Energy Choice Matters

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Stakeholders See Dismantling of MISO Through Western Markets Plan

To prevent the Midwest ISO from, "unraveling," FERC must stop the inherent "race to the bottom" contained in the ISO's Western Markets Proposal and affirm the principles of RTOs as contained in Order 2000, Midwest TDUs (transmission dependent utilities) told the Commission (ER08-637).

Under the Western Markets Proposal (Matters, 3/7/08), transmission owners could receive certain services from MISO, including, Reliability Coordination Service, Congestion Management Service, and Market Coordination Service, without ceding control of their grids to the ISO. It would open MISO's economic dispatch and LMP markets to transmission owners without requiring them to become full ISO members.

"The filing makes concession after concession after concession to the parochial interests of certain MAPP-area transmission owners, and rationalizes this failure to protect the reasonable interests of the loads on MISO's system on the ground that MISO must bow to 'this fundamental reality, the voluntary nature of RTO participation,'" Midwest TDUs protested.

"For example, the filing would provide for balkanized transmission within the MISO market footprint — multiple tariffs, fragmented functional control, and pancaked rates — on the ground that potential MCC [Market Coordination Customer] TOs 'would not be interested in becoming signatories to the ISO Agreement and transferring control over their facilities to the Midwest ISO,'" TDUs added.

"This scheme is unjust, unreasonable, and unduly discriminatory, and not only as to entities embedded in the MCC TO systems," claimed TDUs.

"It threatens to undermine the efficiencies MISO has achieved and even to invite its unraveling, thus harming all consumers in MISO's current footprint."

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Neither Load Nor Generators Satisfied with Buy-Side Mitigation in NYISO ICAP

Load and generators continued to spar over changes to the New York ISO's ICAP market, this time in rehearing requests over a March 7 FERC decision (Matters, 3/10/08).

In its decision, FERC (EL07-39) created a must-offer obligation for pivotal suppliers to prevent economic withholding and accordingly lifted revenue caps, since mitigated suppliers would no longer be able to affect the market clearing price.

FERC also imposed an offer floor equal to 75% of net Cost of New Entry (CONE) on new entry deemed uneconomic to prevent net capacity buyers from artificially depressing prices through uneconomic entry.

But the New York PSC sees that offer floor as unnecessarily interfering with the state's authority to set and enforce standards for resource adequacy.

"To avoid a jurisdictional conflict, the Federal Commission should harmonize its concern with the NYPSC's legitimate interest in ensuring that new resources, including self-supplied resources, which are deemed appropriate from a public policy perspective, will contribute to resource adequacy requirements," the PSC argued.

"Specifically, the Federal Commission should direct the New York Independent System

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Briefly:

Md.-Constellation Pact Passes Legislature

The Maryland Senate passed the House-approved "clean" version of legislation needed to execute a $2 billion settlement between Constellation Energy and state (Matters, 4/7/08). That puts to rest any doubts about the settlement being adopted as Gov. O'Malley will sign the bill. Senators originally favoring an amendment requiring new power plants to be regulated by the PSC were convinced that there were other avenues for potential re-regulation and decided not to hold up the settlement which includes $187 million in one-time bill credits to Baltimore Gas & Electric residential customers.

Oncor to Use REPs to Pass Other Credits to Customers

Oncor submitted to the PUCT (35546) a draft REP agreement which will be used to pass though rebates relating to service quality and customer service standards to customers through the REPs, similar to how Oncor is paying out its $72 million credit. As with the one-time credit, REPs must pass through the credit completely to customers to receive it. Oncor will use a Texas SET to pass the credits to REPs.

PUCT OKs New Name for Coral

The PUCT approved Shell Energy North America as the new name on Coral Power's REP certificate (35461).

MISO West ... *From 1*

"Perhaps most fundamentally, this filing invites a race to the bottom. It explicitly makes Market Coordination Service available to withdrawing MISO TOs once they have paid the withdrawal fees and received the requisite approvals," TDUs warned.

"While MISO doesn't think its TOs will want to withdraw, some MISO TOs may well be lured by 'MISO-lite,'" TDUs suggested.

That's a concern shared by many other stakeholders, including Great River Energy.

Existing Transmission Owners will likely reexamine the potential costs and benefits associated with maintaining their status as MISO members or electing to take Market Coordination Services under the new Module F, Great River noted.

"As the Commission is aware, there has been considerable debate among existing transmission owners with respect to the allocation of costs associated with investment in transmission infrastructure. The availability of another option for participation in the market (without responsibility for some costs shared by members) may provide incentives for Transmission Owners to exit the RTO and take Market Coordination Services under Module F, which is likely to result in a much different MISO than exists today," Great River observed.

