

106 FERC ¶ 61,251
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Midwest Independent Transmission System Operator, Inc. Docket No. ER04-375-000
and PJM Interconnection, L.L.C

ORDER MODIFYING AND CONDITIONALLY ACCEPTING
JOINT OPERATING AGREEMENT

(Issued March 18, 2004)

1. This order addresses the proposed Joint Operating Agreement (JOA),¹ filed on December 31, 2003, under which the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and PJM Interconnection, L.L.C. (PJM) (collectively, RTOs or Applicants) propose to enhance their combined operational reliability, administer a joint and common market, and facilitate the present and future integration of utilities into the PJM markets and into the operations of both RTOs. For the reasons discussed below, we will conditionally accept the JOA for filing, with modification. This order benefits customers by promoting more effective competition in regional wholesale power markets, assuring non-discriminatory transmission service, and improving reliability.

¹ “Joint Operating Agreement Between the Midwest Independent Transmission System Operator, Inc. And PJM Interconnection, L.L.C.; Midwest ISO FERC Electric Rate Schedule No. 5; PJM Interconnection, L.L.C. FERC Electric Tariff, Rate Schedule No. 38.”

Background

2. After the Commission issued Order No. 2000,² a number of Midwestern utilities (the Alliance Companies) proposed forming the Alliance RTO. Finding that the Alliance proposal lacked sufficient scope and close coordination with neighboring entities to exist as a stand-alone RTO, the Commission, by order of December 20, 2001,³ did not permit Alliance to go forward. Instead, it directed the utilities comprising the Alliance Companies to explore accommodation of their business plan within Midwest ISO.⁴ In view of merger commitments that required many of the Alliance Companies to join an RTO, the Commission directed the individual utilities to file statements of their plans to join an RTO.⁵

3. On July 31, 2002, the Commission conditionally accepted the Alliance Companies' choices to join either Midwest ISO or PJM.⁶ Among those companies electing to join PJM were the member operating companies of American Electric Power

² Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), order on reh'g, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), aff'd sub nom. Public Utility District No. 1 of Snohomish County, Washington v. FERC, 272 F.3d 607 (D.C. Cir. 2001).

³ Alliance Companies, et al., 97 FERC ¶ 61,327 (2001).

⁴ In a companion order, the Commission granted RTO status to Midwest ISO, and urged it to integrate the Alliance Companies. Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,326 at 62,522 (2001).

⁵ 97 FERC at 62,532. See also Alliance Companies, et al., 99 FERC ¶ 61,105 at 61,450 (2002).

⁶ Alliance Companies, et al., 100 FERC ¶ 61,137 (2002) (July 31, 2002 Order), order on clarification (February 26, 2003 Order), 102 FERC ¶ 61,214, order on reh'g and clarification, 103 FERC ¶ 61,274 (June 4, 2003 Order), order denying reh'g and granting clarification, 105 FERC ¶ 61,215 (2003) (November 17, 2003 Order) (Alliance Companies), appeal docketed sub nom., American Electric Power Service Corp. v. FERC, No. 03-1223 (D.C. Cir. Aug. 1, 2003).

Service Corporation (AEP) and Commonwealth Edison Company (ComEd). The Commission noted concerns that the elongated and irregular seam resulting from splitting the former Alliance Companies between Midwest ISO and PJM, if accepted without conditions, appears to produce unjust and unreasonable rates, terms and conditions for transmission services. In order to minimize seams issues and allow more efficient management of the seams between the two RTOs, the Commission imposed conditions. Most pertinent to the instant proceeding, it required Midwest ISO and PJM to file a joint operational agreement, and to form a functional common market across the two organizations. The operational agreement had to include a proposed solution, from AEP, ComEd, Midwest ISO, and PJM, to the problem of how to hold utilities in Michigan and Wisconsin harmless from any loop flows or congestion resulting from AEP and ComEd joining PJM.⁷ The Commission also required North American Electric Reliability Council (NERC) approval of Midwest ISO's and PJM's revised reliability plans, and resolution of the through and out transmission service rates that cause rate pancaking.⁸

4. On rehearing, the Commission stated that it expected Midwest ISO and PJM to file a "joint operating agreement governing their relationships and adequately resolving potential seams issues between the two organizations, in sufficient time to allow for the full integration of Commonwealth Edison into PJM by October 1, 2003, as planned."⁹ In that same order, the Commission directed Midwest ISO and PJM to file the JOA no later than 60 days prior to the commencement of transmission service over the transmission

⁷ 100 FERC ¶ 61,137 at P 40, 53. The Commission also included Illinois Power Company (Illinois Power), a former member of the proposed Alliance RTO that had also proposed to join PJM. However, Illinois Power has taken no further action to implement its proposal to join PJM.

