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111 FERC ¶ 61,131
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Wisconsin Public Service Corporation Docket No. EL05-51-000

v.

Midwest Independent Transmission
System Operator, Inc.

ORDER ON COMPLAINT

(Issued April 29, 2005)

1. In this order, the Commission denies in part and grants in part Wisconsin Public Service Corporation's (WPSC) complaint against the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). The Commission denies the complaint with respect to WPSC's allegation that Midwest ISO improperly assigned Financial Transmission Rights (FTRs) to Northern States Power Company (NSP) across and through a portion of the transmission system of American Transmission Company LLC (ATC) and thereby unreasonably and unjustly prorated FTRs for WPSC.[1] Also, the Commission grants in part and denies in part, WPSC's complaint as to Midwest ISO's generator contingency modeling. This order benefits customers because it ensures a stable allocation of FTRs when transitioning to an organized market.

Background

2. In orders denying a complaint made by WPSC against the Midwest ISO seeking rollover of two partial path transmission agreements,[2] the Commission found that both

[1] Except as noted, capitalized terms are defined in Module A of the Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT). *See Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (August 6 Order), *order on reh'g*, 109 FERC ¶ 61,157 (2004).

[2] *Wisconsin Public Service Corp. v. Midwest Independent System Transmission Operator, Inc.*, 102 FERC ¶ 61,225 (2003) (Partial Path Order), *reh'g denied*, 106 FERC ¶ 61,203 (2004), *appeal pending*, No. 04-1146 (D.C. Cir. Filed May 3, 2004).

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NSP and WPSC are entitled to maintain their existing contractual rights and exercise their individual rollover rights with respect to each partial path agreement.[3] The Commission explained that NSP has partial path point-to-point rights to transmission service across the NSP system to an interconnection point between the NSP and ATC transmission systems (NSP-ATC Interface), while WPSC has Network Integration Transmission Service over the ATC system.[4]

WPSC Complaint

3. In the first part of its complaint, WPSC alleges that Midwest ISO inappropriately allowed NSP to use WPSC's Weston 3 generator (Weston 3), located on ATC's system, as a Point of Delivery (or sink point) to define FTRs for NSP's Partial Path Transmission Service, resulting in a decrease in the FTRs allocated to WPSC to hedge congestion for its load.

4. WPSC argues that Midwest ISO has presented no evidence that the Weston 3 sink point is a reasonable proxy for NSP's service to the NSP-ATC Interface. WPSC states that the Weston 3 generator site is located far beyond NSP's physical and contractual Point of Delivery at the NSP-ATC Interface, and extends some forty miles and several substations into ATC's transmission system. WPSC alleges that the use of Weston 3 produces congestion across the interface and within the ATC system, producing a binding constraint in the first two tiers of Midwest ISO's FTR allocation model and thereby prorating WPSC's FTRs. Moreover, WPSC argues that other alternatives such as the use of an NSP-ATC Interface metering point or a generator Node located on the NSP system as the sink point more reasonably approximate NSP's Partial Path Transmission Service.

5. WPSC also argues that Midwest ISO's use of a Node located on the ATC transmission system as a sink point for NSP's FTRs violates the Partial Path Orders and the Commission's commitment to ensure that financial rights are equivalent to existing physical rights. Further, WPSC argues that Midwest ISO deviated from its draft Business Practices Manual in designating Weston 3 as a sink point for NSP's Partial Path transaction because only "existing entitlements" are eligible for conversion to FTRs and NSP has no entitlement to transmission at Weston 3.[5] WPSC states that the Midwest ISO staff, during the initial FTR allocation process, prohibited the use of a generator Node, like Weston 3, as a sink point for FTR allocation purposes. WPSC maintains that Midwest ISO calculates FTRs across the NSP-ATC Interface at which NSP has no rights,

[3] Partial Path Order at P 20.

[4] *Id.* at P 2, 20.

[5] Complaint at 23.

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and at Weston 3, well across the ATC transmission system, at which NSP also has no rights, with the corresponding effect of denying WPSC FTRs for use on the ATC system, on which WPSC currently has rights.

6. Further, WPSC alleges that Midwest ISO abused its discretion and treated parties in a discriminatory manner by consulting with one affected party but not consulting the other affected party when deciding how to model NSP's Partial Path Transmission Service.