Great River called MISO's reliance on exit fees and possible FERC intervention to stem any tide of withdrawing members, "misplaced."

"Although MISO's withdrawal fees are currently not insignificant, they ought to decline over time as MISO amortizes its start-up investments, and may well be, or come to be, outweighed by the prospect of continuing to participate in MISO's markets with enhanced returns by rejoining as an MCC TO — [to] better extract value for their generation function through re-exercised control over transmission (e.g., electing not to make upgrades that would decrease congestion revenues), avoiding [transmission] cost-sharing obligations, and reinstituting pancaked rates," TDUs added.

"To prevent would-be withdrawing MISO TOs from having their cake and eating it, MISO's filing offers only the hope that this Commission will do more than it has said it would do in evaluating RTO withdrawals — enforce contractual withdrawal provisions. Thus, the non-RTO/RTO service included in MISO's filing threatens not only customers on its fringe, but those at its core, undermining the fundamental purposes for which the Commission approved it as an RTO," TDUs claimed.

The Western Markets Proposal would let a MAPP member become a Market Coordination Service customer indefinitely, with no obligation to further integrate into MISO, Great River protested.

"This unreasonably results in a Market

Coordination Services customer holding permanent, quasi-transmission owner status - without assuming obligations existing Transmission Owners assume (e.g., costs of certain transmission upgrades with system-wide benefits)," Great River explained.

Great River favors limiting Market Coordination Service customers to an initial three-year term, after which time they will either have to join the ISO as a full member or revert to a non-market participant for a specified period.

"This would ensure that Market Coordination Service customers have the ability to determine whether the MISO market offers the expected benefits and can make informed decisions based on the three-year term," Great River reasoned.

A time limit would protect existing Transmission Owners that incur substantial costs supporting transmission upgrades and the competitiveness and reliability of the MISO market generally, Great River added.

"Finally, such a requirement would provide the appropriate incentives for RTO membership (and the potential elimination of seams), while not unreasonably preventing existing Transmission Owners from exiting MISO and taking Market Coordination Service for a limited period of time," Great River argued.

The TDUs want FERC to stress that, "it will not compromise on fundamental RTO requirements like independent tariff administration and planning and expansion, and non-pancaked rates, so that the fundamental efficiency and market credibility purposes of RTOs are not dealt a death blow."

"Pancaked rates within the expanded market footprint would be unjust, unreasonable and unduly discriminatory, and would make MISO's markets inefficient, unfair, and contrary to precedent," TDUs stressed.

"Market Coordination Service will produce balkanized, discriminatory, and ineffective transmission planning for the MISO market region and unjust, unreasonable and unduly discriminatory rates. By pairing [...] LMP markets with MCC TO planning (rather than the independent regional planning required by Order 2000), Market Coordination Service enhances the profits MCC TOs generation can make from congestion, thereby heightening the disincentive to needed transmission investment. TDUs embedded in MCC TO zones will be disproportionately exposed to elevated congestion charges that MCC TOs will have neither the incentive nor the obligation to reduce," TDUs asserted.

Great River urged FERC to direct MISO to modify Module F to reflect a cross-border transmission cost allocation that reasonably assigns costs to Market Coordination Service customers or MISO members based on the relative contribution to the need for the cross-border facility.

"This is consistent with the Commission's directives with respect to cost allocation associated with cross-border transmission facilities in PJM and MISO," which do not jointly dispatch generation across their combined footprint yet have cross-border cost allocation for reliability upgrades.

"MISO's Western Markets Proposal does not, however, require that Market Coordination Service customers participate in the costs of reliability or economic cross-border transmission facilities despite the creation of a centrally dispatched energy market," Great River protested.

The benefits available to Market Coordination Customers, "are indistinguishable from those received by other market participants within the Midwest ISO," ITC Transmission added.

"Indeed, that appears to be the intent of the proposal: to enable Market Coordination Customers to receive the same benefits as other market participants within the Midwest ISO. If so, then Market Coordination Customers should be required to participate in regional cost sharing," ITC argued, since such cost sharing is designed to allocate the costs of new transmission to reflect the distribution of benefits among market participants.

"The Midwest ISO's proposal to exempt Market Coordination Customers from regional cost sharing would enable such customers to benefit from new transmission projects without being allocated a proportionate share of project costs," ITC explained, calling such treatment, "discriminatory."

The Organization of MISO States believes that any benefits that will accrue to existing market participants from reductions in Schedule 16 and 17 charges are likely to be de minimis.

OMS noted MISO's calculations assumed full participation of all potential MAPP participants in Part III service. "There is no way to document whether this will or will not occur," OMS cautioned. Midwest TDUs have heard that it is "highly doubtful" that all MAPP participants will join.

