

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

Midwest Independent Transmission System  
Operator, Inc.

Docket Nos. ER03-1312-000 and  
ER03-1312-001

ORDER CONDITIONALLY ACCEPTING TARIFF PROVISIONS RELATING TO  
STATION POWER SERVICE

(Issued January 29, 2004)

1. In this order, the Commission conditionally accepts Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed revisions to its Open Access Transmission Tariff (OATT) relating to station power service, as modified, effective October 8, 2003, and directs a compliance filing. This order benefits customers by providing standardized terms and conditions for the supply of station power service, thereby promoting a level playing field for competing generators in the region.

**Background**

2. In a series of orders involving PJM Interconnection, LLC (PJM),<sup>1</sup> New York Independent System Operator (NYISO),<sup>2</sup> and New England Power Pool,<sup>3</sup> the

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<sup>1</sup> PJM Interconnection, LLC, 94 FERC ¶ 61,251 (2001) (PJM II), clarified and reh'g denied, 95 FERC ¶ 61,333 (2001) (PJM III); PJM Interconnection LLC, 95 FERC ¶ 61,470 (2001) (PJM IV). In an earlier order, PJM Interconnection, LLC, 93 FERC ¶ 61,061 (2000) (PJM I), the Commission acknowledged questions concerning treatment of station power, but deferred its decision, consolidating PJM's proceeding with others raising the same issue.

<sup>2</sup> Keyspan-Ravenswood, 99 FERC ¶ 61,167, order on compliance, 101 FERC ¶ 61,230 (2002).

<sup>3</sup> Rumford Power Associates, L.P., 97 FERC ¶ 61,173 (2001) (Rumford).

Commission set forth its policy relating to station power services. These orders addressed such matters as the on-site self-supply, remote self-supply, and third-party supply of station power. The Commission has defined "station power" as "the electric energy used for the heating, lighting, air-conditioning, and office equipment needs of the buildings on a generating facility's site, and for operating the electric equipment that is on the generating facility's site."<sup>4</sup>

3. On September 8, 2003, Midwest ISO submitted proposed revisions to its OATT intended to clarify the processes by which all generators may provide or obtain station power service. Midwest ISO asserts that the proposed revisions are consistent with Commission precedent and the unique operating characteristics of the Midwest ISO.

4. Midwest ISO requests waiver of the Commission's 60-day prior notice requirement to permit an effective date of October 8, 2003.

#### **Notice of Filing, Interventions, Protests and Answer**

5. Notice of Midwest ISO's filing was published in the Federal Register, 68 Fed. Reg. 61,405 (2003), with comments, interventions and protests due on or before September 29, 2003. Timely motions to intervene raising no substantive issues were filed by Wisconsin Public Service Corporation and Upper Peninsula Power Company (joint filing), Dearborn Industrial Generation, LLC, Duke Energy North America, L.L.C. and Duke Energy Trading and Marketing, L.L.C. (joint filing), and Calpine Central, L.P. Timely motions to intervene and comments generally in support of Midwest ISO's filing were filed by Mirant Americas Energy Marketing, LP, Mirant Zeeland, LLC and Mirant Sugar Creek, LLC (joint filing), Consumers Energy Company (Consumers), Archer-Daniels-Midland Company (ADM), Reliant Resources, Inc., Wisconsin Electric Power Company (WEPCO) and Exelon Corporation. Timely motions to intervene and protests were filed by Midwest ISO Transmission Owners (Transmission Owners), and International Transmission Company (ITC) and Michigan Electric Transmission Company, LLC (METC) (joint filing). Midwest ISO filed an answer to the protests and comments.

6. On November 7, 2003, a Delegated Letter Order was issued to Midwest ISO requesting clarification of certain provisions contained in its proposal (Deficiency Letter). On December 8, 2003, Midwest ISO filed an amendment to its filing in response to the Deficiency Letter.

7. Notice of Midwest ISO's amendment was published in the Federal Register, 68 Fed. Reg. 74,232 (2003), with comments, interventions and protests due on or before

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<sup>4</sup> PJM II, 94 FERC at 61,889.

December 29, 2003. A timely motion to intervene and comment was filed by Constellation Generation Group, LLC and Constellation Power, Inc. (joint filing). ADM, WEPCO, and Consumers filed comments in response to Midwest ISO's amendment.

