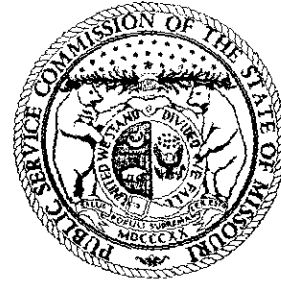


Notice of *Ex Parte* Contact

TO: Data Center
All Parties in Case No. **EO-2008-0134**

FROM: Chairman Jeff Davis

DATE: December 20, 2007



Due to my participation as Missouri's representative on the Board of the Organization of MISO States, I am notifying all parties to this case, **EO-2008-0134**, that I have participated in previous discussions involving these matters with Commissioners from other states, with Shawn Schukar and Maureen Borowski from Ameren, with Mike Proctor and Greg Meyer from the PSC Staff. This a contested case and, therefore, the Commission is bound by the same *ex parte* rule as a court of law. Accordingly, I am making notice to the parties these communications have taken place and that the following documents have been received.

NOTE: I HAVE A 1:00 P.M. CONFERENCE CALL WITH OMS SCHEDULED FOR TODAY TO DISCUSS "MODULE E". IT IS MY INTENT TO PARTICIPATE IN THIS CALL AND THE PARTIES ARE HEREBY NOTIFIED.

Although communications from members of the public and members of the legislature are always welcome, those communications must be made known to all parties to a contested case so that those parties have the opportunity to respond. According to the Commission's rules (4 CSR 240-4.020(8)), when a communication (either oral or written) occurs outside the hearing process, any member of the Commission or Regulatory Law Judge who received the communication shall prepare a written report concerning the communication and submit it to each member of the Commission and the parties to the case. The report shall identify the person(s) who participated in the *ex parte* communication, the circumstances which resulted in the communication, the substance of the communication, and the relationship of the communication to a particular matter at issue before the Commission.

Therefore, we submit this report pursuant to the rules cited above. This will ensure that any party to this case will have notice of the attached information and a full and fair opportunity to respond to the comments contained therein.

cc: Commissioners
Executive Director
Secretary/Chief Regulatory Law Judge
General Counsel

I talked with Mike and he
went up to speed on these.
He suggested I talk to Shawn S.
at Ameren.

(Yes)

Ameren is ok with both but believes the \$ in the comment letter is too low!

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission System Operator, Inc.) Docket No. ER04-691-089
)

PROTEST OF THE ORGANIZATION OF MISO STATES, INC.

Pursuant to the Commission's Notice of Filing, issued December 14, 2006, the Organization of MISO States ("OMS") protests the December 5, 2007, filing made by the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") to comply with the Federal Energy Regulatory Commission's ("Commission") Order issued on November 5, 2007 in this docket¹. As discussed in greater detail below, OMS respectfully requests that the Commission reject the Midwest ISO's compliance filing as inconsistent with the Commission's directive and require further tariff modifications.

Background

To ensure that adequate supply is available to meet real-time demand, resources that are made available as a result of the Reliability Assessment Commitment (RAC) process receive compensation at least equal to their start-up offers, no-load offers, and incremental energy costs, even if the resources are not dispatched. When real-time Locational Marginal Prices (LMP) are not sufficient to fully compensate resources to this minimum reimbursement level, they receive a real-time Revenue Sufficiency Guarantee (RSG) make whole payment for the shortfall.

The real-time RSG make whole payments are funded primarily by RSG charges for real-time deviations from day-ahead schedules. Section 40.3.3.a.ii of the Midwest ISO Transmission and Energy Markets Tariff (TEMT) describes the calculation of the RSG charges:

On any Day when a Market Participant actually withdraws any Energy the Market Participant shall be charged a Real-Time revenue sufficiency guarantee charge. The Market Participant's Real-Time revenue sufficiency guarantee charge for that Hour shall equal the product of: (i) the Market Participant's total Load purchased in the Real-Time Energy Market during the Operating Day (in MWh), all Virtual Supply for the Market Participant in the Day-Ahead Energy Market, and Resource Uninstructed Deviation

¹ Midwest Independent Transmission System Operator, Inc., 121 FERC ¶ 61,132 (2007).

quantities (MWh), and (ii) the per unit Real-Time revenue sufficiency guarantee charge. The per unit Real-Time revenue sufficiency guarantee charge for any given Day shall equal: (i) the aggregate Real-Time revenue sufficiency guarantee charge in that Hour attributed to Resources committed in any RAC processes conducted in the Operating Day divided by (ii) the sum of the total uncovered Load withdrawn in the Operating Day (in MWh), all Virtual Supply for that Market Participant in the Day-Ahead Energy Market, and for deviations from Dispatch Instructions, of all Market Participants withdrawing during that Hour for the Operating Day.²

To the extent that the RSG make whole payments are not fully funded by RSG charges, they are uplifted to market participants based on load ratio share.

On October 27, 2005, the Midwest ISO submitted proposed revisions to the TEMT. One of the proposed revisions was to remove references to virtual supply from the provisions related to the calculation of RSG charges in section 40.3.3 of the TEMT.3 (Virtual supply is an offer to sell energy in the day-ahead market that is not supported by a physical injection or reduction in withdrawals in commitment by a resource.) In the RSG Order issued on April 25, 2006, the Commission determined that virtual supply can cause RSG costs and rejected the Midwest ISO's proposal to eliminate entirely virtual supply transactions from real-time RSG charges.⁴

In the RSG Rehearing Order issued on October 26, 2006, the Commission reaffirmed its determination that virtual supply offers accepted in the day-ahead market can require the commitment of physical resources in the RAC process, which may cause RSG costs to be incurred.⁵ To ensure that cost responsibility follows cost incurrence, the Commission required the Midwest ISO to propose a charge that assesses RSG costs to virtual supply offers based on the RSG costs they cause.⁶

The Midwest ISO then proposed to allocate RSG costs in each hour to two buckets; a net virtual bucket (netting virtual demand bids against virtual supply offers) and a net deviations bucket.⁷ In the Compliance Order issued on March 15, 2007, the Commission noted that the Midwest ISO failed to provide the requested analysis and provided no evidence to

² Midwest ISO Transmission and Energy Markets Tariff, Module C, section 40.3.3.a.ii, Second Revised Sheet Nos. 577-578.