⁸ 100 FERC ¶ 61,137 at P 48-50. Subsequently, the Commission ordered elimination of these Regional Through and Out Rates (RTORs). Midwest Independent Transmission System Operator, *et al.*, 104 FERC ¶ 61,105, *order on reh'g*, 105 FERC ¶ 61,212, *clarification granted*, 105 FERC ¶ 61,288 (2003). On March 5, 2004, the Chief Judge, in his capacity as settlement judge in the proceeding, reported to the Commission that the parties had agreed upon procedures that will shorten the transition to elimination of RTORs. Midwest Independent Transmission System Operator, Inc., *et al.*, 106 FERC ¶ 63,024 (2004).

⁹ 103 FERC ¶ 61,274 at P 23.

systems of any of the New PJM Companies or Illinois Power under the PJM tariff, or integration of any of those systems into the PJM market.¹⁰ Additionally, the Commission required the JOA to include Midwest ISO's and PJM's proposals addressing the issues and recommendations contained in a forthcoming joint filing by the market monitoring units of both RTOs. This joint filing would discuss the potential for inefficient dispatch and gaming opportunities due to the seam between the two RTOs.¹¹ The rehearing order also required Midwest ISO and PJM to demonstrate that the JOA would provide for efficient and reliable management of the seams between them.¹²

5. On December 11, 2002, the New PJM Companies made a filing with the Commission to integrate their facilities into PJM in phases. On April 1, 2003, the Commission accepted AEP's and ComEd's filings to transfer control of their facilities to PJM.¹³ At that time, all parties anticipated that both AEP and ComEd would transfer control of their systems to PJM in the spring of 2003. Currently, however, the transfer of AEP's facilities to PJM's operational control has been delayed due to state actions, and the Commission stated in an earlier order that AEP will be conditionally required to proceed with integrating its transmission facilities into PJM by October 1, 2004.¹⁴ On

¹⁰ 103 FERC ¶ 61,274 at P 36. At this time, New PJM Companies referred to AEP, ComEd, and Dayton Power and Light Company (Dayton P&L). In the December 31, 2004 filing, AEP and ComEd refer to themselves as the New PJM Companies.

¹¹ *Id.* at P 36 & n.32. The Commission had directed the filing of this joint report in Midwest Independent System Operator, Inc. 103 FERC ¶ 61,210 at P 12 (2003). On July 28, 2003, in Docket No. EL03-35-003, Midwest ISO and PJM filed "Market Monitors' Assessment of RTO Seams Issues in the Midwest" (MMU Assessment).

¹² 103 FERC ¶ 61,274 at P 36.

¹³ American Electric Power Service Corporation, *et al.*, 103 FERC ¶ 61,008 (2003) (April 1 Order).

¹⁴ New PJM Companies, 105 FERC ¶ 61,251 at P 107 (2003) (November 25, 2003 Order). The question of whether the Commission can authorize AEP to join an RTO over the objection of certain state agencies, pursuant to the Commission's authority under the Section 205(a) of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. § 824a-1(a) (2000), is currently being litigated before the Commission in Docket No.

(continued...)

May 1, 2003, AEP and PJM submitted a compliance filing required by the April 1 Order, explaining that due to the regulatory delays in AEP's integration, ComEd would now be the first of the New PJM Companies integrated into PJM.

6. On December 31, 2003, PJM, Midwest ISO, AEP and ComEd made four filings relating to the integration of the ComEd system into PJM, proposed for May 1, 2004. One of these is the JOA, subject of the instant proceeding. In Docket No. ER04-521-000, PJM filed new tariff and operating agreement provisions providing for the integration of ComEd into its system, including provisions for the single dispatch of the ComEd and PJM control areas through an approximately 500 MW transmission pathway across AEP's system, procedures to integrate ComEd into PJM's single energy market and single economic dispatch, and transitional capacity adequacy rules for Northern Illinois. In Docket No. ER04-367-000, ComEd and PJM filed tariff revisions to integrate the revenue requirements associated with the ComEd facilities into the PJM open access transmission tariff (OATT or tariff). In Docket No. ER04-364-000, AEP and ComEd filed their proposal for providing financial compensation to hold Michigan and Wisconsin utilities harmless from the effects of AEP's and ComEd's decisions to join PJM, rather than Midwest ISO.