## **Discussion**

### **A. Procedural Matters**

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Midwest ISO's answer because it has provided information that assisted us in our decision-making process.

### **B. Schedule 20**

#### **1. Midwest ISO**

10. Midwest ISO proposes a new Schedule 20 under its OATT to address the procurement of station power in three circumstances: (1) by self-supply involving the monthly netting of a facility's gross output whenever the output equals or exceeds station power requirements (on-site self-supply); (2) by treating station power as Network Load to be scheduled and delivered through Network Integration Transmission Service (Network Service) under the OATT, allowing the remote self-supply and the third-party supply of such power; and (3) through bundled retail purchases of station power. A facility that on-site self-supplies its station power requirements (i.e., its monthly net output is zero or positive) will be deemed to have not used, and will not incur charges for, transmission service to provide such station power. If a facility's monthly net output is negative, it will be deemed to have used Network Service and will be subject to the applicable monthly demand charge for Network Service, together with other charges applicable to Network Service, under the OATT.

#### **2. Protestors**

11. Transmission Owners argue that Midwest ISO's proposal to allow Network Service for the delivery of station power is inconsistent with previously accepted provisions requiring Point-to-Point Transmission Service for delivery of station power in PJM and NYISO. Similarly, ITC and METC request that Midwest ISO either revise its methodology for determining the level of Network Service used or require Point-to-Point Transmission Service for the delivery of station power. In addition, Transmission

Owners argue that the proposed station power provisions may be in violation of Order Nos. 888 and 888-A<sup>5</sup> to the extent that station power comprises a portion of a discrete load and the entire load has not been designated as Network Load.

12. Transmission Owners, ITC, and METC state that Midwest ISO's proposal to classify station power as a Network Load does not consistently capture transmission costs associated with station power because Network Service charges will only be assessed if a generator happens to be using station power during the monthly system peak hour and the generator's net energy output for the month is negative. Transmission Owners object to the use of monthly netting to determine whether transmission service has been used to provide station power. They believe that the focus should be on station power load on the system rather than the source of the power or whether the generating facility's monthly output is negative or positive. Similarly, ITC and METC propose that Network Service charges for station power be assessed for monthly system peak load regardless of whether the monthly net output is positive or negative.

13. Transmission Owners state that Midwest ISO does not specify how it will administer the proposed new Schedule 20 or consider the impact on Midwest ISO members. Specifically, they state that: (1) it is not clear how network service will be applied to an independent generator not affiliated with an existing network customer; (2) treating station power as Network Load will result in an increase in Schedule 10 charges under Midwest ISO's OATT as well as the need for additional planned reserves; (3) engineering and technical differences between station power load and Network Load (i.e., differences in power factors) may impact the implementation of the new Schedule 20; and (4) Midwest ISO did not provide any information relating to the effect of the rate schedule change, as required by Section 35.13(c) of the Commission's regulations. Transmission Owners suggest that a technical conference is the proper forum to resolve the issues they raise in their protest.

14. Citing potentially costly application fees and studies, WEPCO argues that facilities currently designated as Network Resources should be exempted from any application and study process to designate their station power requirements as Network Load. WEPCO states that the application and study processes are unnecessary because

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<sup>5</sup> See Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), order on reh'g, Order No. 888-A, 62 Fed. Reg. 12,274 (March 14, 1997), FERC Stats. & Regs ¶ 31,048 (1997), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Policy Study Group, et al. v. FERC, 225 F.3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002).

the transmission capability that exists to deliver power from the facilities as Network Resources is sufficient to allow delivery of station power to the facilities. It also requests that Midwest ISO specify all Network Service charges.

### **3. Midwest ISO's Answer**

15. Midwest ISO acknowledges that its network transmission approach is different from station power proposals accepted for use in PJM and NYISO. However, Midwest ISO points out that, unlike PJM and NYISO, it has yet to implement its Day 2 Energy Market which would include a Locational Marginal Price (LMP) mechanism under which station power load can be supplied and cleared at the LMP. Midwest ISO reiterates that upon commencement of its Day 2 Energy Market, it will review and modify Schedule 20 as needed.

