123 FERC ¶ 61,230
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Midwest Independent Transmission System Operator, Inc. — Docket Nos. ER08-622-000, ER08-622-001

ORDER ACCEPTING PROPOSED TARIFF REVISIONS
SUBJECT TO CONDITIONS

(Issued May 30, 2008)

1. On March 31, 2008, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted Part II of its proposed revisions to the credit policy in Attachment L of its Open Access Transmission and Energy Markets Tariff (TEMT or tariff)[1] as an amendment to its Part I Bid Credit Requirements.[2] In Part II, Midwest ISO proposes to revise the credit requirements for holding Financial Transmission Rights (FTRs) acquired through the FTR auctions (Hold Credit Requirements).[3] In this order, the Commission accepts Midwest ISO's proposed tariff sheets for filing, subject to conditions, to be effective May 12, 2008, as requested.

I. Part I Bid Credit Requirements

2. On February 29, 2008, Midwest ISO filed Part I of its proposed revisions to the credit policy in Attachment L of the TEMT.[4] In Part I, Midwest ISO proposed to revise the credit requirements for submitting bids (Bid Credit Requirements) in the Midwest ISO FTR auctions. On May 6, 2008, the Commission conditionally accepted Midwest

[1] Midwest ISO, FERC Electric Tariff, Third Revised Volume No. 1.

[2] Midwest ISO March 31, 2008 Filing, Docket No. ER08-622-001 (March 31 Filing).

[3] In this order, the Commission addresses only the Hold Credit Requirements that Midwest ISO proposes in its March 31 Filing.

[4] Midwest ISO February 29, 2008 Filing, Docket No. ER08-622-000 (February 29 Filing).

ISO's proposed Part I credit requirement changes.[5] In its May 6 Letter Order, the Commission stated that it would address in a future order the proposed Part II Hold Credit Requirements, as well as the issues interveners raised in response to that proposal.

II. Background

3. In late 2007 and early 2008, certain market participants in PJM Interconnection Inc.'s (PJM's) market defaulted on their obligations to provide credit in accordance with PJM's credit policy. The obligations were associated with FTR positions held by these entities. The announcement of the defaults prompted Midwest ISO to undertake a thorough review of the FTR-related credit requirements contained in Attachment L of its tariff.

4. On January 29, 2008, the Midwest ISO Credit Practices Working Group initiated a stakeholder review of Midwest ISO's FTR Credit Policy. It formed the FTR Task Force to review the Midwest ISO's Credit Policy to determine whether the policy could be improved.[6] The FTR Task Force found weaknesses in both the Bid Credit Requirements and the Hold Credit Requirements and discussed alternatives to strengthen both credit requirements. In particular, the FTR Task Force determined that, with respect to the Hold Credit Requirements, the current methodology Midwest ISO uses to calculate the expected value of an FTR is less predictive than other calculations used to determine the expected value of a FTR Portfolio.[7] Currently, Midwest ISO calculates the FTR's value using a P(50) or median value of the historical congestion component of Locational Marginal Price (LMP) for each commercial node that is updated annually.

III. Notice of Filing and Responsive Pleadings

5. Notice of Midwest ISO's March 31 Filing was published in the *Federal Register*, 73 Fed. Reg. 20,281 (2008), with interventions and protests due on or before April 21, 2008. Motions to intervene were timely filed by Madison Gas & Electric Company, Missouri River Energy Services, Wisconsin Public Power Inc. and Saracen Energy LP (Saracen). Timely comments were filed by Exelon Corporation (Exelon) and jointly filed by DC Energy, LLC (DC Energy) and Saracen. Motions to intervene and protests were timely filed by Integrys Energy Group, Inc. (Integrys), and jointly filed by EPIC Merchant Energy, LP and SESCO Enterprises, LLC (collectively, Financial Marketers).

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[5] *Midwest Indep. Transmission Sys. Operator, Inc.*, 123 FERC ¶ 61,126 (2008) (May 6 Letter Order).

[6] Sixteen Market Participants agreed to join the FTR Task Force.

[7] March 31 Filing, Gootee Test. at 7.

Midwest ISO filed an answer on May 6, 2008. Integrys filed an answer in response to Midwest ISO's answer on May 21, 2008.

IV. Discussion

A. Procedural Matters

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Midwest ISO's and Integrys's answers because they provided information that assisted us in our decision-making process.

