

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission
System Operator, Inc.

Docket No. ER05-802-000

ORDER ACCEPTING TARIFF FILING

(Issued May 26, 2005)

1. In an order dated August 6, 2004, the Commission approved the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed Transmission and Energy Markets Tariff (TEMT), which has allowed the Midwest ISO to initiate Day 2 operations in its 15-state region.¹ The Midwest ISO's Day 2 operations include, among other things, day-ahead and real-time energy markets and a financial transmission rights (FTR) market for transmission capacity. These markets incorporate the major features used successfully in three eastern ISOs – PJM Interconnection, L.L.C. (PJM), New York Independent System Operator, Inc. (NYISO) and ISO New England (ISO-NE).

2. The TEMT II Order approved FTR allocation procedures for the Midwest ISO, including a requirement that the Midwest ISO administer an annual FTR allocation process that is synchronized with the PJM FTR allocation process.² On April 8, 2005, the

¹ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (TEMT II Order), *order on reh'g*, 109 FERC ¶ 61,157 (2004), *order on reh'g*, 111 FERC ¶ 61,043 (2005). The TEMT contemplates that all services provided pursuant to its terms and conditions will be provided by a Transmission Provider. In turn, the TEMT defines "Transmission Provider" as the Midwest ISO or any successor organization. *See* Module A, section 1.320, Original Sheet No. 133. For clarity, we will refer to the Midwest ISO wherever the TEMT refers to the Transmission Provider.

² *See* TEMT II Order at P 194.

Midwest ISO filed several FTR-related tariff revisions that it discussed with stakeholders on March 3 and April 5, 2005 (April 8 Filing). It proposed to implement these tariff revisions during its second annual FTR allocation, which is scheduled to start on June 1, 2005.

3. Today's order accepts the April 8 Filing. This order benefits customers because it provides additional guidance and clarification to the Midwest ISO and its stakeholders regarding the details of the Midwest ISO's Day 2 energy market operations.

I. Background

4. In the TEMT II Order, the Commission accepted certain tariff sheets to be effective on August 6, 2004, subject to conditions and further order. The Commission has since accepted, subject to modification, the Midwest ISO's filings to comply with the TEMT II Order and subsequent orders. Compliance Order I addressed the first two of those filings, which, *inter alia*: (1) proposed to revise the TEMT to eliminate Michigan-specific energy imbalance provisions; (2) developed tariff language for market startup safeguards; (3) modified the FTR allocation process; (4) made new proposals for automatic market power mitigation and control area mitigation; and (5) revised various other aspects of the TEMT.³ The Midwest ISO was required to make further filings to comply with Compliance Order I, some of which the Commission subsequently ruled on.⁴ A filing to comply with Compliance Order I is addressed in a companion to this order.⁵

II. Compliance Filing

5. The April 8 Filing: (1) states that the Midwest ISO will conduct the FTR restoration allocation, but without the delay of requesting nominations for restoration; (2) proposes tariff sheets implementing a process whereby any market participant assigned a counter-flow FTR in the FTR restoration process would have the opportunity

³ *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,285 (2004) (Compliance Order I). Most of these changes were proposed in a Midwest ISO compliance filing dated October 5, 2004 (October 5 compliance filing).

⁴ *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,053 (2005) (Compliance Order IV).

⁵ *See Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,249 (2005).

to convert that counter-flow FTR to a standard FTR by informing the Midwest ISO of its irrevocable decision to do so; and (3) proposes a series of miscellaneous clarifying revisions to the FTR tariff provisions. The Midwest ISO requests an effective date of May 6, 2005, in order that the proposed tariffs be effective for the second FTR allocation period.

6. Notice of the Midwest ISO's April 8 Filing was published in the *Federal Register*, 70 Fed. Reg. 22,021 (2005), with interventions and protests due on or before April 29, 2005. Consumers Energy Company, Wisconsin Public Service Corporation and American Municipal Power – Ohio, Inc. filed timely interventions.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the interventions serve to make the entities that filed them parties to this proceeding.

B. April 8 Filing

1. Background and Compliance Filing

8. The TEMT provides for a tiered⁶ FTR allocation process that starts with market participant nominations, followed by a simultaneous feasibility test by the Midwest ISO that results in an allocation of FTRs. The process also provides, during a transition period, for a restoration process that occurs after the tier II allocation in which FTRs that were nominated but not allocated in tier I and II are restored to the extent possible through the addition of counter flow.

