

June 18, 2009

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20246

**Re: Informational Filing of Midwest Independent Transmission
System Operator, Inc.'s Independent Market Monitor**

Dear Secretary Bose:

Pursuant to the Federal Energy Regulatory Commission's ("Commission") February 25, 2008 Order regarding the Midwest Independent Transmission System Operator, Inc.'s ("Midwest ISO") Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Tariff" or "ASM Tariff"),¹ the Midwest ISO's Independent Market Monitor ("IMM") submits this informational filing in compliance with the Commission quarterly reporting requirement regarding the applicable threshold for economic withholding. As the ASM Rehearing Order required this filing 30 days prior to the end of the quarter, it is being submitted out-of-time due to a delay in completing the competitive analysis presented below. Notwithstanding, we respectfully request that the Commission allow the ASM conduct and impact thresholds to be adjusted at the beginning of the next quarter as the timing of this filing does not prejudice any party in this case. In addition, our analysis that is presented in this filing raise no significant competitive concerns that might justify postponing the adjustment in the conduct and impact thresholds for the ASM products.

I. BACKGROUND

On September 14, 2007, as amended on September 19, 2007,² the Midwest ISO submitted for Commission approval revisions and amendments to its then effective Open Access Transmission and Energy Markets Tariff ("EMT") to implement a centralized and co-optimized Energy and Operating Reserve Market within the Midwest ISO Region. The ASM Order conditionally accepted the ASM Tariff, subject, among other things, to a requirement that the IMM submit quarterly reports regarding: (1) whether market power is being appropriately

¹ *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,172 (2008) ("ASM Order"), *order on reh'g*, 123 FERC ¶ 61,297 (2008) ("ASM Rehearing Order"). The Midwest ISO and the IMM use the term "Ancillary Services Markets" or "ASM" to refer collectively to the markets for Energy and Operating Reserves established pursuant to the ASM Tariff.

² *See* Midwest Independent Transmission System Operator, Inc. Electric Tariff Filing To Reflect Ancillary Services Markets, Docket No. ER07-1372-000 (filed Sept. 14, 2007) and Midwest Independent Transmission System Operator, Inc. Amendment To Tariff Filing Regarding Ancillary Services Markets, Docket No. ER07-1372-001 (filed Sept. 19, 2007).

mitigated; (2) whether the \$10 conduct threshold for economic withholding should be increased by another \$10, as scheduled, for the next 90-day period; and (3) whether the IMM has detected any efforts to inappropriately increase any unit's Reference Level.³

On January 6, 2009, the ASM markets commenced successfully. On March 9, 2009, the IMM submitted a report regarding automated mitigation and ASM products, in compliance with a December 18, 2008 Order and the concerning automated mitigation and the ASM Rehearing Order.⁴ On April 6th, 2009 (90 days after the start of the ASM market) the IMM raised the conduct threshold from \$10 to \$20 per MW because no competitive concerns had been detected.

II. DESCRIPTION OF COMPLIANCE FILING

The purpose of this filing is to report on a review of the second quarter of Midwest ISO ASM market operation to determine if the Commission's criteria for raising the conduct thresholds at the beginning of the third quarter of ASM operation is warranted. For the period of April through June 15, 2009, the IMM finds that Midwest ISO's automated software generated reliable mitigation indicators for the ASM markets, and that such indicators were accurate. In this most recent quarter, participants have infrequently failed the conduct test. Those that did fail the conduct test did not substantially affect prices so no mitigation of ASM products occurred in the second quarter (through June 15).

To determine whether the increase in thresholds in early April may have prompted less competitive conduct by suppliers, the next analysis shows the portion of offers that fail the conduct test at both the \$10 and \$20 threshold levels for spinning reserves and regulation.

Month	Regulation					Spinning Reserve				
	MW	\$10 Threshold		\$20 Threshold		MW	\$10 Threshold		\$20 Threshold	
		MW Fail	%	MW Fail	%		MW Fail	%	MW Fail	%
Jan-09	6,202	250	4.0%	156	2.52%	28,247	1,638	5.8%	19	0.07%
Feb-09	6,503	243	3.7%	167	2.57%	28,128	1,380	4.9%	7	0.02%
Mar-09	6,327	233	3.7%	156	2.47%	26,669	1,043	3.9%	10	0.04%
Apr-09	5,879	209	3.6%	76	1.29%	24,557	1,147	4.7%	10	0.04%
May-09	6,095	186	3.0%	145	2.38%	25,849	1,226	4.7%	10	0.04%
Jun-09	6,541	343	5.2%	151	2.30%	26,043	1,236	4.7%	10	0.04%

This table shows that relatively low levels of offers are submitted at levels that exceed the generating resources' reference levels by more than \$10 are relatively low (generally less than 5 percent of all offers). Further, these levels did not increase substantially when the threshold was increased in early April. These results, together with the conclusions of our ongoing monitoring of the ASM markets and the fact that no mitigation took place during the quarter, confirm that no

³ ASM Order at P 122-123 and 139; ASM Rehearing Order at P 52-53.

⁴ *Midwest Indep. Trans. Sys. Operator, Inc.*, 125 FERC ¶ 61,319 at P 36 (2008).

competitive concerns have arisen that would justify postponing the increase in thresholds called for in the Tariff.

On the basis of these findings, the IMM plans to increase the conduct and impact thresholds for the ASM products from \$20 per MW to \$30 per MW, effective July 1, 2009. The IMM will continue to review and monitor these issues, and will update the Commission in the quarterly filings or sooner if competitive concerns arise.

III. NOTICE AND SERVICE

A. NOTICE

Please place the following persons on the official service list in this proceeding:

David B. Patton
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* Persons designated to receive official service.

B. SERVICE

The IMM has served all parties provided in the Commission's eService list for the above-referenced dockets. In addition, the IMM notes that the Midwest ISO has served a copy of this filing electronically, including attachments, upon all Tariff Customers, Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the Region. In addition, the filing has been posted electronically on the Midwest ISO's website at www.midwestmarket.org under the heading "Filings to FERC" for other interested parties in this matter.

IV. CONCLUSION

For the foregoing reasons, the IMM respectfully requests the Commission to accept this informational filing in accordance with the directives set forth in the ASM Order.

Respectfully submitted,

/s/ David B. Patton

Dr. David B. Patton
Potomac Economics, Ltd.