

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Midwest Independent Transmission)
System Operator, Inc.)**

Docket No. ER08-1169-000

Comments of the Organization of MISO States Inc.

Pursuant to the Federal Energy Regulatory Commission's (Commission) Rule 211 Rules of Practice and Procedure 18 C.F.R. 385.211, the Organization of MISO States (OMS) hereby submits the following comments concerning The Midwest Independent System Operator's (Midwest ISO) June 26, 2008 Electric Tariff Filing regarding Interconnection Queuing Practices.

In 2003, the Commission issued Order No. 2003 to standardize the agreements and procedures related to the interconnection of generating facilities capable of producing more than 20 megawatts of power. In Order No. 2003, FERC sought to balance the need to prevent undue discrimination with the need for resource development, system reliability and just and reasonable rates.

Many regions, including the Midwest ISO footprint, are experiencing numerous issues in attempting to manage their interconnection queues. The increased volume of new proposed generation development is hindering the current queue management approach for interconnections under Order No. 2003. Additionally, as many states begin to comply with newly enacted Renewable Portfolio Standards (RPS), additional stress will be placed on the interconnection queue. On December 11, 2007 the Commission held a staff technical conference to seek comments regarding Order No. 2003 and the procedures in place for interconnection onto the transmission system.

The state regulatory panel at the technical conference held December 11, 2007, included speakers representing the states of North Dakota and Iowa. The state regulatory panel as well as other regional panelists maintained a high level consensus on several points regarding queue reform. Furthermore, the OMS has been active in the Midwest ISO stakeholders' Interconnection Process Task Force.

On March 20, 2008, after receiving comments from numerous stakeholders, the Commission issued an Order on the Technical Conference finding that some transmission providers are not processing their interconnection queues within the expected time frames intended in Order No. 2003. In the Order on the Technical Conference the Commission agreed to allow RTOs/ISOs to develop and submit solutions to their individual queue related problems.¹ Pursuant to the Technical Conference Order, the Midwest ISO submitted its Electric Tariff Filing regarding Interconnection Queuing Practices on June 26, 2008.

I. The OMS Support for Interconnection Queue Process Improvements

The OMS appreciates that the Midwest ISO and its stakeholders have been able to achieve what appears to be a highly workable interconnection queue reform proposal during a short period of time. The OMS member states are pleased to have been able to participate in that process and believe the resulting proposal for a milestone based approach can speed up some interconnections.

The OMS expects the addition of a new pre-queue phase should help reduce the number of premature interconnection requests while better educating customers and hopefully improving the high drop-out rate that is aggravating the present process. Additionally, it appears the improved feasibility study screening for impacted facilities and the resulting ability for simpler interconnections in less congested areas to proceed directly to the definitive planning phase will be major improvements. The OMS believes these practices may help reduce some of the long wait times being experienced.

The OMS supports the proposed deposit modifications and increases that better reflect the amount and timing of actual study costs, recognize that larger projects cost more to study, and that should decrease speculative queue entries. The addition of restudy deposits when entering the Definitive Planning Phase should help mitigate impacts from restudies necessary for projects behind those that withdraw from the queue during this late stage of the process and should also help decrease the number of speculative entries in the present process. Additionally,

¹ Compliance Filing of the Midwest Independent System Operator, Inc. Regarding Interconnection Queue Management FERC Doc. AD08-2-000.

security requirements proposed for the cost of network upgrades determined necessary in the System Planning and Analysis Review should further lessen the impacts of suspension and late-stage withdrawals.

The OMS supports the proposed addition of a Force Majeure requirement for suspension, thus eliminating delays caused by the present ability to suspend projects for up to three years without good cause shown. Interconnection customers would still have an extended six month grace period to achieve commercial milestones plus a three-month period prior to signing the interconnection agreement during which transmission upgrade costs would be known from the facilities study.

Overall, the OMS believes the Midwest ISO stakeholders have achieved a solid queue reform proposal. However the problem remains that process reform alone can only go so far toward resolving underlying transmission constraints.

II. The Midwest ISO's Interconnection Queue Process Proposal Will Not Significantly Increase the Interconnection of Proposed Generation in Transmission Export-Constrained Areas.