7. As discussed above, in the May 6 Letter Order, the Commission addressed Midwest ISO's Bid Credit Requirements. The issues raised by intervenors in their comments on the Midwest ISO's February 29, 2008 Filing with respect to the Hold Credit Requirements will be addressed herein.

B. Parties' Arguments

1. Midwest ISO's March 31 Filing

8. Midwest ISO states that the purpose of its filing is to propose two changes to the Midwest ISO's Credit Policy as it pertains to: (1) calculating the estimated exposure associated with holding FTRs acquired through an FTR auction; and (2) the new exposure resulting from the changes to the settlement process of the FTR auctions transactions.

9. The first change Midwest ISO proposes is a revision to the method of calculating the FTR Portfolio Estimated Exposure, which is the third part of the FTR Portfolio Total Potential Exposure formula.[8] FTR Portfolio Estimated Exposure is "the section which estimates the expected future value of all charges and credits (which have not yet been measured or invoiced) associated with the holding of an FTR."[9] Currently, the FTR Portfolio Estimated Exposure for a particular transaction is the difference between the

[8] Midwest ISO is not proposing to change the first two parts of the formula, the FTR Portfolio Invoiced Exposure and the FTR Portfolio Measured Exposure. These two components reference the settled portion of the congestion revenue/charges associated with the holding of an FTR.

[9] March 31 Filing at 2.

P(50) (median) LMP value at the transaction source point and the P(50) (median) LMP value at the transaction sink point. Under its proposal, Midwest ISO will also calculate the difference between the P(75) LMP values at the source and sink points. Whichever of these two results is greater will become the new FTR Portfolio Estimated Exposure. Midwest ISO adds that it analyzed five alternative methods to calculate the FTR Portfolio Estimated Exposure and that the one it is proposing here is the most conservative option.[10]

10. The second change Midwest ISO proposes is related to its implementation of Auction Revenue Rights (ARRs). Midwest ISO states that it needs to make changes to recognize that beginning in 2008, Midwest ISO market participants will no longer nominate FTRs and instead will nominate ARRs. Consequently, Midwest ISO has revised the credit requirement calculation to include three new ARR components.[11]

11. Midwest ISO also proposes to modify the definition of FTR Auction to specify that it includes annual, monthly and conjoined auctions. It further proposes to remove FTR Auction Credit Exposure as a service category and instead place it at the end of Attachment L, Section III.B, where the allocation of the Total Credit Limit to FTR Auction activity is discussed. Midwest ISO states that this change is appropriate because FTR Auction Credit Exposure is not a service category, and instead is exposure related to FTR auction activity that is no longer present once the auction has concluded. Midwest ISO adds that service categories, by contrast, involve risks that begin once the auction has closed.[12]

12. Midwest ISO explains that the changes proposed in its March 31 Filing are the product of its efforts to strengthen its credit requirements related to FTRs acquired during the FTR auction. It believes that this is a necessary undertaking that will allow Midwest ISO to provide sufficient protection to itself and its customers with respect to FTR auction transactions. Midwest ISO therefore submits that the proposed tariff revisions are just and reasonable and should be approved by the Commission.[13]

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[10] *Id*. at 3. The five alternatives studied, from least conservative to most conservative, are as follows: (1) the current P(50) for All; (2) P(50) with Seasonal Adjustment; (3) P(75) for All; (4) P(50) for Negative and P(75) for Positive; and (5) Greater of P(50) or P(75). *Id*. at Attachment A, Exhibit A.

[11] *Id*. at 3. These revisions are contained in Section IV.A of Attachment L.

[12] *Id*.

[13] *Id*. at 4.

13. Finally, Midwest ISO requests waiver of the 60-day notice requirement so that the proposed Hold Credit Requirements can become effective on May 12, 2008.[14] It states that such an effective date is necessary to ensure that Midwest ISO's FTR Credit Policy revisions are implemented in time for the clearing of the 2008 Annual FTR Auction.[15]

2. Comments

a. March 21 Comments on Hold Credit Requirements

14. Exelon argues that Midwest ISO attempts to estimate the value of FTR positions, but the lack of a forward market makes it difficult to accurately produce a mark-to-market of FTR positions. Exelon states that without a forward curve, Midwest ISO cannot accurately estimate the margin required to ensure that a position is collateralized properly. Exelon argues that Midwest ISO is left to its own devices to estimate a forward curve and that this is where the problems occur.[16] Exelon states that each Regional Transmission Organization (RTO) estimates the forward curve differently, but all use historical prices as the basis for doing so.[17]

15. Exelon argues that there are other methods to mitigate the exposure. Specifically, Exelon states that: (1) Midwest ISO and other RTOs must stop allowing non-creditworthy and non-investment grade counterparties to participate on an unsecured basis; (2) Midwest ISO should include volumetric limits on FTR positions for counterparties that participate solely on a speculative basis; (3) those entities with high tangible net worth should be allowed to take larger positions; (4) Midwest ISO should use the P(75) case for positive FTRs and 120 percent for the negative FTRs;[18] and

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[14] 16 U.S.C. § 824d(d) (2000); 18 C.F.R. § 35.3(a) (2007).

