

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.

Waiver of NAESB Standards
(Midwest Independent Transmission
System Operator, Inc.)

Docket No. ER06-1094-002

ORDER GRANTING IN PART, AND DENYING IN PART,
LIMITED REQUEST FOR WAIVER

(Issued January 19, 2007)

1. On June 1, 2006, as supplemented on July 24, 2006, November 3, 2006, and December 13, 2006, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed a limited request for discrete waivers from certain standards adopted by the Commission in Order No. 676.¹ As discussed below, in this order, the Commission grants in part, and denies in part, Midwest ISO's request for waivers.

Background

2. Order No. 676 incorporates into the Commission's regulations, by reference, certain standards promulgated by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) and requires public utilities to comply with these standards and revise their open access transmission tariffs (OATT) to include these standards. The standards establish a set of business practice standards and communications protocols (WEQ-001, 002, and 003) for the electric industry that replace the Commission's existing Open Access Same-Time Information Systems (OASIS) standards, and also include business practices to complement North American Electric Reliability Council (NERC's) reliability standards (WEQ-004, 005, 006, and 007). In addition, Order No. 676 provides that public utilities may seek waiver, in whole or part, of the standards.

¹ *Standards for Business Practices and Communication Protocols for Public Utilities*, Order No. 676, 71 FR 26,199 (2006), FERC Stats. & Regs. ¶ 31,216, *order on reh'g*, Order No. 676-A, 116 FERC ¶ 61,255 (2006).

3. Specifically, Order No. 676 required public utilities to revise their OATTs to include the following WEQ standards: (WEQ-001) – Business Practices for Open Access Same-Time Information Systems (OASIS) Standards; (WEQ-002) – Business Practices for Open Access Same-Time Information Systems (OASIS) Standards & Communication Protocols; (WEQ-003) – Open Access Same-Time Information Systems (OASIS) Data Dictionary; (WEQ-004) – Coordinate Interchange; (WEQ-005) – Area Control Error (ACE) Equation Special Cases; (WEQ-006) – Manual Time Error Correction; and, (WEQ-007) – Inadvertent Interchange Payback.²

4. Order No. 676 also permitted public utilities to request waiver of specific standards by explaining the reasons why the waiver should be granted. Further, Order No. 676 stated that utilities, including ISOs and RTOs that have existing waivers of certain OASIS standards may reapply for such waivers using simplified procedures. These procedures require an applicant to identify the specific standard(s) from which it is seeking waiver and provide the caption, date, and docket number of the proceeding in which it received its waiver. In addition, an applicant must certify that the circumstances warranting its waiver(s) have not changed.³

Midwest ISO's Waiver Requests

5. In its June 1, 2006 waiver request, Midwest ISO requests a waiver of Standards WEQ-004, WEQ-005, WEQ-006, and WEQ-007. In addition, Midwest ISO states that its current business practices are generally consistent with Standards WEQ-001, WEQ-002, and WEQ-003, but requests a temporary, 60-day waiver to these standards so that it can consult with its stakeholders to discuss any significance these standards might have on providing transmission service. Midwest ISO states that, if necessary, it will supplement its waiver request and identify any areas where it requires a specific waiver.

6. On July 24, 2006, Midwest ISO submitted a supplemental waiver request that requests waiver of the following specific requirements of Standard WEQ-001: (1) Standard WEQ-001-4.13 (Table 4-2 Reservation Timing Requirements); (2) certain aspects of Standard WEQ-001-4.16 (Table 4-3 Priorities for Competing Reservation Requirements); and (3) Standard WEQ-001-4.19 (right-of-first-refusal). In addition, Midwest ISO states in its July 24, 2006 submittal that it “expects to be in compliance with the remaining OASIS business practices standards (i.e., WEQ-001 through WEQ-003) adopted in Order No. 676.”

² See Order No. 676 at P 19.

³ *Id.* at P 79.

