

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

**Midwest Independent Transmission System
Operator, Inc. and
PJM Interconnection, L.L.C.**

Docket No. ER04-375-007

**REPLY BRIEF OF
ORGANIZATION OF MISO STATES**

Pursuant to the Federal Energy Regulatory Commission's (Commission) September 17, 2004 *Order Establishing Briefing Schedule and Dismissing Complaint* in this proceeding, the Organization of MISO States (OMS) respectfully submits its reply brief.

I. Background

On September 3, 2004, Exelon Corporation, American Electric Power Service Corporation, and Ameren Corporation (jointly, Movants) filed a pleading for clarification, or in the alternative, rehearing of the Commission's August 5, 2004, Order on rehearing, clarification, and compliance and the underlying March 18, 2004, Order conditionally accepting a Joint Operating Agreement (JOA) between Midwest ISO and PJM. Specifically of concern was the methodology for allocating remaining flowgate capacity between MISO and PJM. On September 17, 2004, the Commission issued an order requiring Midwest ISO and PJM to file briefs and allowing other parties to file briefs on this issue. Several parties, including Midwest ISO and PJM filed briefs on October 7, 2004.

II. Summary of Comments

The Organization of MISO States agrees with Midwest ISO and PJM that a

negotiated process to determine the methodology for the forward allocation of flowgates is appropriate. The JOA was developed through a collaborative effort and continuing this collaborative effort would be in keeping with the spirit already established for the JOA. A Midwest ISO/PJM stakeholder process, as proposed by PJM, would allow all parties to have input into the process and would provide an opportunity for more alternatives to be reviewed.

III. Comments

OMS has continually supported Midwest ISO's efforts to establish seams agreements with all entities that have a seam with Midwest ISO.¹ The Midwest ISO/PJM JOA is the most developed of the seams agreements and has been conditionally accepted by the Commission. However, there is general acknowledgement that the JOA is still under development and that there will be issues, such as this one, that will need to be addressed.²

In their pleading, Movants, while acknowledging that the JOA allocation process for flowgate capacity is needed to assure system reliability in the real-time and day-ahead timeframe, have expressed concern over the allocation of flowgates for new transmission service requests.³ Although Movants do not believe that any allocation process for new transmission service requests is needed, they have proposed an alternative method for the forward allocation of the flowgates.⁴

Midwest ISO does not support a change in the 50/50 split that Midwest ISO and

¹ Notice of Intervention and Comments of the Organization of MISO States in ER04-691, May 7, 2004.

² See, for example, Notice of Intervention of the Organization of MISO States in ER04-375, January 20, 2004.

³ Motion for Clarification, or in the Alternative, Rehearing and Conditional Complaint of Exelon, American Electric Power Service Corporation and Ameren Corporation, page 2.

⁴ Exelon, AEP and Ameren, page 13 – 16.

PJM have agreed to⁵, but does share the concern of several of the parties that service could be denied even though there is remaining capacity on the flowgate. Midwest ISO has been discussing the concern with PJM and believes that a resolution can be reached. As Midwest ISO points out the JOA reflects a “negotiated modus vivendi” and this process should be continued.⁶

PJM states that Midwest ISO and PJM have initiated a system to alleviate the concerns raised by Movants. PJM and Midwest ISO coordinate when a new service request can not be granted due to the flowgate allocation.⁷ PJM opines that a more systematic approach, rather than the coordinated method now in use, would provide greater certainty to market participants and transmission owners. To this end, a stakeholder forum would be an appropriate and proper place to resolve this issue. A stakeholder forum would provide for the consideration of alternatives beyond the one proposed by Movants in this proceeding.⁸

OMS has supported the JOA process for all entities that have a seam with Midwest ISO. The Midwest ISO/PJM JOA has been in use for some time now and has provided guidance to the operation of both Midwest ISO and PJM. The JOA was developed through a negotiated process. OMS believes that that process should continue to be used to move the JOA forward. Midwest ISO and PJM have both proposed that a negotiated process be used to resolve this issue. PJM has specifically offered to coordinate a joint stakeholder process. OMS supports a joint stakeholder process to resolve this issue. A stakeholder process, through its very nature of involving many

⁵ Initial Brief of the Midwest Independent Transmission System Operator, Inc., page 20.

⁶ Initial Brief of the Midwest Independent Transmission System Operator, Inc., page 23.

⁷ Brief of PJM Interconnection, L.L.C., page 2.

⁸ PJM, page 6.

parties, offers an opportunity for a variety of options and viewpoints to be considered. At this point, there is very limited information available on what should be considered in the resolution of this issue. A stakeholder process can boost all of the participants' knowledge and can lead to a solution that is satisfactory to a large number of the parties. For these reasons, OMS supports the establishment of a stakeholder process to resolve the issues in this proceeding.

IV. Conclusion

Wherefore, the Organization of MISO States respectfully submits this Reply Brief and requests the Commission to establish a stakeholder process to resolve the issues in this proceeding.

The Organization of MISO States submits these comments because a majority of the members have agreed to generally support them. The following members generally support these comments. Individual OMS members 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
Michigan Public Service Commission
Wisconsin Public Service Commission
Iowa Utilities Board
Minnesota Public Utilities Commission
Pennsylvania Public Utility Commission
South Dakota Public Utilities Commission
Indiana Utility Regulatory Commission
Illinois Commerce Commission

For procedural reasons, these members are not able to express a formal position at this time:

Montana Public Service Commission
Nebraska Power Review Board
Ohio Public Utilities Commission

Kentucky Public Service Commission
Missouri Public Service Commission

Members not participating in these comments are:

Manitoba Public Utilities Board

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

Respectfully Submitted,

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Dated: October 18, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served the foregoing Reply Brief on all parties on the official service list compiled by the Secretary in this proceeding.

Dated at Des Moines, Iowa, this 18th day of October, 2004.

William H. Smith, Jr.

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