Joint Operating Agreement

7. RTOs filed the JOA on December 31, 2003, more than 60 days before the proposed integration of ComEd into PJM on May 1, 2004. RTOs anticipate that the JOA will resolve many seams issues, including many hold harmless issues, by managing loop flow, flowgates, generation dispatch, planned outages, emergencies, long-term transmission planning, and interconnection of new facilities having cross-border impacts. The JOA has three phases.

8. Phase 0 commenced immediately upon execution of the JOA. RTOs state that they have commenced good faith efforts to provide for: exchange of information and data; calculation of total transfer capability (TTC), available transfer capability (ATC), available flowgate capability (AFC) and related protocols; coordination of planned

ER03-262-009. On March 12, 2003, the Presiding Judge issued an Initial Decision finding that AEP should be exempted from Virginia and Kentucky laws to the extent required to consummate its timely integration into PJM. 106 FERC ¶ 63,029 at P 311 (2004).

outages; joint operation of emergency procedures; coordinated regional transmission expansion planning; coordinated scheduling checkouts; joint reliability coordination; and implementation of NERC-approved reliability plans of each RTO.

9. Phase 1, the market-to-non-market phase, is the period during which PJM's market-driven operation will interface with Midwest ISO's non-market operation. It will commence upon both the Commission's placing into effect a solution to the hold harmless issues, and the later of either the JOA's effective date or the initiation of a Locational Marginal Price (LMP)-based market within a PJM control area or a Midwest ISO control area,¹⁵ where such a market did not exist prior to the JOA's effective date. It will end when all PJM and Midwest ISO control areas on the interfaces between PJM and Midwest ISO have been included in LMP-based markets. During this market-to-non-market phase, additional cooperative measures will include: reciprocal coordination of flowgates, including implementation of the Seams White Paper;¹⁶ resolution of hold harmless and market monitoring issues; and negotiation and drafting of agreements concerning the performance of additional coordination.

10. Phase 2, the market-to-market phase, will commence when adjacent PJM and Midwest ISO control areas on the interfaces between PJM and Midwest ISO are included in LMP-based markets, and applies only to control areas included in LMP-based markets. Additional cooperative measures during Phase 2 will include: consistency of calculating LMP on coordinated flowgates; generation redispatch and coordination to manage congestion on such flowgates; and other measures to which the RTOs agree or that the Commission requires.

¹⁵ Control Area is defined in the JOA, at section 2.2.10, as an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied.

¹⁶ "Managing Congestion To Address Seams; A Proposal for Congestion Management Coordination; Submitted by PJM-ISO and the Midwest ISO; Version 4.0, August 4, 2003" (Seams White Paper). The JOA refers to this document as the Congestion Management White Paper.

Notice and Responsive Filings

11. Notice of the December 31, 2003 filing by RTOs of their proposed JOA was published in the Federal Register, 69 Fed. Reg. 2586, 2589 (January 16, 2004), with comments, protests, and interventions due on or before January 21, 2004. In response, the entities described in Appendix A filed notices or motions to intervene.
12. Entities filing protests are: Consumers Energy Company (Consumers Energy); Delaware Municipal Electric Corporation (Delaware MEC); Detroit Edison Company (Detroit Edison); EME Companies (Edison); Illinois Industrial Energy Consumers (Illinois IEC); International Transmission Company (International Transmission); Virginia State Corporation Commission (Virginia Commission); and Wisconsin Public Service Corporation and Upper Peninsula Power Company (together, Wisconsin Operating Companies).
13. Entities filing comments are: Ameren Service Company (Ameren); Cinergy Services, Inc. (Cinergy); Coalition of Retail Energy Suppliers (Retail Coalition); Exelon Corporation (Exelon)¹⁷; FirstEnergy Service Company (FirstEnergy); GridAmerica LLC (GridAmerica); Ohio Consumers' Counsel (Ohio Consumers); Public Utilities Commission of Ohio (Ohio Commission) (untimely); Wisconsin Electric Power Company (WEPCO), and Blackhawk Energy Services, L.L.C. The last did not intervene in the proceeding.
14. Numerous Michigan and Wisconsin Stakeholders (MW Parties) filed, in this proceeding, the "Unilateral Offer of Settlement; Draft Hold Harmless Agreement" (MW Hold Harmless Proposal) that the Michigan and Wisconsin Hold-Harmless Utilities filed in Docket No. ER04-364-000, the hold harmless proceeding. The MW Parties are listed in Appendix B.
15. On February 5, 2004, RTOs filed an answer to comments submitted by various intervenors (RTOs' Answer).
16. On February 5, 2004, corrected on February 9, 2004, AEP and Exelon (on ComEd's behalf) filed an answer wherein they responded to protests and opposed the MW Hold Harmless Proposal.