[15] March 31 Filing at 6.

[16] Exelon March 21, 2008 Comments at 3-4.

[17] *Id*. at 4.

[18] A positive FTR is one for which an entity makes a payment, and then the FTR holder expects to receive payments funded by the congestion component of LMPs. A negative FTR is one for which an entity receives a payment to become an FTR holder and then is required to make payments back to the market based on the congestion component of LMPs.

(5) Midwest ISO should "stress test" the FTR portfolio using a "Monte Carlo" simulation[19] methodology to look for points of extreme volatility.[20]

16. Alliant understands that allocated ARRs that are self-scheduled into FTRs will be exempt from the proposed Credit Policy revisions. Alliant states that while it agrees that an FTR self-scheduled from an allocated ARR poses less of a credit risk than an FTR purchased without an associated ARR, all FTRs converted from allocated ARRs pose less of a credit risk, regardless of how the conversion occurs. According to Alliant, self-scheduling an allocated ARR into an FTR makes that FTR no less risky than an FTR converted from an allocated ARR through auction bids. Alliant states that the Midwest ISO should identify FTRs that are converted from allocated ARRs through auction bids, and that the Credit Policy should treat those FTRs the same as it treats FTRs that are self-scheduled. Alliant concludes that exempting only allocated ARRs that are self-scheduled into FTRs, and not exempting allocated ARRs that are converted into FTRs through auction bids, provides a disincentive for market participants that are allocated ARRs to participate in the ARR market. It states that when ARRs are self-scheduled into FTRs, the market participant that most values an FTR may not receive that FTR, and that this is an inefficient market result. [21]

b. <u>Midwest ISO's April 7 Answer</u>

17. It its April 7, 2008 answer, Midwest ISO addressed Exelon's and Alliant's March 21, 2008 comments with respect to the Hold Credit Requirements.[22] With regard to Exelon's comments, Midwest ISO states that its Credit Policy does not require an investment-grade credit rating in order to participate in any of the Midwest ISO-administered markets, including the FTR auction. Midwest ISO explains that stakeholders decided not to address this limitation in the February 29 Filing. With respect to the proxy, volumetric limits, and stress tests provided by Exelon, Midwest ISO

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[19] Exelon states that "[a] Monte Carlo simulation involves a repeated random generation of values for uncertain variable in order to form a model that represents the possible outcomes given the specified realms of probability surrounding these variables." Exelon March 21, 2008 Comments at n.7.

[20] *Id*. at 4-5.

[21] Alliant March 21, 2008 Comments at 3-4.

[22] The Midwest ISO's April 7, 2008 Answer was accepted in the May 6 Letter Order. May 6 Letter Order at P 16.

states that these proposals contain methodologies that need to be reviewed, along with other proposals, by the FTR Task Force.[23]

18. With respect to Alliant's comments, Midwest ISO agrees that ARRs that are self-scheduled into FTRs will be exempt from the proposed Credit Policy revisions. Midwest ISO acknowledges Alliant's argument that FTRs converted from allocated ARRs through auction bids should be treated the same as self-scheduled FTRs under the Credit Policy, and states that Alliant's proposal, as well as additional alternatives suggested by other market participants, needs to be vetted by the FTR Task Force before a final methodology is adopted.[24]

c. April 21 Comments on Hold Credit Requirements

19. Exelon recommends that the Commission conditionally accept the Midwest ISO's March 31 Filing, subject to a compliance filing to further strengthen the credit requirements. Exelon agrees that the March 31 Filing takes steps to strengthen credit requirements associated with the holding of FTRs acquired through an FTR auction. Exelon fully supports the increased collateral requirements put forth. However, it argues, as it did in its March 21, 2008 comments, that Midwest ISO's credit policies fall far short of protection that is needed given the experience with defaults in PJM.[25] Exelon reiterates its arguments that: (1) Midwest ISO should not allow non-investment grade counterparties to participate in the market on an unsecured basis; (2) Midwest ISO should consider volumetric limits on FTR auctions, especially for non-diversified entities (serving no-load or lacking generation and therefore purely speculating); (3) the proposed P(75) evaluation methodology for counterflow FTRs fails to reflect the potential risk of these positions given historical volatility; and (4) Midwest ISO should hold the collateral for the FTRs for the duration of the term rather than returning it to the counterparty as time expires.[26]