7. On November 3, 2006, Midwest ISO submitted additional support (an Affidavit of Mr. James F. Pewarski) to support its request for waiver of Standards WEQ-001-4.13, WEQ-001-4.16, and WEQ-001-4.19. On December 13, 2006, Midwest ISO submitted additional information regarding its request for waiver of Standard WEQ-000-4.13 and withdrew its request for waiver of Standards WEQ-001-4.16, WEQ-001-4.19, WEQ-004 and WEQ-007.

Notice of Filings and Responsive Pleadings

8. Notice of the Midwest ISO's June 1, 2006 request for waiver and extension of time was published in the *Federal Register* with comments, interventions, and protests due on or before June 22, 2006.⁴ Wisconsin Electric Power Company (Wisconsin Electric) and WPS Companies⁵ filed timely motions to intervene. Notice of Midwest ISO's July 24, 2006 and November 3, 2006 supplemental submittals was published in the *Federal Register* with comments, interventions, and motions to intervene due on or before December 4, 2006.⁶ Notice of Midwest ISO's December 13, 2006 submittal was published in the *Federal Register* with comments, interventions, and motions to intervene due on or before December 26, 2006.⁷ On December 29, 2006, PJM Interconnection, L.L.C. (PJM) filed a motion to intervene out-of-time.

Discussion

9. As a preliminary matter, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene of Wisconsin Electric and the WPS Companies serves to make them parties to this proceeding.⁸ Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2006) , the Commission will grant PJM's late-filed motion to intervene, given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

⁴ See 71 FR 34,916 (2006).

⁵ Comprised of: Wisconsin Public Service Corporation; Upper Peninsula Power Company; WPS Energy Services Inc.; and WPS Power Development, LLC.

⁶ 71 FR 69,207 (2006).

⁷ 71 FR 78,177 (2006).

⁸ The interventions of Wisconsin Electric and WPS Companies raise no substantive issues.

A. Sixty-Day Filing Extension

10. In its June 1, 2006 filing, Midwest ISO requested an extension of time and a temporary, 60-day waiver of Standards WEQ-001 through WEQ-003 while it undertook further evaluation of the standards. We find that Midwest ISO presented a valid reason for the requested filing extension. The requested sixty day time period has now elapsed and Midwest ISO has fulfilled its commitment to amend its June 1, 2006 filing on or before August 1, 2006.

B. Standard WEQ-001-4.13

11. Standard WEQ-001-4.13 establishes timing requirements applicable to reservation requests. Midwest ISO argues that the timing requirements established in this standard are inconsistent with the timing requirements contained in Attachment J of the Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT). Midwest ISO argues that changing the timing requirements in Attachment J will have a negative "domino effect" on various internal and external processes in the Midwest ISO. In this regard, Midwest ISO notes that the timing requirements in Attachment J reflect agreements under the Joint and Common Market Initiative it entered with PJM and that adhering to the standard could adversely affect this initiative.

12. Midwest ISO further argues that Attachment J requirements are clearly superior as compared to those set forth Standard WEQ-001-4.13, in that Attachment J timeframes offer the customer wider submission windows as well as longer lead times in some instances for submitting transmission service reservation requests while reducing the Midwest ISO's evaluation time. Midwest ISO notes that, in Order No. 676, the Commission recognized that the business practice standards it adopted were "minimum standards and all public utilities, including ISOs and RTOs, can provide customers with more flexibility than afforded by the standards."⁹

13. We will grant Midwest ISO's waiver request because, based on its filing, its current practices exceed those required by Standard WEQ-001-4.13. The NAESB standards represent the minimum requirements that utilities must meet, but utilities can provide customers with more flexibility than that required by the NAESB standards. The Commission approved Attachment J of Midwest ISO's TEMT, which contains timing provisions that are not identical to those in Standard WEQ-001-4.13.¹⁰ We agree with

⁹ Midwest ISO's November 3, 2006 filing at 5, citing Order No. 676 at P 81.