³ *Midwest Independent Transmission System Operator, Inc.*, 115 ¶ 61,108 (2006) (RSG Order) at P 3-4.

⁴ RSG Order at P 48.

⁵ *Midwest Independent Transmission System Operator, Inc.*, 117 ¶ 61,113 (2006) (RSG Rehearing Order) at P 108.

⁶ RSG Rehearing Order at P. 117.

⁷ *Midwest Independent Transmission System Operator, Inc.*, 118 ¶ 61,213 (2007) (Compliance Order) at P 43.

support its proposal.⁸ Unable to determine that the proposal was based on cost causation and would not result in unjust and unreasonable rates, the Commission rejected the proposal and directed the Midwest ISO to submit a compliance filing.⁹

In the Order on Rehearing, also issued on March 15, 2007, the Commission, in its discussion of the Section 40.3.3.a.ii TEMT phrase “actually withdraws any Energy” stated:

We do not find the calculation of the charge to be arbitrary or unduly discriminatory, since the end-result of the charge does not result in any harm. We agree that the charge is assessed only on market participants withdrawing energy in real-time and payment of the charge may result in less than full recovery of RSG costs since the divisor to the charge includes all virtual supply – not just virtual supply offered by market participants withdrawing energy -- and therefore may result in under-recovery of RSG costs. However, to the extent that RSG costs are not fully recovered in the RSG charge, the unrecovered costs are recovered through uplift charges assessed to all market participants. While the assignment of costs to all market participants differs from the assignment of costs to only those entities causing the costs, the Commission is not, here in this section 205 proceeding, determining which of several possible allocations to implement. Rather, the currently-effective tariff provision – which was not challenged by any parties when accepted – cannot be revised in this proceeding and remains in effect until a section 206 investigation determines the current provision is unjust and unreasonable.¹⁰

Based on paragraph 58 of the Order on Rehearing, the Midwest ISO determined that “the real-time RSG rate calculation includes all Virtual Supply Offers that clear in the Day-Ahead Energy Market in the divisor to the charge.”¹¹ On April 17, 2007, the Midwest ISO made its RSG compliance filing.

Subsequently, the Midwest ISO determined and published its estimate of the cost shift that would result from developing an RSG rate based on volumes that would not then be subject to the RSG charge. As a result of that volume mismatch, the Midwest ISO estimated that approximately 57 percent, and for some months more than 70 percent, of the real-time RSG cost would likely cross over to Revenue Neutrality Uplift and be collected from market participants

⁸ Compliance Order at P. 84.

⁹ Compliance Order at P. 88 and order point (B).

¹⁰ *Midwest Independent Transmission System Operator, Inc.*, 118 ¶ 61,212 (2007) (Order on Rehearing) at P 58.

¹¹ “11a RSG Discussion Presentation - Final” presentation by the Midwest ISO to the Market Subcommittee on April 10, 2007, at http://www.midwestiso.org/publish/Document/4ad10b_1114b6b848b_-717e0a48324a?rev=9

based on load ratio share.¹² The estimated real-time RSG cost from market start through February 2007 totaled almost three quarters of a billion dollars.¹³

On November 5, 2007, the Commission issued an Order on Compliance Filing and provided clarification with respect to the RSG rate and charge calculations and stated:

Based on our review of the Midwest ISO RSG charge and rate tariff provision, we provide the following clarification on the meaning of these provisions, to address Ameren's concerns. Per the terms of the tariff in the April 17 Filing, the denominator in the RSG rate in section 40.3.3.a.iii is based on the sum of the absolute values of the amounts in section 40.3.3.a.ii(a) – (d). We interpret this formulation to mean that the RSG rate denominator is the aggregate of the amounts for market participants withdrawing energy on that day, since they are entities being assessed the RSG charge in section 40.3.3.a.ii. Therefore, the amounts in the individual RSG charges in section 40.3.3.a.ii should sum to the same summed and aggregate number in the denominator of section 40.3.3.a.iii, thereby eliminating the possibility of developing the RSG charge and RSG rate on different bases and resulting in a shortfall in recovery of RSG costs.¹⁴

The Commission directed the Midwest ISO to submit a compliance filing, pursuant to the requirements specified in the body of the order.¹⁵

On November 16, 2007, the Midwest ISO presented to the RSG Task Force its analysis of November 5, 2007 Order on Compliance Filing. The Midwest ISO concluded that the Commission's discussion of the denominator for calculation of the RSG rate contained in paragraph 26 of the November 5, 2007 Order on Compliance was inconsistent both with the preceding paragraph 23 and with paragraph 58 of the March 15, 2007 Order on Rehearing.¹⁶ The Midwest ISO stated that the current settlement system rules, including the on-going resettlements, reflect an RSG rate calculation consistent with paragraph 58 of the March 15, 2007 Order on Rehearing and that no resettlements or settlement rule changes were required to comply with the November 5, 2007 Order on Compliance.¹⁷

On December 5, 2007, the Midwest ISO made a compliance filing that reflects the views it expressed at the November 5, 2007 RSG Task Force meeting.

¹² "RSG AWE Resettlement Results.xls" at http://www.midwestiso.org/publish/Document/193f68_1118e81057f_7c540a48324a?rev=1

¹³ *Id.*

¹⁴ *Midwest Independent Transmission System Operator, Inc.*, 121 ¶ 61,132 (2007) at P 26.

¹⁵ *Id.* at order point (B).

¹⁶ "05 RSG Rehearing and Compliance Orders Nov 2007.pdf" at http://www.midwestiso.org/publish/Document/66d196_115dc8fa4a2_-7f7f0a48324a?rev=17

¹⁷ *Id.*

Protest

The OMS protest here is limited to a single issue and as such should not be construed as agreement with, or disagreement with, other aspects of the real-time RSG charge. The OMS submits that the Midwest ISO filing does not comply with the Commission's November 15, 2007 Order on Compliance with respect to real-time RSG rate and charge calculations.

