UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission System Operator, Inc., et al.)

Docket No. ER09-160-000

MOTION FOR LEAVE TO ANSWER AND
ANSWER OF THE
MIDWEST INDEPENDENT TRANSMISSION
SYSTEM OPERATOR, INC.,
PJM INTERCONNECTION, L.L.C.,
AND
SOUTHWEST POWER POOL, INC.

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal
Energy Regulatory Commission (the “Commission” or “FERC”), 18 C.F.R. §§ 385.212 and 213
(2007), the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”), PJM
Interconnection, L.L.C. (“PJM”), and Southwest Power Pool, Inc. (“SPP”) (collectively, the
“RTOs”) hereby submit this Motion for Leave to Answer and Answer to the Motion to Intervene
and Protest filed by Basin Electric Power Cooperative (“Basin Electric”) \(^1\) in response to the
October 29, 2008 joint filing of the RTOs. The RTOs’ joint filing included proposed revisions to
Section 4.4 (Firm Market Flow Calculation Rules), Section 5.5 (Market-Based Operating Entity
Real-time Actions) and Appendix H (Market Flow Threshold Field Test Terms and Conditions)
of the Congestion Management Process (“CMP”) of their Joint Operating Agreements (“JOA”).

\(^1\) Western Area Power Administration (“WAPA”) also filed a Motion to Intervene and Protest
in this proceeding; however, WAPA supports the intervention and protest of Basin Electric
and raised no new issues.
The revisions to Appendix H proposed to extend the Market Flow Threshold Field Test (“Field Test”) from October 31, 2008 to October 31, 2009.

I. BACKGROUND

The Field Test at issue in the instant proceeding began on June 1, 2007. The RTOs participating in the Field Test include the Midwest ISO, PJM and SPP. The purpose of the Field Test is to determine a Market Flow threshold that will allow the relevant markets to meet their relief obligations assigned under the Eastern Interconnection’s Transmission Loading Relief (“TLR”) procedure.

There are several groups within the North American Electric Reliability Corporation (“NERC”) actively assisting with the Field Test. The NERC TLR Standards Drafting Team is the entity responsible for the Field Test, as well as for recommending changes that will be made to the regional differences that appear in the NAESB Transmission Loading Relief – Eastern Interconnection Business Practices (WEQ-008) at the conclusion of the Field Test. The NERC Operating Reliability Subcommittee monitors the Field Test for any reliability impacts that may require suspension of the Field Test. The NERC Operating Reliability Subcommittee Market Flow Threshold Task Force is responsible for reviewing the results of the Field Test, and subsequent status reports are routinely provided at NERC Operating Reliability Subcommittee meetings and NERC TLR Standards Drafting Team meetings.

The TLR Standards Drafting Team previously received approval to modify the Field Test set for June 1, 2008 to measure the impact on the success rate of using a higher threshold: 5% versus 3%. Unfortunately, however, since June 1, 2008, there have been few TLR events where the impact of this change could properly be measured. Because of this limited sample size, the RTOs have recommended to NERC that the Field Test be extended beyond October 31, 2008.
Attendants of a September 2008 NERC TLR Standards Drafting Team meeting reached the consensus that the Field Test should continue for an additional 12 months (i.e., October 31, 2009) in an effort to capture the effects of another summer season. The NERC Operating Reliability Subcommittee and the Executive Committee of the NERC Standards Committee subsequently endorsed extending the Field Test to October 31, 2009.

Furthermore, during discussions of the NERC Operating Reliability Subcommittee Market Flow Threshold Task Force, the Independent Electric System Operator (“IESO”) agreed to take steps to reduce the amount of relief requested and to track how this affects its ability to manage congestion on IESO flowgates using TLR. As such, the RTOs hope that an extension of the Field Test will provide more time to evaluate the impacts of the IESO’s steps.

On October 29, 2008, the RTOs initiated the instant proceeding by filing proposed revisions to Section 4.4 (Firm Market Flow Calculation Rules) and Section 5.5 (Market-Based Operating Entity Real-time Actions) of the Congestion Management Process (“CMP”) of their Joint Operating Agreements (“JOA”) to accurately reflect the Market Flow threshold as 5% (rather than 3%). Likewise, the RTOs requested authorization to extend the end date of the Field Test from October 31, 2008 to October 31, 2009. Finally, the RTOs proposed minor ministerial revisions to the CMP of their JOAs as a result of these revisions.