The Midwest ISO's witness, Eric Laverty testified as follows regarding the likely beneficiaries of the Midwest ISO's proposed interconnection queue process changes:

“Preliminary indications are that improvements to the generator interconnection process will address existing process issues and allow some existing interconnection requests to proceed at a faster pace by bypassing requests that require a lengthier solution development timeframe or requests that are not ready to proceed. The benefits of the process improvement are expected to primarily accrue, in the near-term, to those generation projects that are located in areas where the interconnection solutions are relatively straightforward (i.e., no or few network upgrades needed). However, queue reform is one step towards improving the efficiency of the interconnection process. The physical component of the issue will be the focus of the next phase of the queue reform process where methods to identify transmission projects to interconnect large amounts of remote generation will be developed.” (Prepared Direct Testimony of Eric Laverty at 28, lines 4-15, underlining added.)

Although Mr. Laverty acknowledges that the benefits of the Midwest ISO's queue reform proposal are expected to primarily accrue to generators interconnecting in areas that do not

require transmission upgrades, he also explains that the Midwest ISO is proposing changes to its queue policy so that “projects located where significant transmission constraints exist will not be permitted to delay interconnection of other projects that could otherwise move ahead but for a lower queue position.” (Prepared Direct Testimony of Eric Lavery at 30, lines 7-9.) Mr. Lavery explains that, “In areas where transmission is unavailable, it is expected that changes to the generator interconnection process will result in a slight reduction in the time required to process an interconnection request as the limiting factor in those areas is a physical problem, not a process problem.” (Prepared Direct Testimony of Eric Lavery at 31, lines 6-9.)

The implication of these statements, taken together, is that, while the Midwest ISO is proposing procedures that will help prevent developers of projects in an export constrained area from holding up lower queued projects that are also seeking interconnection, these proposed procedure changes are not likely to increase actual interconnections in transmission export constrained areas. While the Midwest ISO’s proposed changes in this regard may produce a slight reduction in the time required to process an interconnection request in transmission export constrained areas, they are not likely to produce much benefit because the basic problem in export constrained areas is a physical problem and not a process problem.

III. The Need for New Transmission

The Midwest ISO and its stakeholders have long recognized that transmission export constraints are hindering generation interconnection in many parts of the footprint. It is not expected that queue process reform can do much to improve interconnections in areas where there simply are not enough wires. In an ongoing effort to address these known transmission deficiencies, the Midwest ISO released an “Open Season” white paper introducing a concept of proposing projects to relieve specific constraints and allowing generators to sign up for capacity in the projects. A targeted Regional Generator Outlet Study and Narrow Constrained Area study were initiated this past spring and other studies are in progress. The OMS urges the Midwest ISO and all parties to continue to work hard towards resolving the underlying transmission constraints that are inhibiting the development of cost effective electric energy production. The

OMS is looking forward to analyzing the results of studies underway as well as to an increased MTEP focus towards resolving these interconnection inhibiting constraints.

IV. Reporting Requirements

The OMS recommends the Midwest ISO's interconnection queue process reform proposal be approved with annual reporting requirements to help measure its effectiveness:

1. The number of interconnection requests withdrawn after the Application Review Phase begins and before the feasibility study begins, in absolute terms and as a percentage of the total. (6-26-08 Filing, Pg. 7-8)
2. The number of projects that moved ahead of requests entered earlier in the interconnection queue. The first ready, first served instead of first come, first served principle. (6-26-08 Filing, Pg. 4, 16-17)
3. For projects that moved ahead in the interconnection queue, the average number of requests superseded. (6-26-08 Filing, Pg. 4, 16-17)
4. Number of times the cost of Network Upgrade or \$5 million suspension fee is imposed. (6-26-08 Filing, Pg. 5, 18)
5. The number of interconnection requests moving from the Feasibility study to the System Planning stage. (6-26-08 Filing, Pg 8-9)
6. The number of interconnection requests that move from the Feasibility Study directly to the Definitive Planning stage (the "fast track"). (6-26-08 Filing, Pg. 8-9)
7. The number of cases in which a developer makes multiple interconnection requests for the same project. (6-26-08 Filing, Pg 12)
8. The number of interconnection requests withdrawn during the Definitive Planning Phase. (6-26-08 Filing, Pg 11)
9. The number of interconnections requests making the \$100,000 fee in the Application Review Phase in lieu of demonstrating site control. (6-26-08 Filing, Pg. 14)
10. The number of interconnection requests delayed and average length of the delay for requests failing to attain milestone requirements needed to enter into the Application Review Phase.

