

125 FERC ¶ 61,186
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. ER08-1556-000
Inc.

ORDER ACCEPTING PROPOSED TARIFF REVISIONS SUBJECT TO
CONDITIONS

(Issued November 18, 2008)

1. In this order we will conditionally accept Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed revisions to Schedules 7, 8 and 9 to its Open Access Transmission and Energy Markets Tariff (Tariff), subject to a future compliance filing. The proposed revisions, as modified, clarify the Tariff's existing methodology for developing rates in pricing zones that include the facilities of multiple transmission owners (Joint Zones).¹

I. Background

2. On September 19, 2008, Midwest ISO filed proposed revisions, pursuant to section 205 of the Federal Power Act (FPA),² to Schedule 7 (Long-Term Firm and Short-Term Firm Point-to-Point Service), Schedule 8 (Non-Firm Point-to-Point Service) and Schedule 9 (Network Integration Transmission Service) of its Tariff in order to clarify the Tariff's existing methodology for calculating rates in Joint Zones. Schedules 7, 8 and 9 contain zonal rates or charges that are based on the facilities located within the zone and are calculated in accordance with Attachment O unless otherwise provided.

3. Specifically, Midwest ISO proposes to revise Schedules 7, 8, and 9 in order to: (1) list the transmission owners included in each Joint Zone, (2) clarify how rates for Joint Zones are developed, (3) clarify how rates are developed for transmission owners

¹ Capitalized terms that are not otherwise defined herein have the meaning ascribed thereto in Section 1 of the Tariff.

² 16 U.S.C. § 824d (2006).

with transmission facilities in more than one pricing zone, and (4) make ministerial corrections, including correcting line references to Attachment O.

4. The proposed revisions add language to the schedules to clarify joint rate development for pricing zones that contain multiple Transmission Owners who have transmission facilities in only one pricing zone, and for pricing zones that contain transmission owners with transmission facilities in more than one pricing zone. For pricing zones that include multiple Transmission Owners with transmission facilities in just one pricing zone, transmission rates reflect the sum of the revenue requirements for each transmission owner within the zone, as calculated under Attachment O, divided by the aggregate average of the 12 month coincident peak loads for the pricing zone.³ The

³ According to Midwest ISO, the following pricing zones include multiple transmission owners that have transmission facilities in one pricing zone:

Zone 5 - Cinergy Services, Inc. includes Transmission Owners Duke Energy, Indiana Municipal Power Agency and Wabash Valley Power Association.

Zone 13 - Michigan Joint Zone includes Transmission Owner Michigan Electric Transmission Company, LLC, and the Michigan Joint Zone Subzone.

Zone 13A - Michigan Joint Zone Subzone includes facilities served under ownership entitlements granting use of the Michigan Electric Transmission Company, LLC transmission system. This Zone includes Michigan Public Power Agency, Wolverine Power Supply Cooperative, Inc., Grand Haven Board of Light and Power, Zeeland Board of Public Works, and Traverse City Light and Power.

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transmission rates within each Joint Zone are the same for all transmission customers within that zone.

5. For transmission zones that contain Transmission Owners with transmission facilities in more than one pricing zone, transmission rates are based on the sum of the Attachment O revenue requirements for all transmission facilities located within that zone, divided by the aggregate average of the twelve month coincident peak loads served by all Transmission Owners within that zone.⁴ Midwest ISO further explains that each

Transmittal Letter at 2.

⁴ According to Midwest ISO, the following zones contain transmission owners with transmission facilities in more than one pricing zone:

Zone 1 - ITC Midwest, LLC includes facilities owned by Southern Minnesota Municipal Power Agency and Great River Energy.

Zone 8 - Great River Energy includes facilities owned by Southern Minnesota Municipal Power Agency and Northern States Power Company.

Zone 10 - International Transmission Company includes facilities owned by Michigan Public Power Agency.

Zone 14 - Minnesota Power Inc. includes facilities owned by Great River Energy.

Zone 16 - Northern States Power Companies include facilities owned by Southern Minnesota Municipal Power Agency and Great River Energy.

Zone 18 - Otter Tail Power Company includes facilities owned by Great River Energy.

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Transmission Owner's total revenue requirement is allocated proportionately to each zone, based on the gross plant value of its facilities in that zone relative to the gross plant value of its facilities in all zones.

6. Midwest ISO requests an effective date of November 18, 2008, sixty days after filing.

II. Notice of Filing and Responsive Pleadings

7. Notice of Midwest ISO's filing was published in the *Federal Register*, 73 Fed. Reg. 56,811 (2008), with interventions and protests due on or before October 10, 2008. Timely motions to intervene were filed by the following parties: Exelon Corporation; the Midwest ISO Transmission Owners;⁵ Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, Constellation); Wolverine Power Supply Cooperative, Inc. (Wolverine); American Municipal Power-Ohio, Inc.; Missouri River Energy Services and Central Minnesota Municipal Power Agency; and Great River Energy. Michigan South Central Power Agency and Michigan Public Power Agency

Transmittal Letter at 2.