II. MOTION FOR LEAVE TO ANSWER

The RTOs seek leave to submit this Answer to the protests and comments filed in the captioned proceedings in order to clarify the issues and thereby aid the Commission’s decision-making process. The RTOs recognize that Rule 213 of the Commission’s Rules of Practice and

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2 See, the September 29-30, 2008 draft meeting notes of the NERC TLR Drafting Team meeting, which are attached hereto and identified as Exhibit A at 3.
Procedure, 18 C.F.R. § 385.213, does not generally provide for answers to protests as a matter of right. However, the Commission often permits answers where, as here, the information provided in an answer will facilitate the Commission’s decisional process or aid in the explication of issues.3

The RTOs, therefore, respectfully requests that Rule 213(a)(2) be waived and that the Commission accept this Answer for good cause shown.

III. ANSWER TO INTERVENTIONS AND COMMENTS

Basin Electric and Western Area Power Administration (“WAPA”) filed interventions and protests in the above-captioned docket. In the following discussion, the RTOs address the issues raised by Basin Electric in its opposition to the proposed revisions. For each of the issues discussed below, the RTOs summarize the positions presented by Basin Electric and provide a response.

A. The Field Test Causes Other Entities to Bear a Larger Share of the Responsibility for the Relief of Transmission Constraints

In support of its argument that the Commission should either deny the RTOs’ request to extend the Field Test or grant the extension on the condition that the RTOs file an interim status report, Basin Electric argues that the Field Test causes other entities to bear a larger share of the responsibility for the relief of transmission constraints.4 Based on the utilization of a 5%

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4 Basin Electric Protest at 3.
threshold during the Field Test, Basin Electric states that an “RTO generator with a positive flow of less than 5% on the constrained interface will not be counted in calculating the total flow on the interface, and no constraint relief obligation will be assigned with respect to the flows on the interface that are caused by that generator.”

Basin Electric expresses its concern that “[t]he consequence of ignoring RTO generators with a flow on a constrained interface of less than 5% is that the flows from those generators will not have to be reduced to relieve the constraint, making it necessary to assign an even larger constraint relief obligation to the other flows on the interface.”

Basin Electric further alleges that the RTOs have failed to consistently meet their curtailment obligations at the 5% threshold used during the Field Test. According to Basin Electric, “to the extent [the RTOs] are not able to meet their relief obligations, other users of the interfaces must bear an even larger share of the constraint relief obligation.”

**RTOs’ Response:**

Basin Electric’s concerns regarding the Field Test and the utilization of a 5% Market Flow threshold were issues previously raised by the Mid-Continent Systems Group (“MCSG”) protesting the original filing for the Field Test and by Basin Electric in its response to the RTOs’ filing to raise the threshold from 3% to 5% for the remainder of the Field Test. In response to these issues, as well as Basin Electric’s contention that neighboring non-market entities should

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5 *Id.* at 5.
6 *Id.* at 5-6.
7 *Id.* at 6.
8 *Id.*
be held harmless, the RTOs reiterate their June 9, 2008 response to Basin Electric’s protest on the 5% threshold filing.\(^9\)

The RTOs dispute Basin Electric’s contention that this is the first time the RTOs have provided the reason for the Field Test.\(^10\) This claim is not valid since every status report and presentation provided to the NERC groups involved with the Field Test between February 13, 2008 and October 21, 2008 and provided at the Midwest ISO-PJM JCM stakeholder meetings held on June 6, 2008 and November 14, 2008 contained the following information:

**Reason for Change in Threshold:**

- Market Flows are assigned an amount of relief by the Interchange Distribution Calculator (“IDC”) based on level of TLR, amount of curtailment requested and the priority/sub-priority of tags relative to the Market Flows.
- On some flowgates, Midwest ISO and PJM are unable to consistently accomplish their relief where they have very small impacts.
- On some flowgates, the markets will either have no generation they can move or will require a large amount of redispatch for a small amount of relief.

Furthermore, Basin Electric’s statement that the RTOs are not consistently meeting their relief obligation at a 5% threshold is a misrepresentation of the facts provided by the RTOs.\(^11\) The RTOs stated, and now reiterate, that they do not have a large enough sample size using the 5% threshold to make a conclusion on the effectiveness of the 5% threshold. The RTOs’ October 29, 2008 transmittal letter simply describes the problems with using the limited data that collected to

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9. See, the RTOs’ June 9, 2009 Answer in Docket Nos. ER08-884-000 and ER08-913-000, specifically, Sections III(A) “Basin Electric Seeks to Collaterally Attack Prior Commission Orders” and Section III(B) “Hold Harmless Requirements” at 3-9.

10. Id. at 6. According to Basin Electric, “the reason for the RTOs’ request to continue the Field Test is their concern that they cannot meet the constraint relief obligations that NERC has assigned to them.”

11. Basin Electric referred to language in the RTOs’ October 29, 2008 transmittal letter in this docket in making this assertion.
date; the transmittal letter draws absolutely no conclusions on the effectiveness of the 5% threshold.