¹⁰ The Commission conditionally approved Midwest ISO's TEMT in *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163, *order on reh'g*, 109 FERC ¶ 61,157 (2004). In the rehearing order, the Commission stated that,

Midwest ISO that its Attachment J timeframes meet or exceed (*i.e.*, are more advantageous to the customer) the requirements of Standard WEQ-001-4.13 as the Attachment J timeframes offer customers wider submission windows as well as longer lead times in some instances for submitting transmission service reservation requests while reducing the Midwest ISO's evaluation time.¹¹ We also agree with Midwest ISO that efforts to resolve seams issues between neighboring RTOs/ISOs should be encouraged. We, therefore, conclude that Attachment J exceeds the minimum standards required by Standard WEQ-001-4.13 and will grant Midwest ISO's request for a waiver of Standard WEQ-001-4.13.

C. Standards WEQ-001 through WEQ-003

14. With respect to the requirements in Standard WEQ-001 not specifically discussed above, and with respect to Standards WEQ-002 and WEQ-003, Midwest ISO stated, in its initial waiver request, that its current business practices are generally consistent with these standards.¹² However, it reserved the right to raise specific concerns about these standards in its forthcoming supplemental waiver request. As it turned out, Midwest ISO's supplemental waiver request did not raise any specific concerns about Standards WEQ-001 through WEQ-003 (with the exceptions noted above). In any event, the time period for this request for temporary waiver has elapsed and we direct the Midwest ISO to implement the remainder of Standard WEQ-001 and Standards WEQ-002 and WEQ-003 in their entirety as required by Order No. 676.

D. Standard WEQ-005

15. Standard WEQ-005, the Area Control Error (ACE) Equation Special Standards, requires each Balancing Authority to manage its Area Control Error in accordance with NERC reliability standards and provide additional requirements for the ACE equation. Midwest ISO argues that it currently does not act as a balancing authority and does not

Attachment J requires that firm and non-firm transmission schedules be submitted 30 minutes prior to the hour, in place of the previous 20 minutes deadline. We agree with AMP-Ohio that Midwest ISO has provided no justification for this change, and therefore we direct the schedule be returned to a 20-minute deadline. We will require the Midwest ISO to submit revised tariff sheets that reflect this change. [109 FERC ¶ 61,157 at P 417.]

¹¹ Pewarski Affidavit at P10 and Exhibit 1.

¹² Midwest ISO Initial Waiver Request at 9.

currently provide any of the functions addressed by this standard.¹³ We will grant Midwest ISO's request for a waiver of this standard.

E. Standard WEQ-006

16. Standard WEQ-006, the Manual Time Error Correction Standards, specifies the procedure to be used for reducing time errors. Midwest ISO argues that, in the past, NERC accorded it deference if it deviated from NERC standards for time monitoring, because it provided these services to all users at no cost. It argues that, the adoption of Standard WEQ-006 will deny it this flexibility and, therefore, could result in significant financial penalty exposure in the event of a deviation. Thus, it requests a waiver giving it the discretion to deviate from this standard.

17. We will deny Midwest ISO's request for waiver of this standard. NERC Reliability Standard BAL-004-0 states that "[t]he Interconnection Time Monitor shall monitor Time Error in accordance with the NAESB Time Error Correction Procedure." While the Commission has not yet taken final action adopting NERC Standard BAL-004-0, we are not persuaded to grant Midwest ISO a waiver of Standard WEQ-006, absent Midwest ISO obtaining a waiver from NERC of this reliability standard.¹⁴

The Commission orders:

Midwest ISO's request for waiver and extension of time are granted in part, and denied in part, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

¹³ There are currently 36 balancing authorities performing balancing functions within the Midwest ISO region. All of these balancing authorities will be required to comply with NERC's ACE standards when these standards are adopted by the Commission.

¹⁴ The Commission has issued a notice of proposed rulemaking proposing to approve 83 of 107 proposed Reliability Standards developed by NERC, including Standard BAL-004-0. See *Mandatory Reliability Standards for the Bulk-Power System*, 71 FR 64,770 (2006), FERC Stats. & Regs. ¶ 32,608 at P 184 (2006). Final action on this rulemaking is currently pending.