

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

Wisconsin Public Service Corporation,)
Upper Peninsula Power Company,)
WPS Energy Services, Inc., and)
WPS Power Development, LLC)
Complainants)

v.)

Docket No. EL06-97-000

Midwest Independent Transmission)
System Operator, Inc. and)
PJM Interconnection, L.L.C.)
Respondents)

COMMENTS OF THE JOINT STATE COMMISSIONS¹

I. Introduction

On August 15, 2006, pursuant to Section 206 of the Federal Power Act and the *Wisconsin Public Service Corp. et al.* Order issued on May 16, 2006, by the Federal Energy Regulatory Commission (“Commission”),² the Wisconsin Public Service Corporation, Upper Peninsula Power Company, WPS Energy Services, Inc. and WPS Power Development, L.L.C. (collectively, the “WPS Companies”) filed with the Commission a complaint against the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) and PJM Interconnection, L.L.C. (“PJM”) (collectively, “RTOs”) seeking the Commission to direct the Midwest ISO and PJM to promptly institute joint unit commitment and single system dispatch as

¹ The Joint State Commissions are the Illinois Commerce Commission, the Pennsylvania Public Utility Commission, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

² *Wisconsin Public Service Corp., Upper Peninsula Power Co., WPS Energy Services, Inc. and WPS Power Development, L.L.C. v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.*, 115 FERC ¶61,185, (2006).

part of their obligation to create a functional joint and common market (“JCM”) encompassing the entire Midwest ISO/PJM footprint.

On August 22, 2006, the Commission issued a notice of the WPS Companies’ August 15 complaint and set September 5, 2006, as the deadline for comment or protest. On August 15, 2006, PJM and the Midwest ISO filed a motion to extend the comment date to September 15, 2006. On August 30, 2006, the Public Service Commission of Wisconsin filed a Notice of Intervention. On September 5, 2006, the Illinois Commerce Commission and the Michigan Public Service Commission also each filed a separate Notice of Intervention in this proceeding. On September 5, 2006, the Commission issued a notice extending the deadline for comment or protest to September 15, 2006. Pursuant to the Commission’s notice in this proceeding, the Illinois Commerce Commission, the Pennsylvania Public Utility Commission, the Public Service Commission of Wisconsin and the Michigan Public Service Commission (collectively, “Joint State Commissions”) hereby file these comments in the above-captioned docket.

II. Background

The issues in this case date back to the Commission's *Alliance Companies* Order, wherein the Commission rejected the proposal by various utilities in the Midwest to form the Alliance RTO and instead permitted those same utilities to choose which RTO they would join.³

On July 31, 2002, the Commission conditionally approved the choices of American Electric Power Service Corporation (“AEP”) and Commonwealth Edison Company (“ComEd”) to join PJM, instead of the Midwest ISO. In particular, the Commission conditioned its approval on the RTOs’ mitigating the impact of the RTO seam that would result between PJM and the

³ *Alliance Companies, et al.*, 99 FERC ¶ 61,105 (2002).

Midwest ISO. Specifically, among its conditions, the Commission required the Midwest ISO and PJM to form a single common market across the Midwest ISO and PJM footprints.⁴

On August 15, 2002, in Docket No. EL02-65, the Midwest ISO and PJM filed agreements to the conditions contained in the *Alliance* order, including an October 1, 2004 commencement of “an enhanced market portal to provide a single access and one-stop shopping across the combined Midwest ISO and PJM regions, producing a functional common market” and a “single-unit commitment process and single system dispatch across the markets” in 2005.⁵ However, the October 1, 2004 common market deadline was not met and there is no single-unit commitment process or single system dispatch across the PJM/Midwest ISO markets. On October 28, 2004, the Commission issued *PJM Interconnection*, wherein, the Commission found that despite the delay by the Midwest ISO and PJM in implementing the joint and common market, the coordination achieved through a Joint Operating Agreement (“JOA”) between the Midwest ISO and PJM represented incremental progress towards that goal.⁶ In the *PJM Interconnection* Order, the Commission also directed PJM and the Midwest ISO to include a “detailed timeline of the steps they will take to achieve the joint and common market and a date certain on which they expect the commencement of the joint and common market to occur.”⁷

On December 30, 2004, the RTOs jointly made the submission in Docket No. ER04-375-017, as required by the Commission’s *PJM Interconnection* Order. In its March 2005 *Midwest ISO* Order regarding the RTOs’ December 30 filing, the Commission granted the RTOs’ request to allow some time for the Midwest ISO’s markets and the market-to-market coordination protocols to stabilize following implementation and also directed the RTOs to continue working

⁴ *Alliance Companies et al*, 100 FERC ¶ 61,137 at P. 37-40.