In March 2007, the Commission indicated in paragraph 58 of the March 2007 Order that an approach of including all virtual supply offers in the denominator was not arbitrary or unduly discriminatory, since the end-result of the charge and the resulting uplift would not result in any harm. Subsequent information made available to the Commission indicated that the magnitude of the resulting cost shift from cost causers to uplift would result in significant harm. As a result, the Commission in paragraph 26 of the November 15, 2007 Order on Compliance stated that the volumes used to determine the RSG rate should be the same volumes that will be charged that RSG rate so that a shortfall in recovery of RSG costs does not result.

The Midwest ISO compliance filing permits an interpretation of the tariff provisions that result in different bases for the RSG rate and charge and in significant under-recovery of RSG costs from cost causers. The Midwest ISO has interpreted, and continues to interpret, its tariff provisions such that significant real-time RSG costs are not being assigned to cost causers but are instead being uplifted to load. Such an interpretation is at odds with paragraph 26 of the November 15, 2007 Order on Compliance and as a result the filing is not in compliance with the requirements specified in the order.

Conclusion

The OMS respectfully requests that the Commission reject the Midwest ISO compliance filing and direct the Midwest ISO to modify its tariff provisions and resettle the market consistent with paragraph 26 of the November 15, 2007 Order on Compliance.

The OMS submits these comments because a majority of the members have agreed to generally support them. The following members generally support these comments. Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments:

Illinois Commerce Commission
Iowa Utilities Board
Kentucky Public Service Commission

Michigan Public Service Commission
Minnesota Public Utilities Commission
Montana Public Service Commission
Public Utilities Commission of Ohio
Wisconsin Public Service Commission

~~The Indiana Utility Regulatory Commission and North Dakota Public Service Commission abstained from this pleading. The Manitoba Public Utilities Board, the Missouri Public Service Commission, the Nebraska Power Review Board, the Pennsylvania Public Utility Commission and the South Dakota Public Utilities Commission did not participate in this pleading.~~

~~The Indiana Office of Utility Consumer Counselor, the Iowa Office of Consumer Advocate, and the Minnesota Department of Commerce, as associate members of the OMS, participated in these comments and generally support these comments.~~

Respectfully Submitted,
William H. Smith, Jr.
William H. Smith, Jr.
Executive Director
Organization of Midwest ISO States
100 Court Avenue, Suite 218
Des Moines, Iowa 50309
Tel: 515-243-0742

Dated: December __, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Des Moines, Iowa, this __th day of December, 2007.

William H. Smith, Jr.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission System)
Operator, Inc.)

Docket Nos. ER07-1372-000
ER07-1372-001

**COMMENTS OF THE ORGANIZATION OF MISO STATES, INC.
FOLLOWING TECHNICAL CONFERENCE**

Summary

The results of the technical conference held December 6, 2007, do not change the market monitoring recommendation submitted by the OMS in its Comments filed October 15, 2007, with respect to market power issues in Midwest ISO's Ancillary Services Market ("ASM"). In fact, responses at the technical conference reinforce the conclusion that the Midwest ISO should use the OMS-proposed \$10/MWh adder over reference levels with the indicated ratchet mechanism, allowing the adder to drift up or down depending on a market participant's behavior in the ASM.

As indicated in the Midwest ISO's Answer, filed November 5, 2007, both the Midwest ISO and Dr. David Patton, its independent market monitor ("IMM"), accept using the market monitoring approach proposed by the OMS. The Commission has before it the often sought but rarely seen consensus of the states, the RTO and IMM. This consensus respects and reflects the Commission's guidance on issues of market power in prior Commission decisions. For these reasons, and because market power issues loom larger in the ASM than in other energy markets, the FERC should direct the Midwest ISO to make a compliance filing implementing the OMS-proposed \$10/MWh adder mechanism for the ASM including the ratcheting component. Dr. Patton did not find this market monitoring conduct and impact approach unreasonable at the technical conference, as long as the ratcheting mechanism allows the values to drift up to the companion values used in the MISO wholesale energy market following proper competitive behavior by market participants.

*But adder
is too
low.
See Comments
on
the
one*

Choice of an Appropriate Adder Mechanism

At the December 6 technical conference, OMS representatives asked a number of questions related to reference levels and market monitoring in the ASM. With respect to market monitoring, they asked Midwest ISO and the IMM three important questions:

- 1) How do the market power measures compiled by the IMM for the Midwest ISO's ASM compare to the similar measurements for the wholesale energy market?
- 2) Were market participants more or less likely to engage in market power abuse in the ASM or the energy market?
- 3) Is there a statistical or factual way of determining an appropriate adder over reference levels rather than using the arbitrary approach in the Midwest ISO's original proposal?

At the technical conference, the answer to question #1 was not known.¹ The answer to question #2 was that if measurements were similar, the incentives or disincentives for the exercise of market power would likely be the same in either the ASM or the wholesale energy market. As for question #3, the IMM did not believe such an approach would be possible given the many uncertainties affecting measurement of marginal costs. Dr. Patton and Dr. Lawrence Kirsch, an economist who appeared on behalf of the Midwest TDUs, concurred that in standard microeconomic theory, if there were no uncertainty over the factors affecting marginal costs, the adder over reference levels for market power monitoring purposes would in fact be zero.

Since the conference, OMS representatives have conducted research on question #1, and have found, in fact, that the measurements of market power in the ASM are substantially worse than for the wholesale energy market. This adverse finding, discussed below, means the likelihood of the exercise of market power in the ASM is greater than in the wholesale energy market, essentially answering question #2. The answer to question #3 indicates that no true scientific or statistical basis for picking the adder presently exists. This unfortunate situation means careful attention must be taken in picking the appropriate adder value.

