

136 FERC ¶ 61,148  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission System  
Operator, Inc.

Docket No. ER10-2869-001

ORDER ON COMPLIANCE FILING

(Issued August 31, 2011)

1. On March 21, 2011, Midwest Independent Transmission System Operator, Inc. (MISO) submitted a compliance filing in response to the Commission's order addressing MISO's proposed revision to its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) designed to facilitate exports of generation from MISO to an external border to serve load outside of MISO.<sup>1</sup> In this order, we conditionally accept the compliance filing and direct MISO to make a further compliance filing that incorporates certain additional changes to section 19.1.1.2 of the Tariff, as described below.

**I. Background**

2. On September 22, 2010, MISO filed a revision to section 19.1 (Notice of Need for System Impact Study) of the Tariff, which provides that, when determining whether a System Impact Study is necessary, "[s]uch review, to the extent reasonably feasible, shall rely upon existing planning studies and System Impact Studies." MISO stated that the proposed revision provides an additional firm point-to-point transmission service study option to facilitate the export of generation from MISO to an external border.

3. On February 17, 2011, the Commission conditionally accepted MISO's proposal subject to the requirement that MISO submit a compliance filing to reflect additional information in its Tariff about the deliverability study process used by MISO to pre-certify transmission paths to the MISO border. The Commission stated that MISO

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<sup>1</sup> *Midwest Indep. Trans. Sys. Operator, Inc.*, 134 FERC ¶ 61,119 (2011) (February 17 Order).

must explain how it will conduct the studies, when it will make the studies available and how long the studies are effective. Additionally, Exelon noted that MISO will only update the deliverability study annually and will not adjust the capacity available on the pre-certified paths as new transmission service requests are accepted subsequent to the last annual review. Thus, the Commission directed MISO to adjust the annual review to account for new uses of the grid as they are accepted to ensure that generators seeking to export to the MISO border will have an accurate assessment of the amount of available capacity on the pre-certified paths.

4. On March 21, 2011, MISO submitted proposed revisions in Module B of its Tariff regarding the System Impact Study to provide additional information about the study process as required by the February 17 Order. Specifically, MISO proposes to add new sections 19.1.1, 19.1.1.1, and 19.1.1.2. According to MISO, proposed section 19.1.1 clarifies that, generally, a System Impact Study is required to approve requests for Firm Point-to-Point Service lasting one year or longer and specifies the two instances where a request can be approved without an individualized System Impact Study.<sup>2</sup>

5. MISO explains that, in the first instance, as addressed in proposed section 19.1.1.1, if a transmission service request is studied in a System Impact Study but is not taken by the requesting Transmission Customer, and there is a subsequent request for service with equal or fewer megawatts next in the queue, then that request can use the higher queued request's System Impact Study results. In the second instance, as addressed in proposed section 19.1.1.2, a transmission service request can be approved without a new System Impact Study if the service request involves a pre-certified transmission path to MISO's border. Proposed section 19.1.1.2 provides that MISO will conduct annual transmission studies to determine the amount of transmission capacity available to make exports over the following five years by any resources in the MISO region, and that MISO will update the amount of transmission capacity available for exports on a pre-certified transmission path when transmission capacity on any of the pre-certified paths is sold.

## **II. Notice and Responsive Filings**

6. Notice of MISO's filing was published in the *Federal Register*, 76 Fed. Reg. 17,410 (2011), with comments, interventions, and protests due on or before April 11, 2011. Exelon Corporation (Exelon) filed a protest. GenOn Energy Management, LLC (GenOn Energy) filed a timely motion to intervene.

7. MISO filed an answer to Exelon's protest and Exelon filed a response to MISO's answer.

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<sup>2</sup> MISO Transmittal Letter at 2.

**A. Exelon's Protest**

8. Exelon objects to the proposed revision of section 19.1.1.2 because it provides for updated adjustments to capacity on pre-certified paths only when transmission service is sold on pre-certified paths. According to Exelon, the proposed revision permits MISO to ignore the impact of selling service on other than pre-certified paths and thus risks over-selling on pre-certified paths. Exelon proposes that MISO be directed to expand the requirements of section 19.1.1.2(i)-(ii) to read as follows:

- i. Available Transmission Service is sold to Transmission Customers on any ~~of the pre-certified~~ paths without a need for conducting a System Impact Study.
- ii. Transmission Service is sold to a Transmission Customer on a ~~pre-certified~~ path after going through the System Impact Study procedure pursuant to Attachment D-1 of this Tariff

Exelon states that these amendments would require MISO to “adjust the annual review to account for new uses of the grid as they are accepted,” as required by the February 17 Order.<sup>3</sup>

**B. MISO's Answer to Exelon's Protest**

9. According to MISO, Exelon's concern that proposed section 19.1.1.2 could permit transmission service on pre-certified paths to be over-sold “is unfounded because MISO has no intention of selling on any path, pre-certified or otherwise, with flowgate limits listed on the OASIS Automation software.”<sup>4</sup> In addition, MISO argues that “where transmission service is sold on other than a “pre-certified path,” there is no need to update the Available Transmission Service values on OASIS because such sales would already be captured on OASIS and reflected in the available transmission capacity.”<sup>5</sup>

10. MISO points out that its proposed changes would enable it to utilize existing planning studies to determine whether or not to perform the System Impact Study. MISO states:

To clarify, if OASIS Automation indicates that there are limits to selling service because the available flowgate capacity is insufficient, MISO would not approve the sale without mitigation in any instance. With the proposed compliance

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<sup>3</sup> Exelon Protest at 3.