**B. The RTOs Should Modify their Practices to Meet the Reliability Standards**

According to Basin Electric, “rather than set[ting] the standards based on objective criteria, and modify[ing] their practices to ensure that they meet those standards,”¹² the RTOs are making a rash attempt to raise the Market Flow threshold to a level that they will be able to meet without changing their practices.¹³ Basin Electric maintains that “[r]eliability standards should be established at a level that will ensure reliability and allocate the responsibility for relieving constraints fairly, and entities who are subject to those standards should be required to modify their practices to meet those standards.”¹⁴ As such, Basin Electric contends that the RTOs should be required to modify their practices to meet the existing reliability standards.¹⁵

**RTOs’ Response:**

Basin Electric does not agree that the RTOs should be using a threshold other than 0%, even though there no longer is a contractual obligation to use a 0% threshold on flowgates reciprocal with MAPP as of October 31, 2008, and Basin Electric does not agree that there should be a complete and meaningful Field Test to determine a Market Flow threshold that will allow the RTOs to meet their relief obligation. As an alternative to changing the 0% threshold, Basin Electric states that the RTOs should be required to modify their practices to meet TLR obligations using the existing threshold. As with the argument regarding the shifting of reductions among parties caused by a change in the threshold, the RTOs have previously

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¹² *Id.* at 7.
¹³ *Id.*
¹⁴ *Id.*
¹⁵ *Id.*
responded to this issue, and incorporate those earlier responses here. The Field Test, however, is evaluating both the Market Flow threshold and other factors that may affect the ability of the RTOs to meet their relief obligation. The data compiled to date during the Field Test, for example, indicates that retaining a 0% threshold, while relying on other measures, will not allow the RTOs to meet their relief obligations.

C. The Field Test Should Not Result in Discrimination

According to Basin Electric, the Market Flow threshold utilized in the Field Test is applied differently to the RTOs than it is to non-RTO entities. Basin Electric explains that with non-RTO entities, the application of the 5% threshold is based on the entire tagged control area-to-control area transaction. As such, this threshold is applied even if the transaction consists of energy from several generators. Basin Electric contrasts this application with that of RTO transactions, which are no longer tagged, and the 5% threshold is applied on a generator-by-generator basis. According to Basin Electric, this varied application:

means that if both the RTO and the non-RTO entity are engaging in similar transactions…that involve generators that individually have less than a 5% flow on an interface but that aggregate to more than a 5% flow, the flow caused by the non-RTO entity would be treated as exceeding the 5% threshold but the flow caused by the RTO would be treated as not exceeding the 5% threshold.

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16 See, the RTOs’ June 9, 2008 Answer in Docket Nos. ER08-884-000 and ER08-913-000 at 9-12.
17 Basin Electric Protest at 9.
18 Id.
19 Id.
20 Id.
21 Id.
If the extension of the Field Test is granted, Basin Electric is concerned that “[t]his discriminatory result will continue for another year with little or no oversight of its impact on non-RTO entities.”

**RTOs’ Response:**

Basin Electric once again raises the hold harmless issue introduced earlier. Again, the RTOs refer to their June 9, 2008 Answer to Basin Electric’s protest on the 5% threshold filing.

With respect to Basin Electric’s claims that a 5% threshold being used by the Market Flows is not comparable to a 5% threshold used on either tags or the generation-to-lead calculation in the IDC, the RTOs submit that comparing tag impacts that use all generators in a balancing area versus Market Flow impacts from each generator in a market is meaningless, as it is not a logical comparison but rather an “apples to oranges” one. There has been much criticism that the IDC does not do a good job of determining tag impacts because it lacks granularity (i.e., it only determines impacts on a balancing area basis). It is a *non sequitur* to object to the better granularity included in the Market Flow calculation because the IDC lacks granularity on tag impacts. Complaints on the lack of granularity on tagged transactions in the IDC should be directed to NERC, but they have no relevance to the duration of the Field Test sought by the RTOs.

**D. Assertion That The RTOs Inappropriately Used 5% Market Flow Threshold After October 31, 2008**

In its November 7, 2008 Letter Order, the Commission accepted the RTOs’ compliance filing in Docket No. ER07-940-000, which specified that the Field Test would terminate on

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22 *Id.* at 9-10.