Claimed savings, "do not begin to account for the disruption and distortion of the processes that MISO, its stakeholders, and this Commission have worked so hard to establish, by extending those processes to transmission providers that are not subject to MISO's independent operation, tariff administration, planning and expansion, and which remain pancaked," TDUs charged.

"Many aspects of Module F seem to Ameren to have the necessary effect of disadvantage and added cost to existing Midwest ISO TOs," Ameren said.

While MISO claims transmission revenues for the existing TOs will increase, Ameren called the claim, "clearly false."

"The Module F Filing proposes to freeze for three years the transmission service fees for certain Part III customers, and does not propose any off-setting source of increased transmission revenues; thus, the result will be a decrease in net transmission revenues," Ameren explained.

OMS is also concerned, "about the apparent mismatch of the redispatch compensation provisions in proposed Section 83 of the Midwest ISO Energy Markets Tariff."

Under the proposal, a Congestion Management Customer is eligible to recover unit start-up costs that it incurs in responding to a redispatch order. However, Section 83.4.1 limits the Midwest ISO cost recovery to the LMP at the Midwest ISO border, with no recovery of Midwest ISO Revenue Sufficiency Guarantee charges, OMS pointed out.

"The Midwest ISO has not provided a rationale for this disparity," OMS argued.

"In addition, Congestion Management Customers are allowed to receive a 10 percent mark-up on their costs. OMS questions whether the 10 percent mark-up of redispatch costs is appropriate."

N.Y. ICAP ... *From 1*

Operator, Inc. (NYISO) to establish provisions whereby new ICAP resources may be self-supplied by LSEs, but any such resources that are deemed uneconomic would not be allowed to depress ICAP prices," the PSC suggested.

But KeySpan-Ravenswood argued FERC's buy-side mitigation did not go far enough, and will still, "enable dominant capacity buyers in New York City to maintain uneconomic and anticompetitive surplus capacity conditions well beyond those presumed by the NYISO in formulating the Demand Curve and to suppress market clearing prices permanently and substantially below net CONE."

"This, in turn, will prevent the New York City capacity market from ever reaching the competitive market outcome that the NYISO and the Commission acknowledge to be the touchstone of a just and reasonable market design – i.e., that capacity market clearing prices must, at least, average out, over time to net CONE," KeySpan-Ravenswood claimed.

"Further, the approved supply-side mitigation rules, in combination with the insufficient buy-side mitigation rules, will force clearing prices substantially below net CONE, denying recovery of the missing money and causing an unduly discriminatory bifurcation of capacity procurement between capacity buyer-controlled new capacity that will be paid above-competitive market prices and existing capacity that will forever be suppressed to below-competitive market prices," KeySpan-Ravenswood added.

But Consolidated Edison, the City of New York and other load representatives argued that FERC's buy-side mitigation rules could force end users to pay twice for capacity.

Under the rules, a buyer that bids capacity from an uneconomic contract into the spot market auction is required to price its bid at either the contracted cost of capacity or 75% of CONE, whichever is higher.

"Given the likelihood that the cost of new capacity could be higher than the market price at any given time, there is a significant possibility that this new capacity would not clear in the spot market curve auction and thus the buyer would not be able to count that capacity towards its installed capacity obligation," ConEd and the New York parties explained.

"In that case, the buyer would have to pay for the capacity from the contract that did not clear the market and the buyer would also have to purchase the same amount of capacity from the auction, thereby paying twice for the same amount of capacity," ConEd added.

The NYISO asked FERC to clarify that the uneconomic entry mitigation measures apply to all new entry as the NYISO had proposed.

"The Commission appeared to have adopted the NYISO's proposal by stating that these mitigation measures 'appl[y] to all new entry into the in-City market,'" NYISO observed.

"But the order also indicates that the tariff language should reflect a limitation on the application of the mitigation measures 'only to net buyers bringing uneconomic capacity into the market,'" the ISO explained, creating a problem.

"Limiting the application of these measures 'only to net buyers bringing uneconomic capacity into the market' could undermine enforcement because such a limitation could necessarily give rise to opportunities to avoid application of the measures. New 'uneconomic' generation may be developed and brought on line by a developer with no apparent connection to a 'net buyer,'" NYISO cautioned.

"Nevertheless, that developer could have entered into a financial agreement, such as a 'contract for differences,' with another entity that would have the effect of providing an out-of-market subsidy and may enable the 'uneconomic entry' by the developer," the ISO explained.

The PSC also opposed to removal of revenue caps for pivotal suppliers, since, "there is no record to demonstrate that the market for ICAP in NYC is sufficiently competitive to preclude the exercise of market power via physical withholding, or that the market can be relied upon to keep prices at just and reasonable levels."