

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission)
System Operator, Inc.)

Docket No. ER03-1118-000

COMMENTS OF THE
ORGANIZATION OF MISO STATES

Pursuant to Rule 211 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. 385.211, the Organization of MISO States (“OMS”) submits comments in response to the above-captioned filing submitted by the Midwest Independent Transmission System Operator (“MISO”) on July 25, 2003.

I. INTRODUCTION

The OMS was incorporated on May 28, 2003. It is an organization of those states and Canadian provinces within which the MISO provides or oversees electric transmission, market operations, reliability, security and other transmission system operating services as a regional transmission

organization approved by the Commission. The OMS provides a means for the MISO states to act in concert, when deemed to be in the common interest of their affected publics, on activities, such as (but not limited to) data collection and dissemination, issue analysis, policy formulation, advice and consultation, decision-making and advocacy, related to (i) the electricity generation and transmission system serving the MISO states, (ii) the MISO's operations, (iii) related Commission matters, including (but not limited to) open access, RTO and market design initiatives, and (iv) the jurisdiction and role of the MISO states to regulate and promote the electric utilities and systems within their respective boundaries.

OMS members include the North Dakota Public Service Commission, Illinois Commerce Commission, Missouri Public Service Commission, Michigan Public Service Commission, Iowa Utilities Board, Kentucky Public Service Commission, Indiana Utility Regulatory Commission, Minnesota Public Utilities Commission, Montana Public Service Commission, Nebraska Power Review Board, South Dakota Public Utilities Commission, Pennsylvania Public Utility Commission, Ohio Public Utilities Commission, Wisconsin Public Service Commission, and the Manitoba Public Utilities Board.¹ These agencies regulate retail electric service provided by the MISO's member utilities, and are state commissions, as that term is defined in Section 3 of the Federal Power Act and in the Commission's Rule of Practice and Procedure 18 C.F.R. Sec. 1.101(k).

¹ *The Minnesota Department of Commerce, as an associate member of the OMS, supports these comments and participated in the preparing of these comments.*

II. BACKGROUND

On December 17, 2002, the MISO filed with the Commission a Petition for Declaratory Order (Petition). The MISO sought the Commission's approval of preliminary market rules regarding the MISO's energy markets. Specifically, the proposed market rules provided for: (1) day-ahead and real-time energy markets based upon a security-constrained, centralized bid-based scheduling and dispatch system, and locational marginal pricing (LMP); (2) Financial transmission rights (FTRs) for hedging transmission congestion costs; and (3) market settlement rules.²

On February 24, 2003, the Commission issued an Order that generally approved the MISO's Petition.³

On July 25, 2003, the MISO submitted to the Commission the Third Revised, First Volume of the MISO's Open Access Transmission and Energy Markets Tariff ("TEM"). The MISO states that the purpose of the filing is to comply with the Commission's February 24, 2003 declaratory order and to submit for filing with the Commission those terms and conditions necessary for the implementation of the MISO's day-ahead, real-time energy markets and FTR energy markets (hereinafter collectively referred to as the "Energy Markets") on March 31, 2004.⁴ The MISO further states that the TEM contains certain revisions to the existing provisions of the MISO

² Petition for Declaratory Order of the Midwest Independent Transmission System Operator, Inc. Docket No. EL03-35, (December, 2002).

³ Midwest Independent Transmission System Operator, Inc., 102 FERC ¶ 61,196 (2003).

⁴ Transmittal Letter, at 1.

OATT necessary for the implementation of the Energy Markets and the continued provision of transmission service within the MISO footprint.⁵

On July 30, 2003, the Commission issued a Notice of Filing regarding the MISO's TEMT filing and set the deadline for comments and intervention at August 15, 2003. On August 7, 2003, in response to numerous requests, the Commission extended the deadline for filing comments and interventions to September 15, 2003.