¹⁷ Exelon is the parent company of ComEd.

17. Several entities made filings that addressed the MW Hold Harmless Proposal. Filing on February 10, 2004, were: Michigan Commission; Mid-America; and Midwest ISO Owners. Filing on February 20, 2004 was PJM.

18. Several entities made filings addressing RTOs' Answer: Wisconsin Operating Companies, on February 12, 2004; MW Parties, on February 18, 2004; and International Transmission, on February 20, 2004.

19. In a February 12, 2004 filing, Edison addressed both February 5, 2004 filings, specifically Exelon's statements on behalf of ComEd, and the statements made by PJM.

Discussion

A. Procedural Matters

20. The notices of intervention of the state commissions and the timely, unopposed motions to intervene serve to make the entities listed in Appendix A parties to this proceeding. See Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003). Given the early stage of this proceeding and the absence of undue delay or prejudice, we find good cause to grant the untimely, unopposed interventions.

21. Rule 214(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 214(a)(2) (2003), prohibits answers to protests or answers unless otherwise ordered by the decisional authority. We will accept the answers filed by Midwest ISO and PJM on February 5, 2004, by Edison on February 12, 2004, by Wisconsin Operating Companies on February 12, 2004, and by International Transmission on February 20, 2004, because these filings provide information that aids us in our decision-making process. We will not accept the remaining answers because they pertain to the hold harmless issue, the subject of Docket No. ER04-364-000, except to the extent they pertain to issues we address in the instant proceeding.¹⁸

22. We will deny Edison's motion that we consolidate the instant proceeding with Docket Nos. ER04-521-000, ER04-364-000, and ER04-367-000. Although related, the

¹⁸ Our order in Docket No. ER04-364-000 acknowledged these answers, despite their having been filed not in that proceeding but in the instant proceeding.

December 31, 2003 filings in those proceedings seek to accomplish different purposes. We will address those proceedings separately in orders issued concurrently with this order.

B. Summary Conclusion

23. Our review and analysis of the JOA indicates that, on the whole, it represents an important achievement for the RTOs and the various stakeholders that worked to create this notable document. The JOA is a strong framework for an unprecedented level of cooperation between two RTOs for sharing information and coordinating operations and planning procedures. Coordination of the sort formalized in the JOA can only lead to enhanced reliability and more efficient use of resources. Extensive information sharing, coordinated congestion management, coordinated TTC, ATC and AFC determinations, coordinated emergency procedures, and joint expansion planning are just some of the central accomplishments of the JOA. All comments we received on the JOA were generally supportive of the basic tenets of the document itself. While there are some items in the JOA that need modification or further detail, which we explain below, we are encouraged by the collaboration that occurred between parties of disparate interests to reach such a pioneering agreement. Therefore, we will accept the JOA, with the modifications and conditions as described below.

C. Coordination of Flowgates

24. First, because of the importance of the coordination of flowgates in the JOA, we will briefly describe the major aspects relating to this issue. As defined in the transmittal letter, flowgates are facilities or groups of facilities that may act as significant constraint points on the regional transmission system.¹⁹ Under the JOA, RTOs will share information regarding real-time and expected conditions on flowgates. Specifically, pursuant to section 5.1.7 of the JOA, each Party will: (1) exchange firm and non-firm AFC for all “relevant” flowgates;²⁰ (2) accept or reject transmission service requests based upon projected loadings on its own flowgates as well as on Reciprocal Coordinated

¹⁹ Transmittal Letter at 26.

²⁰ Section 5.1.7 of the JOA defines AFC as “the applicable rating of the applicable flowgate less the projected loading across the applicable flowgate less Transmission Reliability Margin and Capacity Benefits Margin.” The term “relevant” is not defined.

Flowgates;²¹ and (3) limit approvals of transmission service reservations, including roll-over transmission service, so as to not exceed the lesser of the sum of the thermal or stability capabilities of the tie lines that interconnect the RTOs.

