

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

**Midwest Independent Transmission            )           Docket ER08-637-000**  
**System Operator, Inc., et.al.                )**

**NOTICE OF INTERVENTION AND COMMENTS**  
**OF THE ORGANIZATION OF MISO STATES**

**I. Introduction**

On March 4, 2008, the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) filed an application (“Application”) with the Federal Energy Regulatory Commission (“Commission”) for approval of Module F to its Open Access Transmission and Energy Markets Tariff (“Midwest ISO Energy Markets Tariff”). The Midwest ISO states that the objective of Module F is to “enhance reliability and ‘seams’ coordination in the Midwest and permit closer integration of members of the Mid-Continent Area Power Pool (“MAPP”) and other utilities and market participants in the region into the Midwest ISO’s Energy and Operating Reserve Markets.”

On March 10, 2008, the Commission issued a Combined Notice of Filings which set the due date for interventions and comments in this docket as March 25, 2008.

On March 17, 2008, the Organization of Midwest States (“OMS”) and the Midwest TDUs filed a Motion requesting an extension of time to file comments in this docket until April 1, 2008.

On March 19, 2008, the Commission issued a Notice of Extension of Time which set April 1, 2008 as the due date for comments and interventions in this docket.

On March 24, 2008, the Midwest ISO submitted amendments to its March 4 application in this docket “in order to correct minor typographical errors and provide inadvertently omitted language in certain definitions and Tariff sections, and to substitute the final version of proposed Schedule 32 for an earlier draft that was incorrectly included in the filing [Footnote omitted].”

On March 25, the Midwest ISO Transmission Owners and the Organization of Midwest States filed a motion for an extension of time to file comments in this docket until April 15, 2008.

On March 26, 2008, the Commission issued a Combined Notice of Filings which set April 14, 2008 as the due date for interventions and comments in this docket.

On March 27, 2008, the Commission issued a Notice of Extension of Time which set April 7, 2008 as the due date for interventions and comments in this docket.

## **II. Notice of Intervention**

Pursuant to Rule 214(a)(2) of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(a)(2), the Organization of MISO States ("OMS") files its Notice of Intervention in the above-captioned proceedings. Service of all pleadings, documents, and communications in this matter should be made on the following:

William H. Smith, Jr., Executive Director  
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## **III. Comments**

### **A. The OMS supports the approval of Module F but believes that the incremental benefits to existing market participants are likely to be small.**

Over half of the state and provincial regulatory commission members of the OMS either have direct regulatory jurisdiction over MAPP members that would be eligible to take service under Module F, or represent non-state jurisdictional retail customers that take service directly or indirectly from MAPP members. The OMS desires to maintain and enhance the reliable operation of the transmission system in the Upper Midwest region and supports the efforts of the Midwest ISO and MAPP to coordinate their resources and activities in this regard.

As described in the Application, Part I and Part II of Module F for the most part incorporate the provisions of the MAPP/MISO Transmission Services Agreement ("TSA") and the MAPP/MISO Seams Operating Agreement ("SOA") into the Midwest ISO Energy Market Tariff.

Part I does not result in significant changes to the reliability services and functions currently provided by the Midwest ISO under the TSA. OMS believes that Part I would provide a stable, long-term platform for the provision of reliability services across the combined Midwest ISO and MAPP regions and is a suitable replacement for the TSA.

The Midwest ISO characterizes Part II as a replacement of the SOA with the addition of redispatch provisions to alleviate congestion on shared flowgates. The OMS supports the approval of Part II but believes that the Midwest ISO's characterization of the redispatch provisions of Part II as market-based is somewhat of a misnomer. The LMP market exists on the Midwest ISO side of the seam. Redispatch options on the MAPP side of the seam will not be selected based on a set of generation offers and compensation will not be based on a market price. It is not clear that the redispatch that results from this process should be characterized as an "LMP-based congestion management" scheme that is will be more efficient than the redispatch that is now accomplished under the terms of the SOA.<sup>1</sup>

OMS also has a concern about the apparent mismatch of the redispatch compensation provisions in proposed Section 83 of the Midwest ISO Energy Markets Tariff. Proposed paragraph 83.4.4.2 provides that a Congestion Management Customer is eligible to recover unit start-up costs that it incurs in responding to a redispatch order. However, Section 83.4.1 limits the Midwest ISO cost recovery to the LMP at the Midwest ISO border, with no recovery of Midwest ISO Revenue Sufficiency Guarantee charges. The Midwest ISO has not provided a rationale for this disparity. In addition, Congestion Management Customers are allowed to receive a 10 percent mark-up on their costs. OMS questions whether the 10 percent mark-up of redispatch costs is appropriate.