In an effort to receive additional stakeholder feedback and discuss the filing, the MISO conducted a technical conference on August 28, 2003, in Carmel, Indiana.⁶

III. OMS POSITION AND RECOMMENDATION

The OMS believes that the TEMT is a strong first step towards MISO's establishment of a competitive wholesale electricity market in the Midwest. The OMS acknowledges the amount of consultation and discussion between the MISO and its stakeholders that has gone into the development of the TEMT since the MISO's December 2002 market rules filing. The MISO has pledged to continue its efforts to accommodate the needs of state regulators in its region, as well as refine the TEMT to better meet the needs of its stakeholders.⁷

The OMS is encouraged by the direction that the TEMT is headed. However, as discussed below, key issues need to be addressed for a properly functioning, competitive wholesale market

⁵ Ibid.

⁶ Transmittal Letter, at 2.

to be established in the MISO's footprint. The MISO's pledge to take a cooperative approach regarding the development, implementation and fine-tuning of the terms contained in the TEMT encourages the members of the OMS. The OMS believes that a properly configured TEMT will ultimately serve as the cornerstone of a competitive wholesale electricity market that benefits all stakeholders in the Midwest. Accordingly, the OMS stands ready to assist both the Commission and the MISO in achieving this goal.

IV. DISCUSSION

A. *FINANCIAL TRANSMISSION RIGHTS (FTRS)*

As part of its congestion management system, and similar to the mechanisms developed in PJM and New England ISO, the MISO TEMT will create financial transmission rights.⁸ The OMS is interested in this issue, as FTRs will be an important tool for market participants to effectively hedge against the costs of congestion on the transmission system.

The TEMT states that the MISO is working with its stakeholders to develop equitable initial FTR allocations. The MISO states that it anticipates making a Section 205 filing on October 15, 2003 to provide FTR allocation methodologies. The allocation of FTRs is a contentious issue and the OMS is encouraged by the MISO's efforts to work with affected stakeholders to arrive at a

⁷ Ibid, at 2.

⁸ Financial Transmission Rights are financial instruments, awarded to a bidder in either an auction or allocation process. Initially, the thought would be for the MISO to allocate transmission rights based on their existing load obligations. FTRs entitle the holder to a stream of revenues (or charges) based on the difference between the hourly Day Ahead Location Marginal Energy Price at the Delivery Point less the LMP at the Receipt Point of the FTR.

workable solution. While the OMS will reserve comments on the issue of FTR allocation until the MISO's October 2003 filing, the OMS cannot overstate the importance of FTRs in the energy markets proposed by the MISO. Accordingly, the OMS urges the Commission to resolve the issues surrounding the initial allocation of FTRs prior to the start-up of the markets.

The OMS recognizes that the TEMT will contain a congestion management program that expressly recognizes the cost of congestion. The OMS also understands that customers have always paid for congestion but that payment was never as explicit as MISO's proposed market design will make it. The MISO's Tariff for congestion management and FTRs is intended to reduce the use of Transmission Loading Relief (TLR) processes that entail physical interruptions/curtailment of transactions (or the threat of interruptions) to alleviate congestion. Historically, all customers paid the cost of using TLRs to manage congestion, but these costs were often implicit and not always readily apparent. The OMS supports the increased market transparency built into MISO's proposed market design.

The OMS supports the MISO's plans to establish and develop a secondary market for FTRs through a monthly auction in which market participants will be able to sell FTRs that they currently own, or bid for FTRs that they wish to own, on a voluntary basis. Allowing holders of FTRs to freely trade FTRs through an active secondary market should produce numerous benefits such as providing FTR holders with both the opportunity and incentive to manage their FTRs to their full potential.

The TEMT proposes to provide FTRs to market participants that fund network upgrades. The OMS supports this proposal and agrees with the MISO that the allocation of FTRs to parties that fund network upgrades should provide an incentive for market participants to invest in transmission system upgrades that will enhance the capability of the transmission grid.