20. Exelon recognizes that Midwest ISO's stakeholders do not all agree on tightening credit policies and states that this stands to reason when some stakeholders are non-investment grade, or non-rated, FTR speculators whose appetite for risk may surpass their ability to cover the risk. It also argues that Midwest ISO did not claim that it filed credit

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[23] Midwest ISO April 7, 2008 Answer at 4-5.

[24] *Id*. at 5.

[25] Exelon April 21, 2008 Comments at 2 (citing *PJM Interconnection, Inc.*, 122 FERC ¶ 61,279 (2008)).

[26] *Id*.

policies to adequately protect non-defaulting RTO members and the consuming public, nor did it offer any reason why its credit policies should not provide adequate protection. Exelon states that Midwest ISO's reliance solely on the stakeholder process is not sufficient to support a finding that its weak credit policies are just and reasonable. Exelon argues that Midwest ISO should exercise its right under Federal Power Act section 205[27] to file tariff amendments, as recommended by Exelon, that will avoid burdening non-defaulting members of the RTO and the consuming public with losses incurred by inadequately collateralized market participants.[28]

21. DC Energy and Saracen state that they do not protest Midwest ISO's March 31 Filing, and that they will continue to contribute to the stakeholder process in the hopes of arriving at a more balanced solution. They also state that Midwest ISO's proposed methodology should not be considered precedential or replicated in future proceedings. DC Energy and Saracen argue that Midwest ISO's proposal to determine a market participant's FTR Portfolio Total Potential Exposure by considering the difference between the source and the sink using the greater of the respective P(50) values or the P(75) values is conceptually flawed and will irrationally cause over-collateralization by some market participants and under-collateralization by others.[29] They state that DC Energy demonstrated in a presentation to Midwest ISO and the FTR Task Force that a certain percentile value (e.g., P(50)) at the source price does not necessarily occur on the same day as the percentile value sink price. They argue that Midwest ISO is looking at the historical pricing of the source and sink nodes independently, which results in a temporal disconnect between the points of injection and withdrawal.[30] They add that this approach fails to provide a meaningful analysis, as the FTR Portfolio Total Potential Exposure used to determine the expected value of a given FTR portfolio will be erroneously high in many circumstances, or erroneously low in a number of circumstances. They add that this approach produces output that does not reflect the congestion risk on any path, and that it is arbitrary.[31]

22. DC Energy and Saracen state that Midwest ISO staff has acknowledged that the current proposal is not the optimal solution and has encouraged the FTR Task Force to continue discussions. They state that Midwest ISO staff claims that there are system

[27] 16 U.S.C. § 824d (2000).

[28] Exelon April 21, 2008 Comments at 3.

[29] DC Energy and Saracen April 21, 2008 Comments at 3.

[30] *Id*. at 3.

[31] *Id*. at 4.

limitations that prevent implementation of an approach that would look at the distribution of time-correlated price spreads between source and sink nodes in time for the 2008-09 Annual Auction. DC Energy and Saracen are concerned that Midwest ISO has developed a quick solution to increase collateral requirements without thorough consideration of the efficacy of the solution.[32]

23. DC Energy and Saracen also argue that the proposed methodology for calculating the FTR Portfolio Estimated Exposure is not necessarily a "conservative" approach and is not necessarily the right approach. They state that while Midwest ISO's proposal will require higher credit requirements, it will not necessarily secure increased collateral on "risky" paths; instead it will secure arbitrary collateral increases on all paths that do not correspond to their inherent riskiness. DC Energy and Saracen further argue that any material change in Midwest ISO's credit policy should consider the nexus between the amount of collateral required and the legitimate risk of exposure by the market participant's FTR portfolio. Additionally, they state, such changes to Midwest ISO's credit policy should be reviewed to ensure that the proposal does not needlessly impair liquidity in the FTR auction or undermine the credibility of the auction. They note that in accepting changes to PJM's credit policy, the Commission appropriately recognized the importance of achieving balance between market safety and market liquidity by approving a credit policy that applies the correct, rather than the most expensive, collateral.[33] They add that in *PJM*, the Commission approved of a credit policy that correlates collateral requirements with actual FTR risks, rather than a credit policy that results in the over-collateralization of FTR bids.

