

II. Basis for Intervention

2. Michigan is a sovereign state of the United States and intervenes in its *parens patriae* capacity to preserve and protect the health, safety and welfare of its citizens; and in its proprietary capacity as a substantial purchaser of electricity.

3. The Michigan Public Service Commission is an agency of the State of Michigan, created by 1939 Pub. Acts 3, Mich. Comp. Laws Ann. § 460.1 *et seq.* As the Michigan regulatory agency having jurisdiction and authority to control and regulate rates, charges, and conditions of service for the retail sale of electricity in the state, the Michigan Public Service Commission intervenes in this matter pursuant to the authority conferred by applicable state statutes, rules, and procedures.

4. Michigan is vitally interested in matters involving the proposed Market Rules and the ultimate implementation of the Commission's Standard Market Design ("SMD") rulemaking. Michigan thus has a direct interest in this proceeding that cannot be adequately represented by any other party. Therefore, Michigan's participation and intervention is in the public interest.

III. Description of Filing

5. By the instant filing, the Midwest ISO seeks Commission affirmation of the general direction of the Midwest ISO's proposed Market Rules in order to permit development activities to move forward to enable scheduled initiation in the fourth quarter of 2003. Specifically, the Midwest ISO is proposing Energy Market Rules, Financial Transmission Rights ("FTRs") Market Rules ("FTR Market Rules") and Market Settlement Rules.

In addition, the Midwest ISO seeks a commitment, similar to that included in the *Se Trans* Order, that the Midwest ISO will be afforded a reasonable period to conform its market design in the event there are substantial changes in the Commission's SMD initiative.

IV. Comments

6. Michigan supports the Midwest ISO's request for declaratory order. Based on an abbreviated review of the filing, Michigan agrees that the direction of the three new Market Rules is generally consistent with the Commission's policy on SMD. To the extent Michigan is correct in its assessment that the proposed Midwest ISO's rules are in fact consistent with SMD policy expectations, expedited Commission approval of the entire elements of the proposed Market Rules is in the public interest in order to permit market design development activities to move forward on a schedule that contemplates initiation in the fourth quarter of 2003. Expedited consideration is also vital to meeting FERC's goal of getting the MISO - PJM single market initiative up and successfully running in 2004, a goal Michigan emphatically supports.

7. There is an important aspect to this filing that deserves particular attention. The proposed Market Rules were developed by the Midwest ISO with input from appropriate stakeholder committees and have been approved for filing by the Midwest ISO Board of Directors. As a participant in this process, Michigan can attest to the fact that the Midwest ISO has a meaningful stakeholder process and is governed by a fully independent board.

8. Michigan's purpose in highlighting the stakeholder process is to emphasize the need for such a process to continue on a meaningful basis as further details are prepared in connection with the rules presented in the instant filing and as additional rules are developed to fulfill missing SMD elements. In this respect, while Michigan applauds the Midwest ISO for its progress in developing many of the core components of SMD market requirements, Michigan stresses that the Market Rules referenced in the instant filing are not complete, especially noting that they do not include rules governing operating reserves or resource adequacy. Michigan, of

course, reserve the opportunity to express its views on the remaining rules as they are developed and presented for comment.

9. Michigan is particularly pleased with the general approach taken by the Midwest ISO in developing numerous alternatives for dealing with congestion. Under the Midwest ISO proposal, FTRs will be available as both Flowgate Rights and Point-to-Point Rights, with the latter available in the form of both options and obligations. Michigan is convinced that FTRs are an essential element to the success of SMD. Provision of effective measures to enable market participants to hedge congestion cost is crucial to successful market development. In particular, Michigan applauds the inclusion of FTR options. Michigan strongly supports making options available. The Midwest ISO's decision to provide market participants with numerous alternatives is, at this preliminary stage, the optimum approach toward this important issue. Michigan also applauds the Midwest ISO's proposal to move toward auctioning of FTRs and urges the Midwest ISO to continue to promote the auctions as a future mechanism to allocate and exchange these financial instruments.

10. Finally, with respect to the Midwest ISO's request for assurances of the type provided by the Commission in its *SeTrans* order,¹ Michigan agrees that if an element of the proposed Market Rule turns out to be inconsistent with the final SMD rule, the Midwest ISO should be provided additional time to make any necessary conforming changes. To be clear, Michigan supports changing the proposed Market Rules, if necessary, in the event they conflict with the final SMD. As stated by the Midwest ISO, "it does not intend or suggest that Commission approval will freeze the details in the draft Market Rules in place...". With that understanding, Michigan supports approval of the instant request for declaratory order.

¹ *Cleco Power LLC, et al.*, 101 FERC ¶61,008 (2002).

WHEREFORE, Michigan respectfully requests that the Commission (1) grant the requested intervention and (2) grant the Midwest ISO's filing in this proceeding based on the understanding set forth herein.

Respectfully submitted,

**STATE OF MICHIGAN AND
MICHIGAN PUBLIC SERVICE COMMISSION**

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Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that I this day served a copy of the foregoing document by first class United States mail, postage prepaid, to all parties listed on the official service list compiled by the Secretary in this proceeding.

January 10, 2003.

/s/ Carrie L. McGuire
Carrie L. McGuire

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