

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

<b>Midwest Independent Transmission System Operator, Inc.</b>	) ) ) )	<b>Docket No. ER09-1049-000</b>
---	------------------	---------------------------------

**MOTION FOR LEAVE TO ANSWER AND ANSWER  
OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC or Commission), 18 C.F.R. § 385.213 (2007), the Electric Power Supply Association (EPSA)<sup>1</sup> respectfully files for leave to Answer and Answer the June 15, 2009 comments filed by the Midwest Independent Transmission System Operator (MISO) in the above captioned proceeding.<sup>2</sup> EPSA's Answer serves to ensure the record in this proceeding is complete, as a new report from the MISO Independent Market Monitor (IMM), Potomac Economics, has been submitted in Docket No. ER07-1312 that has pertinence in the instant proceeding.<sup>3</sup>

While EPSA recognizes that Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2008), does not generally provide for answers, the Commission often permits such pleadings where, as here, the information provided in an answer presents new facts that were not previously available or that will facilitate the

---

<sup>1</sup> EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

<sup>2</sup> *Motion for Leave to Answer and Answer of the Midwest Independent Transmission System Operator*, Docket No. ER09-1049-000 (June 15, 2009).

<sup>3</sup> *Informational Filing of Midwest Independent Transmission System Operator, Inc.'s Independent Market Monitor Regarding Whether the Midwest ISO's Actions are Distorting Shortage Price Signals*, Docket No. ER07-1372, *et al* (July 6, 2009). See Attachment A.

Commission's decisional process or aid in the explication of issues.<sup>4</sup> The IMM report discusses shortage pricing, a major element of MISO's original Order No. 719 compliance filing and subsequent Answer. The short report from Potomac Economics was submitted in the Commission's proceeding regarding MISO's Ancillary Services Market (ASM) after the deadline for comments in this proceeding and after MISO submitted its June 15 Answer. Accordingly, EPSA respectfully requests that Rule 213(a)(2) be waived and that the Commission accept this Answer, so that the July 6 IMM Report on shortage pricing may be considered a part of the record in this proceeding.

## **I. BACKGROUND**

On April 28, 2009, the Midwest Independent Transmission System Operator (MISO) submitted a filing to the Commission in compliance with Order No. 719.<sup>5</sup> On May 26, 2009, EPSA submitted a motion for leave to intervene and comment on MISO's April 28 compliance filing. EPSA's May 26 filing supported the majority of MISO's filing, noting that the EPSA members that participate in MISO's market and stakeholder process appreciate the progress and the value that MISO's services provide. However, the May 26 EPSA filing did take issue with MISO's scarcity pricing mechanism, noting that MISO simply stated that the mechanism in place under its ASM was sufficient and that MISO never analyzed the ASM rules regarding whether and how they comply with

---

<sup>4</sup> The Commission's rules do not generally permit answers to answers. See 18 C.F.R. § 385.213(a)(2). However, the Commission, in its discretion, does allow such answers when they provide additional information that assists the Commission in its decision-making. See, e.g., *Reliant Energy Services, Inc., and CenterPoint Energy Resources Corp. v. Kern River Gas Transmission Co.*, 120 FERC ¶ 61,056 at PP 10-11 (2007).

<sup>5</sup> *Order No. 719: Wholesale Competition in Regions with Organized Electricity Markets*, 18 CFR Part 35, 125 FERC ¶ 61, 071, Docket Nos. RM07-19-000 and AD07-7-000 (October 17, 2008).

Order 719 specifically.<sup>6</sup> EPSA argued that as the tariff is written now, the ASM only put scarcity pricing into effect after the imposition of several emergency provisions, which does not adequately provide market signals reflecting scarcity or shortage conditions to properly or fully incent market responses.

On June 15, MISO submitted an Answer to various protests of its April 28 compliance filing, including a section on pricing during periods of operating reserve. MISO's answer states that its original filing did in fact meet Commission directives in terms of describing its scarcity pricing mechanism. However, though MISO's Answer notes the recommendation from EPSA and others that MISO modify its scarcity pricing mechanism to ensure that market signals occur within the market before emergency actions take place, it makes no response to the suggestion.<sup>7</sup>

## II. ANSWER

EPSA's Answer here is solely intended to add to the record a short informational report from the IMM regarding shortage price signals and the ASM, filed in Docket No. ER07-1372 on July 6, 2009. Specifically, in the last paragraph of the report, the IMM concludes:

The concerns raised by market participants regarding the effects of these types of emergency actions on shortage pricing are legitimate. Since none of these actions is explicitly reflected in the real-time prices, they can cause the market prices to fail to reflect shortage conditions when they are invoked. The IMM has recommended in other reports that the Midwest ISO develop pricing provisions that would allow these types of emergency actions to set prices in its real-time

---

<sup>6</sup> While the current ASM does have a mechanism for pricing operating reserves during periods of shortage, many administrative and out of market actions take place that mute any ability for the market participants to see and potentially respond to market incentives. MISO fails to directly address whether that mechanism is sufficient to meet the six criteria FERC has laid out for such pricing reform. In fact, the ASM concept for scarcity pricing was created well before FERC's issuance of Order No. 719 and therefore may fall short of meeting the goals of that Order.