24. DC Energy and Saracen argue that it is imperative to implement a methodology for determining the FTR Portfolio Total Potential Exposure that balances the need to collateralize FTR bids and the need to ensure market safety with the need to ensure market liquidity. They do not believe Midwest ISO's proposal adequately achieves such a balance and, therefore, do not believe the proposed methodology is an appropriate solution.[34]

25. Integrys requests that the Commission accept Midwest ISO's filing subject to revisions. Integrys argues that Midwest ISO's proposal to increase the FTR Portfolio Estimated Exposure is necessary to protect the financial integrity of the FTR process but that it may impede or prevent some creditworthy market participants from bidding in the

[32] *Id*.

[33] *Id*. at 5 (citing *PJM Interconnection, LLC*, 122 FERC ¶ 61,279, at P 36, 42 (2008) (*PJM*)).

[34] *Id*. at 6.

FTR markets. Integrys adds that any exclusion of creditworthy market participants will unnecessarily decrease the liquidity in the FTR market, which is essential for the FTR mechanism to work as intended.[35] For this reason, Integrys proposes three alternatives for Commission consideration.

26. First, Integrys proposes holding FTR auctions quarterly or seasonally rather than annually. Integrys states that the current credit requirements are the sum of four seasonal exposures and that shortening the FTR commitment period would mean that the credit requirements would have to cover three months at a time instead of twelve. Integrys argues that this would be more tailored to the actual increase created by the FTRs held in a given quarter, thus producing a precise correlation between financial assurance and financial burden.[36] Second, Integrys proposes to adopt the P(75) for All, or the P(50) for Negative and P(75) for Positive, approaches analyzed by the FTR Task Force. It states that if the Commission denies quarterly auctions, then it should require the Midwest ISO to select either the first or second approach that it proposes (Integrys adds that its second approach is less desirable than the first approach).[37] Finally, Integrys proposes to modify Midwest ISO's proposed approach to allow netting. Using this approach, a market participant could net one category of potential exposure against another. Integrys states that netting is used throughout the calculation of almost every other component of the overall exposure calculation, and that Midwest ISO's proposal eliminates the credit benefit from having an FTR/ARR portfolio that effectively hedges energy market positions.[38]

27. Financial Marketers argue that Midwest ISO's proposal must be rejected because it is not supported by any analysis or evidence showing that a 1,000 percent increase in collateral requirements is reasonably needed to protect the market. They submit that the Midwest ISO proposal discourages beneficial trading through excessive credit requirements and thereby reduces market liquidity and impairs competition. Financial Marketers claim that there has been no history of FTR-related defaults in the Midwest ISO market, much less losses that would justify a 1,000 percent increase in collateral requirements. They note that the Commission has rejected prior attempts to increase collateral requirements to such a degree that they harm the market and inhibit

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[35] Integrys April 21, 2008 Protest at 4.

[36] *Id*. at 5.

[37] *Id*.

[38] *Id*. at 6.

competition.[39] Financial Marketers contend that the greatly increased collateral requirements are a barrier to market entry, particularly for new and smaller market participants.

28. Financial Marketers also argue that the proposed calculation is flawed and does not represent the actual risk of default because the proposed collateral requirements have little or no relation to the actual prices experienced on the FTR path and, thus, do not represent a just and reasonable method of protecting the market. They argue that the proper method of determining collateral requirements is to base them on the hourly difference between the source and sink prices, averaged over the course of the FTR term. Financial Marketers state that Midwest ISO's proposed methodology ignores the fact that source and sink prices follow regular and predictable cycles and tend to fluctuate together. Financial Marketers argue that because the Midwest ISO proposal does not reflect the way FTRs are actually valued, it produces grossly inflated collateral levels, and is not a reasonable method of determining credit requirements. They state that use of a seasonal adder, also evaluated by Midwest ISO in its filing, would provide an acceptable method of reflecting the increased risks along some FTR paths.[40]

29. Financial Marketers contend that Midwest ISO's proposal is not based on any risk analysis and fails to balance market risk against increasing barriers to entry. They state that Commission precedent states that credit provisions should allow "'the ISOs and RTOs to reduce their risk exposure in the event of default while at the same time ensuring that the credit or collateral requirements are not so stringent that they unnecessarily inhibit access to the marketplace.'"[41] They argue that a just and reasonable credit requirement does not require an RTO to entirely eliminate the risk of default,[42] and further argue that the Midwest ISO proposal does not result in a credit policy that "better correlates its collateral requirements with the risk exposure in the FTR market by more precisely matching a participant's credit requirements with its actual FTR risks."[43]

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[39] Financial Marketers April 21 Comments at 5 (citing *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186, at P 19 (2004)).

