

107 FERC ¶ 61,015
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Midwest Independent Transmission
System Operators, Inc.

Docket No. ER03-1345-000

ORDER REJECTING MIDWEST ISO OATT REVISIONS

(Issued April 13, 2004)

1. In this order, the Commission will reject the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed revision to Attachment C of its Open Access Transmission Tariff (OATT) relating to the calculation of Available Flowgate Capacity (AFC). This action benefits customers of Midwest ISO by facilitating clear application of the Midwest ISO OATT.

Background

2. Midwest ISO proposed in Docket No. ER03-573-000, among other things, to revise Attachment C of Midwest ISO's OATT as it related to the calculation of AFC for transmission requests that source or sink within the footprint of American Transmission Company, LLC (ATCLLC).¹ Midwest ISO proposed that, for AFC calculations for non-firm service that sources or sinks within the ATCLLC footprint, such non-firm service is to be treated by Midwest ISO as if the ATCLLC Control Areas were a single Control Area. Midwest ISO also stated that ATCLLC had received approval from the Wisconsin Public Service Commission (Wisconsin Commission) to provide transmission service and calculate AFC on a system-wide basis.

¹ ATCLLC is made up of five North American Electric Reliability Council (NERC)-certified control areas, namely Wisconsin Electric Power Company, Wisconsin Public Service Corporation, Upper Peninsula Power Company, Madison Gas & Electric Company, and Alliant East (Wisconsin Power & Light Company).

3. Midwest ISO maintained that the proposed revisions would affect only non-firm transmission service requests that involve one of the ATCLLC Control Areas, at which point the granularity of the entire ATCLLC footprint would be applied.² Midwest ISO also maintained that, due to the fact that this level of granularity looks at the entire ATCLLC footprint, a non-firm transmission service request that both sources and sinks within the ATCLLC footprint would not require a flow-based analysis (AFC analysis) and would consequently receive automatic approval. Midwest ISO also explained that the proposed revisions would only apply until the date Midwest ISO's Day 2 congestion management program is implemented. Midwest ISO further explained that for other services, all of the individual ATCLLC Control Areas would remain valid source and sink areas within the Midwest ISO footprint. Therefore, when a transmission service request for firm transmission service that involves one of the ATCLLC Control Areas is submitted to the OASIS, Midwest ISO would continue to use the granularity of the individual control area in evaluating whether sufficient AFC exists to approve the firm transmission service request.

4. In an order issued on May 16, 2003, the Commission stated that the revisions proposed by Midwest ISO raised many questions which were not adequately addressed by Midwest ISO's filing. Accordingly, the Commission essentially rejected the proposal without prejudice to Midwest ISO refiling it with the appropriate support.³

5. On September 24, 2003, in the instant docket, Midwest ISO again sought Commission-acceptance of the revisions rejected in the May 16 Order. Midwest ISO attempted to answer the various questions raised by protesters which the Commission maintained that Midwest ISO had not answered.

6. Among other things, Midwest ISO addressed some intervenors' assertions that Midwest ISO stakeholders did not have sufficient opportunity to review the proposed amendments. Listing various meetings held, Midwest ISO explained that stakeholders had ample opportunities to review, comment, and raise concerns and questions on the proposed amendments to the OATT. Acknowledging that the Commission and some intervenors shared concerns on the possible discriminatory effect the proposed procedure

² The Midwest ISO, at Original Sheet No. 253B, defines "granularity" as "the size of the entity used to process requests in a flow-based analysis."

³ Midwest Independent Transmission System Operator, Inc., 103 FERC ¶ 61,191 (2003) (May 16 Order).

would have on their non-firm users, Midwest ISO argued that treating the ATCLLC footprint as a single zone electrically is no different than treating other load-serving areas contiguous to the ATCLLC footprint as a single zone.⁴ Midwest ISO also explained that requests for non-firm transactions within ATCLLC would be approved on a first-come, first-served basis, if available, unless a Transmission Loading Relief (TLR) event precludes such approval. Midwest ISO further stated that the revision is consistent with NERC procedures.

7. On November 24, 2003, the Commission issued an order accepting and suspending Midwest ISO's proposed revisions to Attachment C of Midwest ISO OATT. The Commission concluded that questions still remained regarding the appropriateness of Midwest ISO's proposed revisions and therefore established a technical conference.⁵

Notice of Filing, Interventions and Protests

8. Notice of the technical conference held on February 5, 2004, was published in the Federal Register, 69 Fed. Reg. 4,501 (2004). A supplemental notice with the agenda of the technical conference was published in the Federal Register, 69 Fed. Reg. 5,540 (2004). Post-technical conference comments were due on or before February 26, 2004, with reply comments due on or before March 8, 2004. MidAmerican Energy Company (MidAmerican), Exelon Corporation (Exelon), Joint Commenters,⁶ and the Wisconsin Commission filed post-technical conference comments. WPPI and Dairyland Power Cooperative (Dairyland) filed motions to intervene out-of-time. On March 8, 2004, MidAmerican and Joint Commenters filed post-technical conference reply comments. Also on March 8, the Wisconsin Commission filed post-technical conference reply comments and refiled its October 23, 2003 motion to intervene out-of-time and

⁴ See id.