⁵ Statement of PJM Interconnection, LLC Regarding Conditions, at 1-2 and Statement of Midwest Independent Transmission System Operator, Inc. Regarding Conditions, at 1-2 (underlining added).

⁶ *PJM Interconnection, LLC*, 109 FERC ¶ 61,094 (2004), at P. 16.

⁷ *PJM Interconnection, LLC*, 109 FERC ¶ 61,094 (2004), at P. 16.

toward a joint and common market and to evaluate and report, for each common market element, “the expected costs and benefits associated with achieving the element.”⁸

On October 31, 2005, the RTOs jointly made their filing pursuant to the Commission’s *Midwest ISO* Order (“October 31 Filing”). On November 23, 2005 and January 30, 2006, the WPS Companies filed complaints against the Midwest ISO and PJM. The WPS complaints cited the RTOs’ October 31 filing as an indication that the two RTOs have abandoned plans to implement a true joint and common market between the Midwest ISO and PJM, contrary to both the Commission’s prior orders on this issue and the RTOs’ August 15, 2002 commitments. On December 19, 2005, the Joint State Commissions filed comments regarding the October 31 Filing and the WPS Complaints.⁹ The Joint State Commissions’ comments expressed concerns with the RTOs’ October 31 Filing that were similar to those contained in the WPS Companies’ November 23 complaint.

On March 16, 2006, the Commission issued the *Wisconsin Public Service Corp, et al.*, Order, wherein the Commission dismissed the WPS complaints as premature, given that the RTOs were “in the process of producing an objectively conducted production cost study” (“PCS”) concerning the benefits of implementing joint dispatch.¹⁰

On June 28, 2006, the Midwest ISO and PJM jointly filed their combined report regarding progress towards a joint and common market and continued implementation of market coordination under the RTOs’ Joint Operating Agreement (June 2006 Filing). The June 2006

⁸ *Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.*, 110 FERC ¶61,226 (2005), at P. 74-76.

⁹ The Joint State Commissions Comments filed December 19, 2005, included the Illinois Commerce Commission, the Pennsylvania Public Utilities Commission, and the Michigan Public Service Commission. The Public Utilities Commission of Ohio joined the Joint State Commissions on December 21, 2005. The Public Service Commission of Wisconsin submitted a letter in support of the Joint State Commissions on December 22, 2005.

¹⁰ *Wisconsin Public Service Corp., et al.*, 114 FERC ¶61,277 (2006), at P. 25-29.

Filing also contained a brief summary of the RTOs' May 25, 2006 PCS analyzing single unit commitment and joint system dispatch over the combined Midwest ISO/PJM market footprint.¹¹

On August 15, 2006, the WPS Companies filed their complaint in the instant docket.

III. Summary of the Joint State Commissions' Position

The development of a single common market across the combined Midwest ISO and PJM footprint is of significant importance to the Joint State Commissions. The Joint State Commissions have previously expressed to the RTOs and to the Commission their concerns regarding the lack of timely progress toward the implementation of a single common market. Among other things, significant benefits and opportunities, for both consumers and market participants, are lost every day that the Commission fails to direct the RTOs to implement a single common market.

Accordingly, the Joint State Commissions state that:

- 1) The RTOs' proposal for limited incremental steps in market-to-market coordination instead of a comprehensive joint and common market development remains inconsistent with both prior Commission orders and the RTOs' prior commitments, dating back to August of 2002;
- 2) The RTOs have failed to support their statement that "The cost of implementing a single dispatch could outweigh the achievable level of associated savings" and evidence in the June 2006 Filing and the Affidavit of WPS witness Pfiefenberger strongly indicates that the benefits of single system dispatch will outweigh the associated implementation costs.
- 3) The June 2006 Filing fails to provide evidence supporting the RTOs' claim that single system dispatch of the PJM/Midwest ISO markets may not be technically feasible;
- 4) The current efforts of PJM and the Midwest ISO to integrate their markets through coordination initiatives have been insufficiently effective.