The OMS general philosophy regarding FTRs is the need to recognize that the customers of utilities “built the grid” and are, therefore, entitled to continuing use of the grid under risk profiles equivalent to current circumstances. Therefore, FTRs should be made available to these customers for developing a hedge strategy against congestion costs. The Commission stated in its White Paper: “we want to ensure that existing customers retain their existing transmission rights and retain rights for future load growth.”⁹ Furthermore, the White Paper states that consumers are to be “held harmless” from the dramatic policy change the move from LMP/FTRs represents.¹⁰ The OMS intends to work with the MISO and MISO's stakeholders to develop an allocation policy that recognizes this fundamental tenet for consumer protection. The OMS recognizes that the framework for the allocation policy must be sufficiently flexible to accommodate retail access, traditional regulation, public power, investor-owned utilities, and the merchant power sector.

Based on observations of existing RTO energy markets, the OMS expects most incidences of transmission congestion to be unpredictable. The OMS recognizes, however, that there are some areas that suffer from persistent load pockets and predictable congestion. For areas of persistent and predictable congestion, it may be necessary to provide, at least for a period of time, a flexible

⁹ *FERC Docket RM01-12 000, dated April 28, 2003, at 5.*

¹⁰ *Ibid.*

response to congestion management, FTRs, and/or a more assertive market power mitigation strategy than would otherwise apply to such a load pocket to allow sufficient time for new infrastructure and demand response to ameliorate the market problems associated with such load pockets.

B. MARKET MONITORING

1. The Commission should not allow the MISO to eliminate the Market Monitoring Plan and the Market Power Mitigation Measures from the MISO's Tariff

There is an inextricable relationship between the wholesale and retail markets. Accordingly, the OMS is concerned about the lack of a Market Monitoring and Market Mitigation component in the TEMT. The MISO's TEMT filing effectively deletes the market monitoring plan and the market power mitigation measures from the MISO's Tariff. Regardless of whatever vague promises are made to replace it later, the Commission should not allow such a lapse to occur. In particular, at Section III (C) of its Cover Letter, the MISO states:

Module D of the Energy Markets Tariff will contain the provisions found in Attachments S and S-2 of the current MISO Tariff. The MISO is not, at this time, including in the Energy Markets Tariff the Market Mitigation Measures currently on file with the Commission as Attachment S-2 to the MISO OATT. In an effort to limit confusion and to allow the full adjudication of the issues surrounding the filing of the MISO Market Mitigation Measures, given the ongoing proceedings in Docket No. ER03-323-000, these provisions have been excluded from the Energy Markets Tariff. The MISO will include the Market Mitigation Measures, including any amendments directed by the Commission, in the Energy Markets Tariff in its supplemental filing in early 2004, at which time it is anticipated that the Commission will have issued an Order in Docket No. ER03-323-000.

The MISO's statements about future filings do not change the fact that what the MISO proposes is unacceptable. The MISO submitted an empty Module D in its TEMT filing to serve as a placeholder for market monitoring and market power mitigation. However, the effect is that the MISO has actually struck out Attachments S and S-2, which are currently FERC-approved aspects of the MISO's existing OATT. The MISO's filing replaces Attachments S and S-2 with nothing other than a vague promise to "file replacements later." Acceptance of the TEMT filing by the Commission would mean the temporary deletion of the market monitoring plan and the market power mitigation measures from the MISO's Tariff. The OMS is strongly opposed to such an arrangement. Accordingly, the OMS recommends that the Commission direct the MISO to retain the existing Attachments S and S-2 until such time as a formal filing is made to replace the language in those attachments.

2. *The Importance of Independent Market Monitoring and Market Mitigation to the OMS*

Because of the inextricable relationship between the wholesale and retail markets, the OMS is interested in the "Market Monitoring and Market Mitigation" component of the MISO Tariff. The OMS notes that, while the MISO withdrew the Market Monitoring segment from this Tariff filing for the sake of expedience, the OMS considers market monitoring and mitigation to be an integral component of the MISO's Tariff. The OMS will, therefore, be vigilant in reviewing this Tariff provision. The OMS fully intends to work in close coordination with the Market Monitor and to safeguard the "independence" of the market monitoring process from market participants

and, even, actions by the RTO affecting the selection or retention of the Independent Market Monitor.