⁵ See Midwest Independent Transmission System Operator, Inc., 105 FERC ¶ 61,206 at 62,076 (2003) (November 14 Order), where the Commission suspended Midwest ISO's proposal for up to five months, to become effective the earlier of five months from the date of the order or the date the Commission specified in an order issued after the technical conference.

⁶ Joint Commenters include: Midwest ISO, ATCLLC, Wisconsin Electric Power Company (Wisconsin Electric), Wisconsin Public Service Corporation (WPS), Madison Gas & Electric (MGE), and Wisconsin Public Power Inc. (WPPI).

comments in support of the complaint. On March 15, 2004, the Wisconsin Commission refiled its March 8 post-technical conference reply comments.

Discussion

A. Procedural Matters

9. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, given their interest in this proceeding, and the absence of any undue prejudice or delay, we find good cause to grant WPPI's and Dairyland's untimely, unopposed motions to intervene.

B. Post-Technical Conference Comments

10. MidAmerican contends that despite the technical conference, the proposal, as filed, remains unjust and unreasonable.⁷ MidAmerican contends that, although various parties have argued that the proposal should be approved because it complies with Wisconsin law, the Wisconsin statute does not require that the ATCLLC footprint be treated as a single entity for any AFC calculations, regardless of firm or non-firm transactions.⁸ While MidAmerican concedes that the Wisconsin statute requires ATCLLC to "apply for membership in the Midwest (ISO) as a single zone for pricing purposes . . .," this provision, it counters, applies only to transmission pricing and does not require ATTCLLC be treated as a single source or sink control area for purposes of calculating AFC.⁹ MidAmerican states that even if the statute required ATCLLC to be treated as a single source or sink control area, there are no justifiable reasons to apply this requirement to only non-firm transactions.¹⁰ MidAmerican also argues that since non-firm transactions within ATCLLC would not be subjected to AFC analysis, while non-firm transactions outside ATCLLC would be subjected to AFC analysis, the proposal is preferential and discriminatory.

⁷ MidAmerican at 6.

⁸ Id. at 3.

⁹ Id. at 4.

¹⁰ Id.

11. Exelon continues to express concerns regarding Midwest ISO's proposal to not evaluate whether there is, in fact, any AFC before approving non-firm transmission requests which source and sink within ATCLLC's footprint. Exelon contends that Midwest ISO's proposal is contrary to good utility practice.¹¹ Moreover, Exelon cites to the Commission's OASIS Standard 4.7 which states that "[p]rior to setting a request to accepted, counter offer, or refused, a Provider shall evaluate the appropriate resources and ascertain that the requested transfer capability is (or is not) available."¹² Exelon argues that the proposed revision is in direct conflict with these mandatory guidelines.¹³ Exelon contends that the proposal to eliminate AFC evaluations for non-firm transactions within the ATCLLC footprint will lead to reduced transparency of system flows, which, in turn, will reduce reliability, efficiency and equity within the Midwest ISO region.¹⁴

12. Joint Commenters urge the Commission to approve the proposal. Joint Commenters contend that the existing Midwest ISO OASIS and e-tagging procedures will still be used to administer the process, and that all transactions to, from and between ATCLLC transmission customers will still be scheduled, e-tagged and subject to NERC TLR procedures.¹⁵ Joint Commenters maintain, moreover, that while the proposed revisions would apply to non-firm transactions, firm transactions would continue to be handled according to the applicable provisions of the Midwest ISO OATT.¹⁶ Joint Commenters emphasize that this proposed change would merely restore the manner in which ATCLLC calculated non-firm available transmission capacity prior to February 20, 2002, the date on which Midwest ISO began operations.¹⁷

13. Joint Commenters contend that modeling ATCLLC as a single zone for non-firm transfer capability analysis is consistent with the definitions that NERC provides for

¹¹ Exelon at 1.

¹² Id. at 2 (Emphasis added).

¹³ Id. at 2-3.

¹⁴ Id. at 1-3.

¹⁵ Joint Commenters at 2.

¹⁶ Id.