23 *See*, the RTOs’ June 9, 2008 Answer in Docket Nos. ER08-884-000 and ER08-913-000 at 7-9-.
October 31, 2008.24 According to Basin Electric, the RTOs have continued to use this 5% Market Flow threshold as the basis for implementing curtailment actions after October 31, 2008.25 By doing so, Basin Electric contends that “the RTOs have presumed that the Commission will authorize an extension of the Field Test at a 5% Market Flow threshold on a retroactive basis.”26 Basin Electric further explains that it is not the Commission’s policy to authorize retroactive modifications to filed rate schedules that are opposed by intervenors, except in the case of extraordinary circumstances.27 Basin Electric concludes that the RTOs have no authority under their JOAs or the CMP to utilize a Market Flow threshold above 0% after October 31, 2008, and that they should therefore comply “with their curtailment obligations unless and until the Commission authorizes a resumption of the test.”28

**RTOs’ Response:**

While Basin Electric is correct that the RTOs have implemented the 5% threshold as part of the ongoing NERC Field Tests, the initial application requesting that threshold change provided the justification for doing so prior to a final order of the Commission. The value of continuity in collecting the data on key flowgates is critical, and the prospect of halting, and restarting the Field Test can only be welcomed by those who anticipate an unfavorable outcome.

This Field Test has continued longer than originally planned because certain entities assume, as alleged by Basin Electric, that they will bear an economic cost if the threshold moves from 0% to 5%. They cannot be faulted for wanting to delay the conclusion of this test if by

26 Id.
27 Id. at 10-11.
28 Id. at 11.
doing so they can (or think they can) avoid additional congestion costs. The primary obstacle to gathering sufficient meaningful data to complete the Field Test has been the inability to use anything other than a zero percent threshold on the MAPP flowgates during the previous stage of this test.

On October 31, 2008, however, MAPP and the Midwest ISO agreed to extend the MAPP Seams Operating Agreement (“SOA”) which is the source of this limitation. In exchange for the extension, MAPP agreed to eliminate the 0% threshold limitation, and to allow the Midwest ISO to use the currently approved 5% limitation during the remaining Field Test.\(^{29}\) Regardless of the date of the Commission’s determination in this docket, or in the SOA extension docket, Basin Electric and WAPA are estopped from asserting the continued viability of the 0% threshold, or from asserting that it or any member of MAPP has been harmed by implementing the higher threshold during the remaining Field Test.

Further, should the Commission agree with Basin Electric that the 0% threshold be re-imposed, the Midwest ISO requests that it be permitted to immediately withdraw the filing in Docket No. ER09-245-000, and terminate the MAPP SOA at the end of the initial extension date, December 31, 2008. The extension was an accommodation of requests from the MAPP community for convenience in managing the transition, but there is no barrier to taking Seams Coordination Service under the Midwest ISO Tariff on January 1, 2009, even for the Nebraska utilities planning to join SPP. This will eliminate further barriers to completing as quickly as possible.

\(^{29}\) See, the October 31, 2008 filing of the Midwest ISO and MAPPCOR, Docket No. ER09-245-000. The letter agreement extending the SOA, included in the filing, provides: “Upon the signing of this agreement the parties agree to adopt the then effective Market Flow threshold approved by NERC for the TLR procedures field test (currently 5%) instead of 0% as set forth in Section 4.1 (Market Flow Determination), Section 4.4 (Firm Gen to Load Calculation rules), and Section 5.4.2 (Market Based Operating Entity Real-time Actions: for Firm flow limits), of Attachment B of the SOA.” Id at Tab A.
possible the Field Test as it has been approved by the NERC Operating Reliability Subcommittee and the NERC Standards Committee.

Basin Electric is also correct that the Field Test was not suspended on October 31, 2008; more specifically, it was continued, but only after an extension of the Field Test to October 31, 2009 had been approved by the NERC TLR Standards Drafting Team, the NERC Operating Reliability Subcommittee and the NERC Standards Committee. There are three primary reasons why the Field Test was not suspended:

1. The main reason for the Field Test extension is the limited sample size using a 5% threshold. By suspending the Field Test on October 31, 2008, the RTOs would no longer collect data. This would only exacerbate the limited sample size issue. There is a concern that even with a one year extension, there may still be a problem with having a limited sample size. By suspending the Field Test pending the outcome of the FERC filing, this may require extending the Field Test end date even beyond October 31, 2009.

2. There is a reliability issue in that the RTOs have demonstrated that they cannot meet their Market Flow relief obligations using a 0% threshold. Using a 0% threshold results in delays in accomplishing flowgate relief as additional requests for relief must be made by the Reliability Coordinator during TLR. This reliability issue will reoccur if the Field Test is suspended and the RTOs must return to a 0% threshold.

3. The Field Test is being conducted under the direction of the NERC Standards Committee and the NERC TLR Standards Drafting Team that reports to the NERC Standards Committee. The NERC Operating Reliability Subcommittee monitors the Field Test and has the authority to curtail the Field Test for reliability reasons. All three of these NERC groups were involved in the decision to extend the Field Test. Because the Field Test had to be approved in a specific order and because each of these groups meet at different times of the year, it is a challenge to get all of their approvals far enough in advance such that a FERC filing and response would occur before October 31, 2008. In this particular case, the recommendation to extend the Field Test was made at the September 29, 2008 NERC TLR Standards Drafting Team meeting. The NERC Operating Reliability Subcommittee sanctioned the recommendation during an October 21, 2008 conference call and the NERC Standards Committee Executive Committee approved the recommendation during an October 24, 2008 conference call.