9. In the April 8 Filing, the Midwest ISO proposes tariff changes that would merge the tier II allocation and restoration process by requiring that the restoration be performed as an immediate and incremental step at the end of the tier II allocation. The Midwest ISO recommends that the tier II allocation and restoration processes be merged since market participants have been nominating 100 percent of all eligible FTRs for restoration.

⁶ There are four nomination/allocation tiers. In each tier, FTR nomination eligibility is equal to the maximum nomination eligibility, *i.e.*, total forecast peak load, multiplied by a tier factor less the MW quantity of FTRs allocated in previous tiers. The tier factors are 35 percent (tier I), 50 percent (tier II), 75 percent (tier III) and 100 percent (tier IV).

The Midwest ISO asserts that the restoration will remain as a separate step, but will eliminate the delay in requesting nominations for restoration, thereby reducing the allocation time-line by up to two weeks.

10. In the proposed section 43.2.5.f of the TEMT, the Midwest ISO states it has filed changes to allow for the conversion of counter-flow FTRs to standard FTRs. The Midwest ISO claims that, in some circumstances, the rule that eliminates the financial value of counter-flow FTRs when the source generator is unavailable due to an outage may disadvantage holders of the counter-flow FTRs. Also, states the Midwest ISO, it is possible that a party receiving a counter-flow FTR may have intended to request an FTR during a later stage of the allocation process that matches the counter-flow FTR they were assigned. Therefore, at the March 3, 2005 Market Subcommittee meeting, stakeholders proposed and passed a motion to allow conversion of counter-flow FTRs to standard FTRs.

11. The Midwest ISO also proposes several clarifying revisions to the TEMT. Regarding tier IV procedures, the Midwest ISO adds the phrase “and less Option B GFAs” that was inadvertently omitted, thereby making tier IV allocation and nomination procedures consistent with tier I, II and III procedures. The Midwest ISO also revises section 43.2.5.d, as indicated in italics, to state, “Market Participants shall *also* be eligible for restoration of FTRs where such historical capacity factor or scheduling factor is equal *to* or greater than seventy percent...” so that the TEMT does not exclude from eligibility for FTR restoration those resources that have an historical capacity factor or scheduling factor equal to or greater than 70 percent when all days of the week are considered, but may not meet the 70 percent threshold if only weekdays are considered. The Midwest ISO revises section 43.2.6.a.iv.c, as indicated by italics, to read: “Market Participants that may wish to elect expanded Cost of Congestion relief must nominate Candidate External FTRs up to each Market Participant’s total External FTR nomination eligibility *for which expanded Cost of Congestion relief will be sought* by the end of the nomination process.” This revision, according to the Midwest ISO, clarifies a market participant need only nominate those candidate external FTRs for which relief will be sought. Section 43.7.2 is revised by the Midwest ISO so that Auction Revenue Rights (ARRs) and ARR funding obligations will be allocated on a continuous basis rather than prior to each monthly FTR auction. The Midwest ISO claims it is correcting a typographical error in section 44.1.a by stating that FTR auctions will have a term of one season and not one year. According to the Midwest ISO, sections 44.3.2.a.iv, 44.4.1.a.iv, 45.3.2.a.iv and 45.4.1.a.iv incorrectly defined FTR bids in terms of \$/MWh. In these sections, the Midwest ISO now defines FTR bids in terms of \$/MW. In section 45.1, the Midwest ISO proposes to remove the last two sentences of the first paragraph because they were inconsistent with the April 1, 2005 start date of market operations.

2. Discussion

12. We find the proposed tariff revisions to be acceptable. The proposed changes to merge the tier II allocation and restoration processes will streamline the FTR allocation time-line, thereby providing results sooner to market participants. The proposed change to convert counter-flow FTRs to standard FTRs provides the benefit of potentially reducing the number of counter-flow FTRs that may need to be assigned and reflects stakeholder approval. And, finally, the clarifying revisions to FTR provisions provide additional certainty on allocation procedures, resources eligible for restoration procedures, nominations for congestion relief and other FTR provisions.

The Commission orders:

The Midwest ISO's filing is hereby accepted, to be effective May 6, 2005, as requested.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.