3. OMS Interest in Market Mitigation Protocols

The OMS is interested in protecting consumers by taking those measures necessary to develop and protect a fair and robust wholesale power market. As such, the OMS expects to work closely with the FERC, the Market Monitor, the MISO, market participants and other federal or state agencies as the OMS deems to be appropriate to ensure that mitigation measures strike an appropriate balance between protection for consumers and the market while providing fair treatment for energy suppliers.

C. SECURITY CONSTRAINED UNIT COMMITMENT

The Security Constrained Unit Commitment (SCUC) is in the tariff in Module C, in section 38.1.7. There were initially some concerns that the SCUC was not going to be addressed until after the start of the market because it was not initially contained in the Market Protocols. However, the MISO has incorporated this issue in its Market Protocols and has made a commitment to get the SCUC prior to the start of the market. The OMS supports this commitment and appreciates the MISO's efforts to ensure that the SCUC is incorporated prior to the start of the market. There are still some concerns regarding SCUC - unit commitment, unit decommitment and proper incorporation of the SCUC into the MISO's market monitoring plan.

However, given the MISO's commitment, the OMS is confident that these concerns will be addressed by the MISO, both in the short-term and prior to the start of the market.

The MISO provided, in both its transmittal letter and in Module C, that the use of a SCUC process to clear the Day-Ahead Energy Market is preferred because it allows the MISO to develop Day-Ahead Schedules with the total least-cost resources commitments while accounting for start-up and no-load costs.¹¹ The objective of the SCUC process is to optimize dispatch for cost to load and return for resources, taking into account the fixed start-up and no-load offers of the resources, incremental energy offers, system and unit constraints, identified operating reserves, and dispatch based on the incremental energy-offer curves submitted in offers and bid-in demand.

The MISO stated in its filing that the adoption of the SCUC process to clear the Day-Ahead Energy Market furthers the Commission's goal of creating seamless transactions across the northeast and will be consistent with the day-ahead energy markets operated by PJM, NYISO, and New England ISO. The aforementioned concerns notwithstanding, the OMS generally supports the MISO's proposal regarding SCUC.

D. RESOURCE ADEQUACY

The MISO provides in its filing that Module E of the Energy Markets Tariff has been reserved for those provisions addressing generation resource adequacy. Pursuant to the Commission's Order on Petition for Declaratory Order in Docket No. EL03-35-000, *Midwest Independent*

Transmission System Operator, Inc., 102 FERC ¶61,196, (February, 2003), at p. 50, the MISO is required to file information regarding how resource adequacy will be achieved including, at a minimum, an express date by which resource adequacy provisions will be adopted.¹² The MISO provides in its filing that while no definitive actions regarding resource adequacy have been taken by the MISO, significant strides have been made towards the development of resource adequacy provisions through the MISO's involvement with the MISO Supply Adequacy Work Group (SAWG), which is currently addressing key issues related to this matter.¹³ The MISO expects to file with the Commission a Module E addressing this issue in May of 2004 with an anticipated effective date in October of 2004.

The MISO further provides in its filing that recently this effort was energized by the formation of the OMS, which has formed a workgroup to deal specifically with the issue of resource adequacy with the MISO.¹⁴

The OMS Resource Adequacy and Capacity Markets Workgroup is involved in determining what each of the RRO requirements for MAPP, ECAR and MAIN are and how, if at all, they will change once the market starts (expected March 31, 2004). The OMS is in the process of laying the groundwork for determining what Resource Adequacy requirements in the MISO should look like in the near future and how they should be implemented.

¹¹ Transmittal Letter, at 27.

¹² *Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶61,196, (February, 2003), at p. 50

¹³ Transmittal Letter, at 16

¹⁴ *Ibid.*

The OMS will continue to work with the SWAG and MISO to develop the necessary resource adequacy provisions.