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30 See, infra, fn.2.
Consistent with past precedent, the Commission should defer to NERC and allow the Field Test to continue through the date that NERC determined. In Docket No. ER07-940-000, the Commission held that it will allow the Midwest ISO’s and PJM’s Market Flow Field Test to continue through the date that NERC determines is necessary for the Field Test to yield the data needed to serve its intended purpose.\(^{31}\)

While Basin Electric challenges the continued use of the 5% threshold beyond October 31, 2008 on the grounds that this is not an uncontested proceeding, Basin Electric acknowledges in Footnote 1 of its protest that it will not be directly impacted until after the request to extend the SOA takes effect on January 1, 2009. As a party protesting this filing, Basin Electric has not been impacted by the Field Test in the past and will not be impacted by the Field Test in the future until after December 31, 2008.

**E. Interim Report on the Field Test**

Basin Electric recommends that the Commission require the RTOs to file an interim report on the Field Test. According to Basin Electric, the Field Test should be suspended until the RTOs submit a report on the impact of the Field Test through October 31, 2008.\(^{32}\) Basin Electric contends that there are at least two reasons for requiring the RTOs to file a report now, as opposed to delaying the report for yet another year.\(^{33}\) First, “[t]he report [w]ould assist the Commission and NERC in evaluating whether the TLR standard is effective.”\(^{34}\) Also, Basin Electric contends:


\(^{32}\) *Id.*

\(^{33}\) *Id.*

\(^{34}\) *Id.*
the report would help to identify and clarify the reasons that the RTOs have failed to consistently meet the curtailment obligations that apply to them, the economic and reliability impacts on the other entities of that failure to meet standards, and the possible actions that the RTOs could take to improve their ability to meet their obligations.\textsuperscript{35}

Despite the RTOs’ justification that there have been few TLR events where the impact of the threshold change could properly be measured during the Field Test to date, Basin Electric maintains that an interim report will provide useful information to the Commission concerning the first year of operation of the Field Test.\textsuperscript{36} Basin Electric also suggests that the Commission ensure that NERC conduct an independent review of the report, as “[t]he Operating Reliability Subcommittee is heavily dominated by representatives of participants in the three RTOs’ markets.”\textsuperscript{37} According to Basin Electric, this independent review will provide objective assistance to the Commission in determining the appropriate Market Flow threshold to be utilized.\textsuperscript{38}

WAPA also requests that the Commission direct the RTOs to file an interim report, or in the alternative, that the RTOs’ request for the Field Test extension be suspended until such a report is filed.\textsuperscript{39} According to WAPA, affected parties should be given the opportunity to review

\textsuperscript{35} \textit{Id.}
\textsuperscript{36} \textit{Id.}
\textsuperscript{37} \textit{Id.} at 14. The RTOs note that the membership composition of NERC and its committees has not changed since Basin Electric, WAPA, and other members of the MAPP region initially argued that this issue was one of reliability, and should be determined in the first instance by NERC, rather than the Commission. \textit{See}, Supplemental Comments of MCSG, RM06-16-000, January 16, 2007, p 2: “MCSG urges the Commission to allow the NERC process on reliability to go forward without being prematurely interrupted by a Commission order overriding that process.”
\textsuperscript{38} \textit{Id.}
\textsuperscript{39} WAPA Protest at 6.
the Field Test information that has been compiled to date.\textsuperscript{40} WAPA argues that “impacted parties should not be required to wait another year before being able to see a report that explains the impact increasing the threshold will cause.”\textsuperscript{41} WAPA suggests that the RTOs’ report include an explanation of why the RTOs’ dispatch models or business practices prevent them from meeting the existing threshold requirements, as well as an explanation of why the RTOs cannot make changes to those models or practices in order to be successful.\textsuperscript{42}

As previously addressed by Basin Electric, WAPA expresses similar concern that non-market entities are forced to bear much of the burden for relieving the constraints associated with the higher thresholds utilized during the Field Test.\textsuperscript{43} According to WAPA, an interim report will provide non-market entities with additional information regarding the Field Test, so that they may be able to determine the additional burden that they may be shouldering as a result of the final threshold determination.\textsuperscript{44} WAPA concludes that if no additional information is provided in the form of an interim status report, “[t]he end result is the appearance of inequitable treatment between the RTOs and non-market entities without the ability to determine the level of that inequity.”\textsuperscript{45}

**RTOs’ Response:**

The RTOs do not support Basin Electric’s request that the RTOs be required to submit an interim report, as there have already been an extensive sharing of Field Test results. Detailed status reports were presented at the NERC Operating Reliability Subcommittee meetings.

