

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

Midwest Independent Transmission System Operator, Inc.      Docket No. ER08-1169-000  
Electric Tariff Filing Regarding Interconnection  
Queuing Practices

**MOTION TO INTERVENE AND COMMENTS OF WIND ON THE WIRES AND  
THE AMERICAN WIND ENERGY ASSOCIATION**

On June 26, 2008, the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) submitted in the above-captioned docket a filing under Section 205 of the Federal Power Act to revise the Interconnection Queuing Practices in its Open Access Transmission and Energy Markets Tariff (“EMT” or “Tariff”). Wind on the Wires (“WOW”) and the American Wind Energy Association (“AWEA”) respectfully move to intervene in this proceeding. AWEA and WOW (hereafter “AWEA/WOW”) support the need for interconnection queue reform and the stakeholder process the Midwest ISO has engaged in over the past year. AWEA/WOW have several concerns, however, about the details of the Midwest ISO’s proposed changes and request that the Commission approve this filing with requirements to make appropriate modifications to address the concerns detailed below in a subsequent filing.

**I. MOTION TO INTERVENE**

**A. Interests of AWEA and WOW**

The American Wind Energy Association is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine

manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers and their advocates.

Wind on the Wires represents the interests of the wind industry in the Midwest and holds a seat on the MISO Advisory Committee that represents the environmental sector. WOW members include turbine manufacturers and project developers, project owners and operators, businesses that supply goods and services to the wind industry, tribes and clean energy advocacy organizations. WOW and AWEA members have a substantial number of wind projects under development that are seeking to interconnect to the Midwest ISO system and will be subject to the proposed Tariff revisions under review.<sup>1</sup> As interconnection customers of the Midwest ISO, they are directly impacted by the success of the proposed interconnection queue reform to expedite the interconnection process and to reduce the queue backlog.

AWEA/WOW believe that several sections of the proposed tariff changes need additional modification in order to be effective in addressing queue process issues. AWEA/WOW are focused on queue reform that comports with how projects in the wind industry actually are developed – the timing, needed project elements, and most importantly, bringing projects to commercial operation in a timely manner. During the Midwest ISO stakeholder process, we considered the need to reform the queue process while understanding the realities of how our industry does business.

Finally, we believe that queue process reform alone will not result in significant improvement of the queue backlog, as it does not address the underlying problem with the interconnection queue; the need for new transmission capacity. It is critical that the Midwest

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<sup>1</sup> A number of WOW and AWEA members will also be submitting comments in this docket on behalf of their individual interests.

ISO move from these process improvements, which may result in progress for some parties and some minor efficiency improvements in the overall interconnection process, to the solutions that will ultimately relieve the queue backlog. The Midwest ISO, its stakeholders, and Midwest states must undertake the task of addressing regional cost allocation in a way that spreads the costs to all customers and does not ask a small number of developers to fund needed new high voltage transmission additions that will benefit the region. Cost allocation must be addressed in order that significant amounts of new transmission capacity can be built on a reasonable timeline to address state renewable requirements as well as global warming challenges.

**B. Communications**

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**II. BACKGROUND**

On September 25, 2007, the Midwest ISO launched a work group to discuss how to improve the generator interconnection queue process. The goal of the work group (later renamed the Interconnection Process Task Force or IPTF) was to identify improvements in the interconnection process that would allow projects that are ready to go to move forward, while at the same time allowing other interconnection customers with viable projects to continue working towards bringing their generation projects to the point they can move ahead through the

interconnection process. The Midwest ISO proposed to focus on process improvements that would require a tariff change as well as those things that could be implemented without a tariff change. As of September 2007, the queue process was severely bogged down with missed deadlines as well as uncertain interconnection costs. At the start of the interconnection queue reform process, the Midwest ISO and stakeholders recognized that while they may be able to identify reforms that allow some interconnection customers to move forward more quickly, significant new transmission is needed in order to ultimately reduce the interconnection queue backlog and to meet state renewable energy requirements.