Given that uncertainty does affect the appropriate adder over the reference levels for market monitoring purposes, the certainty at the present time about the potential for

¹ Nothing pejorative is meant here as the ability to recall all results of all market power studies for MISO over the past five years is beyond anyone's capability. It was hoped fragments could be recalled.

market power abuse actually implies that the adder should take on a smaller value. While such matters as unknown generator wear and tear (an example discussed at the conference) can affect the adder in the positive direction, the very start up of a new market, given the market power measures identified forth by the IMM, implies a certainty that, without effective market monitoring, the whole ASM, in its design and operation, could lead to non-competitive outcomes. This fact strongly suggests that the adder should lean heavily towards zero at the outset to protect end-user customers from market power abuse or from those aspects of a brand new Midwest ISO market that may be found inadequate only after operational experience. From this reference point, the OMS proposal is the most reasonable approach for the FERC to take.

Market Concentration Is Worse in the Midwest ISO ASM than in the Wholesale Energy Market²

That market power is larger in the ASM than in the MISO wholesale energy market can be gleaned from a simple inspection of the HHI calculations made at the time the wholesale energy market was commencing and those HHI calculations in the recent study conducted by Dr. Patton.

The following table reports the HHI statistics compiled by the MISO IMM in his State of the Market Report for 2004 for the wholesale energy market.³

² The analysis that follows focuses on the HHI values due to the visual ease of comparison. An analysis of pivotal supplier relationships can also be made to show the same conclusion. In Dr. Patton's prepared direct testimony filed March 31, 2004 in Docket ER04-691-00 with respect to the wholesale energy market, the IMM found at pages 12 to 14 that the area known as WUMS had more than half of the 51 flowgates with at least one pivotal supplier. That 2004 analysis suggested two areas of prime concern, WUMS and North WUMS, which are presently considered narrowly constrained areas. In the present 2007 ASM pivotal supplier analysis, the IMM reports widespread pivotal supplier concerns throughout the Midwest ISO footprint. In both the four congested areas and three separate clusters for either regulation or contingency reserves, the IMM found pivotal frequencies exceeding 34 percent and as high as 100 percent. In contrast, for the MISO footprint the pivotal frequency was zero to about 3 percent. These values can be found in the handout distributed at the technical conference at pages 11 and 12.

³ Table 3, Page 10, "2004 State of the Market Report, Midwest ISO," Potomac Economics, Ltd., June 2005. the full report is available on the Midwest ISO website under IMM.

Table 1--2004 Market Concentration in Midwest ISO Sub-Regions

<u>MISO Sub-region</u>	<u>HHI</u>
ECAR	770
MAIN	1,745
MAPP	1,275
WUMS	2,642
MISO	356

In contrast, Table 2 reports the HHI statistics as presented by the IMM at the December 6 technical conference.⁴

Table 2--Market Concentration Ranges Covering the Four Seasons
Using HHI Statistic for Various ASMs

<u>Study Area</u>	<u>Regulation Reserves</u>	<u>Contingency Reserves</u>
MISO Footprint	825 — 938	796 — 931
Congested Areas [WUMS, Minnesota NCA, and Michigan]	3,590 — 6,641	2,998 — 6,397
Clusters	1,788 — 8,809	1,641 — 8,710

A comparison between Table 1 and Table 2 shows that the concentration is about 2 to 3 times higher in the ASM than in the wholesale energy market. To the extent the HHI measures the likelihood for the exercise of market power, this comparison indicates that the potential is higher in the ASM. This higher potential and the ASM market startup argue strongly for a lower threshold value for the adder. In this case, the OMS has suggested a \$10/MWh value as compared to the \$36/MWh to \$100/MWh conduct thresholds presently used in the wholesale energy market. In fact, the OMS suggestion comports nicely with the very finding by the Commission that mitigation needs to be stronger in areas of higher concentration or higher likelihood of the exercise of market power. In its August 6, 2004, Energy Markets Order, the Commission stated:

⁴ Pages 10, 11, and 12, "Midwest ISO Ancillary Services Market, IMM Market Power Study," Presentation Handout at FERC Technical Conference, Dr. David Patton, Independent Market Monitor, Potomac Economics, December 6, 2007.

We support the use of tighter thresholds in areas that are more likely subject to the exercise of market power. This is because when the exercise of market power is more probable, the costs of interfering with the market are more likely to be overshadowed by the benefits of preventing the exercise of market power.⁵

Conclusion:

The results of the December 6 technical conference do not change the market monitoring comments already submitted by the OMS with respect to market power issues in Midwest ISO's Ancillary Services Market. In fact, responses at the technical conference and the analysis above reinforce the concept that the Midwest ISO should use the OMS-proposed \$10/MWh adder over reference levels with the indicated ratchet mechanism. The Commission has before it a rare consensus of the states, the RTO, and IMM. This consensus respects and reflects the Commission's own guidance on issues of market power in prior decisions. Consequently, the Commission should direct the Midwest ISO to make a compliance filing implementing the OMS-proposed \$10/MWh adder mechanism for the ASM, including the ratcheting component.

The OMS submits these comments because a majority of the members have agreed to generally support them. The following members generally support these comments. Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments:

Illinois Commerce Commission
Indiana Utility Regulatory Commission
Iowa Utilities Board
Kentucky Public Service Commission
Michigan Public Service Commission
Minnesota Public Utilities Commission
North Dakota Public Service Commission
Public Utilities Commission of Ohio
Wisconsin Public Service Commission

~~The Manitoba Public Utilities Board, the Missouri Public Service Commission, the Nebraska Power Review Board, the Pennsylvania Public Utility Commission, and the South Dakota Public Utilities Commission did not participate in this pleading. The Montana Public Service Commission abstained from this pleading.~~

⁵ Paragraph 258, page 80, "Order Conditionally Accepting Tariff Sheets To Start Energy Markets and Establishing Settlement Judge Procedures," Dockets ER04-691-000 and EL04-104-000, Federal Energy Regulatory Commission, Issued August 6, 2004.

The Indiana Office of Utility Consumer Counselor, the Iowa Office of Consumer Advocate, and the Minnesota Department of Commerce, as associate members of the OMS, participated in these comments and generally support these comments.

Respectfully Submitted,
William H. Smith, Jr.
William H. Smith, Jr.
Executive Director
Organization of Midwest ISO States
100 Court Avenue, Suite 218
Des Moines, Iowa 50309
Tel: 515-243-0742

Dated: December __, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Des Moines, Iowa, this __th day of December, 2007.