E. ZONAL VS. NODAL PRICES

The use of zonal pricing for purposes of locational marginal pricing (LMP) may have an undesirable effect on retail access programs. Specifically, all alternative retail electric suppliers operating within a zone would face the same price for wholesale electricity throughout the zone. Consequently, the alternative retail electric suppliers would have little basis to compete with the incumbent utility. Such an outcome would be to the detriment of states such as Illinois, Michigan and Ohio that are attempting to cultivate effective retail access programs within their states.

In short, the main complaint with the use of a zonal price is that it violates one of the basic tenets of the LMP approach - that market participants be exposed to clear price signals and be allowed to respond accordingly. The use of individual nodes, on the other hand, would increase efficiency by providing a clear price signal to all market participants. Moreover, the use of nodal prices facilitates the creation of trading hubs by market participants. As evidenced by PJM and also the natural gas industry, the creation of trading hubs increases market liquidity and competition. Accordingly, the OMS recommends that the Commission direct the MISO to require the use of nodal pricing (trading hubs as necessary) for open access states, unless individual state authority dictates otherwise. For non-open access states, the flexibility of zonal pricing or hubs should be allowed as provided in the TEMT.

F. SCHEDULES 16 & 17

It is the OMS's understanding based on discussions with the MISO that the Commission's pending paper hearing issues on cost allocations and billing for Schedules 16 and 17 will be incorporated into the TEMT, to the extent changes are necessary, once the Commission's Order is issued in that proceeding (Docket No. ER02-2595-000). The issue of assigning costs on a cost-causative basis (i.e. assigning costs where possible to the user(s) of the services) is an important concept that the OMS believes should be considered as cost assignment is addressed in the future in order to ensure an efficient market.

G. BILATERAL CONTRACTS AND SELF SCHEDULED GENERATION ISSUES

Section 38.3 of the TEMT provides that Generation Owners and Load Serving Entities may not submit energy schedules, bids or offers, or submit FTR bids or offers, if they do not become Market Participants. If Generation owners intend to make their resources available to the Transmission Provider without qualifying as Market Participants, they must enter into an agreement with a Market Participant. Similarly, a Load Serving Entity (LSE) that does not qualify as a Market Participant may have its load served through the MISO energy market if it enters into an agreement with a Market Participant. However, current LSEs can be Market Participants as long as creditworthiness standards are met.

These limitations on direct participation in the energy market appear reasonably related to legitimate needs of the Transmission Provider. Market Participants must meet creditworthiness standards, must be subject to market monitoring, must assume liability for transactions, and other obligations identified in Section 38.2. It is important that communications between the MISO and Market Participants follow protocols. The Market Participant requirement is designed to assure that compliance.

The MISO's requirement to become a Market Participant allows the MISO to have knowledge of all flows on the system and to identify a clear entity for settlement purposes. MISO's proposal to allow scheduling only through Market Participants gives the Transmission Provider knowledge needed for maintaining control of the system.

It is the OMS's understanding that LSEs will be able to self-schedule or use bilateral contracts to serve their load the same way as is done today. This approach is supported by the MISO's comments in its transmittal letter at page 21 which states: "Market Participants will be provided maximum flexibility to continue to engage in transactions outside of the Energy Markets to serve all or part of their load. Similarly, Market Participants will continue to have the option of serving their load with their own resources. Bilateral Transactions Schedules represent the MW quantities of Energy committed from a given resource (injection) to serve a specific load (withdrawals) at specified times of the operating day." Additionally, from a non-open access state prospective LSEs must continue to serve load with existing generation and bilateral contracts when they continue to be the lowest cost resources. It is with this understanding that the OMS supports the MISO's Market Participant language.

H. EXCESS TRANSMISSION CONGESTION REVENUE

Section 39.3.4.c.i and ii Determination and Disposition of Excess Congestion Charges

The proposed tariff, Section 39.3.4.c.i and ii, Determination and Disposition of Excess Congestion Charges, includes language specifying the proposed methodology for allocating the excess congestion charge fund. The OMS finds that it is premature to comment on this language at this time. Currently, the MISO is working with its stakeholders to develop the rules for the initial allocation of FTRs. Once the final rules for the initial allocation of FTRs are developed and filed with the Commission for approval, the OMS will be in a better position to provide comment on this issue as the final initial allocation rules may greatly affect the OMS response. As a result, the OMS requests that the proposed language in Section 39.3.4.c.i and ii not be approved until such time as the final initial allocation rules are filed with the Commission and parties have been given the opportunity to comment.