Throughout this nine-month stakeholder process, the Midwest ISO and stakeholders evaluated a number of reforms to address the queue backlog. WOW, and a number of members of both WOW and AWEA, were active participants in this stakeholder process and provided written comments at several points. AWEA and WOW also participated in the Commission's technical conference on December 11, 2007 addressing generator interconnection queue management procedures. In addition, AWEA provided comments in response to the Commission's December 17, 2007 notice inviting additional comments on the subject of interconnection queuing practices.<sup>2</sup>

### **III. COMMENTS**

AWEA/WOW are supportive of the general direction of the Midwest ISO queue reform effort. Given the extensive number of interconnection requests in the Midwest ISO queue, and the delays experienced in the current interconnection study process, including the need for restudies, the Midwest ISO clearly needs to adjust its process. The proposed change from a "first in, first processed" approach to a milestone based (or "first ready, first processed") approach is critical to allow those parties in unconstrained areas of the grid, and others that are ready to move

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<sup>2</sup> "Comments of the American Wind Energy Association", January 10, 2008, Docket No. AD08-2.

forward, to do so without being delayed by prior queued projects that are not ready or able to move forward.

AWEA/WOW support the proposed pre-queue Phase whereby interconnection customers can receive more information from the Midwest ISO and Transmission Owners prior to entering the queue. AWEA/WOW encourage the Midwest ISO to provide contour map information in a tabular format as well as graph format. The more information MISO can provide at specific voltage levels the better. WOW believes Pre-queue workshops that educate potential interconnection customers on the new interconnection queue process would be helpful. Overall, we support the queue reform goal of better and increased communication between the Midwest ISO, Transmission Owners, and interconnection customers.

#### **A. Milestones**

AWEA/WOW support the shift from a “first in, first processed” approach to a process that is based on milestones that are indicative of project readiness. However, we have some concerns about the milestones proposed in the Midwest ISO filing. Milestones should not be discriminatory and should work for all types of generators and all sizes of interconnection requests. During the Midwest ISO stakeholder process there was considerable discussion about the options that can be used to meet each milestone and we continue to have concerns particularly about items in milestones M2 and M3.

Entry into the Definitive Planning Phase (“DPP”), and into the Facilities Study portion of the DPP require that the customer meet a subset of several milestones that are indicative of readiness and commitment to move forward with the interconnection, M2 and M3 respectively for these two entry points. Specifically, the interconnection customer must satisfy, *inter alia*, two of the following four criteria: (a) documentation of application for state or local air, water,

land, or federal nuclear permits and that the application is proceeding per regulations; (b) approval of the facility by a state utility regulatory commission; (c) approval from an independent board of directors of the Interconnection Customer's company; or (d) security reasonably acceptable to the Transmission Provider equal to the requested gross nameplate capacity times the rate for one (1) month of drive-out point-to-point transmission service calculated on the notification date requesting submission of requirements to commence System Planning and Analysis Review. These options could effectively deprive a merchant wind project of an opportunity to interconnect. A merchant wind project often does not require the type of permits described in clause (a), nor the approval of a state utility commission described in clause (b). The project company that will own the wind plant also is unlikely to have an independent board as contemplated by clause (c). As a result, most merchant wind projects would be able to satisfy only one of these criteria, thus failing to meet the test needed to move forward into the System Planning and Analysis Review stage. AWEA/WOW suggest that milestones from M3, which include demonstration that generators are on order, could be used as additional alternatives for meeting the milestones in M2, while also being used to comply with M3.

One of the options for M3 is to have proof of a power purchase agreement, which unfairly disadvantages merchant generators that have no long-term power sales contracts. Order No. 2003 was crafted to ensure that generators who are not affiliated with load serving entities are not discriminated against in the interconnection process. Therefore the Midwest ISO's interconnection process must be designed to ensure a level playing field for all generators. These M3 milestones should be reevaluated to ensure they offer reasonably equivalent options to all generators.

