



Organization of MISO States

Monitoring Compliance in Regional Market Operations and Dispute Resolution in the Midwest

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Market Monitoring in the Midwest

- Potomac Economics, Inc., serves as the Independent Market Monitor (IMM) to the Midwest ISO.
- The Midwest ISO is a non-profit company that operates the transmission system and provides transmission service in 14 states in the Midwest region of the U.S.
- The Midwest ISO began operating markets for electricity and related services in April 2005.

Goals of Market Monitoring

- In deregulating wholesale markets, FERC has relied on market monitoring and mitigation to address market power concerns.
- Consistent with the Commission's SMD requirements, the Market Monitor identifies:
 - Flaws in market rules that create inefficiencies or gaming opportunities;
 - Efficiency improvements;
 - Market power abuses;
- Market efficiency and market power generally receive equal monitoring attention – contrary to the assumption of most that market power is the primary focus.

Independence of the Market Monitor

- The FERC prefers that the Market Monitor be independent from the RTO.
- Independence allows the market monitor to examine the RTO's operations.
- The Midwest ISO provides an independent monitor by retaining Potomac Economics to serve as its IMM.
- The IMM reports to the FERC and to the Midwest ISO's Board of Directors.

Activities of the Market Monitor

- The monitoring function includes:
 - Real-time screening and analysis to identify circumstances that require further investigation.
 - Investigations of market operations or conduct identified through the daily screening or complaint processes.
 - Periodic analysis and reporting.
- The screening and investigations rely primarily on data from the RTO.
- The market monitor also has the authority to obtain confidential data from participants.

Real-Time Market Monitoring

- Effective real-time market monitoring requires that data be received and analyzed continuously.
 - Potomac Economics receives data every 15 minutes.
- This monitoring is more active for markets than for transmission markets.
- The key to differentiating between market power and scarcity is to determine whether resources are being withheld from the market:
 - Physical withholding – withdrawing or derating an economic unit.
 - Economic withholding – raising a generator bid so as not to run or to raise the clearing price.
- Real-time monitoring seeks to identify flaws in the market design that can create inefficient or perverse incentives.

Analysis of Market Performance

- The IMM reports annually to the FERC, giving:
 - An assessment of the overall performance of the RTO markets;
 - Recommendations for changes in the market rules to improve the efficiency of the market;
 - An evaluation of the conduct of market participants; and
 - Recommendations regarding modifications to the mitigation measures.
- The IMM also receives complaints from market participants, government agencies, and the RTOs.

Other Reports

- The IMM can make other reports focused on specific market issues.
- A customer of the Midwest ISO or a participant in its markets may request investigations or raise market for the Independent Market Monitor to investigate. These requests or complaints may address the conduct of other market participants or the actions of the Midwest ISO. These requests or complaints can be submitted by e-mail.

Role of the States in Market Monitoring

- State Commissions and FERC are both “strategic partners” for the IMM.
- States have duties that depend on monitoring:
 - Approving wholesale power costs billed to retail customers;
 - Siting new generation and transmission projects;
 - Fostering the development of distributed generation and demand response; and
 - Regulating (or deregulating) retail markets, including asset divestiture in some cases.

Role of the States in Market Monitoring

- Most states do not have the resources to duplicate the market monitor's analyses, and it would not be efficient to do so.
- States can leverage the resources of the market monitor to meet their duties.
 - The IMM provides information to states related to market performance, market power, and gaming concerns.
 - States may request investigations of specific conduct or market events.
- The IMM must be accessible to the states – processes to ensure good communications are valuable.
 - The IMM meets regularly with the states (usually quarterly) to report on the performance of energy markets.
 - The IMM will notify states and meet via teleconference when significant market issues are detected.

Role of the States in Market Monitoring

- The states provide key capabilities to:
 - Remedy issues raised by the IMM;
 - Improve the incentives of jurisdictional utilities and the overall performance of the market.
- Whether as customers or partners, states need access to information.
 - The IMM has assisted in developing tariff provisions to give states access to confidential findings and information.
 - Even if some states cannot protect confidential information, they may be able to participate in meetings and conference calls with the IMM where confidential findings are discussed.

FERC Data Collection And Access

- The FERC regularly collects data from companies it regulates
- The FERC uses third-party entities to collect data related to wholesale markets
- The FERC has access to information it needs for a one-time audits or investigations of wholesale markets.