Therefore, the Joint State Commissions support the WPS Companies' recommendation that the Commission direct the Midwest ISO and PJM to promptly institute joint unit

¹¹ June 2006 Filing, at 5-9.

commitment and dispatch, provided that such implementation is determined to be technically feasible.

IV. Discussion

1) **The RTOs' Proposal for Limited Incremental Steps in Market-to-Market Coordination, Instead of a Comprehensive Joint and Common Market Development Remains Inconsistent with both Prior Commission Orders and the RTOs' Prior Commitments, Dating Back to August of 2002**

The Joint State Commissions' December 19, 2005 comments noted that the Commission's previous orders regarding this issue were quite clear that the Commission expected a single common market to be implemented across the combined footprint of the two RTOs.¹² The December 19 comments also described the background leading up to the RTOs' August 2002 agreements to the conditions contained in the *Alliance* order, including an October 1, 2004, commencement of "an enhanced market portal to provide a single access and one-stop shopping across the combined Midwest ISO and PJM regions, producing a functional common market" and a "single-unit commitment process and single system dispatch across the markets" in 2005.¹³

The proposal in the RTOs' June 2006 Filing continues to fall short of the RTOs' initial commitment regarding the implementation of a seamless common market in the Midwest and is not consistent with prior Commission orders.¹⁴ Indeed, as they did in the October 31 Filing, the RTOs continue to parse the meaning of the term "common market" and rationalize the RTOs' proposal to continue to attempt to manage problems at the seam through the coordination of two distinctly separate and different markets.

¹² Joint State Commission Comments, at 4-7.

¹³ Statement of PJM Interconnection, LLC Regarding Conditions, at 1-2 and Statement of Midwest Independent Transmission System Operator, Inc. Regarding Conditions, at 1-2 (underlining added).

¹⁴ Statement of PJM Interconnection, LLC Regarding Conditions, at 1-2 and Statement of Midwest Independent Transmission System Operator, Inc. Regarding Conditions, at 1-2, Docket No. EL02-65 (August, 2002).

The Joint State Commissions and others have concerns regarding the effectiveness of the RTOs' efforts to coordinate their markets. For example, the Regional Joint Board for the Midwest acknowledged the efforts of the RTOs to increase consistency between each other's approach on several operations and market elements and concluded that their effort was not sufficiently comprehensive.¹⁵

Accordingly, the Joint State Commissions urge that efforts be refocused on the development of a seamless market that will provide both the maximum benefits and efficiencies possible and realize the benefits that RTOs can provide to consumers in the Midwest. In short, the Commission should strive to develop a single market that will maximize operational efficiencies, facilitate competition and provide consumers with access to the lowest cost resources available across the Midwest ISO and PJM region.

If the Commission allows the RTOs to continue their current minimal incremental progress towards market improvement, the Commission will ensure that the Midwest ISO and PJM markets will invariably fail to achieve these maximum benefits and efficiencies. Until a single common market is achieved, the "unjust and unreasonable rates, terms, and conditions for transmission services" that the Commission was concerned about in its *Alliance* Order will continue to be imposed on Midwest consumers.¹⁶

2) The RTOs' have Failed to Support their Statement that "The Cost of Implementing a Single Dispatch could Outweigh the Achievable Level of Associated Savings" and Evidence in the June 2006 Filing and the Affidavit of WPS Witness Pfiefenberger Strongly Indicates that the Benefits of Single System Dispatch will Outweigh the Associated Implementation Costs

The RTOs' state that the results of their PCS show a range of total annual production cost savings between \$15 million to \$99 million and that a "best match" for simulations and historical

¹⁵ Joint Boards on Security Constrained Economic Dispatch, Midwest ISO/PJM Region Docket No. AD05-13, at 38.

