers Energy).

10. Midwest ISO filed an answer to Integrys’, Consumers’ and Wisconsin Public Power’s comments. Integrys filed a response to Midwest ISO’s answer.

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<sup>3</sup> *Midwest Independent Transmission System Operator, Inc.*, 121 FERC ¶ 61,062, at P 84 (2007)

<sup>4</sup> On behalf of its affiliated public utility operating companies, Union Electric Company, Central Illinois Public Service Company, Central Illinois Light Company, and Illinois Power Company, and on behalf of its affiliated marketing and generating companies, Ameren Energy Marketing Company, Ameren Energy Generating Company, and AmerenEnergy Resources Generating Company.

<sup>5</sup> On behalf of Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., Duke Energy Kentucky, Inc. and Duke Energy Business Services, LLC.

#### **IV. Discussion**

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

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest or an answer to an answer unless otherwise ordered by the decisional authority. We will accept Midwest ISO's answer and we will accept Integrys' reply because both filings provided information that assisted us in our decision-making process.

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

#### **Intervenors' Comments**

13. Wisconsin Public Power states that it agrees with the proposed tariff changes, and specifically supports the language: "Before making such a reallocation, the Transmission Provider shall then verify the reported Load to have shifted between Market Participants."<sup>6</sup> According to Wisconsin Public Power, that language requires Midwest ISO to verify and address any disputes among Market Participants. However, Wisconsin Public Power explains that it is concerned that the current section 3.26 of the Business Practice Manual does not spell out Midwest ISO's right to resolve disputes among Market Participants regarding load shifts.<sup>7</sup> Wisconsin Public Power is concerned that the language in the Business Practice Manual may be read to suggest that in order to receive Auction Revenue Rights revenues redistributed due to load shifts, all Market Participants within an

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<sup>6</sup> See August 21, 2008 Filing at Tab A (on Sixth Revised Sheet No. 647) and Tab B (on Sixth Revised Sheet No. 647).

<sup>7</sup> Wisconsin Public Power notes that the version of Midwest ISO's Business Practice Manual posted on Midwest ISO's website has a March 13, 2008 effective date and does not contain the language quoted above. Wisconsin Public Power further notes that the above referenced revisions to section 3.26 appear to be draft revisions, posted on Midwest ISO's website in the materials for the August 28, 2008 meeting of the Tariff and Business Practices Subcommittee (See [http://www.midwestmarket.org/publish/Document/81d7e\\_11b6e66e758\\_-79400a48324a](http://www.midwestmarket.org/publish/Document/81d7e_11b6e66e758_-79400a48324a)).

Auction Revenue Rights Zone must agree to designate a single entity whose data submission will be deemed complete and accurate.<sup>8</sup> Wisconsin Public Power objects to any Market Participant being required to give up its right to challenge inaccurate load reporting in order to receive Auction Revenue Rights revenues in shared Auction Revenue Rights Zones. Therefore, Wisconsin Public Power requests that the Business Practice Manual be revised or interpreted to preserve each Market Participant's right to require that Midwest ISO perform the verification function, as required by its Tariff, in the event of a dispute regarding reported load shifts.

14. Integrys and Consumers Energy point out that although Midwest ISO states in its August 21 transmittal letter that it has deleted the sentence "During the Annual Auction Revenue Rights Allocation period, new Auction Revenue Rights will be re-assigned to reflect Load shifts on a daily basis," this deletion is not reflected in the attached clean or redlined versions of the revised tariff sheets (see Tabs A and B, Sixth Revised Sheet No. 647). According to Integrys, the reassignment of Auction Revenue Rights to reflect daily load shifts is very important, cannot be left to implication, and should be stated explicitly in the Tariff. Integrys and Consumers Energy request that the Commission direct Midwest ISO to correct this error.