FERC Regular Collection

- Many regular collections
 - Annual Reports on Operational and Financial Data
 - Interlocking Directorates
 - 20 Largest Purchasers
 - Electricity Shortages and Contingency Plans
 - Transmission Planning Reports
 - Fuel and Energy Purchase Practices
 - Electric Quarterly Reports - EQR
- Data submissions with particular applications
 - Rate/Tariff Filings
 - Cogeneration and Small Power Applications
 - Merger Applications

Third Party Data

- Proprietary and public data (real-time and historical)
 - Bloomberg, Dow, Energy Argus, Platts
 - Friedwire (Power flows, Nuclear Plant status, LMP pricing)
 - Genscape (Plant production, Power flows)
 - Weather
 - RTOs (PJM, ISO-NE, NYISO, CAISO, MISO)
 - OASIS
 - Required information on utility Websites

Dispute Resolution in Midwest ISO

- Hotlines
 - FERC
 - Midwest ISO
- Alternate Dispute Resolution (ADR)
 - Informal
 - Mediation
 - Arbitration
- Regulatory Agencies
- Courts

Midwest ISO Compliance Hotline

- The Midwest ISO compliance hotline allows an individual the opportunity to report actions or activities that could be perceived as unlawful, unethical or inappropriate relative to:
 - The Midwest ISO Standards of Conduct
 - Other company policies and procedures
 - All applicable laws and regulations.
- To report a concern, anyone can call a toll-free number. Voice mail options allow the caller to leave a message for the Midwest ISO general counsel or its outside counsel.
- To the extent practical, the Midwest ISO will protect the anonymity of any person who reports suspected misconduct.

FERC Hotline

- The Enforcement Hotline invites market participants and the public to complain or report market activities or transactions that may be an abuse of market power, an abuse of an affiliate relationship, a tariff violation, or another possible violation by a FERC regulated entity.
- Past Hotline calls have included complaints about:
 - Bidding anomalies;
 - Price spikes;
 - Inappropriate use of certain financial instruments;
 - Fluctuations in available capacity on electric transmission lines and natural gas pipelines;
 - Interconnection discrimination; and
 - Improper market affiliate transactions
- Complaints may be submitted by letter, telephone, or e-mail
- In 2002, the Hotline handled 584 informal complaints and inquiries. Electricity = 35%.
- <http://www.ferc.gov/cust-protect/enforce-hot.asp>

ADR Process in the Midwest ISO

- The Midwest ISO Owners' Agreement and its tariff encourage alternative resolution of disputes among owners, members, users, and the Midwest ISO.
- Complaints may involve operating issues, billing and settlements issues, or market actions.
- Some categories of complaints are reserved for regulatory agencies or courts
- Midwest ISO's ADR Committee supervises resolutions.
 - maintains a list of mediators and arbitrators with expertise in energy law and utility operations
 - Establishes procedural rules.
 - Decides when mediation is unlikely to lead to resolution.
 - Decides the urgency of complaints.

Midwest ISO ADR – Informal Resolution

- The first step is informal discussion by representatives of the businesses
- The discussion can be escalated if necessary to corporate officers.
- Either party may declare an impasse in informal discussions.

Midwest ISO ADR - Mediation

- Mediation is non-binding
- If the ADR Committee finds mediation is unlikely to lead to resolution, the dispute may move directly to arbitration.
- If resolution is not reached in 30 days, the Mediator may issue a recommendation
- Either party may request to commence arbitration.
- Costs are divided 50-50 between the parties.

Midwest ISO - Arbitration

- Parties can agree to a single arbitrator; otherwise each names one arbitrator and those two choose a third.
- Arbitration procedure is a 'mini-trial'
- Decision should be reached in 8 months.
- Costs are equally divided among parties, but the arbitrator may assign costs differently for equitable reasons

Midwest ISO – Expedited ADR

- Issues of real time operations may need to be resolved quickly.
- The ADR Committee assigns the level of urgency for decision:
 - Urgency level 1 in 2 hours
 - Urgency level 2 in 24 hours
 - Urgency level 3 in 7 days
- Streamlined procedures are used.

Resolution by Regulatory Agencies and Courts

- The Midwest ISO tariff retains the rights of parties to submit disputes to the FERC for final resolution.
 - The FERC also encourages alternative resolution of disputes.
- Other issues may be taken to state regulatory agencies
- Some issues may be taken directly to the courts.