11. The number of interconnection requests delayed and average length of delay for requests failing to attain milestone requirements needed to proceed to the Facilities Study portion of the Definitive Planning Stage
12. The number of interconnection requests delayed and average length of the delay for requests failing to attain milestone requirements needed to enter into the Definitive Planning stage.
13. The number of interconnection requests which complete the Definitive Planning stage and average length of time in queue for such requests.
14. Average length of time in queue for those interconnection requests at (A) less than 6 MW (B) greater than or equal to 6 MW and less than or equal to 20 MW (C) greater than 20 MW and less than or equal to 50 MW (D) greater than 50 MW and less than or equal to 500 (E) greater than 500 MW and less than or equal to 1000 MW and (F) greater than 1000 MW which complete the Definitive Planning stage.
15. Number of interconnection requests at (A) less than 6 MW (B) greater than or equal to 6 MW and less than or equal to 20 MW (C) greater than 20 MW and less than or equal to 50 MW (D) greater than 50 MW and less than or equal to 500 (E) greater than 500 MW and less than or equal to 1000 MW and (F) greater than 1000 MW which entered the queue.

V. Conclusion

In conclusion, the OMS recommends the Commission approve the Midwest ISO's interconnection queue process reform proposal with reporting requirements as outlined above.

The OMS submits these comments because a majority of the members have agreed to generally support them. Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments. The following members generally support these comments.

Iowa Utilities Board
Kentucky Public Service Commission
Michigan Public Service Commission
Minnesota Public Utilities Commission
Missouri Public Service Commission
Montana Public Service Commission
North Dakota Public Service Commission
Public Utilities Commission of Ohio

South Dakota Public Utilities Commission
Wisconsin Public Service Commission

The Illinois Commerce Commission, the Indiana Utility Regulatory Commission, the Manitoba Public Utilities Board, the Nebraska Power Review Board, and the Pennsylvania Public Utility Commission did not participate in this pleading.

The Indiana Office of Utility Consumer Counselor, the Iowa Office of Consumer Advocate and the Minnesota Office of Energy Security,² as associate members of the OMS, participated in these comments and generally support these comments.

Respectfully Submitted,
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Dated: July 17, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Des Moines, Iowa, this 17th day of July 2008.

William H. Smith, Jr.
William H. Smith, Jr.

² The Minnesota Office of Energy Security now exercises the consumer advocacy functions previously performed by the Minnesota Department of Commerce.

APPENDIX

Some of the OMS member states have observed the following potential areas of concern³ and urge the Commission to consider these issues as it reviews the Midwest ISO's currently proposed interconnection queue process modifications and contemplates additional Midwest ISO generator interconnection reforms that may be filed in the future:

1. The Midwest ISO's Milestone Based Process May Be More Likely to Benefit Incumbent Generation Companies, Vertically Integrated Utilities, and Large Development Companies.

The Midwest ISO's witness, Mr. Lavery, explains that the Midwest ISO is proposing to change from a first-in first-out queue process to a "first-ready, first served" approach to queue management. (Prepared Direct Testimony of Eric Lavery at 34-36.) Mr. Lavery observes,

A first-in first-out queue process is an efficient and fair way to divide up the limited resource of transmission capacity, all else being equal. However, available transmission capacity is one element among many required for a successful project. Others include land availability, fuel availability, sale arrangements (or appropriate business plan), turbine availability, and financial backing, among others. . . . The disaggregation of transmission issues from the other components of a successful project is one of the flaws in the current queue process. To resolve this issue, the Midwest ISO proposes a milestone based queue process, which allows developers that have resolved the other issues surrounding project development to move ahead of those who have not. This effort will incorporate the transmission issues facing a project with all the other efforts involved with a project, and will incent developers to place all these issues on the same project schedule, rather than treat transmission issues separately from other development issues. Re-aggregating these issues will give developers a more realistic critical path in their project plan. (Prepared Direct Testimony of Eric Lavery at 35-36.)