⁵ The Midwest ISO Transmission Owners for this filing consist of: Ameren Services Company, as agent for Union Electric Company, Central Illinois Public Service Company, Central Illinois Light Co., and Illinois Power Company; American Transmission Company LLC; American Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp.; City of Columbia Water and Light Department (Columbia, Missouri); City Water, Light & Power (Springfield, Illinois); Duke Energy Business Services, LLC for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; Michigan Public Power Agency; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

(together, Michigan Agencies) filed a motion to intervene and comments. Consumers Energy Company (Consumers Energy) also filed a motion to intervene and comments. Midwest ISO filed an answer. Consumers Energy filed a request for leave to respond and response to Midwest ISO's answer.

III. Discussion

A. Procedural Matters

8. 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 the proceeding.

9. 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 an answer unless otherwise ordered by the decisional authority. We will accept Midwest ISO's answer and Consumers Energy's answer because they have provided information that assisted us in our decision-making process.

B. Comments

10. The Michigan Agencies state that they do not oppose Midwest ISO's proposed clarifications. However, they propose that the term "Zone," when used as a stand-alone term in the schedules, be changed to "pricing zone" in all instances to ensure precision, consistency and accuracy. The Michigan Agencies note that the term "Zone" does not otherwise appear in Module B of the Tariff (the transmission service module of the Tariff), and that replacing the term "Zone" with the term "pricing zone" is more accurate for the purposes of the schedules.

11. Consumers Energy states that, in general, it does not oppose Midwest ISO's proposed changes. However, it asserts that some of the proposed changes relating to the Michigan Joint Zone are not correct, fail to clarify matters, or are unnecessary.

12. First, with respect to Sheet Nos. 892, 909 and 925, Consumers Energy states that the parentheticals for Zone 13A include entities that have no transmission facilities factored into the revenue requirements and rates for Zone 13A. Consumers Energy proposes to add specific language to the parentheticals that would clarify ownership by showing transmission ownership in the form of ownership entitlements to facilities primarily owned by the Michigan Electric Transmission Company, LLC.⁶

⁶ Consumers Energy proposes the following language (proposed revisions are underlined):

13. Second, Consumers Energy states that Midwest ISO sets forth how the joint zone rates are developed for the various joint zones in a new section of each schedule. It asserts, however, that the proposed language of the new sections does not accurately describe the development of rates for the Michigan Joint Zone (Zone 13) and the Michigan Joint Zone Subzone (Zone 13A). Consumers Energy states that the specific details for development of those rates are already set out in the preceeding pages of Schedules 7, 8 and 9 (Sheet Nos. 897A-897B, 912A-912B, and 927A-927B). Consumers Energy proposes language to reflect that the development of the Michigan Joint Zone rates is set forth elsewhere in the Tariff.⁷

Zone 13A Michigan Joint Zone Subzone (revenue requirements of Wolverine Power Supply Cooperative Inc., Grand Haven Board of Light and Power, Zeeland Board of Public Works and Traverse City Light and Power; includes ownership entitlement load of Michigan Public Power Agency, Wolverine Power Supply Cooperative Inc., Michigan South Central Power Agency, Grand Haven Board of Light and Power, Zeeland Board of Public Works and Traverse City Light and Power)

Consumers Energy Motion to Intervene, Exhibit A.

⁷ Consumers Energy proposes the following language (proposed revisions underlined):

(8) Joint Zone Rate Development

a) The transmission rates within each of the following pricing zones will be the same for all Transmission Customers within the pricing zone. Except as indicated below, the transmission rates for the following pricing zones reflect the sum of the revenue requirements for each Transmission Owner within the Zone as calculated under Attachment O divided by the aggregate average of the twelve (12) month coincident Peak Loads for the pricing zone.

Zone 5 - Cinergy Services, Inc. (includes Indiana Municipal Power Agency and Wabash Valley Power Association)

Zone 13 – Michigan Joint Zone (for ownership entitlement load, Zone 13A rates are calculated and applied in accordance with the provisions of Section (7) above.)

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14. Finally, Consumers Energy opposes the proposed changes to Sheet No. 901 (Schedule 7 – Michigan), Sheet No. 916 (Schedule 8 – Michigan) and Sheet No. 934 (Schedule 9 – Michigan) for the same reasons that it opposes the proposed changes to Sheet Nos. 892, 909 and 925 (detailed above). In addition, Consumers states that based on its understanding that these schedules are obsolete because they are no longer used by any customers. Consumers Energy requests that these schedules be deleted from the Tariff.

C. Answers

15. Midwest ISO responds that it is not opposed to making the Michigan Agencies' proposed changes with respect to changing the term "Zone," when used as a stand-alone term, to "pricing zone."