#### **Midwest ISO's Answer to Intervenors' Comments**

15. Midwest ISO filed an answer to Integrys', Consumers Energy's and Wisconsin Public Power's comments. Midwest ISO acknowledges that a redlining error inadvertently failed to delete the reassignment sentence and states that it intends to correct the error in a compliance filing.

16. Midwest ISO believes that Integrys implies that it opposes the complete deletion of the reassignment sentence as proposed because, according to Midwest ISO, Integrys would apparently have Midwest ISO withdraw or qualify the proposal to delete the reassignment sentence.<sup>9</sup>

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<sup>8</sup> See Wisconsin Public Power Comments at 3-4.

<sup>9</sup> In response to Integrys' implied comments, Midwest ISO outlines several justifications for the Auction Revenue Rights revisions that explain the reasonableness for Load shifts to result in the reassignment of Auction Revenue Rights revenues, rather than the reassignment of the Auction Revenue Rights. Midwest ISO states that: (1) it is simpler and more efficient to reassign the Auction Revenue Rights revenues; (2) the reassignment of Auction Revenue

(continued...)

17. In response to Wisconsin Public Power's concern that the Business Practice Manual is inconsistent with Section 43.7.2 of the Tariff and may be construed to mean all Auction Revenue Rights holders "must agree to designate a single entity" whose data submission will be deemed complete and accurate, thereby depriving Market Participants of their right to dispute inaccurate Load reporting, Midwest ISO claims that this issue is beyond the scope of the proceeding. It argues that any problems relating to the Business Practice Manual should be addressed in the ongoing stakeholder process for refining the Business Practice Manual. In any event however, Midwest ISO asserts that there is no inconsistency between section 43.7.2 of the Tariff, which states that Load shifts *will be* reported, and the Business Practice Manual, which describes *how* the Load shifts should be reported.

### **Integrys' Reply to Midwest ISO's Answer**

18. Integrys filed a reply, stating that its protest raised only a "single concern," which was Midwest ISO's failure to delete the so-called "reassignment sentence" from its Tariff. Since Midwest ISO has acknowledged the omission as "inadvertent," Integrys states that its protest contains "no other objection."<sup>10</sup> Moreover, Integrys states that the proposed compliance filing by Midwest ISO to delete the "reassignment sentence" provides the "full relief requested"<sup>11</sup> in its protest.

### **C. Commission Determination**

19. We will accept Midwest ISO's proposed Tariff revisions, effective August 22, 2008, as requested, subject to a compliance filing.<sup>12</sup>

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Rights revenues has functionally the same effect as the reassignment of Auction Revenue Rights, as it enables the Load Serving Entity to receive the revenues that constitute the substantive, congestion hedge benefit of the Auction Revenue Rights; and (3) the Auction Revenue Rights revisions preserve the confidentiality of the Auction Revenue Rights nomination process. See Midwest ISO Answer at 4-5.

<sup>10</sup> See Integrys Motion to Reply and Reply P 1.

<sup>11</sup> See Integrys' Reply at 2.

<sup>12</sup> See *Central Hudson Gas and Electric Company, et al.*, 60 FERC ¶ 61,106, at 61,339, *reh'g denied*, 61 FERC ¶ 61,089 (1992); *Prior Notice Filing*

20. As an initial matter, we believe that Midwest ISO has satisfied the intervenors' concerns related to the redlining error that failed to delete the reassignment sentence in section 43.7.2 of the Tariff. Midwest ISO is directed to submit revised tariff sheets correcting this error within 30 days of the date of this order.

21. In regards to Wisconsin Public Power's concern relating to the current Business Practice Manual provisions for submission of load data to Midwest ISO, we encourage Midwest ISO to address this and other important issues during the process of revising the Business Practice Manual. We note that the Business Practice Manual is for informational purposes only and is not filed with the Commission.

The Commission Orders:

(A) The proposed revisions to Midwest ISO's Tariff are hereby accepted for filing, effective August 22, 2008, subject to the compliance filing ordered below.

(B) Midwest ISO is directed to make a compliance filing within thirty (30) days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.