

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

Midwest Independent Transmission )  
System Operator, Inc. ) Docket No. ER08-394-003  
)  
)

**MOTION TO INTERVENE AND COMMENTS  
OF THE  
MIDWEST ISO'S INDEPENDENT MARKET MONITOR**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.212 and 214 (2007), Potomac Economics respectfully moves to intervene in the above-captioned proceeding concerning the June 25, 2008, filing by the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”). Potomac Economics is the Independent Market Monitor (“IMM”) for the Midwest ISO.

**I. NOTICE AND COMMUNICATIONS**

All correspondence and communications in this matter should be addressed to:

Dr. David B. Patton  
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**II. NATURE OF THE PROCEEDING AND MOTION TO INTERVENE**

The Midwest ISO submitted a filing on June 25, 2008 to establish Resource Adequacy Requirements (“RAR”) financial settlement provisions, as required in the Commission’s March 26 Order.<sup>1</sup>

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<sup>1</sup> *Midwest Independent Transmission System Operator, Inc.*, 122 FERC ¶ 61,283 (2008) (“March 26 Order”).

Intervention is appropriate where the movant may be directly affected by the outcome of the proceeding and has a direct interest in the same that cannot adequately be represented by any other party.<sup>2</sup> Potomac Economics' intervention and participation is in the public interest. As the Midwest ISO's IMM, assuming the responsibility and function of monitoring activities within the Midwest ISO Region, Potomac Economics is required under the provisions of the Midwest ISO's Open Access Transmission and Energy Markets Tariff ("EMT") to monitor and evaluate the market outcomes and market rules to promote the efficiency and competitiveness of the Midwest ISO markets. Potomac Economics may also be bound or adversely affected by the Commission's actions herein. For these reasons, Potomac Economics respectfully requests that it be permitted to intervene in this proceeding with full rights as a party hereto.

### **III. COMMENTS**

This filing describes the comments of the IMM on the Midwest ISO's proposed RAR financial settlement provisions. These provisions will facilitate a market for capacity. This market provides economic signals that supplement the signals provided by the Midwest ISO's energy and ancillary services market to ensure that sufficient resources to satisfy the Midwest ISO's reliability needs. Without the enforcement provisions outlined in the Midwest ISO's filing, load serving entities ("LSEs") would have little incentive to purchase capacity for prices significantly above zero.

However, by establishing deficiency charges equal to the annual cost of new entry ("CONE") that would be charged to any LSE found to be deficient in a single month, the LSEs will now have adequate incentives to plan for their RAR needs ahead and make purchases of capacity to satisfy these needs when necessary.<sup>3</sup> The revenues available to new suppliers from

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<sup>2</sup> See 18 C.F.R. § 385.214(b)(2)(ii).

<sup>3</sup> However, allowing the LSE's to influence the level of their requirement by basing the requirement on their load forecasts is an issue that should be addressed.

this market will help ensure that new supply and demand resources enter the market when they are needed.

Therefore, I support the RAR financial settlement provisions proposed by the Midwest ISO. In particular, I support the application of a deficiency charge based on the annual CONE in any single month an LSE is deficient because LSEs are not likely to be deficient in multiple months since the requirements in each month are based on the forecasted load for that month. Hence, the requirements will be highest in the month that includes the forecasted peak load for the year.

With regard to the initial CONE, I understand that the Midwest ISO has proposed to use the CONE for a peaking resource that is included in the 2007 State of the Market Report (\$80 per KW-year). I support the use of this value initially. It is based on information developed by the Energy Information Administration regarding the typical costs of investment in new generation resources. However, these costs have been rising and it will be important to revise the CONE value over time to accurately reflect current investment costs.

Although the financial settlement provisions should facilitate bilateral trading of capacity in the Midwest, the Midwest ISO has also proposed to conduct a voluntary auction immediately prior to each month. This market will provide suppliers with excess unsold capacity and LSEs in need of capacity an efficient means to transact. It will also provide transparency to the market by establishing spot prices for capacity. Finally, it will facilitate monitoring of the capacity market by providing the offers of the suppliers in the voluntary auction and allowing us to easily identify suppliers physically withholding capacity from this market.<sup>4</sup> For these reasons, we believe the

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<sup>4</sup> Capacity that is profitably exported to neighboring markets should not be deemed to have been withheld, only capacity that remains unsold in any market or capacity that is exported to lower-priced markets.

addition of a voluntary centralized capacity auction is a valuable component of the Midwest ISO's proposal.

Although market monitoring will be facilitated by the Midwest ISO's proposal, abuses of market power or manipulation are not impossible. Under the current RAR structure proposed by the Midwest ISO, these abuses are unlikely. All RAR requirements are market-wide, which means that suppliers throughout the Midwest ISO region (and those in adjacent regions) must compete to sell capacity in the Midwest. This competition over the broad Midwest region should produce efficient prices for capacity, although we have not performed a rigorous market power analysis of this market.

Because we believe that the market abuses described above are unlikely, we have not advised the Midwest ISO that additional market power mitigation measures are necessary at this time. However, we will be monitoring the capacity market closely and will inform the Commission and the Midwest ISO if we determine that market power mitigation measures or other market changes are needed to ensure efficient market outcomes. Furthermore, we will have the information available to us to effectively monitor the RAR market.

#### **IV. CONCLUSION**

For the reasons stated above, we fully support the Midwest ISO's proposed RAR financial settlement provisions and recommend that the Commission approve them.

Respectfully submitted,

*/s/ David B. Patton*

David B. Patton, President  
Potomac Economics  
Midwest ISO Independent Market Monitor

Dated: August 1, 2008

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day e-served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 1<sup>st</sup> day of August 2008.