<sup>7</sup> MISO June 15 Answer, page 27.

market. Research by the Midwest ISO to develop such provisions is underway.<sup>8</sup>

EPSA urges the Commission to take the IMM's conclusions under advisement in this proceeding. After all, MISO's compliance with Order No. 719's directives in the instant proceeding are wholly dependent upon the concurrent ASM proceeding in Docket No. ER07-1372. Thus, the IMM's conclusions in that docket are relevant. As EPSA originally stated, and as the IMM's report reaffirms, MISO's scarcity pricing mechanism should be modified to ensure that market signals properly occur. The Commission should to direct MISO to work with stakeholders and ultimately file at the Commission modifications to the Midwest ISO ASM procedures to ensure that price signals within the Midwest ISO market properly values and incents demand participation.

### III. CONCLUSION

EPSA respectfully requests that the Commission grant its motion to enter this answer and the IMM's report into the record in the instant proceeding, as it offers pertinent information that was not available at the time of EPSA's original filing.

Respectfully submitted,



---

Nancy Bagot, Vice President of Regulatory Affairs  
Tara Ormond, Manager of Regulatory Affairs  
Electric Power Supply Association  
1401 New York Ave, NW  
11<sup>th</sup> Floor  
Washington, D.C. 20005

July 17, 2009

---

<sup>8</sup> IMM Report, page 3.

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the comments via email or postal mail upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., July 17, 2009.

  
\_\_\_\_\_  
Nancy Bagot, VP Regulatory Affairs

Potomac Economics, Ltd.  
9990 Fairfax Boulevard, Suite 560  
Fairfax, Virginia 22030



Telephone: 703-383-0720  
Facsimile: 703-383-0796

July 6, 2009

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

**Re: Informational Filing of Midwest Independent Transmission System Operator, Inc.'s Independent Market Monitor on System Problems with ASM Pricing and Settlements, Docket No. ER07-1372, et al.**

Dear Secretary Bose:

Pursuant to the Federal Energy Regulatory Commission's ("Commission") December 18, 2008 Order Authorizing Midwest ISO Ancillary Services Market Start-Up<sup>1</sup> the Midwest ISO's Independent Market Monitor ("IMM") submits this informational filing assessing any system problems with Pricing and Settlements.

**I. BACKGROUND**

Prior to the ASM market launch, stakeholders expressed concerns about unexpected and artificial shortage conditions observed during early operational tests. The Startup Order found that these concerns were addressed by the Midwest ISO's changes in the ASM design. However, the Midwest ISO was directed to continue to review the operational impacts of the proposed changes with its stakeholders. Although the Midwest ISO was not required to submit weekly reports to the Commission regarding ASM performance as some had requested, the Start-Up Order required the IMM to:

[S]ubmit, in the informational report due 180 days after the launch of the ASM, a discussion of any system problems with ASM pricing or settlements.<sup>2</sup>

**II. SYSTEM PROBLEMS WITH PRICING AND SETTLEMENTS**

The purpose of this informational filing is to report on any system problems with ASM pricing or settlements in compliance with the Commission's directive. The IMM has closely monitored the ASM markets since their launch on January 6, 2009. Additionally, we report

---

<sup>1</sup> *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,318 (2008) ("ASM Start-Up Order").