16. Midwest ISO also states that it generally agrees with Consumers' assessment that certain aspects of the September 19 filing need clarification. However, in order to provide further clarification, Midwest ISO suggests modifications to the language for Zone 13A, which the Michigan Joint Zone Transmission Owners provided.⁸

Zone 13A - Michigan Joint Zone Subzone (for non-ownership entitlement load, Zone 13 rates are calculated and applied in accordance with the provisions of Section (7) above.)

b) This provision applies to each Zone with Transmission Owners that own transmission facilities in more than one Zone. Within each such Zone, transmission rates are based on the sum of the revenue requirements for all transmission facilities located within that Zone divided by the aggregate Load served by all Transmission Owners within that Zone.

Consumers Energy Motion to Intervene, Exhibit B.

⁸ Midwest ISO proposes the following language (proposed revisions underlined):

Zone 13A – Michigan Joint Zone Subzone (includes Michigan Public Power Agency and certain of its Members including Grand Haven Board of Light and Power, Traverse City Light and Power, and Zeeland Board of Public Works, and Wolverine Power Supply Cooperative, Inc.; as both Transmission Owners and Michigan Joint Zone Subzone Load and Michigan South Central Power Agency as Michigan Joint Subzone Load). Zone 13A rates are calculated and applied in accordance with the provisions of Section 7 Schedule., ~~Grand Haven Board of Light and Power, Zeeland Board of Public Works, and Traverse City Light and~~

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17. Midwest ISO also states that it is not opposed to removing the changes it proposed to Schedule 7 – Michigan, Schedule 8 – Michigan and Schedule 9 – Michigan.

18. In Consumers Energy's response to Midwest ISO's answer, Consumers Energy states that it accepts the further revision Midwest ISO proposes to the language for Zone 13A for Proposed Tariff Sheet No. 892 (Schedule 7); Proposed Tariff Sheet No. 909 (Schedule 8) and Proposed Tariff Sheet No. 925 (Schedule 9).

D. Commission Determination

1. Proposed Sheet No. 892 (Schedule 7); Proposed Sheet No. 909 (Schedule 8) and Proposed Sheet No. 925 (Schedule 9)

19. We find that the language Midwest ISO proposed in its answer, as agreed to by Consumers, clarifies the ownership situation for Zone 13A and is just and reasonable. Therefore, we will require Midwest ISO to revise these sheets, adding the language it proposed in its answer, in order to clarify the ownership situation for Zone 13A.

2. Proposed Sheet No. 897C (Schedule 7); Proposed Sheet No. 912C (Schedule 8) and Proposed Sheet No. 927 (Schedule 9)

20. We find Consumers' proposed language in Sheet Nos. 897C, 912C, and 927 for Zones 13 and 13A more accurately describes the development of rates. Since these changes provide specificity in describing the development of rates in Joint Zones, we will require the Midwest ISO to revise these sheets in accordance with Exhibit B in Consumers Energy's comments to accurately describe the development of rates for Zones 13 and 13A.

3. Proposed Sheet No. 901 (Schedule 7 – Michigan); Proposed Sheet No. 916 (Schedule 8 – Michigan) and Proposed Sheet No. 934 (Schedule 9 – Michigan)

21. As an initial matter, we will deny Consumer Energy's proposed deletion of Schedule 7-Michigan, Schedule 8-Michigan and Schedule 9-Michigan. Neither Consumers Energy's protest, nor Midwest ISO's answer, provides sufficient evidence for us to discern whether the Michigan schedules are obsolete. Therefore, at this time, we will accept Midwest ISO's proposed changes to these schedules, which ensure consistency among all the schedules in describing the zones related to International

~~Power; which are facilities served under ownership entitlements granting use of the Michigan Electric Transmission Company transmission system)~~

Transmission Company and the Michigan Joint Zone. We will require the Midwest ISO to explain in its compliance filing whether Schedule 7-Michigan, Schedule 8-Michigan and Schedule 9-Michigan are obsolete, as Consumers Energy alleges, and if they are not obsolete, how they are currently used or could be used in the future.

4. “Zone” and “pricing zone”

22. We find that the proposal by the Michigan Agencies to replace the term “Zone,” when used as a stand-alone term, with the term “pricing zone” in Midwest ISO’s proposed revisions to Schedules 7, 8 and 9 ensures precision, consistency and accuracy in Module B of the Midwest ISO Tariff. In addition, Midwest ISO’s use of the term “Zone” in Schedules 7, 8 and 9 under Module B conflicts with the usage of the defined term “Zone” in Module A, which is used for settlement of Locational Marginal Price based Energy Market. Therefore, changing “Zone” to “pricing zone” better reflects the purpose of Schedules 7, 8 and 9. We will require Midwest ISO to revise its proposed revisions to Schedules 7, 8 and 9, to replace the term “Zone,” when it’s used as a stand-alone term, with the term “pricing zone.”

The Commission orders:

Midwest ISO’s proposed revisions to Schedules 7, 8 and 9 of the Tariff are hereby conditionally accepted effective November 18, 2008, subject to a compliance filing due thirty days as 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.