\textsuperscript{40} Id. at 7.
\textsuperscript{41} Id.
\textsuperscript{42} Id.
\textsuperscript{43} Id.
\textsuperscript{44} Id.
\textsuperscript{45} Id.
conducted on February 13-14, 2008, May 7-8, 2008 and September 17-18, 2008. Likewise, a Market Flow Threshold Field Test status report and supporting information to increase the threshold from 3% to 5% appears in the March 27, 2008 NERC Operating Reliability Subcommittee conference call material. Furthermore, a status report on the limited results using the 5% threshold and supporting information to extend the Field Test to October 31, 2009 appears in the October 21, 2008 NERC Operating Reliability Subcommittee conference call material. All of this material is posted on the NERC Operating Reliability Subcommittee website and is available for Basin Electric and others to download and review. Basin Electric obviously has access to this material since they included the March 27, 2008 NERC Operating Reliability Subcommittee conference call meeting minutes and the May 7, 2008 NERC Operating Reliability Subcommittee meeting presentation in their May 23, 2008 protest to the filing to increase the threshold from 3% to 5%. In addition to the status reports and information supporting changes to the Field Test that are posted on the NERC website, Midwest ISO and PJM have given detailed Field Test status reports during the last two Midwest ISO-PJM Joint and Common Market (“JCM”) stakeholder meetings held on June 6, 2008 and November 14, 2008. These status reports are posted on the Midwest ISO-PJM JCM website and are available for Basin Electric and others to view.

The reason the RTOs do not support producing an interim report before the Field Test is complete is that the status reports that already exist are fairly detailed. The FERC filing made on October 29, 2008 requesting an extension of the Field Test to October 31, 2009 went into very great detail in terms of the number of TLR event hours using a 5% threshold that were available

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for Midwest ISO and PJM, in terms of which flowgates were involved in the TLR and in terms of the success rate of meeting the relief obligation both with all of the event hours and with the non-valid event hours removed. With this level of detail already appearing in the status reports, it is not clear what additional information would be included in an interim report that has not already been posted on publicly available websites. If directed by the Commission to produce an interim report, it would only be a compilation and reorganization of material that is already available in existing status reports. Because, as noted, the 0% threshold limitation restricted access to meaningful data in the MAPP region, the existing data is inadequate to draw meaningful conclusions about the appropriate threshold to maintain reliability. Without some basis for conclusions, the only “report” that can be made is the one already posted in the documents described above.

The RTOs’ June 9, 2008 Answer stated that there are two NERC groups that review the results of the Field Test and that investigate whether it is the Market Flow threshold or other factors that are preventing the RTOs from meeting their relief obligations. These two NERC groups report to the NERC Operating Reliability Subcommittee and NERC Standards Committee respectively and will have final responsibility for the findings and recommendations that appear in the final report. The effort by Basin Electric to inject the Commission into the Field Test will duplicate the efforts of the NERC groups already assigned to the Field Test.

Furthermore, in requesting an independent review of the Field Test, Basin Electric is implying that the NERC Operating Reliability Subcommittee cannot make an independent evaluation of the test. Basin Electric goes on to say that an individual review of the report will include the impact of the Field Test on reliability and the costs of non-RTO entities. If Basin
Electric wishes to raise the issue of equitable cost impacts of TLRs, it should more appropriately direct its comments to NAESB. NAESB now has responsibility for commercial issues associated with the TLR process. In fact, the NAESB Business Practices Subcommittee participates in joint meetings with the NERC TLR Standards Drafting Team, and receives the same status reports that the NERC TLR Standards Drafting Team receives.

IV. COMMUNICATIONS

Correspondence, pleadings and other materials regarding this filing should be addressed to the following persons:

For the Midwest Independent Transmission System Operator, Inc.:

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The issue of the economic impact of the increase in the Market Flow threshold was also raised by Basin Electric when it protested the increase in the threshold from 3% to 5%. The RTOs responded to the economic impact issue in its June 9, 2008 Answer: “Since the Market Flow threshold addresses a reliability issue of failing to achieve the amount of relief requested by the RC, the economic impact should not be an issue.” This is more than ironic, given that the RTOs first raised the justness and reasonableness of disparate thresholds, and were directed by the Commission to first go to NERC to determine what impact a change in threshold limits would have on reliability - the position advocated by the Mid-Continent Systems Group (“MCSG”) with other MAPP entities, including Basin Electric and WAPA. See, Comments of Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C., Docket No. RM06-16-000, January 3, 2007; Supplementary Comments of Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C., Docket No. RM06-16-000, February 5, 2007; and Comments of MCSG on Notice of Proposed Rulemaking, fn.1, Docket No. RM06-16-000, January 3, 2007; and Supplemental Comments of MCSG, Docket No. RM06-16-000, January 16, 2007. See also, infra, fn.14.
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An asterisk (*) denotes designated persons for communications pursuant to 18 C.F.R. § 385.203(h). The Parties request a waiver of Rule 203(h) to permit service on all of the individuals denoted by asterisks and request that the Secretary include all denoted names on the official service list under Rule 2010(c).
V. CONCLUSION