Section 39.3.5 Determination and Disposition of Day-Ahead Marginal Losses revenue Surplus

The proposed tariff, Section 39.3.5, Determination and Disposition of Day-Ahead Marginal Losses Revenue Surplus, includes a brief paragraph that states that the surplus revenue from Day-Ahead Marginal Losses should be allocated to Market Participants obligated to supply Real-Time Load. Without commenting on the proposed language, the OMS would like to bring to the

Commission's attention that this issue is still being addressed through the MISO stakeholder process. Once the stakeholder process develops its proposed rules for this issue and makes a filing with the Commission for approval, the OMS will be better able to provide comments at that time. As a result, the OMS requests that the proposed language in Section 39.3.5 not be approved until such time as the final rules regarding the determination and disposition of day-ahead marginal loss revenue surplus are filed with the Commission and parties have been given the opportunity to comment.

I. ACCESS TO MARKET DATA BY STATE COMMISSIONS

The ability of State Commissions to fully satisfy statutory obligations regarding the monitoring of the competitiveness of wholesale electric markets and protecting retail customers from the exercise of market power hinges on access to market participant transaction data and information in the regional energy markets administered by the MISO. Section 38.7.3 of Module C of the MISO's proposed EMT states:

38.7.3 Disclosure to the Commission and State Regulatory

Commissions

Notwithstanding any provisions of this Section 38.7 to the contrary, if the Commission, any State regulatory commission or their respective staff, during the course of an investigation or otherwise, requests information from the Transmission Provider that is otherwise required to be maintained in confidence pursuant to this Tariff, the Transmission Provider shall provide the requested information to the Commission, any State regulatory commission or their respective staff, within the time provided for in the request for information. In providing the information to the Commission any State regulatory commission or their respective

staff, the Transmission Provider may, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by the Commission and its staff and that the information be withheld from public disclosure.

The MISO's decision to recognize the importance of transmission and power market data and information to state regulators and to increase the availability of that data and information to state regulators upon request is a very welcome development. The competitiveness of electric markets and protection of retail customers from the exercise of market power depends on access to market data and information. However, MISO has not gone nearly far enough in this regard. Section 38.7.3 provides only that "the Transmission Provider," i.e., MISO, shall provide to state regulators upon their request confidential data and information maintained by MISO pursuant to the Tariff. However, much of the data and information of interest to state regulators will not be collected and maintained by MISO, rather it will be collected and maintained by the Market Monitor.

Attachment S of MISO's existing tariff contains MISO's market monitoring plan. Section 6.3 of Attachment S states,

Upon request from a State Regulatory Agency for confidential data or information that the IMM [Independent Market Monitor] received from a Market Participant, the IMM shall promptly notify the Market Participant that provided the data and shall not release the confidential data or information without prior written consent from the Market Participant.

The effect of Section 6.3 of Attachment S is directly contradictory to the spirit of MISO's proposed Section 38.7.3. In particular, Section 6.3 of Attachment S holds the legitimate public interest objectives of state regulators hostage to the parochial interests of private market

participants. Section 6.3 of Attachment S must be revised consistent with the public interest spirit of MISO's Section 38.7.3.

J. GRANDFATHERED AGREEMENTS

One significant change by the MISO that was not discussed in the stakeholder process was requiring "Grandfathered Contracts" to utilize the MISO's scheduling procedures, be subject to LMP for the purpose of congestion pricing and be entitled to receive FTRs to manage congestion costs.¹⁵

The OMS recognizes that this proposal is the simplest solution to ensure that the MISO is informed of all energy flows across its footprint. The OMS also recognizes that the holders of grandfathered agreements should be ensured that adequate FTRs are allocated to them to ensure that substantial cost risk shifts do not occur as a result of moving to the proposal suggested by the MISO, the same as the needs for all LSEs.