[40] *Id*. at 7-8.

[41] *Id*. at 8 (quoting *PJM Interconnection, LLC*, 104 FERC ¶ 61,309, at P 19 (2003)).

[42] *Id*. at 9 (citing *Policy Statement on Electric Creditworthiness*, 109 FERC ¶ 61,186, at P 19 (2004)).

[43] *Id*. (quoting *PJM Interconnection, LLC*, 122 FERC ¶ 61,279, at P 36).

30. Additionally, Financial Marketers contend that Midwest ISO refused to present the selected method for a vote at the FTR Task Force meeting. They argue that the market participants in the Credit Practices Working Group objected to Midwest ISO's preferred calculation method because it grossly increased collateral requirements without any showing that an increase of this magnitude was needed or reasonable.[44]

d. Midwest ISO's May 6 Answer

31. In its May 6 Answer, Midwest ISO states that it is committed to continuing the review process in order to vet all of the concerns and proposed solutions, and that the Credit Practices Working Group will determine the industry best practices for Midwest ISO market participants.[45] Midwest ISO argues that in light of the substantial losses in PJM and a determination by the FTR Task Force that the current methodology is flawed, it is reasonable to adopt a methodology that will more appropriately align exposure and permit Midwest ISO to fulfill its obligations to protect market participants. Midwest ISO further states that to provide the appropriate level of protection to all of its customers, it selected the approach that provided the best correction to the current level of protection.[46]

32. In response to Financial Marketers' claim that Midwest ISO refused to present the selected method for a vote at an FTR Task Force meeting, Midwest ISO states that the March 31 Filing was subject to time and data constraints. Midwest ISO adds that at first it thought it had certain system capabilities that it later discovered were not available. Midwest ISO explains that it alerted the Credit Practices Working Group to this change, discussed in detail the time and data constraints, and proposed an immediate filing with the understanding that they would continue their diligent efforts to agree on an adequate long-term methodology.[47]

33. Addressing Financial Marketers' concern regarding the independent calculation of the P(50) and P(75) values of congestion at the source and sink, and then subtracting the difference, Midwest ISO states that this portion of the methodology is not among the changes proposed in the March 31 Filing. Midwest ISO states that this current methodology was approved by 100 percent of the 25 voting Credit Practices Working

[44] *Id*. at 10.

[45] Midwest ISO May 6, 2008 Answer at 8.

[46] *Id*. at 6-7.

[47] *Id*. at 4.

Group members[48] and by the Commission.[49] Midwest ISO also states that it has no basis to agree or disagree with the assertion that calculating actual congestion on an hour-by-hour basis may be the preferred methodology and states that neither Midwest ISO nor Financial Marketers have developed or presented any empirical evidence to demonstrate that it is a superior methodology.[50] Midwest ISO states that the Financial Marketers' selection of a seasonally weighted methodology without supporting analysis is arbitrary.[51] In addition, it explains that the March 31 Filing does not affect the credit requirements to enter the market or to bid in the FTR auction and therefore does not create a barrier to entry.[52]

34. In response to Integrys' proposed alternative to hold FTR auctions quarterly or seasonally, Midwest ISO states that market participants requested the annual FTR auction design, and that its credit department would not oppose a quarterly auction if all market participants, working through the stakeholder process, were to agree to this shortened auction period. They further note that matters related to changing the FTR auction from an annual to a quarterly event is a market function and not a credit issue.[53]

e. <u>Integrys' May 21 Answer</u>

35. In its answer submitted in response to Midwest ISO's answer, Integrys argues that Midwest ISO inaccurately portrays its decisional stakeholder processes. It contends that Midwest ISO's distinction between auction credit requirements and portfolio credit requirements is non-existent, arguing that both can become a barrier to entry. Integrys also argues that the possibility of converting from annual to quarterly FTR auctions was discussed at the Credit Practices Working Group FTR credit meetings and the participants were never told that quarterly FTR auctions could not be considered. Further, Integrys argues that the P(75) value was not vetted in the stakeholder process or approved in 2006, and that time constraints did not prevent Midwest ISO from

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[48] *Id*. at 5 (citing Midwest ISO August 11, 2006 Filing, Docket No. ER06-1356-000, at 7).