William H. Smith, Jr.

Gregory, Sheryl

From: Davis, Jeff
Sent: Monday, December 17, 2007 5:04 PM
To: Gregory, Sheryl
Subject: FW: NOTICE: OMS Special BOD Meeting- THURSDAY, Dec 20, 2007 at 1:00 pm (CST) with OMS Exec Comte Conference Call immediately following
Importance: High
Attachments: Agenda OMS Spec BoD Dec 20,2007.doc; Agenda OMS Exec Comte Mtg Dec 20, 2007.doc; Minutes Exec Comm Sept 27 2007 Draft.doc; Minutes Exec Comm Oct 25 2007 Draft.doc

Please file this as an ex-parte communication in the Ameren-MISO docket. Please designate Mark Hughes as my proxy in case I am unable to attend.

Also, by copy of this communication I am inviting someone from Office of Public Counsel (OPC) to monitor this conference call with me as these matters may or may not be subject to that case or other cases involving Ameren.

Thanks,

JND

Note: Forgot to copy OPC.

[Signature] 12/20/07

From: Julie Mitchell [mailto:Julie@misostates.org]

Sent: Monday, December 17, 2007 3:18 PM

To: Adrian, Barb; Murray, Connie; Gregory, Sheryl; Busch, Jim; Gray, Jim; Mantle, Lena; Mills, Lewis; Hughes, Mark; Oligschlaeger, Mark*; Proctor, Mike; Davis, Jeff; Kind, Ryan; Dottheim, Steve; Art Compton; Bob Raney ; Brad Molnar ; Bryan Baldwin ; Doug Mood ; Kate Whitney; Ken Toole; Montana - Greg Jergeson ; Jerry R. Lein; Kevin Cramer ; Patrick Fahn ; Paula Kent; Susan Wefald ; Tony Clark ; William Binek ; Thomas Lindgren; Alan Schriber; Dan Johnson ; Don Howard ; Don Mason; Fred Heizer; Greg Scheck ; Hisham Choueiki; Jacqueline Lake Roberts; Jan Karlak ; Jason Cross; Joe Buckley ; Jon Whitis; Judy Jones ; Kim Wissman; Klaus Lambeck; Majid Khan; Quanetta Batts ; Ronnie Fergus ; Valerie Lemmie; Kim Beemer; Bob Young ; Calvin Birge ; Greg Shawley ; Heidi Wushinske ; John Levin ; Kim Hafner; Kim Pizzingrilli ; Shane Rooney; Demaris Axthelm ; Dustin Johnson ; Gary Hanson ; Greg Rislov ; Heather Forney; John J. Smith ; Nathan Solem ; Rolayne Wiest ; Steve Kolbeck ; Alice Heilman ; Dennis Koepke ; Don Neumeyer ; Gail Maly ; James Wottreng; John Feit ; Randy Pilo; Sandy Paske ; Wisconsin - Dan Ebert

Cc: Bill Smith

Subject: NOTICE: OMS Special BOD Meeting- THURSDAY, Dec 20, 2007 at 1:00 pm (CST) with OMS Exec Comte Conference Call immediately following

Importance: High

NOTICE:

1. **OMS Special Board Meeting at 1:00 pm CST/2:00 pm EST/12:00 Noon MST. will hold a meeting by conference call, Thursday, December 20, 2007**
2. **OMS States Executive Committee meeting immediately FOLLOWS**
The call in number for both meetings is: 877-452-6418.
The conference code is 701-328-2400 followed by the # sign.

Executive Committee members and Board members who cannot attend these meetings should notify

12/17/2007

Dan Ebert (dan.ebert@psc.state.wi.us with a copy to sandra.paske@psc.state.wi.us) to designate a proxy for this meeting.

Attachments:

- Meeting Agenda – Special OMS Board of Directors meeting
- Meeting Agenda – Executive Committee meeting
- Minutes of Executive Committee meetings – September 27, October 25 - draft

Additional Materials To Follow

Please note: In addition to those whose names appear in the address line, this notice has been sent to all, in multiple emails, at OMS province & state commissions and agencies whose names are on the extended OMS Sender List.

Julie Mitchell
Organization of MISO States
100 Court Avenue
Suite 218
Des Moines, IA 50309

(515) 243-0742 - phone
(515) 243-0746 - fax
julie@misostates.org



Organization of MISO States

NOTICE:

**Special Meeting of the Organization of MISO States
Board of Directors Conference Call,
Thursday, December 20, 2007 at 1:00 pm CST**

Call in number is: 877-452-6418 Participation code: 701-328-2400
followed by #

AGENDA:

- | | |
|--|-----------|
| 1. Update: Preamble to Module E | 1:00 p.m. |
| 2. Update: Consideration of final MISO Module E Tariff
language to be filed 12/28 | 1:10 p.m. |

Upcoming Meetings

- The next OMS Executive Committee Meeting will be held Thursday, December 20 at 1:00 pm (CST) **following** the OMS Special Board meeting.
- The next regular Board of Directors meeting will be held Thursday, January 10, 2008 at 1:00 pm (CST).

OMS Board members who cannot attend the December 20 meeting should notify acting Secretary Dan Ebert at dan.ebert@psc.state.wi.us (with a copy to sandra.paske@psc.state.wi.us) to designate a proxy for this meeting.

OMS

Organization of MISO States

The Organization of MISO States Executive Committee will hold a meeting by conference call, Thursday, December 20, 2007 at 1:45 pm (CST), or immediately following the Special Board meeting. The call in number is 877-452-6418. The conference code is 701-328-2400 followed by #. Executive Committee members who cannot attend the call should notify Dan Ebert (dan.ebert@psc.state.wi.us) with a copy to sandra.paske@psc.state.wi.us) to designate a proxy for this meeting.