25. In addition, section 5.1.9 of the JOA directs each RTO to consider in its TTC, ATC, and AFC determination process all flowgates that may initiate a Transmission Loading Relief (TLR) event. Section 5.1.9 of the JOA further directs the inclusion of certain other flowgates, identified in accordance with section 3 of the Seams White Paper, which explains the four studies that will be used to identify Coordinated Flowgates.²² In addition, section 3 of the Seams White Paper also states that it will use a five percent threshold in the studies, but that may not capture all flowgates that experience a significant impact due to market operations. This section states that a lower threshold for Coordinated Flowgates will be implemented at the time NERC implements the use of a lower threshold in the TLR process. This section also outlines a process to create temporary Coordinated Flowgates "on the fly."²³

²¹Section 5.1.7(b) of the JOA references the definitions in Article 6. Two definitions from in section 6.1, in pertinent part are: (1) "A Coordinated Flowgate is a flowgate affected by the transmission of energy by [one of the RTOs]. A Coordinated Flowgate may be under the operational control of one of the [RTOs] or may be under the operational control of a third party;" and (2) "A Reciprocal Coordinated Flowgate is either (1) a Coordinated Flowgate affected by the transmission of energy by both [RTOs]; or (2) a flowgate upon which both [RTOs] mutually agree reciprocal coordination will occur."

²²The Seams White Paper at Appendix A defines Coordinated Flowgate as, "A flowgate impacted by a Market-Based Operating Entity [MBOE] by more than 5 %, and subsequently subject to requirements under this [Seams White Paper] proposal for data submissions regarding MBOE impact on that flowgate."

MBOE is defined as, "An operating entity that operates a security constrained, bid-based economic dispatch bounded by a clearly defined market area."

A Reciprocal Coordinated Flowgate is defined as, "A Coordinated Flowgate upon which coordination procedures and agreements have been written."

²³ Seams White Paper at 16-19.

26. Article 6 of the JOA outlines coordination of Reciprocal Coordinated Flowgates, including the exchange of TTC, ATC and AFC calculations and network native load (NNL) data with respect to all Reciprocal Coordinated Flowgates. In order to coordinate congestion management, each RTO will respect the other RTO's calculations and assure that it does not cause flow in excess of these calculated limits. In the event flow would occur contrary to the calculated limits on these Reciprocal Coordinated Flowgates, an RTO may redispatch generation to offset the problematic flow. In the event of such redispatch, the RTO responsible for the problematic flow shall bear the cost to the extent that cost is recoverable under that RTO's OATT. Each RTO will maintain a detailed model of the other RTO's system to assure that it has information required to respect the other RTO's Coordinated Flowgates. In addition, all procedures in Article 6 shall take into account the Seams White Paper.

27. Section 11.1 of the JOA lays out the requirements and timetable under which PJM, as the RTO currently operating a market, will implement certain additional provisions of the JOA and Seams White Paper for the flowgates listed therein. Specifically, pursuant to section 11.1.1 of the JOA, when ComEd integrates into PJM, PJM will implement the market-to-non-market coordination procedures in the Seams White Paper to respect the limits on the Coordinated Flowgates in Midwest ISO that are impacted by generation in the ComEd control area serving load in the ComEd control area.²⁴ PJM will apply the protocols to more flowgates when either of the two following eventualities occurs: the PJM market expands to include the ComEd Control Area plus either the control areas of AEP and Dayton Power and Light or a control area contiguous with the current PJM control area; or when Midwest ISO implements its market. Upon either occurrence, PJM will implement the Seams White Paper for all Midwest ISO flowgates impacted by all control areas in the PJM market.

²⁴ According to the RTOs, the result of these provisions is that during Phase 1, the Coordinated Flowgates impacted by generation of a New PJM Company (e.g., ComEd) will be added to the internal constraints that govern PJM's security-constrained dispatch, and redispatch will occur as necessary to respect the limits of those Coordinated Flowgates. PJM's day-ahead dispatch solution will thereby honor those limits on the Midwest ISO Coordinated Flowgates. Similarly, in real-time, PJM will redispatch generation in its market as necessary to address changing or unexpected conditions affecting this same group of Coordinated Flowgates and reduce PJM loop flows, again as necessary, to respect the Coordinated Flowgate limits. Transmittal Letter at 27.