16. Midwest ISO confirms that under its approach, the receipt of station power as part of Network Load will result in transmission charges only if the relevant facility has a negative net output at the time of the coincident monthly peak of the license plate pricing zone where the entity procuring station power as Network Load is physically located. However, Midwest ISO maintains that this result is consistent with the treatment of any other type of load as Network Load under Part III of the OATT. In addition, Midwest ISO clarifies that it intends to designate the entire station power load as Network Load, consistent with Commission precedent on treatment of behind-the-meter generation in Network Load.

17. Midwest ISO also clarifies that its Network Service approach incorporates by reference the existing rules and administrative requirements regarding Network Service established under Part III of the OATT. Accordingly, Midwest ISO argues that there is no reason for it to treat station power designated as Network Load any differently than it presently treats any other load that is designated as Network Load. For example, independent generators or independent power producers not affiliated with an existing Network Service customer can simply enter into a service agreement pursuant to Attachment F, Section 29, and Schedule(s) 9 of Midwest ISO's OATT in order to designate their respective station power loads as Network Load. Midwest ISO argues that Attachment F, Section 29, and Schedule(s) 9 prescribe all the requirements needed to administer delivery of station power through Network Service consistent with the designation of other loads as Network Loads.

18. Midwest ISO argues that the designation of station power as Network Load is no more problematic than the addition of any new Network Load to the system. With respect to planning reserves, the Midwest ISO contends that the result of treating station power as Network Load is not any more of a burden than reserve requirements for any other type of load that is designated as Network Load. With regard to Schedule 10 charges, Midwest ISO asserts that the inclusion of station power as Network Load will

increase the denominator used to calculate Schedule 10 charges and likely reduce Schedule 10 charges. Also, Midwest ISO notes that the Network Service option would result in charges that are not any different from those currently assessed for other kinds of loads designated as Network Load. Accordingly, it argues that no further specificity is needed.

19. Also, Midwest ISO contends that station power does not have unique physical attributes to prevent it from being treated as Network Load. Midwest ISO dismisses Transmission Owners' assertion that the different power factors and voltage requirements of station power load are obstacles to the designation of station power as Network Load. Midwest ISO further contends that Transmission Owners fail to specify any valid engineering reasons to support their claims. Finally, Midwest ISO points out that station power is presently being supplied without any of the alleged problems mentioned by Transmission Owners. Midwest ISO clarifies that the designation of station power as Network Load will be treated no differently from how other requests to designate Network Loads are currently treated by Midwest ISO on its OASIS.

#### **4. Amendment and Comment**

20. The Deficiency Letter requested that Midwest ISO clarify what the billing determinants would be for Network Service used to supply station power. In response, Midwest ISO clarifies that station power service will be billed for Network Service based on the amount of station power determined to have been delivered coincident with the hourly peak load of the applicable license plate pricing zone during that month.

21. In response to Midwest ISO's amendment, WEPCO states that it is concerned with a potential disconnect between the determination of coincident peak load and the determination of whether a generation facility's net output is positive or net negative for the month in question. According to WEPCO, as proposed, it is possible that station power load being supplied by off-site generation during the monthly coincident peak could be included in an entity's peak load figure even though that facility may have net positive output for the month. WEPCO requests, therefore, that Midwest ISO be required to amend the filing to add tariff language clarifying that station power load at the time of the monthly coincident peak shall not be included in an entity's peak load figure, or the peak load figure shall otherwise be reduced by the amount of the station power load, where a facility has a net positive output for the month in question.

22. Constellation argues that the Commission must ensure that Midwest ISO's procedures are consistent, to the maximum extent possible, with the station power procedures approved in PJM and NYISO. Specifically, it argues that Midwest ISO has

not shown why it should not charge non-firm Point-to-Point Transmission Service rates for the delivery of station power as in PJM.<sup>6</sup>

## 5. Commission Determination

23. We find Midwest ISO's proposal to allow for the delivery of station power through Network Service to be reasonable in this situation. While the Commission has accepted proposals by PJM and NYISO that provided for the delivery of station power through Point-to-Point Transmission Service, the Commission did not require Point-to-Point Transmission Service for delivery of station power, but, rather, it accepted the transmission service provisions for station power proposed by the applicants in those cases. Moreover, those cases are distinguishable, as they involved a flexible hourly firm Point-to-Point Transmission Service made possible by the existence of markets with LMP, whereby the customer paid the congestion costs associated with delivery of station power from off-site generation for each market settlement interval and no schedules or reservations were required. In the instant case, where Midwest ISO does not yet operate LMP markets and firm transmission service is physical and must be reserved, we find it reasonable to allow customers to deliver station power through Network Service. Meeting station power requirements through Network Service will provide customers scheduling flexibility and ensure adequate transmission capability to meet station power requirements on the same firm basis as other Network Load and native load.