Issues regarding grandfathered contracts are not likely something that can be finalized today, but will need to be further addressed in the development of the energy market and the initial allocation of FTRs to ensure those holding grandfathered agreements or LSEs are not harmed relative to their existing risk profile. The OMS is interested in continuing to address this issue with the MISO and other stakeholders.

K. STATE ESTIMATOR

In its Order issued on November 22, 2002, the Commission expressed its preference for the MISO to incorporate a state estimator in its LMP model and “gain experience” with its state estimator.¹⁵ The MISO’s proposed market footprint consists of several control areas that are wholly or partially contained in four NERC regional reliability councils: ECAR, MAIN, MAPP and SPP. Although these reliability councils use state estimators, none of the reliability councils’ state estimators sufficiently represents all the control areas within the MISO’s proposed footprint. Moreover, the reliability councils’ state estimators primarily have been used to assess network security – not to support the LMP-related functions over a region containing numerous control areas and data connections, as the MISO proposes. Thus, for purposes of the MISO’s proposed market initiative, the MISO must create a new network model of larger scale and scope than existing models. The Commission should require the MISO to demonstrate, by meeting quantitative performance criteria, that its state estimator is sufficiently robust and accurate for its and neighboring systems and for the purposes required by the MISO’s proposed market initiative – network security and real-time market operations.

The MISO has not yet demonstrated, using objective quantitative performance measures that its state estimator is reliable for its entire footprint, much less for neighboring systems. Recent information from the MISO shows that its state estimator is capable of producing solutions about 90 percent of the time with about 95 percent of those solutions being feasible. In comparison, for example, PJM’s state estimator solves correctly over 99 percent of the time. A model like the

¹⁵ Transmittal Letter, at 22 and Module C.

¹⁶ Midwest Independent Transmission System Operator, Inc., 101 F.E.R.C. ¶61,221 (2002), p. 72.

state estimator that needs to produce feasible solutions every five minutes should be extremely robust and able to handle real-time data errors. In other words, the Commission should require the MISO to develop a “production quality” state estimator model. At its current state, the MISO’s state estimator is not sufficient to instill complete confidence for market start-up. However, recent reports by MISO indicate that MISO is making progress and taking steps to both assess and improve the quality of the MISO estimator model.¹⁷

One area of OMS concern relates to MISO’s “backup plan” for periods of time when its state estimator does not produce feasible solutions. Such a backup plan must be sufficiently detailed and understood well by system operators and market participants and it must be satisfactory for network security as well as market purposes. Given the difficulties and uncertainties associated with creating a state estimator for the MISO and neighboring systems, it is critical for the MISO to establish an appropriate, coherent backup plan for situations where its state estimator fails.

The OMS recognizes that the MISO has implemented and continues to implement a number of processes and tools to improve the network model and state estimator solution. For example, in order to keep the network model up-to-date, the MISO has implemented a web-based tool that the Transmission Owners now use to submit their transmission network changes to the MISO. In addition, the MISO has created an Energy Management Systems (EMS) Task Force that provides stakeholders a forum to discuss EMS network model and state estimator related matters with the goal of improving the network model and the state estimator solution. Further, MISO network

¹⁷ See, *Midwest Independent Transmission System Operator, Inc., Informational Filing Pursuant to Order in Docket No. ER02-2595, (July 23, 2003)*.

model engineers are implementing tools that should assist the operations engineers and security coordinators to assess the quality of the model and the state estimator solution on a daily basis.

L. ENERGY MARKET MILESTONES – PERFORMANCE MEASURES & METRICS

In a better effort to monitor the MISO's progress regarding the energy market, and to ensure that adequate steps are being completed prior to implementation of the energy market, stakeholders requested performance milestones to be put in place. On August 13, 2003, in Docket ER03-1118, the MISO filed an informational filing containing 73 milestones and metrics with the Commission. The MISO indicated in its information filing that it is in the process of retaining an independent third party (Readiness Advisor) to monitor achievement of each milestone.