[49] *Id*. at 5 (citing *Midwest Independent Transmission System Operator, Inc*., 117 FERC ¶ 61,031 (2006)).

[50] *Id*. at 6.

[51] *Id*. at 7.

[52] *Id*. at 8.

[53] *Id*. at 9.

developing its FTR credit provisions because the May 6 Letter Order already approved temporary credit modifications.[54]

C. Commission Determination

36. For the reasons discussed below, we will accept Midwest ISO's proposed revisions to its tariff to be effective May 12, 2008, as requested. However, the Commission's acceptance of Midwest ISO's proposed tariff revisions is subject to the conditions discussed below. Midwest ISO's tariff revisions will strengthen the credit requirements associated with holding FTRs following the annual FTR auction. Midwest ISO has determined, and no party disputes, that the current credit requirements need to be revised to provide a higher level of protection. In addition, as we discuss further below, Midwest ISO commits to continue reviewing all FTR-related credit requirements through its stakeholder process and to make a future filing to propose additional changes. Although Midwest ISO's proposed methodology is the most conservative proposal discussed by the FTR Task Force, we find that it is appropriate for Midwest ISO to implement the proposal as an appropriate step to decrease the risk of a market participant default.

37. Further, we note that some commenters state that Midwest ISO's proposal should further strengthen the Hold Credit Requirements,[55] and others argue that the Midwest ISO's proposal is overly conservative,[56] but all commenters suggest that Midwest ISO continue to review its FTR-related credit requirements. We agree that the Midwest ISO should continue to review its credit requirements in order to ensure that its markets have an appropriate level of creditworthy participation. Further, Midwest ISO has repeatedly stated that the current proposal was filed under time and data constraints, and commits to further review all FTR-related credit requirements through its FTR Task Force.[57]

38. Our acceptance of Midwest ISO's March 31 Filing is conditioned on the requirements that Midwest ISO: (1) continue to review its FTR-related credit policies; and (2) submit regular reports on the status of its progress on reviewing its FTR-related

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[54] Integrys May 21, 2008 Answer at 2-4.

[55] Exelon March 21, 2008 Comments at 4-5; Exelon April 21, 2008 Comments at 2-3.

[56] Integrys, DC Energy and Saracen, and Financial Marketers April 21, 2008 Comments.

[57] Midwest ISO April 7, 2008 Answer at 5-6; Midwest ISO May 6, 2008 Answer at 7, 8; March 31 Filing at 4-5.

credit policies, as discussed below. We also accept Midwest ISO's commitment to make a future FPA section 205 filing with additional changes to the credit policy. The Commission has previously emphasized the importance of refining an RTO's credit policy with stakeholder input and submitting such refinements for Commission approval as the RTO gains more experience in its markets.[58] In order to keep the Commission apprised of Midwest ISO's progress on these matters, we will direct Midwest ISO to file reports on the status of its progress on reviewing its FTR-related credit policies every 90 days for a period of two years beginning on August 1, 2008.[59] These reports, which will be for informational purposes only, should include details of how the revisions accepted in this order, as well as the tariff revisions accepted in the May 6 Letter Order, are working in the FTR market. They should also address whether Midwest ISO has observed any decrease in market participants' participation in its FTR auctions. The status reports should further discuss alternative proposals that Midwest ISO's Credit Practices Working Group and FTR Task Force are considering but should not interfere with Midwest ISO's submission of proposed tariff revisions to its FTR-related credit polices.

39. We find that the March 21, 2008 comments of Exelon and Alliant on Midwest ISO's Hold Credit Requirements have been addressed. In response to these comments, Midwest ISO stated that Exelon's suggestions, Alliant's recommendations, as well as other alternatives suggested by other market participants, need to be vetted by the FTR Task Force before a final methodology is adopted.[60] As explained above, the Commission believes that it is important to continue stakeholder review of alternative credit policies and has therefore directed Midwest ISO to continue to review its FTR-related credit policies. We expect that this further review will include consideration of Exelon's and Alliant's suggestions, and that Midwest ISO will address these ideas in its informational reports.

40. We also find that the comments and protests submitted by Exelon, DC Energy and Saracen, Integrys, and the Financial Marketers in response to Midwest ISO's March 31 Filing have been addressed. In its May 6, 2008 answer, Midwest ISO explained that its proposal was filed under time and data constraints, and stated that it has directed the FTR Task Force to continue to review alternatives.[61] With respect to Integrys's proposed

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[58] *See Southwest Power Pool, Inc.*, 114 FERC ¶ 61,222, at P 19 (2006), *on reh'g*, 116 FERC ¶ 61,162 (2006).