24. However, we agree with Transmission Owners, ITC and METC that under Midwest ISO's proposal, charges for transmission of station power would not necessarily capture transmission costs associated with delivering station power because Network Service charges will only be assessed if a generator happens to be using station power during the monthly system peak hour and the generator's net energy output for the month is negative. While we accepted station power proposals by PJM and NYISO that applied monthly netting for the purpose of billing the access charge for transmission service, in those instances, customers do not obtain firm service in exchange for paying the access charge. Rather, customers obtain firm service by also paying congestion charges to buy through constraints, based on net output during each sub-hourly settlement interval. Here, where Midwest ISO does not operate markets with LMP and only provides firm service on a physical basis, customers should take and pay for transmission service for their actual use of the transmission system to deliver station power from off-site supply, regardless of the facility's monthly net energy output. For customers delivering station power using Network Service, the charges for such service should be based on coincident peak hourly demand. In addition, we find that customers should also have the option to use Point-to-Point Transmission Service to deliver station power if, for example, they do not wish to commit to the one year minimum term for Network Service or the

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<sup>6</sup> Citing PJM IV at 62,656.

requirements for designation of Network Resources.<sup>7</sup> Accordingly, we will direct Midwest ISO to file to modify Schedule 20, within 30 days of the date of this order, to: (1) eliminate monthly netting for the purpose of determining charges for transmission service; and (2) provide customers the option to meet their station power requirements using Point-to-Point Transmission Service.<sup>8</sup>

25. While we are reaching a different result here than we have in cases involving NYISO and PJM by rejecting monthly netting for the purpose of determining transmission service charges for delivery of station power from off-site supply, this is due to the differences in the way that transmission service is priced between Midwest ISO, which does not operate markets with LMP, and NYISO and PJM, which do operate such markets. Moreover, we emphasize that this finding only relates to the provision of transmission service for off-site supply of station power service; as we explain below, we approve Midwest ISO's proposal to use monthly netting for the purpose of determining whether station power has been self-supplied.

26. We now turn to the appropriate measure of peak hourly demand for Network Service charges for delivery of station power. In its answer, Midwest ISO states that, under its proposal, station power load designated as Network Load will incur transmission charges only if the relevant facility has a negative net output at the time of the coincident monthly peak of the license plate pricing zone where the entity procuring station power as Network Load is physically located. Midwest ISO states that this proposal is consistent with its OATT and with Commission precedent regarding behind-the-meter generation. However, the relevant provisions for Network Service under Midwest ISO's OATT track the Commission's Order No. 888 pro forma OATT, and the Commission made clear in Order No. 888 and its progeny that the entire load at a discreet

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<sup>7</sup> We reject Constellation's suggestion that Midwest ISO should be required to charge its non-firm Point-to-Point Transmission Service rates for delivery of station power. In this regard, Constellation's reliance on PJM IV is misplaced. As we explain above, PJM provides hourly firm service and charges its non-firm transmission access charge plus the cost of congestion. Midwest ISO does not operate markets with LMP, and only provides physical firm and non-firm service. Customers who desire firm transmission service under the Midwest ISO OATT to deliver station power must take Network Service or firm Point-to-Point Transmission Service and pay the rate applied to those services.

<sup>8</sup> Because we are rejecting Midwest ISO's proposal to employ monthly netting to determine whether transmission service has been provided, WEPCO's concern that station power load may be included in an entity's coincident peak load figure even when transmission service is not provided because the generator's net output is positive for the month is moot.

point of delivery must be designated as Network Load, including load served by behind-the-meter generation, regardless of whether the load is served at retail or wholesale.<sup>9</sup> Therefore, Midwest ISO's proposal to base Network Service charges for delivery of station power on the basis of coincident-peak net output is not consistent with its OATT or with Commission precedent. Accordingly, Midwest ISO should include load served by behind-the-meter generation, including station power load met through on-site self-supply, in Network Load when it charges for Network Service.