<sup>4</sup> MISO Answer at 4.

<sup>5</sup> *Id.* at 4-5.

language, MISO will be able to post the tested paths for the listed time frames and utilize an existing study to approve service when the Available Transfer Capability is sufficient, without further study. [fn omitted]<sup>6</sup>

11. MISO concludes that its proposed modifications will provide flexibility for customers that seek to access other markets and allow MISO to maximize transmission service revenue for its Transmission Owners. According to MISO, “[t]he revisions also accelerate the study process for transmission service requests when existing studies permit transmission service in a manner that does not harm other requests.”<sup>7</sup>

### C. Exelon’s Response to MISO’s Answer

12. In its response to MISO’s answer, Exelon reiterates its concern that MISO’s proposed language “falls short of what is required to account for loop flows by omitting availability updates on pre-certified paths when service is sold on other paths.”<sup>8</sup>

13. Exelon asserts that MISO’s contention that updates occur automatically through MISO’s OASIS Automation Software is irrelevant and does not comply with the Commission’s February 17 Order. According to Exelon, “if the updating by the OASIS Automation Software were sufficient, there would have been no reason for the tariff amendment to begin with, or for the Commission’s February 17 Order to require MISO ‘to adjust the annual review to account for new uses of the grid as they are accepted to ensure that generators seeking to export to the MISO border will have an accurate assessment of the amount of capacity available on pre-certified paths.’”[fn omitted]<sup>9</sup>

14. Exelon reiterates its request that the Commission direct MISO to delete the limitations in section 19.1.1.2 (i) – (ii), which, as proposed, require adjustments of available Transmission Service only when MISO sells transmission service on pre-certified paths.<sup>10</sup>

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<sup>6</sup> *Id.* at 5-6.

<sup>7</sup> *Id.* at 6.

<sup>8</sup> Exelon Response at 1.

<sup>9</sup> Exelon Response at 4.

<sup>10</sup> *Id.*

### **III. Discussion**

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

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), Exelon's and GenOn Energy's timely, unopposed motions to intervene serve to make them parties to this proceeding.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MISO's answer and Exelon's response to MISO's answer because both pleadings have provided information that assisted us in our decision-making process.

#### **B. Commission Determination**

17. We conditionally accept MISO's compliance filing, subject to a further compliance filing to address Exelon's concern. MISO appropriately added information in its Tariff concerning pre-certification of transmission paths to the MISO border, as required by the February 17 Order. MISO states that it will conduct an annual study of the transmission system to determine the amount of firm point-to-point transmission service from each resource to neighboring transmission providers over five years that MISO can accommodate while also ensuring deliverability of network resources to network load and all existing long-term point-to-point transmission service. The amount of such firm point-to-point transmission service available over five years from a MISO resource to an external border will be available without further study (i.e., "pre-certified") and posted on MISO's OASIS.

18. Moreover, proposed section 19.1.1.2 requires MISO to adjust the capacity available on the pre-certified paths, as determined by the annual study, for sales on these pre-certified paths.<sup>11</sup> However, MISO has not fully complied with the requirement in the February 17 Order "to adjust the annual review to account for new uses of the grid as they are accepted to ensure that generators seeking to export to the Midwest ISO border will have an accurate assessment of the amount of capacity available on pre-certified paths."<sup>12</sup> MISO only intends to adjust the available capacity determined during the annual study process for sales of transmission service on pre-certified paths.

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<sup>11</sup> MISO states that it will post the adjusted capacity amounts on its OASIS.

<sup>12</sup> February 17 Order, 134 FERC ¶ 61,119 at P 38.

19. MISO implies that adjustment of the study results to reflect transactions that occur on paths that are not pre-certified is unnecessary because, as MISO states, its OASIS Automation software will automatically reflect the current available flowgate capacity over constrained facilities and thus, overselling the capacity is not possible. In this regard, we note that section 6.6. of the Module B – Transmission Service Business Practice Manual (Manual 013) states, in part, that “OASIS Automation is capable of evaluating availability of constrained facility [available Transfer Capability] for 36 months.” However, MISO is proposing to conduct an annual study to determine the capacity available on pre-certified paths for exports to the MISO border for five years. According to Manual 013, the OASIS Automation Software can only determine the impact of sales internal to MISO on the pre-certified paths to MISO’s border for three years. Thus, we agree with Exelon that MISO’s reliance on the OASIS Automation Software is not sufficient to cover the five-year period and not sufficient to comply with the February 17 Order. Nonetheless, even if MISO’s OASIS Automation Software were able to cover the five-year period, the MISO Tariff should reflect the requirement to adjust annual studies for “all uses of the grid” anyway.

20. Accordingly, MISO should adjust the amount of available capacity determined in the annual study to reflect the impact of other transmission service approved over all paths, regardless of whether those paths are pre-certified or not (i.e., all “new uses of the grid”). We direct MISO to submit within 30 days of the date of this order a compliance filing that incorporates Exelon’s proposed changes to new section 19.1.1.2 of MISO’s Tariff.

The Commission orders:

(A) MISO’s compliance filing is hereby accepted for filing as modified by the further compliance filing ordered below, effective April 19, 2011.

(B) MISO is hereby directed to submit a further compliance filing due within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.