

126 FERC ¶ 61,004  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

January 5, 2009

In Reply Refer To:  
Midwest ISO Transmission Owners  
Docket No. ER08-1375-000

Wright & Talisman, P.C.  
Attention: Amanda M. Riggs  
Attorney for the Midwest ISO  
Transmission Owners  
1200 G Street, N.W.  
Suite 600  
Washington, DC 20005

Reference: Request to Suspend and Terminate Ancillary Services Schedules

Dear Ms. Riggs:

1. On August 8, 2008, the Midwest ISO Transmission Owners (Midwest ISO TOs)<sup>1</sup> submitted for filing a request to suspend and eventually terminate certain schedules in

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<sup>1</sup> For the purposes of this filing, the Midwest ISO TOs 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 Systems, Incorporated, a subsidiary of FirstEnergy Corp.; Duke Energy Business Services, LLC for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Indianapolis Power & Light Company; 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 (collectively, NSP Companies), subsidiaries of Xcel Energy Inc. (collectively, Xcel Energy); Southern Indiana Gas & Electric Company; and Southern Minnesota Municipal Power Agency. Otter Tail Power Company (Otter Tail) does not join in this filing, but submitted related revisions to its ancillary services schedules in a separate filing. On October 28, 2008, the Commission conditionally accepted Otter Tail's filing, subject to a further compliance filing. *Otter Tail Power Company*, 125 FERC ¶ 61,111 (2008). On November 25, 2008, Otter Tail submitted its compliance filing, and Commission action on the compliance filing is pending.

their respective open access transmission tariffs (OATTs) for the following ancillary services: Regulation and Frequency Response Service (Schedule 3 of the Commission's *pro forma* tariff); Operating Reserve-Spinning Reserve Service (Schedule 5 of the Commission's *pro forma* tariff); and Operating Reserve-Supplemental Reserve Service (Schedule 6 of the Commission's *pro forma* tariff) (collectively, ancillary services schedules).<sup>2</sup> On September 5, 2008, the Midwest ISO TOs requested that the Commission defer action on the filing, and on November 10, 2008, the Midwest ISO TOs requested that the Commission recommence action.<sup>3</sup>

2. The Midwest ISO TOs request that suspension of their ancillary services schedules be made effective upon the start of Midwest ISO's Ancillary Services Market and that termination be made effective upon the final termination of the Ancillary Services Market Reversion Plan (Reversion Plan)<sup>4</sup> associated with the start of the Ancillary Services

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<sup>2</sup> Xcel Energy requests the suspension and eventual termination of only the rates listed for the NSP Companies in Schedules 3, 5 and 6 of Xcel Energy's OATT. Xcel Energy provides services under Schedules 3, 5 and 6 of its OATT for other Xcel Energy operating companies that are not members of Midwest Independent Transmission System Operator, Inc. (Midwest ISO), namely Public Service Company of Colorado and Southwestern Public Service Company.

<sup>3</sup> The Commission conditionally accepted Midwest ISO's Ancillary Services Market proposal on February 25, 2008, subject to compliance filings. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 122 FERC ¶ 61,172 (2008) (February 25 Order), *order on reh'g*, 123 FERC ¶ 61,297 (2008). On August 26, 2008, Midwest ISO gave notice that the previously proposed September 9, 2008 effective date for the commencement of the Ancillary Services Market would be deferred, and requested that the Commission defer action in certain Ancillary Services Market-related dockets. *See Notice of the Midwest Independent Transmission System Operator, Inc.'s Deferral of Effective Dates*, Docket No. ER07-1372-002, *et al.* (Aug. 26, 2008) (August 26 Filing). On November 3, 2008, Midwest ISO notified the Commission that its Ancillary Services Market will commence on January 6, 2009, and requested that the Commission act in certain Ancillary Services Market-related dockets. *See Notice of the Midwest Independent Transmission System Operator, Inc.'s Request for Commission Action*, Docket No. ER07-1372-002, *et al.* (Nov. 3, 2008) (November 3 Filing).

<sup>4</sup> After Ancillary Services Market start-up, Midwest ISO will be the sole balancing authority for the Midwest ISO balancing authority area. On February 29, 2008, in Docket No. ER07-1372-002, Midwest ISO submitted a proposed Reversion Plan to address system operations in the event of a severe operations failure in the Ancillary Services Market. If the Reversion Plan is implemented at any point, responsibility for certain balancing authority functions may revert from Midwest ISO to the 24 local balancing authorities (including the Midwest ISO TOs) that currently serve the balancing  
(continued...)