As noted, the fourth option of the M2 milestones is that the customer provide security equivalent to one month of drive out point-to-point transmission rate times the number of megawatts requested. AWEA/WOW are concerned that, as crafted, this milestone is dependent on a variable rate, and therefore creates uncertainty and added risk for developers. We suggest that MISO set this as a fixed rate, which could be changed within the tariff as needed. The current rate of \$2000 per megawatt could be fixed in the tariff.

### **B. Deposits**

In principle AWEA/WOW support the idea of increased deposits to encourage customers to enter the queue and move through the study process when their projects are ready. This should reduce the need for restudies that result from unready parties dropping out of the interconnection queue. Increased study deposits should help place the cost of restudy on parties that cause the need for restudies. However, AWEA/WOW suggest that any deposits or securities collected, which are not related to the costs of studies, should be placed in an escrow account, so that they are not used for a purpose unrelated to the reason they were given. We also request that the Midwest ISO add tariff language that states that it will expedite the distribution of any unused funds, and will release such funds no later than 30 days following the closing of the request.

### **C. Suspension**

AWEA/WOW support reduction of the current three-year discretionary suspension, which has been problematic in keeping the interconnection process moving. However, we are not in favor of the Midwest ISO suspension concept as proposed as it is too restrictive for an industry with so much uncertainty. The Commission acknowledged in its Order 2003 that suspension was necessary to allow an interconnection customer “the flexibility necessary to

accommodate permitting and other delays that are particularly likely to affect large projects.”<sup>3</sup> Allowing a developer to suspend its performance obligations for a period recognizes the reality of generation development and the unavoidable commercial delays that may occur after an interconnection agreement is signed. AWEA/WOW suggest that the option to suspend for discretionary purposes (i.e. purposes within the control of the developer in addition to “force majeure” events) be included in the Midwest ISO tariff, but the suspension time period be reduced from three years to one year to help the interconnection process continue to make timely progress.

#### **D. Energy Resources vs. Network Resources**

In this filing, the Midwest ISO has proposed to change the way in which the interconnection of an energy resource is evaluated. The proposed tariff language requires that the impact of the energy resource be evaluated with regards to deliverability of that resource as well as its impact on the deliverability of other resources. This is a significant deviation from the existing evaluation that tests how the energy resource would impact reliability of the system. The change proposed by the Midwest ISO essentially ignores the distinction the Commission made between Energy Resources and Network Resources because it in effect requires that Energy Resources have firm delivery. Eric Laverty’s testimony states, “The intent of the changes is to restore Energy Resource Interconnection Service to what it was prior to the opening of the Energy Markets at the Midwest ISO.”<sup>4</sup> This effectively removes the competition between energy resources and network resources in the market. Yet, economic competition is exactly what is intended by this type of market. The Midwest ISO’s suggested changes are not equal to or superior to the pro forma tariff in Order 2003.

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<sup>3</sup> Order 2003, paragraph 410.

<sup>4</sup> Midwest ISO filing, “Prepared Direct Testimony of Eric Laverty Filed on Behalf of the Midwest Independent Transmission System Operator, Inc.”, page 56.

Furthermore, this is a market and operational issue not an interconnection issue. As such, it is not appropriate to be included in the Midwest ISO proposal for queue reform. While this is an important issue that needs to be addressed in the appropriate venue, this issue is largely being driven by Midwest ISO staff and has not yet been sufficiently discussed in the Midwest ISO stakeholder process. AWEA/WOW believe it is highly inappropriate and not at all practical to drive significant transmission upgrades through the interconnection process. The root problem here is that there is not enough transmission capacity available, and transmission planning and cost allocation must be addressed to solve this problem. The Midwest ISO staff has made it clear that large-scale transmission expansion for aggregated amounts of new generation – particularly renewables - and cost allocation will be separate discussions apart from queue reform. AWEA/WOW request that the Commission deny approval of the proposed tariff changes to section 3.2.1 “Energy Resource Interconnection Service (ER Interconnection Service).”

