

126 FERC ¶ 61,232  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Acting Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Michigan Public Power Agency

Docket No. EL06-80-004

v.

Midwest Independent Transmission  
System Operator, Inc.

ORDER DISMISSING COMPLIANCE FILING AS MOOT

(Issued March 19, 2009)

1. We address here a report (Compliance Report) filed by the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) in compliance with the Commission's February 6, 2007 order.<sup>1</sup> The Compliance Report concerns treatment of generation offers from jointly-owned generating units. As discussed below, we will dismiss the Compliance Report as moot in view of the Commission's recent acceptance of tariff revisions to the Midwest ISO Open Access Transmission, Energy and Operating Reserve Markets Tariff (ASM Tariff).<sup>2</sup>

**Background**

2. These proceedings originated as a dispute between the Michigan Public Power Agency (Michigan Public Power) and Midwest ISO over the latter's charging the former for power scheduled from a generating unit owned jointly by Michigan Public Power,

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<sup>1</sup> *Michigan Pub. Power Agency v. Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,083 (2007).

<sup>2</sup> With Commission acceptance of Midwest ISO's proposals for an Ancillary Services Market (ASM), effective January 6, 2009, the Midwest ISO Open Access Transmission and Energy Markets Tariff, or "TEMT," became the Open Access Transmission, Energy, and Operating Reserve Markets Tariff, or "ASM Tariff." *See Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,321 (2008).

Consumers Energy, and the Wolverine Power Supply Cooperative (Wolverine).<sup>3</sup> The generating unit suffered an unexpected outage on December 7, 2005. Consumers Energy, the operator of the unit, notified the other two joint owners of the outage. It also instructed Midwest ISO to change the unit's status from "must run" to "unavailable" in the Energy Market Portal, and to change Consumers Energy's standing entitlement to the unit's power in the day-ahead market to zero. Michigan Public Power and Wolverine did not similarly change their standing entitlements in the day-ahead market to zero.<sup>4</sup> This caused Midwest ISO to continue to treat the unit as "must run" for the Day-Ahead market. Midwest ISO ignored Consumers Energy's share of the unit's output, and divided *pro rata* between Michigan Public Power and Wolverine the costs associated with providing 300 MW (the unit's minimum operating capacity). These costs were the difference between the Real-Time Locational Marginal Price and the Day Ahead Locational Marginal Price, and Revenue Sufficiency Guarantee charges.

3. The Commission resolved the dispute by finding that Michigan Public Power was responsible only for costs associated with its entitlement to 39 MW from the unit.<sup>5</sup> It directed Midwest ISO to revise the TEMT to clarify the ownership responsibilities and processes for dynamic scheduling<sup>6</sup> of jointly-owned units.<sup>7</sup>

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<sup>3</sup> Michigan Public Power Complaint, Docket No. EL06-80-000 (June 23, 2006). The three owners' standing day-ahead schedules of power from the generating unit are: Consumers Energy – 279.93 MW, Michigan Public Power – 39 MW, and Wolverine – 15.5 MW.

<sup>4</sup> Michigan Public Power changed the generating unit's commitment status in the Midwest ISO Energy Market to "unavailable," but did not "zero out" its scheduled amount of power from the unit. Wolverine notified Midwest ISO of the outage by telephone but did not change the unit's commitment to "unavailable" or "zero out" its scheduled amount of power.

<sup>5</sup> *Michigan Pub. Power Agency v. Midwest Indep. Transmission Sys. Operator, Inc.*, 116 FERC ¶ 61,137 (2006) (2006 Order), *order on reh'g and rejecting compliance filing*, 118 FERC ¶ 61,083 (2007) (2007 Order).

<sup>6</sup> Dynamic scheduling of generation allows a generator to move, via telemetry, generation from one control area and place it in another control area. Under the Midwest ISO TEMT, the dynamic scheduling option available to owners of jointly-owned units treated the unit as a single physical unit in the Midwest ISO network model but allowed the joint owners to submit separate offers of generation for the unit, subject to the requirement that they use their best efforts to coordinate these offers.

<sup>7</sup> 2006 Order, 116 FERC ¶ 61,137 at P 33-34.