Agenda

Start Time: 1:45 pm

[or immediately following the special board meeting]

Attendance – New officers are invited to discuss transition issues

Recognition of Proxies

Declaration of a Quorum

Call Meeting to Order

Approval of the Sept 27 and Oct 25 Executive Committee Minutes– Dan Ebert

Business Items

- | | |
|--|---------|
| 1. Discussion: Officer Transition | 1:45 pm |
| 2. Action item: approve OMS auditor for 2007 Bill Smith | 1:55 pm |
| 3. Action Item: renewal of insurance – Bill Smith | 2:05 pm |
| 4. Personnel Committee formation – Bill Smith | 2:10 pm |
| 5. Meeting dates for 2008, OMS Holidays for 2008 – Bill Smith | 2:20 pm |
| 6. Discussion: Orientation for new Board members – John Norris | 2:25 pm |

Administrative Report - Bill Smith

- Upcoming OMS project deadlines 2:35 pm

Announcements

2:40 pm

- Special **OMS Board of Directors meeting – Thursday, December 20 at 1:00 CST**
- Next **OMS Board of Directors meeting – Thursday, January 10 at 1:00 CST**
- Next **OMS Executive Committee meeting – Tuesday, January 24 at 1:00 pm CST**

Adjournment

2:45 pm

At that meeting I would ask for approval to engage our audit firm for next year, to renew our insurance for next year, and approve a calendar of meetings and holidays for 2008.



Organization of MISO States

**ORGANIZATION OF MISO STATES, INC.
EXECUTIVE COMMITTEE MEETING MINUTES
September 27, 2007**

DRAFT

Chairman John Norris, President of the Organization of MISO States, Inc. (OMS), called the meeting of the OMS Executive Committee to order via conference call at approximately 2:00 p.m. (CDT). The following directors participated in the meeting:

President - John Norris, Iowa
Vice President - Randel Pilo, proxy for Dan Ebert, Wisconsin
Secretary - Vacant
Treasurer - Absent
Commissioner at Large - Bob Lieberman

State agency members present:

Indiana - Greg Server
Indiana OUCC - Robb Mork
Missouri - Jeff Davis
Pennsylvania - Kim Hafner

Others present on the conference call:

Graham Edwards, MISO
David Svanda, Svanda Consulting
OMS Staff - Bill Smith, Julie Mitchell

The directors listed above established the necessary quorum of three (3) Executive Committee members.

Graham Edwards, president and CEO of the Midwest ISO, offered a few remarks on progress of the Ancillary Services Markets (ASM). Mr. Edwards also indicated his appreciation for all the work OMS staff is doing on ASM, Demand Response and Resource Adequacy. He also mentioned that Clair Moeller at the last MISO AC meeting spoke on the issues of potential development in the West. Commission staffs should be aware of upcoming workshops on this issue

President Norris indicated OMS would address the issue of Graham Edwards' memo at the October 11 OMS Board meeting.

Randy Pilo offered a motion to adopt the August 23, 2007 OMS Executive Committee meeting minutes as distributed. Bob Lieberman seconded the motion. By voice vote, the committee members unanimously approved the minutes as presented

BUSINESS

1. OMS Staff Personnel Issue - Bill Smith

Bill Smith presented a personnel issue involving the 403 (b) retirement plan OMS Staff has been utilizing through Oppenheimer Funds. The compliance staff has recently evaluated this plan and deemed it inappropriate for a 501 (c) 4 non-profit organization to take part in. Bill Smith has sought advice from the Tim DeVries of the OMS auditing firm, Ryun, Givens and Wenthe, as well as the IRS as to how OMS can correct this problem. Further information will be forthcoming from the IRS concerning compliance steps for OMS. A new replacement plan should be decided on before the new personnel contracts are finalized.

2. Nominating Committee Status Report - Bill Smith

Bill Smith reported that the OMS Nominating Committee has met twice, and is on track to complete its work in the next two weeks.

3. OMS Officer Vacancy - President Norris

President Norris announced that the position of Secretary remains unfilled. Greg Server is discussing the possibility of assuming the OMS Secretary position with the IRC Chairman and will advise President Norris. The outcome will be presented at the October meeting.

4. OMS 2007 Annual Meeting Plans - Bill Smith

Bill Smith presented several options (options follow minutes) for the OMS Annual meeting. President Norris suggested that OMS follow option #1 again, and hold its Annual meeting in Carmel in conjunction with the MISO AC and Board meetings as it has in the past. It was suggested that FERC commissioners Wellinghoff, Spitzer and Moeller be offered invitations to attend.

It was also suggested that the OMS plan a separate meeting for the Resource Adequacy Work Group to hold an informational meeting on Module E. President Norris suggested a meeting at the conclusion of the Midwest Governors Association meeting in Milwaukee, November 15.

5. Review of OMS Working Group Assignments - Bill Smith

Bill Smith highlighted an upcoming FERC Technical Conference on Order 890, October 15 in Boston. Wisconsin's Don Neumeyer, North Dakota's Jerry Lein and Iowa's Parveen Baig have all expressed interest in attending. Bill Smith indicated he is available to attend as well. President Norris asked Bill to send one more email request asking for commissioners who might also be interested. MSATs will be speaking at the Boston conference, but FERC will not be taking presentations from commissioners.

- A current list of work group assignments follows the minutes.

6. Modeling Work Group - Bill Smith

OMS will need to replace the chair of this work group. Bill and Mike Proctor are working to fill this position.

7. Agenda Review for October 11 Board Meeting - Bill Smith

- Resource Adequacy Report

- Pricing WG comment on AEP complaint
- ASM filing
- Demand Resource Principles
- OMS Officer Vacancy
- Modeling Work Group - KEMA Tool for individual states
- High Voltage topic (from Steve Gaw)
- Staff comment on Capital Budget
- Staff comments from TPSWG to MISO on Generator Q white paper

Administrative Report

- There was no administrative report presented at this meeting.
- **MISO Planning Advisory Committee Chair**
The Executive Committee members were reminded that the vote for chair of the PAC is to be done by email. There are now two candidates in the running.