¹⁷ Id.

available transmission capability (ATC),¹⁸ and that ATCLLC single-zone ATC calculations produce reasonable and manageable results that fit the ATCLLC footprint's structural model – *i.e.*, one transmission-only company with multiple control areas and load-serving entities.¹⁹ According to Joint Commenters, during April 2001 and February 2002 when this procedure was in effect, ATCLLC did not experience any significant problems from using this methodology.²⁰ Further, Joint Commenters expect that the NERC Interchange Distribution Calculator and TLR Procedures will still be used to effectively manage congestion under this process, based on the more granular Control Area to Control Area evaluation of schedules.²¹ Joint Commenters explain that this multi-stage method for relieving congestion, set forth in the proposed revisions, does not undercut its effectiveness.²²

14. Joint Commenters maintain that the proposed revision does not result in undue discrimination. Joint Commenters argue that the proposal affords anyone desiring to do business within the ATCLLC footprint the same access and the same business rules, with no undue loss of granularity.²³

15. In response, MidAmerican challenges Joint Commenters' argument that a single control area is congruent with NERC's definition of Transfer Capability from one area to

¹⁸ Joint Commenters cite to NERC's definition of ATC, which states:

Transfer capability is the measure of the ability of interconnected electric systems to reliably move or transfer power from one area to another over all transmission lines (or paths) between those areas under specified system conditions. The units of transfer capability are in terms of electric power, generally expressed in megawatts (MW). In this context, "area" may be an individual electric system, power pool, control area, subregion, or NERC Region, or a portion of any of these.

¹⁹ *Id.* at 3.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 4.

²³ *Id.* at 5.

another, specifically where NERC defines area as “an individual electric system, power pool, control area, subregion, or NERC Region, or a portion of any of these.”

MidAmerican contends that by applying Joint Commenters’ flawed logic, the entire Mid-America Interconnected Network (MAIN) footprint could be inappropriately regarded as a single footprint when calculating AFC.²⁴

16. In its reply comments, Joint Commenters states that no Midwest ISO member has expressed concerns about the proposed revisions.²⁵ Joint Commenters points out that neither Exelon nor MidAmerican – the parties that submitted comments in opposition to the proposed tariff revisions – are Midwest ISO members, and that neither provided any factual evidence that any of their transactions have been or would be adversely affected by the proposed revisions.²⁶ Regarding Exelon’s argument that as a result of the proposed changes such an ATCLLC transaction would violate OASIS Standard 4.7, Joint Commenters contend that this is not true.²⁷ Joint Commenters explain that Midwest ISO will be informed in advance of all these transactions, will review and approve all such requests, will calculate the decrement to AFC as a result of the transactions, and post such results at the time of its next AFC calculation.²⁸

17. Joint Commenters also argues that MidAmerican continues to cite the wrong Wisconsin statute as the basis for this proposal. Joint Commenters point to a provision of the Wisconsin statute which requires Midwest ISO to ensure that the Wisconsin portion of the Wisconsin Upper Michigan System (WUMS)²⁹ be “planned, constructed, operated, maintained, and controlled as part of a single transmission system.”³⁰ According to Joint Commenters, single-system calculation of non-firm AFC is one subset of this broader

²⁴ MidAmerican Reply Comments at 3.

²⁵ Joint Commenters’ Reply Comments at 1-2.

²⁶ Id.

²⁷ Id. at 3.

²⁸ Id.

²⁹ WUMS refers to the portion of Wisconsin and the Upper Peninsula of Michigan that is in MAIN.

³⁰ Id. at 4, citing Sec. 196.485(1)(g), Wis. Stats.

single-system requirement.³¹ Regarding MidAmerican's concern that the proposal applies to only non-firm transactions, Joint Commenters argue that the ATCLLC Forming Party Agreement provides a separate procedure for redispatch to preserve firm service, thus eliminates the necessity to include firm service in this proposal.³²

C. Commission Conclusion

18. Our review of Midwest ISO's proposal to grant automatic approval, without AFC analysis, for intra-zonal non-firm transactions continues to indicate that it has not been shown to be just and reasonable; and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. The technical conference has not alleviated our concerns. Moreover, even if we granted Midwest ISO's request to treat the five NERC control areas within ATCLLC's footprint as a single control area, our concerns would still not be alleviated since intra-zonal non-firm transactions would be granted automatic approval without an AFC analysis. Accordingly, we will reject Midwest ISO's proposed revision to Attachment C of Midwest ISO OATT, as explained further below. The central issue here is whether Midwest ISO's proposal to automatically approve, without AFC analysis, non-firm transmission requests that source and sink within the ATCLLC footprint is unduly discriminatory. Joint Commenters argue that this proposal does not result in undue discrimination, and they argue that the proposal affords anyone desiring to do business within the ATCLLC footprint the same access and the same business rules. However, they have failed to support this claim. Because intra-zonal, non-firm transactions are granted automatic approval without requiring an AFC analysis and inter-zonal non-firm transactions are required to have an AFC analysis, we find that this proposal may be unduly discriminatory.

19. Further, while the Commission has provided more than one opportunity to support the proposal, Midwest ISO has not adequately supported or explained why its proposal is necessary. In this regard, Midwest ISO still has not explained how its proposal, which presents the potential for undue discrimination, will improve its transmission system operations.

20. Accordingly, we will reject the Midwest ISO's proposed revision to Attachment C of Midwest ISO OATT for the reasons stated above.

³¹ Id.

³² Id. at 5.

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The Commission orders:

Midwest ISO's proposed revision to Attachment C to its OATT is hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.