4. Midwest ISO filed proposed tariff sheet revisions (Proposed TEMT Revisions).<sup>8</sup> Midwest ISO also stated that permitting owners of a jointly-owned unit to make separate offers from the unit was causing unintended costs and complications. Therefore, Midwest ISO planned to consult with owners of jointly-owned units about amending the TEMT to remove their ability to submit separate offers of generation and requiring instead a single offer, financially binding on all joint owners.<sup>9</sup> In view of Midwest ISO's planned actions, the Commission rejected the Proposed TEMT Revisions. It directed Midwest ISO to proceed with its plan to consult with joint owners of generating units about changing the existing scheduling procedures, and to make a further compliance filing with proposed tariff changes.<sup>10</sup>

5. Midwest ISO filed, on August 6, 2007, the Compliance Report. In the Compliance Report, Midwest ISO reported the status of its consultation with affected stakeholders concerning jointly-owned units. It stated that, because its forthcoming ASM infrastructure could not support the dynamic scheduling of jointly-owned units, it planned to eliminate this option in its ASM proposal. Midwest ISO would continue the existing treatment of dynamically-scheduled jointly-owned units for the interim until Commission approval and implementation of the ASM.<sup>11</sup>

6. Notice of the Compliance Report was published in the *Federal Register*, 72 Fed. Reg. 46,053 (2007), with interventions and protests due on or before August 27, 2007. Wisconsin Public Power Inc. and the Southern Minnesota Municipal Power Agency filed timely motions to intervene and comments. Midwest ISO filed a motion for leave to answer and an answer.

7. In September 2007, Midwest ISO filed its revised proposal for an ASM.<sup>12</sup> In that filing, Midwest ISO proposed to end the ability of individual owners of jointly-owned units to enter dynamic schedules for all or a part of their interests in a jointly-owned unit. The Commission, while modifying and conditionally accepting the ASM, rejected the proposal concerning jointly-owned units without prejudice to Midwest ISO's right to file a revised proposal after discussions with affected stakeholders.<sup>13</sup>

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<sup>8</sup> Midwest ISO filing, Docket No. EL06-80-002 (September 11, 2006).

<sup>9</sup> 2007 Order, 118 FERC ¶ 61,083 at P 17; Proposed TEMT Revisions at 5.

<sup>10</sup> 2007 Order, 118 FERC ¶ 61,083 at P 34-35.

<sup>11</sup> Compliance Report at 3, 5-8.

<sup>12</sup> Docket Nos. ER07-1372-000 and ER07-1372-001.

<sup>13</sup> ASM Order, 122 FERC ¶ 61,172 at P 379 (Midwest ISO had insufficiently

8. On July 11, 2008, after stakeholder consultations, Midwest ISO filed proposed revisions (July 2008 Revisions)<sup>14</sup> to its ASM Tariff regarding dynamic scheduling of jointly-owned units. The Commission conditionally accepted these tariff revisions.<sup>15</sup>

### Discussion

9. Under 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 filing them parties to this proceeding. With Commission acceptance of the July 2008 Revisions that eliminated the option to dynamically schedule jointly-owned units, Midwest ISO has satisfied the Commission's directive, in the 2007 Order, to propose changes that prevent re-occurrence of situations like the one that occurred here, i.e., Midwest ISO relied on a generator in the day-ahead market even though the operator of the generator notified Midwest ISO that the generator was not available.<sup>16</sup> Additionally, the Compliance Report, which did not propose any tariff revisions and concerned only the interim period until the Commission accepted tariff revisions concerning dynamically-scheduled jointly-owned units, has become moot. We will therefore dismiss the Compliance Report.

### The Commission orders:

The August 6, 2007 compliance filing in this proceeding is hereby dismissed as moot.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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addressed the concerns raised by Consumers Energy, Michigan Public Power, and Michigan South Central Power Agency).

<sup>14</sup> Docket Nos. ER08-1252-000 and ER08-1252-001.

<sup>15</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,368 (2008). Action is currently pending on the compliance tariff revisions that Midwest ISO filed in Docket No. ER08-1252-002.

<sup>16</sup> 2007 Order, 118 FERC ¶61,083 at P 33.