Announcements

- Next **OMS Executive Committee meeting Thursday, October 25 at 2:00 pm CDT**
- Next **OMS Regular Board meeting, Thursday, October 11 at 2:00 pm CDT**

The meeting adjourned at approximately 2:45 p.m. CDT



Organization of MISO States

**ORGANIZATION OF MISO STATES, INC.
EXECUTIVE COMMITTEE MEETING MINUTES
October 25, 2007**

DRAFT

Chairman John Norris, President of the Organization of MISO States, Inc. (OMS), called the meeting of the OMS Executive Committee to order via conference call at approximately 2:00 p.m. (CDT). The following directors participated in the meeting:

President - John Norris, Iowa
Vice President - Dan Ebert, Wisconsin
Secretary - Vacant
Treasurer - Bryan Baldwin, proxy for Greg Jergeson, Montana
Commissioner at Large - Absent

State agency members present:

Michigan - Angie Butcher
Wisconsin - Randel Pilo

Others present on the conference call:

MISO - Graham Edwards, Bill Malcolm
OMS Staff - Bill Smith, Julie Mitchell

The directors listed above established the necessary quorum of three (3) Executive Committee members.

Randy Pilo offered a motion to adopt the September 27, 2007 OMS Executive Committee meeting minutes as distributed. Because the minutes were sent out late, Committee members asked Randy Pilo to withdraw his motion in order that minutes approval be tabled until the November 29 Executive Committee Meeting.

BUSINESS

1. OMS Staff Personnel Contract Issue - Bill Smith

Bill Smith gave a status report on a personnel issue involving the 403 (b) retirement plan OMS Staff has been utilizing through Oppenheimer Funds. OMS has sent a compliance letter to the IRS to put in motion the resolution to the retirement plan issue. OMS staff have been advised not to engage a new plan until the IRS acts on this letter. A new replacement plan should be decided on before the new personnel contracts are finalized.

After some discussion, it was decided that interim staff contracts would not be issued. OMS will wait for the IRS to act, and proceed with the employment contracts on hold.

2. Nominating Committee Status Report - Bill Smith

Bill Smith reported that the OMS Nominating Committee will present its list of potential officers at the November 8 meeting.

3. OMS Officer Vacancy - President Norris

President Norris announced that the position of Secretary will remain unfilled until the 2008 election.

4. OMS 2007 Annual Meeting Plans - Bill Smith

Bill Smith outlined plans for the OMS Annual meeting

- FERC commissioners Spitzer and Moeller have been sent invitations to attend.
- A draft agenda for the Annual Meeting was presented. A final agenda will be ready for the November OMS Board meeting.
- Items on the agenda include remarks from Graham Edwards and Paul Feldman, and a presentation from David Patton.
- Another item to consider is the question of large regional planning and cost allocation -- the issue Steve Gaw had asked us to consider.
- Other agenda items include regular business items, and reports from all the OMS Work Groups.

Graham Edwards, president and CEO of the Midwest ISO, offered a few remarks on the market monitor, David Patton. Mr. Edwards indicated he would look into the issue of the market monitor not getting back to the OMS work groups with answers to their questions. Interaction of the market monitor with the commissions is an issue the PJM is also reviewing.

5. Review of OMS Working Group Assignments - Bill Smith

Bill Smith highlighted the issues OMS work groups are following.

- A current list of work group assignments follows the minutes.
- A suggestion was offered by Dan Ebert that the Executive Committee should try to get more people involved by offering the leadership of the work groups the opportunity to change hands. President Norris asked that this issue be discussed at the next OMS board meeting.

6. Agenda Review for November 8 Board Meeting - Bill Smith

- Resource Adequacy report
- Nominating Committee report
- Work Group Chair leadership
- Markets Work Group status report
-

Administrative Report

- Bill Smith indicated the invitation to the OMS Commissioners Workshop on Resource Adequacy in Milwaukee would be refreshed and re-distributed to all commissioners.
- Dan Ebert has asked the Wisconsin governor's office to help locate hotel accommodations. Dan Ebert also offered to ask the state of Wisconsin to waive the registration fee for OMS commissioners wishing to attend the MGA summit.
- Additional meeting plans were to include a dinner for Commissioners Wednesday night November 14, and lunch immediately prior to the start of the 1:00 pm to 4:00

pm CST meeting. President Norris indicated that travel reimbursement would include both a commissioner from each state, and any staff members involved in working on the issue.

Announcements

- Next OMS Executive Committee meeting Thursday, November 29, 2007 at 1:00 pm CST
- Next OMS Regular Board meeting, Thursday, November 8 at 2:00 pm CST
- OMS Annual Meeting, December 13, 2007, 11 am to 4 pm EST in Carmel at LCC
- OMS Webcast for commissioners to further study the resource adequacy Module E tariff issue is planned for November 20, 2007 from 1:00 to 3:00 pm CST. Commissioner Valerie Lemmie will chair this meeting hosted by the Public Utilities of Ohio Commission in Columbus.

The meeting adjourned at approximately 2:50 p.m. CDT

Gregory, Sheryl

From: Bill Smith [Bill@misostates.org]
Sent: Wednesday, December 19, 2007 3:58 PM
To: Julie Mitchell; Adrian, Barb; Murray, Connie; Gregory, Sheryl; Busch, Jim; Gray, Jim; Mantle, Lena; Mills, Lewis; Hughes, Mark; Oligschlaeger, Mark*; Proctor, Mike; Davis, Jeff; Kind, Ryan; Dottheim, Steve; Art Compton; Bob Raney ; Brad Molnar ; Bryan Baldwin ; Doug Mood ; Kate Whitney; Ken Toole; Montana - Greg Jergeson ; Jerry R. Lein; Kevin Cramer ; Patrick Fahn ; Paula Kent; Susan Wefald ; Tony Clark ; William Binek ; Thomas Lindgren; Alan Schriber; Dan Johnson ; Don Howard ; Don Mason; Fred Heizer; Greg Scheck ; Hisham Choueiki; Jacqueline Lake Roberts; Jan Karlak ; Jason Cross; Joe Buckley ; Jon Whitis; Judy Jones ; Kim Wissman; Klaus Lambeck; Majid Khan; Quanetta Batts ; Ronnie Fergus ; Valerie Lemmie; Kim Beemer; Bob Young ; Calvin Birge ; Greg Shawley ; Heidi Wushinske ; John Levin ; Kim Hafner; Kim Pizzigrilli ; Shane Rooney; Demaris Axthelm ; Dustin Johnson ; Gary Hanson ; Greg Rislov ; Heather Forney; John J. Smith ; Nathan Solem ; Rolayne Wiest ; Steve Kolbeck ; Alice Heilman ; Dennis Koepke ; Don Neumeyer ; Gail Maly ; James Wottreng; John Feit ; Randy Pilo; Sandy Paske ; Wisconsin - Dan Ebert
Subject: REMINDER: OMS Special BOD Meeting- THURSDAY, Dec 20, 2007 at 1:00 pm (CST) with OMS Exec Comte Conference Call immediately following
Attachments: 12-18-07 Module E for Distribution.pdf; 12-18-07 Version of RAR Transmittal Letter for OMS.DOC; OMSCommentsPostTechConf.pdf; OMSProtestRSG071219.pdf