**G. Flexibility Needed**

Additional flexibility is needed in the interconnection queue process given the uncertainty inherent in the development of generation resources. If parties are not allowed to make changes in the turbine type, it will drive them to specify the least technically capable turbine in their interconnection request. AWEA/WOW request that customers be allowed to make changes in their turbine type if the new technology is better than their original submission, or if the change in turbine does not result in negative changes to grid impact of the request. In addition, we request that customers be allowed to reduce the maximum output in MW of their project, if no negative impacts to the grid are indicated by such a change.

Flexibility in defined aspects of the project will also be necessary if the Definitive Planning Phase takes several years to complete. Flexibility in turbine type, time to renegotiate

land leases, and ability to replace letters of credit must be allowed in such an instance. We request language in the tariff that addresses increased flexibility for the developer if the Midwest ISO has caused significant delays.

Given that a developer is not likely to know whether their request will move quickly to the Definitive Planning Phase, or if it will spend a significant amount of time in the System Planning and Analysis Phase (“SPA”), it may be challenging for the developer to know the appropriate time in their project development process to submit an interconnection request. To address this uncertainty AWEA/WOW suggest that the option to skip one DPP should also be available to those parties who do not need to go through the SPA, as this option is already provided for in the proposed tariff revisions for those who will go through the SPA.

#### **H. Reassignment of Interconnection Rights**

Under certain circumstances a wind energy developer will develop a wind plant in two or more phases. For example, a developer may file an interconnection request in connection with a proposed 200 MW wind farm, where the first 100 MW phase may be planned to achieve commercial operation one year before the second 100 MW phase. Under these circumstances, the first phase likely will need to be financed separately from the second phase. Further, the manner in which wind farms are financed usually requires that each phase be owned by a separate special purpose entity (“SPE”). As a result, the SPE that holds the interconnection rights for the entire wind farm must be able to assign a portion of its interest in the Generator Interconnection Agreement (“GIA”) to its affiliated SPE that will own the second phase. While the Midwest ISO's pro forma GIA permits assignment of the GIA to an “Affiliate” without the consent of the other parties (assuming an equal or greater credit rating and ability to satisfy the legal and operational responsibilities under the GIA), it does not expressly permit a partial

assignment.<sup>5</sup> As a result, the Midwest ISO does not permit the type of assignment typically required to develop and finance a wind farm to be constructed in two or more phases. Because such a partial assignment by a wind energy generator to an affiliate does not impose any material burden on the other parties to the GIA, and is necessary for the efficient development of wind resources, AWEA/WOW request the Commission clarify that Section 19.1 permits a partial assignment to an affiliate or require that the Midwest ISO modify that section to expressly permit such assignments.

### **I. Transition Period**

AWEA/WOW find that the transition period between the current interconnection process and the Midwest ISO's proposed new process as defined in the proposed Tariff changes may unreasonably disadvantage projects that have been in the queue for a significant time. Such parties have been focused on compliance with the timelines and requirements in the current LGIA of the Midwest ISO Tariff. The Midwest ISO's proposed changes would require these existing projects to comply with the new milestone and deposit requirements within 60 days.<sup>6</sup>

Once the new Midwest ISO interconnection process becomes effective there will be one or more of the study groups that are already in the Facility Study phase, and have been in the Midwest ISO queue for in most cases two to three years. AWEA/WOW request the Commission require the Midwest ISO to exempt such groups from the requirement to meet the milestone requirements in the Midwest ISO proposal. We do understand the need to address immediate reform while considering the equitable treatment of existing customers. AWEA/WOW therefore suggest that it would be appropriate to require existing customers to meet the increased deposit amounts proposed by the Midwest ISO.

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<sup>5</sup> See Midwest ISO filing, Section 19.1.

<sup>6</sup> See Midwest ISO filing, Section 5.1.2.