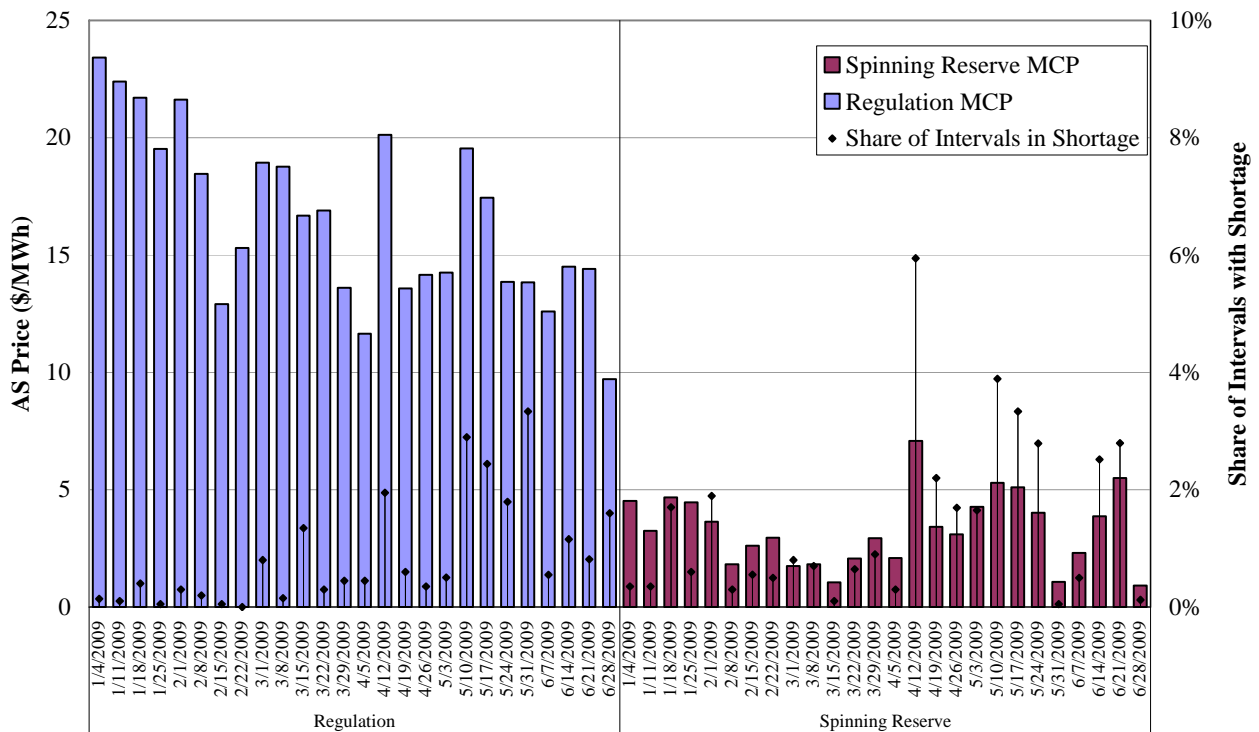
<sup>2</sup> *Id.* at P 156.

Hon. Kimberly D. Bose  
 July 6, 2009  
 Page 2

monthly on the performance of the market to the Markets Committee of the Midwest ISO Board of Directors and others.

To date, the IMM has found the ASM to be functioning well with market results and pricing comparable to other RTO's market results. The IMM has evaluated and reported on the frequency of shortages in ASM and found no significant system problems with ASM pricing or settlements. The figure below the weekly average prices for regulation and spinning reserves, as well as the frequency with which each produce has been in a shortage.

**Weekly Spinning Reserve and Regulation Prices  
 January 6 to June 30, 2009**



The prices for both regulation and spinning reserves have both been consistent with expectations given the experience of other RTO markets for these products and the underlying supply conditions in the Midwest ISO. The frequency of shortages for these products has been slightly higher than we anticipated, particularly in the last two months. The IMM reviews and evaluates these shortages when they occur and has found to date that they do not constitute the types of artificial shortages that had raised concerns during operation testing.

Rather, these shortages are generally due to transitory ramp rate limitations that can occur when the system must move rapidly to accommodate changes in load or net imports. The shortages have had a negligible effect on average clearing prices for the ASM products and for

Hon. Kimberly D. Bose  
July 6, 2009  
Page 3

energy. However, the IMM is working with the Midwest ISO on potential operational improvements that would reduce the frequency of these types of shortages.

In conclusion, the results of the IMM's hourly monitoring and monthly reporting have found no significant system problems with ASM pricing or settlements. However, the IMM will continue to monitor for potential concerns.

**III. NOTICE AND SERVICE**

**A. NOTICE**

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

David B. Patton  
9990 Fairfax Blvd., Ste 560  
Fairfax, VA 22030  
(703) 383-0720  
dpatton@potomaceconomics.com

\* Persons designated to receive official service.

Hon. Kimberly D. Bose  
July 6, 2009  
Page 4

**B. SERVICE**

The IMM has served all parties provided in the Commission's eService list for the above-referenced dockets. In addition, the filing has been posted electronically on the Midwest ISO's website at [www.midwestmarket.org](http://www.midwestmarket.org) under the heading "Filings to FERC" for other interested parties in this matter.

**IV. CONCLUSION**

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

Respectfully submitted,

*/s/ David B. Patton*

Dr. David B. Patton  
Potomac Economics, Ltd.