Because the Midwest ISO's proposed queue management proposal has the effect of re-aggregating the multiple elements associated with generation development projects, the proposed

³ OMS members voicing these concerns include the Iowa Utilities Board, the Montana Public Service Commission, and the Public utilities Commission of Ohio.

changes may be more likely to benefit incumbent generation companies and vertically integrated utilities (and companies affiliated with such companies) more than, for example, non-affiliated small merchant development companies. Incumbent generation companies and vertically integrated utilities may be more likely to be able to make the required showings regarding milestone issues such as land availability, fuel availability, sale arrangements (or appropriate business plan), turbine availability, and financial backing.

When crafting the milestones in the proposed tariff revisions, the Midwest ISO attempted to balance the interests of large and small generation developers (e.g., adjusting deposit requirements). Nonetheless, the milestones may be more difficult for smaller generators to meet. The OMS does not have specific recommendations to address this issue, but urges the Commission to keep this issue in mind as it considers the Midwest ISO's filings and the comments from other parties.

2. The Midwest ISO's Generator Interconnection Study Process Does Not Appear to Take Economics into Account.

Mr. Lavery explains the Midwest ISO's proposed system planning and analysis phase stating,

For requests to site generation in areas that are so constrained that significant upgrades are required to connect generation, we have created the System Planning and Analysis Phase. In this phase, more traditional expansion planning studies will be done to optimize the network upgrades by developing upgrades that can connect "bunches" of interconnection requests, rather than repetitively developing incremental upgrades for each sequential interconnection request. Upon completion of this phase, the project will move into the Definitive Planning Phase. (Prepared Direct Testimony of Eric Lavery at 33, lines 3-10.)

If the generation interconnection study process is conducted based only on traditional engineering considerations without taking into account economic considerations (i.e., the studies

take as a given the continuation of all existing generation megawatts on the system regardless of their dispatch economics), the queuing backlog problem may be exacerbated. In some circumstances, the entry of new lower cost generation may have the effect of economically displacing older higher cost generation in most, or all, hours of the year. If the economics of the existing generation set is not taken into account, then it may be likely that the interconnection studies would flag a need for more transmission upgrades than would actually be necessary, given the possible displacement of some existing generation that may be rendered uneconomic by the new generator entry. If this circumstance happens a lot, it could be contributing to the generator queue backlog as prospective new entrants attempt to avoid being tagged with the responsibility to fund transmission upgrades. Consequently, one remedy could be to modify the interconnection study process to take into account economic variables such as the dispatch economics of the existing generation versus the prospective new entrant. Admittedly, this approach would be difficult to implement given uncertainties in the dispatch modeling and changes in generation economics and system topology over time. Therefore, additional stakeholder discussions would be needed to address this issue and devise a proposed solution.

3. The Midwest ISO’s Milestone Based Process, Working Together with the Midwest ISO’s Generator Interconnection Study Process, May Exacerbate Existing Generation Supplier Concentration in the Midwest ISO Wholesale Energy Market.

The 2007 State of the Market Report issued by the independent market monitor for the Midwest ISO (Dr. David Patton) describes the current supplier concentration in the Midwest market. (State of the Market Report at 220-221). Supplier concentration is an indicator of the extent of structural pre-conditions for competitive markets. The Herfindahl-Hirschman Index (“HHI”) for several identified Midwest ISO sub-regions in Dr. Patton’s State of the Market

Report is well over the 1,800 threshold for highly concentrated markets. The remaining identified sub-regions have HHIs over 1,300.

In light of the concerns discussed above, some OMS member states question whether the Midwest ISO's proposed queue reform process will reduce the level of supplier concentration in the Midwest market, particularly where significant transmission upgrades are needed. The proposed reforms may actually work to increase supplier concentration by further advantaging incumbents.