

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

Credit Reforms in Organized
Wholesale Electric Markets

Docket No. RM10-13-000

**COMMENTS OF THE
ORGANIZATION OF MISO STATES**

Pursuant to the Federal Energy Regulatory Commission's (Commission) request for comments, and the Notice issued on January 27, 2010, setting March 29, 2010 as the comment deadline,¹ the Organization of MISO States (OMS) hereby submits the following comments concerning the Commission's Credit Reforms in Organized Wholesale Electric Markets Notice of Proposed Rulemaking (NOPR) issued on January 21, 2010 in the above-captioned docket.

I. COMMENTS

A. Unsecured Credit in Financial Transmission Rights Markets Should be Eliminated

The OMS agrees with the Commission that credit policies are particularly important in the organized energy markets and that unsecured credit in financial transmission rights markets should be eliminated.² Credit policies that are too restrictive are likely to discourage participation. Credit policies that are non-existent or are too liberal are likely to increase risk. Good credit policies strike an appropriate balance between market liquidity and risk. The balance that is appropriate is a function of the market and the market design.

¹ 75 Fed. Reg. 4310 (2010) (to be codified at 18 C.F.R. Part 35).

² NOPR at P 23.

Financial transmission rights markets are forward markets where performance risk can extend out a year or more into the future. Events that are both rare and sudden, such as a major transmission line outage, can significantly alter the value of financial transmission rights and can significantly affect their value for an extended period of time. As a consequence, holders of financial transmission rights can, and have, suffered devastating losses.

In traditional forward markets such as NYMEX, performance risk is lessened by the requirement of collateral and collateral calls based on expected worst case price movements.

In the organized wholesale electric markets, the regional transmission organizations (RTOs) and independent system operators (ISOs) act as clearing houses, setting and administering their individual credit policies. In the event of default, the RTOs and ISOs bear no risk of loss and the loss is allocated to market participants.

Given this design of credit risk pass-through, it is especially important that credit policies in the organized wholesale electric markets avoid being too liberal. In RTO and ISO markets, where market participants have collective input into the credit policies, but are not allowed to individually determine the risks that are acceptable, credit policies should be more restrictive to reduce the imposition of credit risk levels that are unacceptable to market participants. Attempting to impose unacceptable risk levels on those that have choice as to participation merely discourages participation in the market.

Imposing unacceptable risk levels on those that have no choice as to participation is neither reasonable nor equitable. Some participants in the organized wholesale electric markets have no choice with respect to participation. For example, those that are subject to must offer requirements have no choice and must participate in the market. Where participation in the

assumption of risk is not voluntary, equity demands credit policies that do not impose excessive risk.

Given the unique risks inherent in financial transmission rights markets and the credit risk assumption by participants of the organized electric wholesale markets, the Commission proposal to eliminate unsecured credit in financial transmission rights markets, is reasonable.

B. Minimum Criteria for Market Participation Should Be Required

The elimination of unsecured credit in financial transmission rights markets will reduce, but not eliminate, credit risk. Sudden events can decrease the value of financial transmission rights beyond the exposure calculations and the required security of the RTOs and the ISOs. To reduce credit risk to other market participants and their customers to a reasonable level, minimum criteria for participation in financial transmission rights markets should be required.

One requirement for participation in financial transmission markets should be a minimum net worth. A requirement of a minimum net worth would provide additional credit risk protection to other market participants and their customers.

Since credit risk is greater for speculative holders of financial transmission rights than it is for holders that are hedging, the minimum net worth requirement should be significantly higher for speculative participants in the financial transmission markets. Since it may not be possible to determine who is speculating and who is hedging in a particular market, the OMS suggests that net worth requirements be lesser for participants up to the level of firm transmission service entitlement that the entity holds. Once an entity has a position in the financial markets that exceeds the entitlement, higher net worth requirements should be imposed against that position. This will ensure that speculative positions are subject to stronger financial

protections, regardless of the type of entity engaging in them. A lower minimum net worth requirement should be set for hedging participants at a level that is not onerous and that allows most traditional market participants, including small load serving entities, to participate in the financial transmission rights markets. Tying the net worth requirements to firm transmission entitlements will largely serve to allow hedging participants to continue to participate in the financial rights markets.

C. Ability to Offset Market Obligations

The Commission proposes to revise its regulations to require that each RTO and ISO include in the credit provisions of its tariff language that will clarify the RTO and ISO as a party to wholesale electric market transactions.³ The Commission believes this will eliminate ambiguity with respect of the ability of the RTO/ISO to manage defaults and pursue offsets to market obligations.⁴

The OMS supports the Commission requiring RTOs and ISOs to adopt these proposed credit provisions. RTOs and ISOs should be able to take measures to mitigate the impacts of member default upon other members to the greatest extent possible and this is a measure that will facilitate that ability.

In general, it would be desirable, for the RTO/ISO to be eligible to be a party in a potential bankruptcy proceeding to try to collect the money otherwise owed to members of the RTO. Although assumption of the counterparty status would assist the RTOs and ISOs in any possible bankruptcy it is important that assuming this counterparty status does not exposed the

³ NOPR at P 24.

⁴ NOPR at P 24.

RTOs and ISOs to unforeseen ramifications (such as increased liability or the incurrence of additional obligations) as the Commission noted in the NOPR.⁵

D. A Standardized Grace Period to “Cure” Collateral Posting is Warranted

RTOs and ISOs have adopted timeframes in which a participant may “cure” its changed credit position by posting additional collateral.⁶ It is important that the “cure” time period be short enough to minimize credit risk for other market participants and potentially erratic market behavior. While demanding additional collateral on short notice can impose a financial burden on the participant, advance knowledge of the exposure calculation mechanics and a two business day timeframe in which additional collateral must be posted will minimize that burden. For these reasons, the appropriate time period for posting additional collateral should be two business days.

II. CONCLUSION

The OMS supports the Commission’s efforts to reform credit practices in organized wholesale electric markets. The OMS respectfully requests that the Commission: (1) eliminate unsecured credit for financial transmission rights markets, (2) require minimum criteria for market participation, (3) require the ability to offset market obligations, and (4) require a standardized grace period for the reasons explained in these comments.⁷

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

⁵ NOPR at P 25.

⁶ NOPR at P 30.

⁷ The Montana PSC feels that it is important for the FERC to require an RTO/ISO to define what is an acceptable level of risk and speculation.

regarding the issues discussed in these comments. The following members generally support these comments.

Illinois Commerce Commission
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
Pennsylvania Public Utility Commission
South Dakota Public Utilities Commission
Wisconsin Public Service Commission

The Manitoba Public Utilities Board did not participate in this pleading.

Respectfully Submitted,
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Dated: March 16, 2010