27. Under Midwest ISO's proposal, generators arrange Network Service to deliver station power under the existing provisions in Part III and Schedule(s) 9 of the Midwest ISO OATT, which include all charges applicable to Network Service. We agree with Midwest ISO that no further clarification is needed in this regard. In addition, we will deny WEPCO's request that facilities currently designated as Network Resources be exempted from the application and study processes for Network Service. The availability of transmission capacity to deliver station power to a facility will depend on the location of the facility and potential network resources to serve station power load of the facility, the impacts of which will not likely match the impacts of reservations from the facility to other Network Loads.

28. Transmission Owners have not identified any reason why station power load should be treated any differently than other Network Load with respect to reliability requirements, and we find none. Nor have they identified any impediments to accommodating the power factor requirements of station power load through Network Service. Any operational requirements unique to station power load can be addressed in the network operating agreements and service agreements applicable to station power load. In addition, given the nature of its filing, we find that information pertaining to the effects of Midwest ISO's proposal is unnecessary as those effects will depend on how generators choose to supply their station power requirements. Finally, with respect to Consumers' concern about double billing, we expect that Midwest ISO will ensure that station power load is not counted more than once in bills for Network Service.

### C. Metering Provisions

29. Midwest ISO proposes to require that generators be responsible for making the proper metering arrangements and for submitting metering information needed by Midwest ISO to verify station power services.

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<sup>9</sup> See Order No. 888 at 31,736; Order No. 888-A at 30,258-261; Florida Power & Light Co., 105 FERC ¶ 61,287 at P 19 (2003). See also Consumers Energy Co., Opinion No. 456, 98 FERC ¶ 61,333 at 62,410 (2002) (affirming Initial Decision that generation located behind the retail meter should be treated the same as generation located behind the wholesale customer's meter with respect to designation of Network Load).

30. WEPCO requests that Midwest ISO clarify whether any new or additional metering information is required and that sufficient time be permitted to budget and plan for metering costs and installation. Transmission Owners, ITC and METC request that Midwest ISO be required to specify metering requirements in the proposed schedule 20.

31. In its answer, Midwest ISO states that it has no objection to including the general metering requirements in the proposed Schedule 20. However, as an alternative, Midwest ISO suggests that the metering provisions should be placed under its Business Practices. Midwest ISO explains that currently the metering requirements are established by individual control areas.

32. We find that the metering requirements for station power service should be included in Schedule 20 of the Midwest ISO OATT. Accordingly, we will direct Midwest ISO to file to revise Schedule 20, within 30 days of the date of this order, to include the general metering requirements for station power service.

#### **D. Definitions**

##### **1. Comments**

33. Several commentators state that Midwest ISO does not define the term “generator” in its filing and uses the terms “generator” and “facility” without clarification as to what the terms actually mean. Exelon questions whether a generator must be comprised of contiguous units for on-site self-supply to occur. WEPCO further points out that the term “generation facilities” is not defined in the proposal. WEPCO states that it interprets this term to mean an entire generation station which may aggregate multiple generation units and meters into one node with netting being done on a nodal basis. It contends that this definition is consistent with provisions of its existing grandfathered Interconnection Agreements. WEPCO contends to do otherwise would, among other things, abrogate the terms of existing agreements without finding that such agreements are not within the public interest. ADM requests clarification that references to “generator” and “generation facilities” include Cogeneration facilities.

##### **2. Midwest ISO’s answer**

34. In response to the concerns about the definition of the terms “generator” and “facility” by Transmission Owners, Consumers, Exelon and WEPCO, Midwest ISO offers to add language to station power provisions defining these terms as follows:

“Generator” means an entity that owns or operates an electric Facility.

“Facility” means an electric generating unit or an electric generating station

composed of one or more contiguous electric generating units aggregated at a single geographical site.

35. Midwest ISO notes that the definition of “Facility” is based partly on the definition of the term in Attachment R to its OATT. In addition, Midwest ISO states that it does not believe that it is necessary to incorporate a “nodal” aggregation concept in the definition of Facility as requested by WEPCO.

36. In addressing the comments of ADM, the Midwest ISO clarifies that the proposed definition of “Facility” is intended to include cogeneration facilities.