7. As a remedy, WPSC requests that the Commission: (1) deny Midwest ISO's approval of NSP's FTRs across the NSP-ATC Interface and the ATC transmission system; (2) direct the Midwest ISO to rerun the FTR allocation process; and (3) direct the Midwest ISO to restore WPSC's prorated FTRs.

8. In the second part of the complaint, WPSC alleges that Midwest ISO incorrectly modeled generation contingencies to represent reserve sharing in the first two of four tiers in the simultaneous feasibility tests.[6] WPSC argues that the Midwest ISO inappropriately applied a generation contingency representing the full capability of generating units with no correlation to the amount of FTRs nominated from each unit. WPSC argues that this generation contingency modeling creates a fictitious system state that results in binding constraints in the FTR model and a reduction in the number of available FTRs in later tiers. Furthermore, WPSC argues that the use of this same generation contingency logic in the Day-Ahead and Real-Time Markets will unnecessarily withhold transmission capability from the market and drive up congestion costs within the Midwest ISO footprint. WPSC states that WPSC and other Market Participants raised this issue with the Midwest ISO in December 2004, but Midwest ISO staff stated that due to the pending market start there was no time to correct the problem. WPSC requests that the Commission direct Midwest ISO to model generator contingencies using actual quantities of FTRs nominated in each allocation tier.

Notice of Filing and Responsive Pleadings

9. Notice of WPSC's complaint was published in the *Federal Register*,[7] with the answer to the complaint and interventions or protests due on or before January 12, 2004. Midwest ISO filed an answer to WPSC's complaint. A timely motion to intervene, raising no substantive issues, was filed by Exelon Corporation. Wisconsin Electric

[6] The Midwest ISO's allocation process includes four tiers. In each tier, Market Participants may nominate a percentage of their total entitlements for Network Integration Transmission Service and Point-to-Point Transmission Service. Tiers I and II set the percentage at 35 and 50 percent, respectively.

[7] 70 Fed. Reg. 1883 (2005).

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Power Company (Wisconsin Electric), and Wisconsin Public Power, Inc. (WPPI) filed timely motions to intervene, arguing in support of the relief requested by WPSC. ATC filed a timely motion to intervene and filed comments two days out of time arguing in support of the relief requested by WPSC. Xcel Energy Services, Inc. on behalf of its utility operating affiliates Northern States Power Company and Northern States Power Company (Wisconsin) (collectively, NSP), filed a timely motion to intervene, protesting WPSC's complaint.

Midwest ISO Answer

10. Midwest ISO filed an answer, arguing that WPSC's complaint is premature and should be dismissed because the FTR allocation is incomplete.

11. Midwest ISO acknowledges that NSP's and WPSC's partial path transmission right cannot be perfectly modeled. Midwest ISO states that its FTR model does not include internal interface Commercial Nodes that would permit entities to designate such interfaces as sink points for FTR entitlements.[8] Midwest ISO elaborates that since partial path transmission rights do not exist anywhere else in the Midwest ISO footprint, the development of a new type of pricing Node, including scheduling and settlement rules, is unnecessary. Instead of developing a new type of pricing Node, Midwest ISO states that it defined NSP's transmission path by selecting a proxy sink point in the same manner as used in similar situations, where, for example, an external interface is defined based on a proxy bus comprised of one or more buses at or near the external interface. Thus, Midwest ISO concedes that FTRs have been granted to NSP that do not perfectly match NSP's respective physical transmission rights, but argues that, given the constraints of the FTR model, there was no way to achieve a perfect match.

12. Additionally, Midwest ISO argues that it examined the possibility of sinking the FTR at a generator on NSP's side of the interface and concluded that such action would have more severely distorted the FTRs potentially available to NSP than the alternative use of Weston 3 Node would limit WPSC's potential FTRs. Midwest ISO argues that completion of the FTR allocation process should resolve WPSC's concerns, and adds that, through the Tier I, Tier II and Restoration phases of the FTR allocation process, "WPS[C] has received 99 percent of nominated FTRs (not including Counterflow FTRs allocated during the restoration process[])."[9]

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[8] A Commercial Node is defined as a Node in the Commercial Model used to schedule and settle Market Activities. TEMT, Module A, section 1.32 at First Revised Sheet No. 55. A Price Node is a Node where physical injection or withdrawal is modeled and for which a locational marginal price is calculated. TEMT, Module A, section 1.247 at First Revised Sheet No. 114.