The Midwest ISO claims that one of the benefits of Module F is that it will allow the Midwest ISO to spread its fixed costs over more MWHs, thus reducing the charges under Schedule 10, Schedule 16 and Schedule 17 under which the Midwest ISO it collects certain overhead costs<sup>2</sup> However, OMS believes there is evidence to challenge this claim.

The Midwest ISO will collect revenues from MAPP members for the provision of reliability services provided under Part I from proposed Schedule 31. These Schedule 31 revenues will then be credited against the costs that the Midwest ISO collects from its market participants under Schedule 10. It is likely that Schedule 31 will return about the same revenues to the Midwest ISO that these entities now pay under the TSA. Evidence for this supposition is the statement in the Application that Schedule 10 costs for existing market participants will not be reduced as a result of Module F.<sup>3</sup> Therefore, it appears that existing Midwest ISO market participants will not receive any incremental monetary benefit from the provision of reliability services under Part I.

New market participants under Part III will provide the Midwest ISO with incremental revenues under Schedules 16 and 17. In its presentations to stakeholders, the Midwest ISO

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<sup>1</sup> See Testimony of Claire J. Moeller at page 20, lines 9-13.

<sup>2</sup> See Testimony of Claire J. Moeller at page 18, lines 14-16. "Finally, the Western Markets Proposal will benefit Midwest ISO customers by reducing administrative costs and uplifts by exploiting economies of scale and by expanding the customer pool."

<sup>3</sup> See testimony of Michael P. Holstein at page 10, lines 10-12. "The projected rate for service paid by current Tariff Customers under Schedule 10 is expected to be unchanged on a per MWH basis."

estimated that this incremental revenue would result in reductions to Schedule 16 and 17 rates in the range of 5 to 10 percent. In response to a data request, the Midwest ISO conceded that its estimate of the potential reduction in Schedule 16 and 17 rates was based on an assumption that all potential MAPP participants would take Part III service. There is no way to document whether this will or will not occur. OMS believes that any benefits that will accrue to existing market participants from reductions in Schedule 16 and 17 charges are likely to be de minimis.

**B. It is not clear that LMPs paid by existing retail customers within the existing Midwest ISO region will be reduced if new market participants are added to the Midwest ISO markets under Part III.**

As part of its support for Module F, the Midwest ISO claims that existing customers in the Midwest ISO region will benefit from the expansion of the energy and ancillary services markets that will occur if Part III of Module F is approved.<sup>4</sup> The Midwest ISO has not provided any factual support for these assertions.

The effect of additional generators and loads located in new Part III zones on LMPs at existing pricing nodes is dependent upon a wide variety of variables, including the fuel mix and geographical configuration of the added generation, the customer mix and load shape of the added load, and the topology of the transmission system. The addition of generators and load is just as likely to increase LMPs for nearby customers as it is to decrease them. *An a priori* determination of the effect of added generation and load from new Part III participant zones on LMPs at existing pricing nodes would require a detailed analysis.

The OMS urges the Commission to either disregard these claims or require the Midwest ISO to submit an analysis to support them.

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<sup>4</sup> See Testimony of T. Graham Edwards at page 4, lines 4-5. “For existing customers, the congestion costs will be reduced due to the increased scope of the Energy and Operating Reserve Markets.” See also Testimony of T. Graham Edwards at page 9, line 20 stating that the Western Markets Proposal “will not impose any costs on existing Midwest ISO members.” See also Testimony of Claire J. Moeller, page. 21, lines 22-23 and page 22, lines 1-2. “The addition of new sources of low-cost power should reduce energy costs for both existing and new market participants, as the most efficient mix of resources available for both energy production and ancillary services is committed and dispatched within the Energy and Operating Reserve Markets.”