The OMS appreciated the MISO's responsiveness in putting together these 73 milestones and metrics. The OMS is currently reviewing the milestones and metrics contained in the filing. The OMS intends to coordinate this review with the OMS Market Rules and Implementation Timelines Workgroup in an effort to continue to monitor these milestones and metrics, which, as the MISO has indicated, are open to further revision if deemed necessary and appropriate.

V. CONCLUSIONS

The OMS is generally encouraged by the direction that the TEMT is headed. However, as discussed above, there are key issues that still need to be addressed if a properly functioning,

competitive wholesale market is to be established in the MISO's footprint. Specifically, the OMS recommends the following:

1. Require the issue regarding the initial allocation of FTRs to be resolved prior to the start of the market. FTRs must be allocated to recognize that customers of utilities built the system and are entitled to continued use of the grid under comparable risk profiles.
2. Direct the MISO to keep the market monitoring plan and the market power mitigation measures that are currently in the MISO's tariff in place until the Commission accepts a replacement proposal.
3. Accept MISO's general proposal to include a Security Constrained Unit Commitment as a feature of the start-up market design. However, the details regarding the SCUC need to be worked out as discussed above.
4. Allow the MISO, MISO's Supply Adequacy Work Group and the OMS Resource Adequacy and Capacity Markets Workgroup to continue working towards a solution regarding what resource adequacy measures in the MISO should look like in the near future and how they should be implemented.
5. Direct the MISO to require the use of nodal pricing (trading hubs as necessary) for open access states. For non-open access states the flexibility of zonal pricing or hubs should be allowed as provided in the TEMT.
6. Require incorporation into the TEMT of the Commission's cost allocation decisions when an Order is issued for Schedules 16 and 17. Support cost causation when assigning costs to ensure an efficient market.

7. Accept MISO's definition of a "Market Participant" with the understanding that bilateral contracts and self-scheduled generation can continue to serve load as is done today (lowest cost resource obligation to serve load for non-open access states).
8. Do not approve language in Sections 39.3.4.c.i and ii or 39.3.5 until final initial allocation rules are filed with the Commission and parties have been give the opportunity to comment.
10. Direct the MISO to modify Section 6.3 of Attachment S to be consistent with the spirit of Section 38.7.3 of Module C.
11. Allow the OMS, the MISO and other interested stakeholders to continue to address the issues surrounding grandfathered contracts.
12. Direct the MISO to address concerns regarding the state estimator as discussed above. Require the MISO to ensure that the state estimator is both reliable and providing "production quality" solutions prior to the start of the market.

The OMS believes that a properly configured TEMT will ultimately serve as the cornerstone of a competitive wholesale electricity market that benefits all stakeholders in the Midwest and accordingly, stands ready to assist both the Commission and the MISO in achieving this goal.

The comments made by the OMS are initial comments to create a starting point for further discussion and are not the final comments of the OMS regarding several of the issues contained in these comments. As these issues are further developed by MISO and its stakeholders the OMS looks forward to participating in that process and further developing its comments as appropriate.

The Organization of MISO States submits these comments since a majority of the members have agreed to generally support them. The following members generally support these comments, but reserve the right to file clarifying comments or minority reports on their own regarding the issues discussed in these comments:

- North Dakota Public Service Commission
- Illinois Commerce Commission
- Missouri Public Service Commission
- Michigan Public Service Commission
- Iowa Utilities Board
- Indiana Utility Regulatory Commission
- Minnesota Public Utilities Commission
- Montana Public Service Commission
- Pennsylvania Public Utility Commission
- South Dakota Public Utilities Commission

Members not participating in these comments are:

- Kentucky Public Service Commission
- Manitoba Public Utilities Board
- Nebraska Power Review Board
- Ohio Public Utilities Commission
- Wisconsin Public Service Commission

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