[59] The Commission has directed PJM to file similar status reports. *See PJM Interconnection, LLC*, 122 FERC ¶ 61,279, at P 37 (2008).

[60] Midwest ISO April 7, 2008 Answer at 5.

[61] Midwest ISO May 6, 2008 Answer at 4, 8.

alternative to hold quarterly or seasonal FTR auctions, we agree with Midwest ISO that the timing of FTR auctions is a market function, and not a credit issue.[62] With regard to Integrys's argument that Midwest ISO should adopt the "P(75) for All" alternative, or that it should modify its proposal to allow netting, we agree with Midwest ISO these alternatives should be considered in the stakeholder process.[63] Accordingly, we will not direct the requested revisions at this time, but will expect Midwest ISO to report the results of the stakeholder discussions about them in its quarterly reports.

41. We will deny the Financial Marketers' request that the Commission reject Midwest ISO's credit proposal as unsupported, or adopt, on an interim basis, the Financial Marketers' proposed seasonally-weighted collateral option. As explained above, the Commission believes that it is important to continue stakeholder review of alternative credit policies and has therefore directed Midwest ISO to continue to review its FTR-related credit policies.

42. With regard to Financial Marketers' and DC Energy's argument that Midwest ISO's proposed calculation is flawed, we find that the Commission approved the current methodology of calculating values of congestion at the source and sink independently.[64] This methodology was also approved by 100 percent of Credit Practices Working Group members in 2006.[65] Thus we agree with Midwest ISO that the methodology, with respect to independent calculations of the values, is not at issue in this filing. While Integrys notes that the P(75) value was not at issue when the independent calculation of values was approved in 2006, neither Financial Marketers nor Integrys explains why they believe that using independent source and sink values is not appropriate in calculating the P(75) values in the instant proposal. In any event, the proposal to use P(75) *was* included as part of the stakeholder process that led to the instant filing. Parties can raise concerns about both the use of P(75) and the use of independent calculation of values as part of the on-going stakeholder process.

43. With respect to Financial Marketers' proposal to calculate actual congestion on an hour-by-hour basis, the Commission has no basis on which to evaluate this proposal because neither the Financial Marketers nor Midwest ISO has presented empirical evidence or an analysis demonstrating that it is a superior methodology. As discussed

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[62] *Id*. at 9.

[63] *Id*. at 8.

[64] *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,031 (2006).

[65] Midwest ISO May 6, 2008 Answer at 5.

above, Midwest ISO has committed to consider all market participant proposals during further review of its FTR credit requirements. For this reason, we will not direct Midwest ISO to adopt Financial Marketers' proposed revisions at this time.

44. We find that Financial Marketers' assertions that Midwest ISO's proposal is not necessary to protect market participants, could lead to increased barriers to entry, decreased market liquidity, and an over-collateralization of the market are unsupported. Further, as discussed above, Midwest ISO is continuing to review FTR-related credit policies with stakeholders. In addition, as discussed above, we are requiring Midwest ISO to include a discussion and analysis of whether there is reduced participation in the FTR auctions in its status reports.

45. We also reject Integrys' argument that time constraints did not prevent Midwest ISO from developing its FTR credit provisions because the May 6 Letter Order already approved temporary credit modifications. The May 6 Letter Order conditionally accepted Midwest ISO's proposed revisions to its Bid Credit Requirements and did not address Midwest ISO's Hold Credit Requirements, which are the subject of the instant order.

46. For the foregoing reasons, we find that Midwest ISO's March 31 Filing is just and reasonable, and has not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. For good cause shown, subject to the conditions discussed above, we will grant waiver of the 60-day notice requirement in order to permit the Hold Credit Requirements to become effective on May 12, 2008 and to allow Midwest ISO to employ the revised credit requirements following the 2008 annual FTR Auction.[66]

The Commission orders:

(A) Midwest ISO's tariff sheets are hereby accepted, subject to conditions, to become effective May 12, 2008, as discussed in the body of this order.

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[66] *Central Hudson Gas and Electric Corp*., 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

(B) Every 90 days for a period of two years, beginning August 1, 2008, Midwest ISO shall file a status report on its progress in further credit policy revisions, as discussed in the body of this order.

By the Commission. Commissioner Kelly concurring with a separate statement to be issued at a later date.

(S E A L)

Kimberly D. Bose,
Secretary.