Market. The Midwest ISO TOs request that the Commission accept these changes and make them effective on October 9, 2008, so long as Midwest ISO's Reversion Plan has terminated by that date. If the Reversion Plan has not terminated by that date, then the Midwest ISO TOs request that the Commission make the proposed revisions effective on the date that the Reversion Plan does terminate.

3. Notice of the Midwest ISO TOs' filing was published in the *Federal Register*, 73 Fed. Reg. 49,180 (2008), with comments due on or before August 29, 2008. Timely motions to intervene were filed by Exelon Corporation, Midwest ISO, Consumers Energy Company, Ameren Services Company and Constellation Energy Resources, LLC. A timely motion to intervene and comment was filed by Southwestern Electric Cooperative, Inc. (Southwestern). 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.

4. Southwestern states that it is concerned about the potential for a gap in service between September 9, 2008 and the eventual implementation date of Midwest ISO's Ancillary Services Market, especially in light of Midwest ISO's August 26 Filing informing the Commission that Midwest ISO intends to defer indefinitely the implementation date of its Ancillary Services Market. Southwestern states that the Commission's order in the instant proceeding should ensure that the Midwest ISO TOs closely coordinate with Midwest ISO during the period the Midwest ISO TOs' respective ancillary services schedules are suspended.

5. Furthermore, Southwestern raises a concern regarding the potential for double charges during the period in which the Midwest ISO TOs' ancillary services schedules are suspended. Southwestern states that, to ensure that customers taking ancillary services are not charged for them under both the Midwest ISO TOs' existing ancillary services schedules and Midwest ISO's Ancillary Services Market during the suspension period, the Commission should explicitly direct the Midwest ISO TOs to ensure that customers will not be subjected to double charges during this period.

6. As an initial matter, we note that Midwest ISO's August 26 Filing informing the Commission that Midwest ISO intended to defer the implementation date of its Ancillary Services Market was superseded by the November 3 Filing notifying the Commission that the Ancillary Services Market will commence on January 6, 2009. Southwestern's

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authority function in the Midwest ISO footprint. If the Reversion Plan is not implemented during any 30-day period after Ancillary Services Market start-up, it will terminate. The Commission conditionally accepted Midwest ISO's proposed Reversion Plan in an order authorizing the start of the Ancillary Services Market. *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,318 (2008) (December 18 Order).

concerns that Midwest ISO had deferred the implementation of the Ancillary Services Market “indefinitely” and that there may be a gap in service between September 9, 2008 and the “eventual implementation date” of the Ancillary Services Market therefore have been overtaken by events. In the December 18 Order, the Commission accepted Midwest ISO’s Ancillary Service Market start-up for January 6, 2009 and accepted the Reversion Plan<sup>5</sup> and Readiness Certification to be in compliance with the requirements of the February 25 Order.<sup>6</sup> The Commission stated that it found the Midwest ISO Reversion Plan provides sufficient detail for use by market participants and Midwest ISO in the event of a failure of the operating systems, thereby ensuring continuance of reliable service. In addition, the Commission stated that, based on its review of the updated assessment in the Readiness Certificate, it did not expect a higher probability of market dysfunction.<sup>7</sup>

7. We also note that there is no potential for double charges because our acceptance of the Midwest ISO TOs’ filing, as discussed below, does not allow for more than one tariff schedule (or set of schedules) governing ancillary services to be effective at any given time. In addition, we believe that through the reporting and settlement statements, which contain detailed charge information, the Midwest ISO TOs and Midwest ISO can verify invoiced amounts to ensure that their existing customers taking service under their ancillary services schedules will have a smooth transition to the Ancillary Services Market, and that double charges will not occur.

8. The Commission accepts the Midwest ISO TOs’ request to suspend certain ancillary services schedules to accommodate the commencement of Midwest ISO’s Ancillary Services Market, effective January 6, 2009, as requested. In addition, we will waive, from the effective date of Midwest ISO’s Ancillary Services Market, the effectiveness of the schedules that the Midwest ISO TOs indicate they will no longer need pending the first of two things: (1) the termination of the Reversion Plan and the concurrent cancellation of those schedules, or (2) the implementation of the Reversion Plan. If the Reversion Plan terminates, waiver of those schedules will be terminated as of the date of the termination and the schedules at issue will be cancelled. If the Reversion

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<sup>5</sup> The Reversion Plan is a three-phase plan during which responsibility for certain balancing authority functions may revert back to the local balancing authorities.

<sup>6</sup> December 18 Order, 125 FERC ¶ 61,318 at P 39.

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

Plan is implemented, however, waiver of those schedules will be terminated as of the implementation date and, accordingly, the ancillary services schedules will not be cancelled.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.