[9] Midwest ISO Answer at 4.

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13. Midwest ISO argues that the use of the Weston 3 Node as a proxy for the NSP-ATC Interface resulted in the most accurate FTR allocation given the limits of the model and was consistent with the Midwest ISO's TEMT and business practices. Midwest ISO argues that WPSC has the burden of showing that Midwest ISO did not follow its TEMT or business practices and WPSC has made no such showing. Midwest ISO states that it ensured, to the greatest extent possible, that its treatment respected partial path transmission rights that do not physically terminate at a Load Zone.[10] Since the FTR model was not designed to accommodate partial path transmission rights based on internal interface points, Midwest ISO chose a solution that most accurately preserved the underlying transmission entitlements of all parties.

14. Midwest ISO adds that it has the discretion to engage in FTR allocation discussions with NSP and that it had no obligation to inform WPSC that its generator, Weston 3, would be designated as a sink point for NSP's partial path service. Midwest ISO also argues that, since all FTR allocations are interrelated and each allocation can have an impact on all other allocations, allowing every Market Participant impacted by an allocation to weigh in on each FTR registration decision would result in an impractical process.

15. In response to WPSC's allegation that Midwest ISO's contingency modeling inappropriately reduces FTRs, Midwest ISO states that it has properly modeled contingent losses of generators by removing the entire capability of the resource, as it does with transmission resources. Midwest ISO explains that modeling a partial outage in an early tier could result in infeasibilities to the extent that FTRs are allocated in that tier that use transmission capacity that would be required in later tiers. Midwest ISO also asserts that the contingency methodology proposed by WPSC would be inappropriate as it would adversely impact the revenue adequacy of FTRs. In support of this contention, Midwest ISO states that the transmission capacity withheld from the Day-Ahead market must also be withheld from the FTR model or revenue inadequacy of FTRs will result. Midwest ISO also states that its model cannot be altered in the middle of an FTR allocation process without invalidating the allocation results, but that it is willing to consider suggested changes to its modeling methodologies, to the extent that such changes appropriately treat the impact of generator contingencies within the FTR simultaneous feasibility test, for the next FTR allocation process.

[10] Midwest ISO Answer at 8. A Load Zone represents an aggregate area of consumption for a single Load Serving Entity within a single Control Area. *See* TEMT, Module A, section 1.173 at First Revised Sheet No. 93.

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Comments in Support and Opposition to the Complaint

16. ATC and Wisconsin Electric argue that the Midwest ISO's selection of Weston 3 as a proxy Commercial Node for NSP's FTRs is not reasonable and that Midwest ISO has administered the TEMT and its business practices in a way that unduly discriminates against WPSC. ATC states that it believes that the correct sink point for NSP's FTR allocation is any one of the three substations that represent points of interconnection between NSP and ATC's systems, namely the Arpin, T Corners or Rocky Run substations. ATC argues that selection of one of these substations for the sink point would more closely approximate NSP's historical rights to the NSP-ATC Interface, would not exacerbate the constraint at Weston 3 and would not impair WPSC's historical rights on the ATC side of the interface. Wisconsin Electric proposes an alternate remedy that it argues would not delay the start-up of the Midwest ISO markets and would be equitable to all entities. Wisconsin Electric's proposed remedy includes a provision uplifting costs to all of the Midwest ISO members that result from WPSC's reduced congestion hedges.

17. WPPI agrees with WPSC that Midwest ISO inappropriately applies a generation contingency policy that represents the full capability of generation units with no correlation to the amount of FTRs nominated from the unit. WPPI asserts that Midwest ISO's generation contingency modeling prorates FTRs more than is necessary and that Midwest ISO has failed to provide support for its modeling policy.

18. NSP opposes WPSC's complaint, stating that there is no Commercial Node in the Midwest ISO FTR model at the interconnection between the NSP and ATC systems because the interface is a point of ownership change rather than a generator or a load. NSP argues that the designation of Weston 3 as the Commercial Node represents a very close electrical approximation of the NSP-ATC Interface since the Weston 3 generator substation is located on a 345 kV line connecting to the Rocky Run substation owned by NSP. NSP argues that WPSC's suggested sink point designation would fail to accurately reflect NSP's existing partial path entitlement because: (1) the FTR would stop considerably short of the NSP-ATC Interface; (2) use of a Commercial Node on NSP's system would be a considerably greater distance than the distance from Weston 3 to the NSP-ATC Interface, representing a distortion of NSP's contractual rights; and (3) NSP's generation in Wisconsin that might be designated as a Node for the transmission right is located on lower-voltage substations and such designation would result in a greater deterioration of NSP's contractual rights.