### **3. Commission determination**

37. We find that the definitions that Midwest ISO proposes in its answer are satisfactory. Accordingly, we will require Midwest ISO to file to modify Schedule 20, within 30 days of the date of this order, to incorporate these definitions. With respect to WEPCO’s request that customers be able aggregate multiple generators into one node with netting being done on a nodal basis, WEPCO has not provided enough information for us to determine whether such a configuration would allow on-site self-supply of station power.

## **E. Retail Sales**

### **1. Midwest ISO**

38. Part IV of Schedule 20 states, in part, that:

Nothing in this Schedule 20 is intended to: 1) preclude a generator from purchasing Station Power pursuant to an applicable retail rate or tariff; 2) supercede or otherwise bypass an applicable retail rate or tariff; or, 3) supercede otherwise applicable jurisdiction of a state regulatory commission.

### **2. Comments**

39. ADM requests that Midwest ISO clarify or the Commission state that when there is on-site self-supply, the generator will be charged for retail power supplied by the interconnecting utility “only to the extent the amount of power the generator draws exceeds the amount of power it injected.” ADM also requests confirmation that on-site self-supply provisions will apply under Schedule 20 regardless of whether the state where the generator is located has enacted retail choice.

40. Constellation argues that the Commission should direct Midwest ISO to delete numbers 2 and 3 of the above cited provision in Part IV of Schedule 20. It states that the language is not clear and that such language could be used to impose charges not authorized by Midwest ISO's OATT and Commission precedent. It also argues that the Commission should clarify that Midwest ISO's tariff is subject to the same jurisdictional boundaries that apply to the PJM and NYISO tariffs, *i.e.*, even in a state with retail access, retail charges do not apply for the remote self supply of station power if distribution facilities are not utilized for that service.

### **3. Amendment and Comment**

41. The Deficiency Letter requested that Midwest ISO clarify how the provisions in proposed Schedule 20 will determine whether retail sales have been made to supply station power. In response, the Midwest ISO states that so long as there is a positive net output from a generator determined on a calendar month basis, there is no sale of electric power at wholesale or retail. In its comments to Midwest ISO's amendment, ADM explains that it operates commercial industrial sites, some of which contain multiple generating units that are commonly owned by ADM but which interconnect to the Midwest ISO-controlled grid at more than one point. ADM states that, at times, it may desire to service station load at one such generator at one point of interconnection with the output of another such generator located at another point of interconnection by moving that power over the Midwest ISO-controlled grid. ADM states that for the self-supply station power option, on a monthly basis, the Midwest ISO should aggregate output from each on-site generating unit injected into the interconnecting utility's system and then compare that amount to the aggregated amount of electric power withdrawn by the customer from the interconnecting utility's system at that same site. ADM states that to the degree the aggregate amount of electric power withdrawn is less than or equal to the aggregate amount of output injected, there would be no retail sale during that month. ADM states that to the degree the aggregated amount withdrawn during the month exceeds the aggregated amount of output injected during the month, there would be a retail sale of electric power for that net differential.

42. The Deficiency letter also requested the Midwest ISO to indicate all conditions, including state laws or regulations that must be met for generators to be able to engage in each on-site self-supply and remote self-supply of station power. In response, Midwest ISO does not identify any state laws or regulations. In its comments, ADM requests that Midwest ISO amend Schedule 20 to provide that service under that schedule is available regardless of whether a state in which a generator is located has enacted retail choice.

### **4. Commission Determination**

43. In its clarification provided in response to the Deficiency Letter, Midwest ISO indicates that when a generator's net output is positive on a monthly basis, it will be

deemed to have self-supplied station power service and no retail sale of electric energy will have occurred. Midwest ISO also states that its proposal allows remote self-supply from commonly-owned generating facilities, consistent with the Commission's policy established in PJM II and Rumford. However, Midwest ISO's proposal is unclear as to whether monthly netting will be used only to determine whether self-supply has occurred through on-site generation, or whether monthly netting will also be used to determine whether self-supply has occurred through remote generation. The station power rules that we have approved for NYISO and PJM, with which Midwest ISO seeks to be consistent, employ monthly netting to determine whether station power has been self-supplied by either on-site supply or remote supply. We see no reason why the netting period should be different for on-site self-supply and remote self-supply; therefore, we will require that Midwest ISO file to modify its proposal, within 30 days of the date of this order, to clarify that monthly netting will be used to determine whether self-supply of station power has occurred, whether through on-site self-supply or remote self-supply.