28. In their protest, Wisconsin Operating Companies agree that Midwest ISO and PJM have identified critical flowgates that could be constraint points on the regional footprint for which PJM would implement redispatch procedures to respect the limits of flowgates in the Midwest ISO. However, Wisconsin Operating Companies are apprehensive because the JOA does not address the full operational and financial impacts of current and future increases in loop flows and the resultant congestion on all flowgates that will affect Michigan and Wisconsin due to integration of ComEd into PJM. Wisconsin Operating Companies state that the Seams White Paper must be implemented for all flowgates specified in the Seams White Paper as a condition of ComEd's integration into PJM.²⁵ In their answer, Wisconsin Operating Companies continue that by selecting only limited flowgates, the RTOs unreasonably presume that only those few selected flowgates will be affected, without any documented analytical support for that conclusion. Absent any objective and rational explanation, Wisconsin Operating Companies aver, the RTO's choice of coordinating only limited flowgates is arbitrary, unsubstantiated and unreasonable.²⁶

29. Consumers Energy argues that PJM should consider all the flowgate categories in Appendix F of the Seams White Paper for purposes of redispatch during Phase 1. Under the JOA, when ComEd integrates before AEP, PJM will consider only a small number (originally 72, now 120) of the Coordinated Flowgates in Appendix F, namely those Coordinated Flowgates impacted by ComEd generation serving ComEd load. PJM will not consider other flowgates in Midwest ISO impacted by the current PJM footprint. Consumers Energy believes that PJM should implement the Seams White Paper for all flowgates impacted by all control areas in the PJM market once ComEd integrates into PJM.

30. Ameren asks the Commission to include all Ameren flowgates in the coordinated flowgate list because of its interconnection with sixteen other utilities and particularly its location with respect to ComEd, PJM, AEP, Entergy Corporation, the Tennessee Valley Authority, and the Southwest Power Pool.

31. RTOs' Answer states that the agreement to redispatch generation if and as necessary to manage congestion on identified flowgates will be such that Midwest ISO

²⁵ Wisconsin Operating Companies' Protest at 6-8.

²⁶ Wisconsin Operating Companies' Answer at 3.

market participants generally are assured of transmission capacity at historic levels.²⁷ Additionally, RTOs concede that neither entity has agreed to redispatch generation as may be necessary to address flows on all of the other RTO's flowgates. Given the economics potentially affecting stakeholders of both RTOs, they explain, the arrangements under the JOA are a fair and reasonable compromise. In addition, the RTOs state that they have concluded that from a reliability standpoint, additional flowgates need not be subject to this extra level of regional coordination, and that additional coordination would yield no material operational benefit. RTOs also note that since the execution and filing of the JOA, the RTOs have expanded the list of flowgates under the Seams White Paper from 72 to 120.²⁸

Commission Determination

32. As an initial matter, we recognize that the general principle of respecting flowgate capability between RTOs is one of the most important aspects of the JOA. Coordination between PJM and Midwest ISO in this manner is a promising step toward addressing the general seams issues that arise between systems. We acknowledge the hard work of all the parties that has led us to this point, where we have a document that is the result of an intensive stakeholder process and that gives us a concrete proposal to move us forward toward a seamless energy market in the Midwest ISO-PJM region. That being said, as we have learned so well in this on-going process, the devil is in the details.

33. A simple but nonetheless illustrative description of our understanding of the contemplated Phase 1 coordination is that when ComEd integrates into PJM, PJM will respect the flowgates on the Midwest ISO system that are impacted by transactions internal to the ComEd control area (*i.e.*, generation from within the control area serving load in the control area). Midwest ISO will respect flowgates on the ComEd system that are impacted by internal Midwest ISO transactions. Midwest ISO will coordinate flowgates pursuant to Articles 5 and 6 of the JOA, as described above. PJM will additionally coordinate flowgates pursuant to section 11.1.1 of the JOA, as described above. This type of coordination does not occur today.

²⁷ RTOs' Answer at 5.

²⁸ RTOs' Answer at 11-13.

