

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

<b>Midwest Independent Transmission System Operator, Inc</b>	)	<b>Docket Nos. ER04-691-088 ER04-691-089</b>
<b>Ameren Services Company</b>	)	<b>Docket No. EL07-86-000</b>
<b>Northern Indiana Public Service Company</b>	)	
<b>v.</b>	)	
<b>Midwest Independent Transmission System Operator, Inc.</b>	)	
<b>Great Lakes Utilities, et al.</b>	)	<b>Docket No. EL07-88-000</b>
<b>v.</b>	)	
<b>Midwest Independent Transmission System Operator, Inc.</b>	)	
<b>Wabash Valley Power Association, Inc.</b>	)	<b>Docket No. EL07-92-000</b>
<b>v.</b>	)	
<b>Midwest Independent Transmission System Operator, Inc.</b>	)	

**Comment of the Organization of MISO States and  
Motion to Accept Comment out-of-time**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 C.F.R. § 385.212, the Organization of MISO States (“OMS”) hereby submits its comments on the Supplemental Information Regarding Compliance Filings of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed on December 19, 2008.<sup>1</sup>

The OMS respectfully request that the Commission require the resettlement to be implemented immediately in the settlement system so that Revenue Sufficiency Guarantee

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<sup>1</sup> Supplemental Information Regarding Compliance Filings of the Midwest Independent Transmission System Operator, Inc., Addressing Real Time Revenue Sufficiency Guarantee Charges, Docket Nos. ER04-691-088, ER04-691-089, EL07-86-000, EL07-88-000, EL07-92-000, December 19, 2008. (Supplemental Filing)

(RSG) charges associated with past transactions are properly reflected in the exposure calculations.

## **Background**

On December 8, 2008 and December 10, 2008, the Midwest ISO submitted compliance filings in the above-captioned dockets.

On December 19, 2008, the Midwest ISO submitted an informational filing to advise the Commission of the credit implications of the resettlements required by the November 7 and 10 rulings. In that filing the Midwest ISO observed that the RSG charges will be substantial, which if included in the Total Potential Exposure (TPE) calculation would result in a demand for \$77.7 million in Financial Security due within two business days. The Midwest ISO believed that some market participants would suffer substantial hardship, and the market could be harmed, if such Market Participants were to be immediately required to increase their Financial Security. The Midwest ISO stated that it did not intend to include the estimated RSG resettlement amounts in the TPE values until such time as the Commission has indicated whether the Midwest ISO should immediately resettle the market pursuant to the Midwest ISO's December 8 Compliance Filing.<sup>2</sup>

## **Comment**

An immediate demand for Financial Security is likely to result in substantial hardship to affected market participants only if the demand is both significant and unexpected. In this situation, it is not likely that the demand for Financial Security would be unexpected as market participants have known for some time their approximate RSG charge exposure.

Concern for market harm should instead focus on not allowing continued participation in the market by those market participants with insufficient credit. Under the Midwest ISO proposal, its credit system will believe that adequate secured and unsecured credit exists for some market participants when in fact it does not. The credit system will not recognize that

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<sup>2</sup> Supplemental Filing, p.2 - 3.

some or all of a market participant's credit has been consumed because the RSG resettlement charges are being withheld from the exposure calculations.

Moral hazard can arise when a participant does not bear the full risk of the consequences of its actions. Allowing continued market participation by those that may be insolvent can result in risk taking that leaves other market participants to bear the responsibility for those risky actions.

The OMS wishes to express deep concern about recent defaults in the Midwest ISO and other RTOs' facilitated markets and strongly supports the Midwest ISO's efforts to immediately adopt appropriately stringent credit policies in an effort to reduce the number of defaults and to limit the attendant exposure that is ultimately borne by our citizens. The OMS has confidence in the Midwest ISO's Management and Staff ability to evaluate the credit risks and appreciates the additional steps that the Midwest ISO has already taken, such as including the estimated RSG resettlement charges in its evaluations of any and all requests to withdraw from the market or draw down Financial Security. Moral hazard makes it imperative that a corrective action be taken immediately.

The Commission should require the resettlement to be implemented immediately in the settlement system so that RSG charges associated with past transactions are properly reflected in the exposure calculations of TPE.

### **Motion to Accept Comment out-of-time**

The OMS moves the Commission, in the interest of a more complete record, to accept this comment out-of-time if such relief is deemed necessary.

### **Conclusion**

The OMS respectfully request that the Commission require the resettlement to be implemented immediately in the settlement system so that RSG charges associated with past transactions are properly reflected in the exposure calculations.

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.

Indiana Utility Regulatory Commission  
Iowa Utilities Board  
Michigan Public Service Commission  
Minnesota Public Utilities Commission  
Missouri Public Service Commission  
Montana Public Service Commission  
Pennsylvania Public Utility Commission  
Wisconsin Public Service Commission

The Illinois Commerce Commission, the Kentucky Public Service Commission, the North Dakota Public Service Commission, and the Public Utilities Commission of Ohio abstained from the vote on this pleading.

The Manitoba Public Utilities Board, the Nebraska Power Review Board, and the South Dakota Public Utilities Commission did not participate in this pleading.

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

Respectfully Submitted,  
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Dated: March 2, 2009

#### 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 2nd day of March 2009.

William H. Smith, Jr.  
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