¹⁶ *Alliance Companies, et al*, 100 FERC ¶ 61,137, at P. 35.

interchange narrowed the estimated savings to a range between \$34 million and \$65 million.¹⁷ The RTOs' also state that, "based on the results of the production cost study, it is clear that the cost of implementing a single dispatch could outweigh the achievable level of associated savings".¹⁸ However, the RTOs' provide no evidence or analysis to support this assertion. Rather, the RTOs' own PCS appears to indicate the contrary. For example, comparing the \$34 million lower end of the RTOs' production cost savings estimates, to the RTOs' October 2005 cost estimates of \$105 million in capital expenditures and \$7 million per year in ongoing implementation costs seems to indicate that single system dispatch would pay for itself in just over four years.¹⁹

WPS witness Mr. Pfiefenberger presents a strong argument that that single system dispatch would pay for itself in nearly three years.²⁰ Specifically, Mr. Pfiefenberger uses the mid-point of the RTOs' estimates to show that single system dispatch across the two RTOs would result in production cost savings of at least \$56.6 million annually – an amount that is three times the RTOs' estimated annual cost of single system dispatch.²¹ Mr. Pfiefenberger also estimates that the net-present value of savings that single system dispatch would provide, over a ten year period is \$350 million and implementation-related costs to be approximately \$130 million.²² The net result is \$240 million dollars in benefits to be realized by consumers and market participants in the Midwest ISO and PJM regions over a ten year period.

Mr. Pfiefenberger further argues that even benefits of this magnitude are likely understated. He identifies two key reasons for understatement: (1) not considering the impacts

¹⁷ June 2006 Filing, at 8.

¹⁸ June 2006 Filing, at 8.

¹⁹ June 2006 Filing, at 8.

²⁰ Pfiefenberger Affidavit, at P. 52.

²¹ Pfiefenberger Affidavit, at P. 52.

²² Pfiefenberger Affidavit, at P. 52.

of higher production cost benefits during extreme market conditions and (2) the assumption of efficient allocation of flow-gate capacity under present coordination.²³

The RTOs appear to argue in the June 2006 Filing that the benefits discovered in the PCS are not what they seem because those benefits would need to be adjusted for "...benefits that will be achieved through implementation of the various joint and common market initiatives already under development or investigation and those benefits achieved by market participants' more experience with the PJM and Midwest ISO markets. . .".²⁴ However, the RTOs provide no evidence or analysis in support of this assertion.

The RTOs also state that the implementation of their coordination initiatives must be completed and be effective for a sufficient timeframe in order to judge the actual achievable level of savings still available through the development of a single dispatch.²⁵ In particular, the RTOs offer eight coordination initiatives in support of delaying or replacing the implementation of single system dispatch. The RTOs claim that they will increase the price convergence of the two markets and achieve a significant portion of single market savings.²⁶ However, the June 2006 Filing fails to provide any meaningful analysis to support the claims that these initiatives will provide market convergence or benefits equivalent to single system dispatch.

Furthermore, WPS witness Mr. Pfiefenberger provides analysis indicating that those initiatives will capture only a small fraction of the benefits of single system dispatch. Mr. Pfiefenberger also provides evidence that the results of the coordination measures that are currently being implemented by the RTOs have been disappointing. Accordingly, the Joint State

²³ Pfiefenberger Affidavit, at P. 55.

²⁴ June 2006 Filing, at 7.

²⁵ June 2006 Filing, at 8-9.

²⁶ June 2006 Filing, at 7.

Commissions are skeptical of the RTOs' unsupported claims of additional coordination measures capturing the benefits of single system dispatch.

The Joint State Commissions agree with the Commission's statement in *Wisconsin Public Service Corp. et al* that:

All parties recognize, and we agree, that implementation of additional elements of a joint and common market should be undertaken, if the benefits of those changes to the market exceed the costs of implementing the changes.²⁷

Because the evidence supports the conclusion that the benefits of single system dispatch exceed the costs and the additional coordination measures proposed by the RTOs are unlikely to prove as effective, the Commission should direct the RTOs to institute single system dispatch, provided that it is technically feasible.²⁸

3) The RTOs' June 2006 Filing Fails to Provide Evidence in Support of their Statement that Single System Dispatch of the PJM-Midwest ISO Markets May not be Technically Feasible

The RTOs' June 2006 Filing states that both PJM and the Midwest ISO Staff "continue to have serious doubts that current technology could accommodate a single dispatch of the entire region."²⁹ However, as in previous instances where the RTOs have made such statements, the RTOs' June 2006 Filing provides no evidence to support the claim.