**C. The OMS supports the approval of Part III but is concerned that the retention of the transmission planning function by Part III participants could result in further balkanization of transmission planning in the Upper Midwest Region.<sup>5</sup>**

Under the terms of the proposed Module F, a Part III market participant will be fully integrated into the Midwest ISO energy and ancillary services markets. From a practical perspective, Part III transmission owners and market participants will be indistinguishable from current transmission owners and market participants. One important difference is that the Midwest ISO will not be responsible for transmission planning or generator interconnections for Part III transmission owners.

In Order 2000, the Commission determined that “the RTO must have ultimate responsibility for both transmission planning and expansion within its region that will enable it to provide efficient, reliable, non-discriminatory service and coordinate such efforts with the appropriate state authorities.” 89 FERC ¶61,285. The Commission added additional requirements for the planning process for RTOs and transmission owners in Order 890. It is not clear that the planning provisions of Part III of the Module F proposal are consistent with the planning provisions of Order 2000 and Order 890.

During the past several years, determining and assigning the responsibility for various aspects of the planning function in the Upper Midwest has become complex, confusing and somewhat contentious. In the Upper Midwest region, the Midwest ISO does planning and processes requests for generator interconnections for its member transmission owners and market participants. However, the Midwest ISO transmission system is interlaced with transmission owners and load serving entities that coordinate their planning efforts under the MAPP umbrella. Issues related to the large number of pending generator interconnections in this area have added another layer of complexity to the transmission planning function.

Part III will expand the Midwest ISO market across the existing planning seam that currently divides the Midwest ISO and the MAPP regions. This circumstance will introduce additional complexity to the planning process and the generator interconnection process. In the near term, it is likely that Part III transmission owners and market participants will continue to utilize MAPP to coordinate their planning with the region. OMS wishes to emphasize that the MAPP planning process, which incorporates sub-regional planning groups, has successfully provided a forum for stakeholder participation, including state regulatory commissions. OMS supports continuation of the MAPP planning process.

However, it is not clear how Part II transmission owners and the MAPP planning process will accommodate the needs of new generators seeking interconnections and other Midwest ISO

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<sup>5</sup> The Montana Public Service Commission does not object to OMS support of Part III but does not support the discussion in this section because it appears to endorse granting the Midwest ISO unilateral authority for planning and interconnection for Part III Transmission Owners, many of which are not FERC jurisdictional.

market participants. Due to the open-ended renewal provisions of Part III, it is possible that the planning seam within the Midwest ISO energy and ancillary services market could persist for a long period of time. It is important that the transmission planning efforts of Part III transmission owners and the MAPP planning and generator interconnection processes be coordinated and consistent with the Midwest ISO planning and generator interconnection processes.

OMS urges the Commission to require the Midwest ISO to develop a proposal to ensure that the planning requirements for Part III transmission owners are transparent, and coordinated with the Midwest ISO planning and interconnection processes, or to modify Module F so that the Midwest ISO is responsible for planning and interconnection for Part III transmission owners.

## **VI. Conclusion**

OMS believes that the Midwest ISO has included some exaggeration in its Application in an attempt to garner support for Module F but does not want the Commission to mistake these Comments as a lack of support for Module F. OMS supports the replacement of the TSA and the SOA with Part I and Part II of Module F. OMS also supports Part III<sup>6</sup>, but believes that the impact of Part III on the Midwest ISO transmission planning process and generator interconnection process requires clarification and additional documentation.

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.<sup>7</sup> The following members generally support these comments.

Indiana Utility Regulatory Commission  
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

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<sup>6</sup> The Public Service Commission of Wisconsin, Minnesota Public Utilities Commission, and the Michigan Public Service Commission support the implementation of Part III based on the presumption that FERC recognizes that approval of Part III could result in an unintended incentive for Transmission Owners to depart as members under the terms of the Transmission Owners Agreement in order to become Part III participants. Such a result would have serious implications for the continuation of the arrangements for cost sharing of new transmission facilities under the provisions of RECB1 and RECB2.

<sup>7</sup> The Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor join with the OMS in supporting the approval of Module F, and also join in the concerns expressed in the previous footnote. However, with respect to the benefits claimed by the Midwest ISO and other issues, the IURC and OUCC are jointly filing separate comments in this docket.

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,<sup>8</sup> as associate members of the OMS, participated in these comments and generally support these comments.

Respectfully Submitted,

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Dated: April 7, 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 7th day of April 2008.

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

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<sup>8</sup> The Minnesota Office of Energy Security now exercises the consumer advocacy functions previously performed by the Minnesota Department of Commerce.