19. NSP agrees that the use of the NSP-ATC interface as a sink point most accurately replicates the parties' rights under their respective transmission service reservations, but states that there is no Node at the interface in the Midwest ISO's FTR model. NSP states that, since there is no Node at the interface, the Midwest ISO, using its independent judgment, approximated the delivery point by using the nearest Commercial Node as the

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sink point. NSP also argues that WPSC's allegations with regard to the Midwest ISO's communications with NSP are entirely unsupported. NSP concludes that absent a more reasonable and correct alternative, the Commission should uphold the decision of Midwest ISO regarding NSP's partial path FTRs.

20. On January 7, 2005, WPSC filed a letter stating that the Restoration Phase of the FTR allocation, completed after the filing of its complaint, did not change the fundamental basis of its complaint. On January 18, 2005, WPSC filed an answer to Midwest ISO's answer and NSP's protest. On February 2, 2005, NSP filed an answer to WPSC's answer. On February 28, 2005, WPSC filed a further answer.

Discussion

A. Procedural Matters

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[11] the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding.

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,[12] prohibits an answer to an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept WPSC's answers and NSP's answer and will, therefore, reject them.

B. Substantive Matters

1. FTR Allocation for Partial Path Service

23. We will deny WPSC's complaint on the issue of allocation of FTRs for NSP's Partial Path Transmission Service. We have accepted the FTR provisions of the Midwest ISO's TEMT as just and reasonable.[13] We find WPSC fails to show that Midwest ISO violated any of the provisions in its TEMT in allocating FTRs to NSP that sink at Weston 3. We note that WPSC does not cite to any TEMT provisions to support its

[11] 18 C.F.R. § 385.214 (2004).

[12] 18 C.F.R. § 385.213(a)(2) (2004).

[13] *Midwest Independent Transmission System Operator, Inc.*, 107 FERC ¶ 61,191 (2004) (accepting and suspending, subject to refund and further orders, the FTR provisions of the TEMT); *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (August 6 Order) (making the FTR provisions effective as of August 6, 2004 and requiring a compliance filing), *order on reh'g*, 109 FERC ¶ 61,157 (clarifying certain issues with regard to FTR provisions), *order on compliance*, 109 FERC ¶ 61,285 (2004) (accepting Midwest ISO's revised FTR provisions).

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allegations that Midwest ISO inappropriately allocated FTRs to NSP. However, even if WPSC had met its burden of showing that Midwest ISO violated provisions of the TEMT, we find that, given the limitations of the FTR model, Midwest ISO's initial allocation appropriately accounted for NSP's and WPSC's partial path transmission rights.

24. NSP has partial path point-to-point rights from NSP generators, located on the NSP transmission system, up to the three substations that define the NSP-ATC Interface, Arpin, T Corners and Rocky Run substations. WPSC has partial path network rights from the NSP-ATC Interface to WPSC load located on the ATC transmission system. Because the FTR model is not designed to accommodate partial path transmission service that is internal to the Midwest ISO footprint, Midwest ISO could not model the three substations at the NSP-ATC Interface as a proxy point for the instant partial path transactions.

25. We find that Midwest ISO did not violate its TEMT in allowing Weston 3 as the sink point for NSP's Partial Path Transmission Service. The Commission has recognized a need to balance the preservation of physical transmission rights and the objective of simultaneous feasibility in the move from a physical rights system to a financial rights system.[14] While we find that Midwest ISO's initial FTR allocation provides NSP with financial rights across the NSP-ATC Interface in excess of NSP's physical partial path rights, we conclude that Midwest, in its role as independent administrator of the FTR allocation process, appropriately evaluated the alternatives and reasonably chose Weston 3 as the sink point that represents the least collective harm to the parties. Because of the limitations of Midwest ISO's FTR model used in the initial FTR allocation, there is no way to perfectly model each party's respective partial path rights. Therefore, we find that for the initial allocation period, Midwest ISO's selection of Weston 3 as a proxy point for NSP's partial path service, best preserved parties' physical transmission rights given simultaneous feasibility objectives.