²⁷ *Wisconsin Public Service Corp. et al*, at P. 25.

²⁸ The Public Service Commission of Wisconsin (PSCW) recognizes the inherent difficulties of relying on results of production cost studies, as demonstrated by the range of estimated benefits of moving to single dispatch put forth by the RTOs. The PSCW also recognizes that the RTOs provided relatively more transparency and developed key inputs relatively more reasonably in their PCS than the Midwest ISO did in its 2004 study of Wisconsin's expected benefits from participating in the Midwest ISO's day-ahead and real-time energy markets. Still, the PSCW is satisfied that even production cost benefits at the lower end of the PCS range, combined with myriad additional significant expected benefits, justifies the RTOs moving deliberately and efficiently towards establishing a single dispatch and a seamless joint and common market, as the Commission directed in the *Alliance* order. These additional expected benefits, which the PCS does not capture and which the RTOs' other current and planned efforts to better coordinate their operations have not demonstrably created, include lower transaction costs for market participants and more competitive supply offers, as explained in the WPS Companies' August 15 complaint.

²⁹ June 6 Filing, at 8.

The examination of the technical feasibility of joint-system dispatch for the Midwest ISO/PJM region was addressed by the Regional Joint Board on Security Constrained Economic Dispatch of the Midwest ISO/PJM region. In particular, the Joint Board asked both RTOs about the technical feasibility of joint-system dispatch of the combined RTO footprint. In response, both RTOs declined to speculate on the technological feasibility of managing load and generation increases in the magnitude of 100,000 to 150,000 MW without a more thorough technical evaluation.³⁰ Consequently, the Joint Board encouraged the RTOs to assess the technical feasibility of joint-system dispatch in a timely manner.³¹ However, the RTOs have yet to provide an assessment of the technical feasibility of single system dispatch.

Because the RTOs' PCS has resolved the issue regarding the cost-effectiveness of single system dispatch, technical feasibility is now the only outstanding issue. Consequently, the Commission should direct the RTOs to implement single system dispatch, provided that it is determined to be technically feasible. Furthermore, since the RTOs have not yet responded to the Joint Board's recommendation concerning this issue, the Commission should initiate a process to promptly resolve any issues regarding the technical feasibility of single system dispatch.

4) The Current Efforts of PJM and the Midwest ISO to Integrate Portions of their Markets through Coordination Initiatives have been Ineffective

There is significant evidence that the RTOs' efforts to date to integrate their individual markets through coordination initiatives are not working. In particular, the Midwest ISO Market Monitor's 2005 State of the Market Report indicates large price differences between the Midwest

³⁰ Joint Boards on Security Constrained Economic Dispatch, Midwest ISO/PJM Region Docket No. AD05-13, at 39.

³¹ Joint Boards on Security Constrained Economic Dispatch, Midwest ISO/PJM Region Docket No. AD05-13, at 39.

ISO and PJM in a significant number of hours.³² The analysis provided by WPS witness Mr. Pfiefenberger also identified a lack of price convergence between the two RTOs.³³

The Midwest ISO's Market Monitor attributes these price differences - ranging from \$10-\$20/MWh - to the difficulties market participants face in attempting to arbitrage interregional price differences using physical schedules that must be submitted in advance.³⁴ The Market Monitor also noted that Midwest ISO interface prices are slightly higher than PJM's on a consistent basis. The Market Monitor concluded that the efforts of market participants to arbitrage the prices between the two RTOs have not been fully effective.³⁵