WHEREFORE, the RTOs respectfully requests that the Commission accept this Answer as it responds to certain arguments made by the parties and provides additional information that will assist the Commission in its decision making process.

Respectfully submitted,

/s/ Gregory A. Troxell

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DATED: December 4, 2008

cc: Jeffrey Hitchings, FERC
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CERTIFICATE OF SERVICE

I hereby certify that I have this day e-served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission’s Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 4th day of December 2008, in Carmel, Indiana.

/s/ Gregory A. Troxell
Gregory A. Troxell
1. Administration
   a. Antitrust Guidelines
      Andy Rodriquez reviewed the anti-trust guidelines with meeting participants.
   b. Introduction of Attendees
      The following members and guests were in attendance:
      • Jim Busbin, NAESB Co-Chair
      • Ben Li, NERC Co-Chair
      • Daryn Barker
      • Jonathon Booe
      • Barry Green
      • Larry Kezele
      • Frank Koza
      • Tom Mallinger
      • Nelson Muller
      • Narinder Saini
      • Ed Skiba
      • Kathy York
      • Andy Rodriquez
   c. Approval of Agenda
      The drafting team reviewed the Agenda and made minor modifications. Ed Skiba moved that the modified agenda be adopted. The motion was seconded and passed unanimously.
   d. Approval of Meeting Notes
The drafting team reviewed the Meeting Notes from the June 26-27 meeting and made minor modifications. Tom Mallinger moved that the Meeting Notes be approved as modified. The motion was seconded and passed unanimously.

e. Update on FERC NOPR, NERC’s filing

Andy provided a brief update on the NERC response filing to the FERC NOPR on the TLR filing. NERC explained how it had indicated to FERC that the “sole remedy” aspects of TLR in the standard were due to the fact that TLR was an ongoing, reissued process, and that there was no real way to “halt” a TLR when facing an actual IROL.

2. Phase II Work (Field Test) Report

Frank Koza reviewed the presentation that had been given to the ORS related to the field test. The field test has largely been focused on external flowgates, since internal flowgates are addressed by other processes. The team now has data accumulated using a 5% threshold. The team also has met with the IESO to discuss their unique concerns.

It seems that a 5% threshold improves the rate of success, so long as the relief request is less than 20MW. When requests are larger, the efficacy drops significantly. IESO typically makes large requests, which has been impacting PJM. They have done this because they expect to not get a certain amount of relief, so they ask for more than they need.

The improvement in MISO at 5% is fairly obvious. In PJM, this seems to not be the case, but this is all based a specific IESO flowgate (9160) and the fact that flowgate was not defined correctly during a model update of the allocation engine. MISO had this same problem, but they had other events that “balanced out” their results; for PJM, all their events were based on this flowgate.

Daryn Barker pointed out the SPP results seemed to also contradict the “5%” results. Tom Mallinger and Frank explained that they use TLR differently, which may be part of the problem.

Frank pointed out there was also a problem in the way PJM “binds” their market. When they do so, it makes it somewhat difficult to redispatch, as their software does not recognize generators that “hurt less.” In other words, it would not redispatch to bring on a 1% PTDF unit to replace a 5% PTDF. PJM is looking to modify their market software.

Frank gave an overview of agreements made with IESO to hopefully assist moving forward. IESO agreed that from now on, they will either use a local procedure OR TLR, not local AND TLR. IESO also agreed that they will not ask for more MW of relief than they need, and provide data for post-mortem
analysis. Finally, IESO will look at entering into an agreement to specify “Safe Operating Mode” procedures.

Other important factors include the fact that MISO is still required to implement down to 0% for the MSPP flowgates, and some problems with the Unconstrained Market Flow calculation. It looks like Marginal Zones are NOT the problem. Success criteria need to be finalized.

Tom indicated that given the changes they have been making to improve the process, we may need more data (Tom would like at least 50 events). Tom thinks the Field Test should be extended by at least 6 months, possibly a year. This is being pursued with the ORS and Standards Committee, and PJM and MISO would need to request the extension be included in the FERC-filed seams agreements. Ben will try to get this pre-authorized for the Standards Committee’ Executive Committee action, as the schedule is tight. Ben believes a year extension is more appropriate (due to seasonal patterns), and will work with Tom to move this forward. The SDT agreed that extending the field test for a year makes sense, and supports the request.