**J. Regional Coordination on Interconnection is Necessary**

As AWEA/WOW have stressed in our protests on the Midwest ISO and MidAmerican's Attachment K filings, regional coordination is critical for effective transmission planning.<sup>7</sup> Coordination between the Midwest ISO and the Mid-Continent Area Power Pool ("MAPP") utilities is also necessary for the interconnection process to be effective. The interconnection of a new generator to either the Midwest ISO or MAPP footprint of the Midwest grid can have significant impacts on neighboring utilities. As part of the Midwest ISO queue reform changes, parties should not be allowed to bypass or jump other generators in the Midwest ISO queue process by interconnecting with a neighboring utility whose process is not coordinated with the Midwest ISO. Lack of coordination can give generators outside the Midwest ISO queue access to transmission capacity that would otherwise be allocated to parties with prior queue positions, and can cause serious operational and reliability impacts. We request that the Commission require the Midwest ISO to define a coordination process with its member utilities as well as MAPP utilities, so that this reform effort is effective and complete.

**K. Interconnection Queue Process is Still Lengthy**

AWEA/WOW are concerned that the proposed time lines for processing an interconnection request are still very lengthy, and not a significant improvement over the existing time lines in the Midwest ISO Tariff. The time lines included in the proposal for the Feasibility Study, the System Planning and Analysis Phase, and the Definitive Planning Phase add up to 495 days, which does not include any idle periods between studies, or to process data and milestone requirements. The result is that this process may take over two years to complete an interconnection request. AWEA/WOW believe that additional staff will be needed to keep pace

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<sup>7</sup> "Motion to Intervene and Protest of the American Wind Energy Association and Wind on the Wires", January 7, 2008, Docket No. OA08-41, and "Motion to Intervene and Protest of the American Wind Energy Association and Wind on the Wires", January 7, 2008, Docket No. OA08-53.

with time lines identified in the proposal for the studies needed to process the interconnection requests currently in their queue. Alternatively, the Midwest ISO could allow transmission providers to complete their own studies. The Midwest ISO's proposed new process and time lines will not, however, address the backlog that currently exists in the interconnection queue.

**L. Root cause of interconnection queue problems is lack of transmission capacity**

The root cause of interconnection queue problems still needs to be addressed following the Interconnection Queue process changes the Midwest ISO has proposed. Interconnection backlog and delays are largely due to the need for more transmission capacity and a workable cost allocation approach to fund transmission upgrades. The Midwest ISO's proposed queue tariff changes will provide a faster route to interconnection for parties in unconstrained areas of the system, and will allow for some process efficiencies. But no change will be effected in congested areas of the transmission grid like the Dakotas, MN, and IA.

It is instructive that queues are in better condition in ERCOT, Wisconsin, Michigan, and non- ISO/RTO regions than in MISO, and other RTOs and ISOs. Why? Because the former areas do not use "participant funding" where the generator pays network upgrade costs. Fundamentally, the interconnection queue process cannot shoulder the burden of regional network transmission planning. The interconnection queue process cannot cure cancer and it cannot be relied upon to address all of the needs of the grid. The Midwest ISO must put in place a workable cost allocation approach that can be used to move projects identified in their regional transmission planning process quickly towards construction.<sup>8</sup> The interconnection queue process must be designed to work with the transmission planning process and a regional cost allocation process in order to fully address the queue problems that exist today.

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<sup>8</sup> See "Comments of the American Wind Energy Association", Docket AD08-2, January 10, 2008 for more suggestions on addressing the need for regional cost allocation.

AWEA/WOW request that the Commission recognize the urgency of addressing these root cause issues and require the Midwest ISO to address transmission build out and cost allocation immediately upon conclusion of this filing. Because transmission build out and cost allocation are such pressing issues to resolve, AWEA/WOW request that the Commission set a timeframe in which the Midwest ISO must report back on the progress of resolving these issues.

#### **IV. CONCLUSION**

AWEA/WOW support the direction of the Midwest ISO's queue reform effort. However, the details of the proposed interconnection process are critical to its success. AWEA/WOW request that the Commission approve the Midwest ISO filing in this docket, but require the Midwest ISO to complete an additional filing to address the concerns detailed and modification requested in these comments.

Dated: July 17, 2008

Respectfully submitted,

By:           /s/ Christopher T. Ellison          

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