REMINDER:

1. **OMS Special Board Meeting at 1:00 pm CST/2:00 pm EST/12:00 Noon MST. will hold a meeting by conference call, Thursday, December 20, 2007**
2. **OMS States Executive Committee meeting immediately FOLLOWS**
The call in number for both meetings is: 877-452-6418.
The conference code is 701-328-2400 followed by the # sign.

Executive Committee members and Board members who cannot attend these meetings should notify Dan Ebert (dan.ebert@psc.state.wi.us with a copy to sandra.paske@psc.state.wi.us) to designate a proxy for this meeting.

Attachments:

- Module E draft
- Transmittal letter – pages describing state responsibility

Agendas were sent December 17

Also Attached:

- RSG protest and Market Power comments filed today at FERC

Please note: In addition to those whose names appear in the address line, this notice has been sent to all, in multiple emails, at OMS province & state commissions and agencies whose names are on the extended OMS Sender List.

Julie Mitchell
 Organization of MISO States
 100 Court Avenue

12/19/2007

Suite 218
Des Moines, IA 50309

(515) 243-0742 - phone
(515) 243-0746 - fax
julie@misostates.org



Organization of MISO States

NOTICE:

**Special Meeting of the Organization of MISO States
Board of Directors Conference Call,
Thursday, December 20, 2007 at 1:00 pm CST**

Call in number is: 877-452-6418 Participation code: 701-328-2400
followed by #

AGENDA:

- | | |
|--|-----------|
| 1. Update: Preamble to Module E | 1:00 p.m. |
| 2. Update: Consideration of final MISO Module E Tariff
language to be filed 12/28 | 1:10 p.m. |

Upcoming Meetings

- The next OMS Executive Committee Meeting will be held Thursday, December 20 at 1:00 pm (CST) **following** the OMS Special Board meeting.
- The next regular Board of Directors meeting will be held Thursday, January 10, 2008 at 1:00 pm (CST).

OMS Board members who cannot attend the December 20 meeting should notify acting Secretary Dan Ebert at dan.ebert@psc.state.wi.us (with a copy to sandra.paske@psc.state.wi.us) to designate a proxy for this meeting.

OMS

Organization of MISO States

The Organization of MISO States Executive Committee will hold a meeting by conference call, Thursday, December 20, 2007 at 1:45 pm (CST), or immediately following the Special Board meeting. The call in number is 877-452-6418. The conference code is 701-328-2400 followed by #. Executive Committee members who cannot attend the call should notify Dan Ebert (dan.ebert@psc.state.wi.us) with a copy to sandra.paske@psc.state.wi.us) to designate a proxy for this meeting.

Agenda

Start Time: 1:45 pm

[or immediately following the special board meeting]

Attendance – New officers are invited to discuss transition issues

Recognition of Proxies

Declaration of a Quorum

Call Meeting to Order

Approval of the Sept 27 and Oct 25 Executive Committee Minutes– Dan Ebert

Business Items

- | | |
|--|---------|
| 1. Discussion: Officer Transition | 1:45 pm |
| 2. Action item: approve OMS auditor for 2007 Bill Smith | 1:55 pm |
| 3. Action Item: renewal of insurance – Bill Smith | 2:05 pm |
| 4. Personnel Committee formation – Bill Smith | 2:10 pm |
| 5. Meeting dates for 2008, OMS Holidays for 2008 – Bill Smith | 2:20 pm |
| 6. Discussion: Orientation for new Board members – John Norris | 2:25 pm |

Administrative Report - Bill Smith

- Upcoming OMS project deadlines 2:35 pm

Announcements

2:40 pm

- Special **OMS Board of Directors meeting – Thursday, December 20 at 1:00 CST**
- Next **OMS Board of Directors meeting – Thursday, January 10 at 1:00 CST**
- Next **OMS Executive Committee meeting – Tuesday, January 24 at 1:00 pm CST**

Adjournment

2:45 pm

At that meeting I would ask for approval to engage our audit firm for next year, to renew our insurance for next year, and approve a calendar of meetings and holidays for 2008.



Organization of MISO States

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Organization of MISO States

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EXECUTIVE COMMITTEE MEETING MINUTES
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The meeting adjourned at approximately 2:50 p.m. CDT

Gregory, Sheryl

From: Michelle VanGordon [mvangordon@midwestiso.org]
Sent: Tuesday, December 18, 2007 4:01 PM
To: tbpsc@lists.midwestiso.org
Cc: Karlak, Jan; *Legal - Regulatory
Subject: December 20 Meeting of the Tariff and Business Practices Subcommittee

This meeting is being held to discuss the revisions to Module E for the long-term resource adequacy filing the Midwest ISO intends to make by year-end. Lunch will be served for this meeting. Michelle

Event Name: **Tariff and Business Practices Subcommittee**

Date(s): Thursday, December 20, 2007

Time: 9:00 AM - 12:00 PM EST

Location: Lakeside Conference Center, Room B

Description: Deferral of Module E Tariff Language Review

Registration Info.: Click [here](#) to go to the Webcast
Webcast Meeting Password: 122007

Participant Dial-In Number: (800) 442-5794

Participant Code: 433322

Attachments: [Meeting Materials](#)

249-5822 Direct Dial
317-340-9350 Cell
317-249-5912 Fax
mvangordon@midwestiso.org

12/18/2007