As a side note, MAPP has agreed that when their Seams agreement expires, they will sue a 3% threshold.

Barry Green suggested that this may have impact on the Parallel Flow SAR, and will need to be considered at the same time.

There was some discussion on the elimination of the regional differences currently in the NERC and NAESB standards. Ed Skiba asked to review the steps. Will the end of the Field Test drive changes at NAESB? The team summarized that we would remove them from the NERC standards as a retirement with the next version of the standard. The TLRDT may wish to make a recommendation that the NAESB differences in the BPs be removed or modified based on the Field Test results. However, this may just need to be handled as a “minimum” threshold as we discussed (and optionally a maximum). If we created such a standard, this would probably make things easier, as it would communicate one or two “reliability” numbers to limit the business practices. If we don’t have such a standard, then any recommendation we have would be largely advisory, and the BPs could set the threshold anywhere.

Larry Kezele pointed out that IF the thresholds are changed, it would require an IDC change order, as well as FERC approval.

3. Joint Operator Manual Status

Ben Li reported on the SC approval of the Joint Operator Manual. The manual has been approved for posting, and Maureen will be posting it soon. Ben thanked Kathy York and Jim Busbin for their hard work on the manual.

4. Phase III Work
Andy Rodriguez presented the Comment Form and the Implementation Plan to the team. The team made modifications to the comment form and implementation plan. It was noted that we need a definition of Market Flow. Kathy provided a definition based on the NAESB work. The SDT agreed that the PJM, SPP, and MISO waivers did not need to be in the new standards.

The team agreed to shoot for a 45-day posting target, starting on October 6\textsuperscript{th}. \textbf{UPDATE – DUE TO EXCESSIVE WORKLOAD AND NERC RESOURCE CONSTRAINTS, THIS WAS POSTED ON OCTOBER 30\textsuperscript{TH} FOR 30 DAYS.}

The team discussed the term “Reallocation,” and agreed that it did not need to be in the NERC glossary anymore. Reallocation is addressed within the NAESB standards, and is easily covered in existing language related to curtailments and reloads. The team agreed to recommend removal of the definition from the glossary.

5. “Parallel Flow Visualization/Mitigation for RCs in EI” SAR

Ben Li reviewed the current procedural state of the SAR. The OC has endorsed the SAR, and the SC has assigned it to the SDT as a “supplemental SAR” to our work. Ben has some concerns about the timing of the SAR, as we have some many other things going on right now.

Tom and Frank provided further discussion on the SAR. The issue of priority of generator flows from non-Designated Network Resources will be addressed at NAESB, rather than in this SAR, which will focus just on the reliability aspects of the effort. The SAR was modified to be clear than an RC could outsource these calculations to a vendor if desired.

The ORS and RCWG are looking for a business case to support the SAR that will include the costs to the RCs, costs of changing the IDC, and the benefits. Some other questions form the OC were who will pay for the IDC, and who will maintain the tool on an ongoing basis (NERC? Not sure)? If the costs are small (<$50k), some of the RTOs may pay the cost.

Tom indicated that Lanny had been named to the SARDT. \textbf{UPDATE – THIS MAY CHANGE, AS LANNY HAS INDICATED THAT HE WAS ASSIGNED TO THE SARDT ERRONEOUSLY. DON SHIPLEY SHOULD BE THE SAR DT MEMBER, PER LANNY.}

There was some question whether we really need a standard on this or not. Maybe we only need a data requirement of some kind? However, by putting it into a Standard, it would level the playing field and ensure all entities have to support the data needs.

From a timing perspective, the SARDT should plan on posting the SAR after the Phase III posting. Frank, Tom, and Lanny (Don?) will work on drafting the
business case, the next revision to the SAR, and the comment form to be presented at the next meeting. The ORS may be presented the business case before the SDT, and the IDCWG may be asked to think about this in advance of our next meeting as well.

6. NAESB Coordination

Jim Busbin and Kathy York provided a review of the NAESB Annual Plan recommendation related to this team’s work.

Jim Busbin provided a brief overview of the current efforts at NAESB to address discrepancies between the old NERC standards and the new NAESB business practices. Currently, there is a conflict between TLR 5B and 3B and reallocation.

7. Future Meetings (Italics not confirmed)

December 10/11 9-5, 9-12 Toronto, ON - Marriott Bloor Yorkville
January 28/29 9-5, 9-12 Houston, TX NAESB Offices

8. Adjourn

The drafting team adjourned at approximately 10:55am on September 30, 2008.