44. It appears that ADM owns multiple generators that are located on a common site but that, due to their electrical configuration, require use of the transmission system to deliver station power from one generator to the other at the site. ADM seeks clarification that it will be able to net the output of such generators on a monthly basis to determine whether station power has been self-supplied. While ADM does not provide adequate information about the configuration of the interconnection of such generators to make a definitive determination as to whether supply of station power by one generator to another at the site constitutes remote self-supply or on-site self-supply, our requirement that Midwest ISO modify its proposal to clarify that monthly netting will be used for both remote and on-site self-supply satisfies ADM's request.

45. Consistent with AES Warrior Run, Inc. v. Potomac Edison Company, 104 FERC ¶ 61,051 at P 17, reh'g denied, 105 FERC ¶ 61,357 (2003), we clarify, as Constellation requests, that state-jurisdictional local distribution charges will not apply to the delivery of remotely self-supplied station power when no local distribution facilities are actually used to deliver such supply.<sup>10</sup> We also agree with Constellation that the purpose of the above-quoted provision in Part IV of Schedule 20, that nothing in Schedule 20 is intended to "supersede or otherwise bypass an applicable retail rate or tariff," is unclear and that it could be used to impose charges inconsistent with by the Midwest ISO OATT. Therefore, we will require that Midwest ISO file to modify its proposed Schedule 20, within 30 days of the date of this order, to eliminate this provision. We will allow, as modified, the above-quoted provision in Part IV of Schedule 20 that nothing in Schedule 20 is intended to supersede otherwise applicable jurisdiction of a state regulatory

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<sup>10</sup> Accord AES Somerset, LLC v. Niagara Mohawk Power Corporation, 105 FERC ¶ 61,337 (2003); Nine Mile Point Nuclear Station, LLC v. Niagara Mohawk Power Corporation, 105 FERC ¶ 61,336 (2003).

commission. The Commission's station power rules do not supersede state jurisdiction but merely apply traditional legal boundaries to a complex factual situation; however, to ensure harmonious results in the provision of station power, in the event of a conflict between federal and state tariff provisions the federal tariff provisions must control.<sup>11</sup> Therefore, we will require MISO to modify Part IV to add the phrase, "except in the event of a conflict between federal and state tariff provisions" to the final clause.

46. Finally, we will clarify for ADM that, while the self-supply of station power does not constitute a sale of power, either retail or wholesale, Schedule 20 does not affirmatively create the right to choose a retail supplier of station power in a state in which retail choice has not already been enacted.

**F. Station Power Modification Filing**

47. Midwest ISO notes that the proposed revisions are interim in nature pending the implementation of its Day 2 Energy Market rules. It states that upon implementation of the Day 2 Energy Market rules, station power service will be provided in a manner consistent with the operation of the new market.

48. Constellation requests that Midwest ISO make a filing sixty days after the implementation of its Day 2 Energy Markets addressing the extent to which Midwest ISO station power rules should be modified.

49. We will direct Midwest ISO to file with the Commission, at least sixty days prior to the implementation of its Day 2 Energy Markets, revisions to its station power rules as necessary to accommodate the operation of its Day 2 Energy Markets, or, in the alternative, an explanation of why no such revisions are necessary.

**G. Effective Date**

50. We find good cause to grant Midwest ISO's request to waive the Commission's 60-day prior notice requirement to permit an effective date of October 8, 2003.

The Commission orders:

(A) Midwest ISO's proposed revisions are hereby conditionally accepted, as discussed in the body of this order, to become effective October 8, 2003.

(B) Midwest ISO must submit, within 30 days, a compliance filing that revises Schedule 20 as discussed in the body of this order.

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<sup>11</sup> See Nine Mile Point Nuclear Station v. Niagara Mohawk Power Corp., 105 FERC ¶ 61,336 at P 28 & n.32 (2003).

(C) Midwest ISO must submit a filing, at least sixty days prior to the implementation of its Day 2 Energy Markets, addressing the extent to which the station power rules in the Midwest ISO OATT should be modified to accommodate the operation of its Day 2 Energy Markets.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.