WPS witness Mr. Pfiefenberger's affidavit details a lack of price convergence between the RTOs' real-time and day-ahead hourly proxy bus prices for the period of April 2005 and June 2006 and demonstrated a difference of more than ten percent for over half of those hours.³⁶ Mr. Pfiefenberger's analysis shows that in many of those hours, day-ahead price differences exceeded twenty percent.³⁷ Mr. Pfiefenberger also detailed a more pronounced price divergence between the Midwest ISO and PJM real-time proxy bus prices that vary from twenty percent to upwards of forty percent for over half of the peak hours monitored.³⁸ A similar variation was identified for off-peak hours in both the day-ahead and real-time markets.³⁹

The affidavit of WPS witness Mr. Budde details the operational hurdles that market participants face when scheduling a single transaction across the PJM-Midwest ISO seam.⁴⁰ In particular, Mr. Budde explains that even seemingly simple cross-seam transactions can be quite

³² June 2006 Filing, at 4 and the *2005 State of the Market Report*, Midwest ISO (July, 2006), at 115, respectively.

³³ Pfiefenberger Affidavit, at 26-29.

³⁴ *2005 State of the Market Report*, Midwest ISO (July, 2006), at 98.

³⁵ *2005 State of the Market Report*, Midwest ISO (July, 2006), at 98.

³⁶ Pfiefenberger Affidavit, at 24-25.

³⁷ Pfiefenberger Affidavit, at 24-25.

³⁸ Pfiefenberger Affidavit, at 24-25.

³⁹ Pfiefenberger Affidavit, at 24-25.

⁴⁰ Budde Affidavit, at 2.

complex, requiring market participants to reserve transmission capacity and ramping capability, as well as comply with different tariff and business practices, for both RTOs. Often, transactions may be cancelled due to components of the transaction being approved in one RTO, but rejected in the other. Mr. Budde contends that having to comply with two completely separate scheduling procedures makes it more difficult for market participants to effect cross-seam transactions and effectively arbitrage inter-RTO price differences. Mr. Budde notes that the time delay associated with complying with the procedures virtually prohibit next-hour transactions in the real-time market. Given the evidence presented by the Budde affidavit and the findings of Mr. Pfiefenberger, the Midwest ISO Market Monitor's findings that market participants have been ineffective in arbitraging the price across the seam comes as no surprise.

The Midwest ISO Market Monitor's State of the Market Report and the affidavits of both Mr. Pfiefenberger and Mr. Budde indicate that the RTOs' past market-to-market coordination efforts have been ineffective at both managing the seam and achieving the benefits of a single common market. The Joint State Commissions note that the Midwest ISO has agreed to explore some recommendations made by the Market Monitor to improve the price convergence on prices across the seam. In particular, the Market Monitor urged the RTOs to consider expanding their joint operating agreement to optimize the net interchange between the two areas.⁴¹ The fact that continually more elaborate market-to-market coordination mechanisms are being needed to achieve reasonable price convergence indicates that the RTOs' past efforts at seam management have not been effective and that continued efforts to develop even more elaborate market-to-market coordination mechanisms will most likely also be ineffective.

⁴¹ 2005 *State of the Market Report*, Midwest ISO (July, 2006), at 98.

V. Conclusion

Pursuing increasingly elaborate market-to-market coordination initiatives as a means of achieving common market benefits has had sufficient time to play out. There is substantial evidence showing that this approach has failed to capture a significant portion of benefits achievable from a genuine common market. Furthermore, significant amounts of benefits and opportunities, for both consumers and market participants, are lost every day that the Commission allows this failed experiment to continue. Past Commission Orders have directed the RTOs to implement a single common market and the RTOs agreed in 2002 to implement a single-unit commitment process and single system dispatch across the markets. It is time—indeed past time—to do so. Accordingly, the Joint State Commissions support the WPS Companies' recommendation that the Commission direct the Midwest ISO and PJM to promptly institute joint unit commitment and dispatch, provided that such implementation is determined to be technically feasible.

For the aforementioned reasons, the Joint State Commissions request that the Commission consider these comments when addressing the issues discussed above.

The undersigned have authorized Illinois Commerce Commission counsel to sign on their behalf.

Respectfully submitted,

ILLINOIS COMMERCE COMMISSION

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Dated: September 13, 2006

CERTIFICATE OF SERVICE

I hereby certify that I caused copies of the foregoing document to be served this day upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Chicago, Illinois, this 13th day of September, 2006.

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