26. WPSC suggests that if Midwest ISO cannot model the NSP-ATC Interface for NSP's partial path rights, that Midwest ISO should allocate NSP's FTRs based on a sink point at one of NSP's generators on the NSP side of the NSP-ATC Interface. Midwest ISO studied WPSC's suggested alternate sink point and determined that it was an inferior solution. Given the constraints of the FTR model, we find that Midwest ISO acted within the confines of the TEMT FTR allocation provisions in using Weston 3 instead of a generator Node on NSP's system as the sink for NSP's partial path FTR.

27. With regard to WPSC's assertion that the Midwest ISO treated parties in a discriminatory manner, we find that Midwest ISO does not have a general obligation to

[14] August 6 Order at P 156.

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communicate with Market Participants about other Market Participant's FTR nominations. It is appropriate for Midwest ISO to assist Market Participants, at their request, in defining their FTR entitlements in a way that most accurately reflects the underlying transmission entitlement represented in the FTR model. Each definition of an FTR entitlement and the resulting FTR allocation can have an impact on all other allocations. Due to this characteristic of the FTR model, a requirement that Midwest ISO inform each impacted Market Participant when it helps define a Market Participant's entitlement would greatly burden the Midwest ISO. On the other hand, prohibiting communication between the Midwest ISO and Market Participants on participant's entitlements would lead to an unworkable FTR allocation process that could impede competitive markets. Therefore, we will neither prohibit Midwest ISO from aiding Market Participants in defining FTR entitlements, nor require the Midwest ISO to inform each impacted Market Participant when it provides such assistance.

28. NSP and WPSC agree that if the Midwest ISO were able to model a Commercial Node that represents the NSP-ATC Interface, this would be acceptable to both parties with partial path transmission service. It is unclear whether Buses at the NSP-ATC Interface, specifically at the Arpin, T Corners or Rocky Run substations, could be modeled in the Network Model and otherwise serve in part or in full as a proxy Bus for the NSP Partial Path Transmission Service. The costs of creating new scheduling and settlement protocols for an internal interface Node are also unknown. We recognize that the solution chosen by Midwest ISO in the initial allocation, while reasonable, is not the optimal solution. Therefore, we direct Midwest to examine other potential solutions in its next iteration of FTR allocations that would provide WPSC with FTRs or some equivalent financial relief that more closely matches WPSC's rights. In conjunction with the filing directed below, within 45 days of the date of this order, Midwest ISO should inform the Commission of its studies of alternatives to address this situation.

2. Generation Contingency Modeling

29. Finally, we will grant in part and deny in part WPSC's complaint on the issue of Midwest ISO's generation contingency modeling. The Midwest ISO uses conservative assumptions in its model to ensure that transmission capacity is available for reserve sharing during market operations. We find that such conservative measures are appropriate where the market is in its initial months of operation and where Midwest ISO region-wide reserve sharing is in its infancy. However, we will deny WPSC's request to require the Midwest ISO to change its contingency modeling as it applies to the Day-Ahead and Real-Time Markets or to the initial allocation of FTRs.

30. Midwest ISO states that it is willing to reexamine the generator reserve participation assumptions and consider suggested changes in its generation contingency modeling in future FTR allocations. Therefore, we will direct Midwest ISO to file a new methodology that refines its generator reserve participation assumptions for Midwest

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ISO's Second Annual FTR Allocation. We direct the Midwest ISO to submit this compliance filing in time to incorporate any changes into its next FTR allocation, but no later than 45 days from the date of this order. Additionally, the proposed methodology should reflect a study of the impact of Midwest ISO's generation contingency modeling on the availability of FTRs, taking into account a reasonable amount of data collected in the first months of market operation. This study should compare the actual usage of the system, including contingency planning requirements, with the quantity of FTRs allocated in the FTR model.

The Commission orders:

(A) WPSC's complaint is hereby denied in part and granted in part, as discussed in the body of this order.

(B) Midwest ISO is hereby directed to make a compliance filing reflecting the modifications discussed in the body of this order, no later than forty-five (45) days from the date of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.