34. Most of the concerns raised in the comments on this issue deal with how flowgates are selected, and the number of flowgates that will be respected for the interim period after ComEd integrates into PJM but before integration of AEP or before Midwest ISO implements its market. The arguments, in brief, are that PJM and Midwest ISO should respect all the flowgates on each other's system upon integration of ComEd, not just those flowgates related to the ComEd integration. While we agree that coordination of all flowgates is better than coordination of some flowgates, PJM and Midwest ISO, through their extensive negotiations and stakeholder process, have agreed on a phased approach to this coordination. Under this phased approach, only certain flowgates will be included upon integration of ComEd into PJM, but once AEP is part of PJM, or when Midwest ISO implements its market, all the flowgates on one RTO's system impacted by the other RTO's internal transactions, subject to the five percent threshold, will be respected. In addition, RTOs state that if experience reveals that any additional flowgates should be coordinated, they will readily add them to the list.²⁹ We find that this approach is appropriate given that respecting even a partial list of flowgates represents an improvement over the coordination that occurs today, and is only an interim step until AEP integrates into PJM or Midwest ISO starts its market. Of course, this emphasizes the importance of AEP fulfilling its voluntary commitment to join PJM and the Midwest ISO market start-up.

35. Though we agree that a phased approach is appropriate, we also believe that the process used by RTOs to designate flowgates is not as transparent as it should be. For example, Appendix F of the Seams White Paper lists 72 flowgates that PJM will respect on the Midwest ISO system upon integration of ComEd into PJM, but, according to RTOs, the list now has 120 flowgates.³⁰ How these additional flowgates were added, why they were not included in the initial list, and which provisions in the JOA or Seams White Paper were used to make these determinations are not made clear.³¹ In addition, it is not always readily apparent which flowgates the JOA refers to. For example, as explained above, section 5.1.7 of the JOA states that RTOs will exchange firm and non-

²⁹ RTOs' Answer at 12.

³⁰ RTOs' Answer at 11.

³¹ RTOs state, "The RTOs, in their operational judgment and relying on their modeling, select flowgates that should be coordinated inter-regionally." RTOs' Answer at 12.

firm AFC for all “relevant” flowgates. However, the JOA does not define which flowgates each RTO will consider relevant. This confusion is compounded by differences between definitions in the JOA and the Seams White Paper -- Coordinated Flowgates and Reciprocal Coordinated Flowgates have differing definitions.³² These differences are important. For instance, section 5.1.9 of the JOA states that flowgates will be determined in accordance with section 3 of the Seams White Paper even though the definitions of Coordinated Flowgates and Reciprocal Coordinated Flowgates in the Seams White Paper seem to apply only to an entity with a market based operation, which, for the moment, is only PJM. In addition, a list of flowgates that Midwest ISO will respect on the PJM system is not provided, and the list of flowgates that PJM will respect on the Midwest ISO system differs apparently from the one in the Seams White Paper.

36. It is vital that the JOA state exactly which flowgates will be coordinated pursuant to the terms of the JOA and the Seams White Paper. Without such information, it will be difficult to determine whether the enhanced coordination envisioned in the JOA and required by the Commission is being properly implemented. Therefore, we will direct RTOs to revise the JOA and Seams White Paper to give consistent definitions and to explain more clearly the process for identifying Coordinated Flowgates and Reciprocal Coordinated Flowgates.³³ In recognition of comments received, we will direct RTOs to include in these revisions a process for identifying flowgates that is collaborative and inclusive, and that includes clearly outlined provisions on how parties can propose new flowgates for both RTOs and for all Phases of the JOA. In addition, we will direct the RTOs to list, either in the JOA or the Seams White Paper, all flowgates that will be coordinated.

37. Another inconsistency between the JOA and the Seams White Paper involves the type of coordination that will occur once flowgates are selected. For instance, Articles 5 and 6 of the JOA lay out certain coordination that will occur between the RTOs, including implementation of the Seams White Paper. However, section 11.1.1 of the JOA provides that, effective upon the integration of ComEd into PJM, PJM, in addition to following Articles 5 and 6 of the JOA, will implement the Seams White Paper for the

³² See nn. 21-22, *supra*.

³³ We understand that some differences in definitions may be appropriate, but to the extent that the JOA or the Seams White Paper refers to specific terms in the other document, consistency, or at least an explanation of which definition applies, is needed.

flowgates specified in Appendix F thereof, including the provision for creating new flowgates, adding new flowgates, and the dispute resolution process for adding new flowgates. Section 11.1 of the JOA is silent as to when Midwest ISO will implement the Seams White Paper for Coordinated Flowgates on the PJM system, though presumably that will be when Midwest ISO starts its market operations. It seems, therefore, that the provisions of the Seams White Paper do not apply to any Coordinated Flowgates on the PJM system that will be respected by Midwest ISO, including the process for adding new Coordinated Flowgates. Because PJM has already implemented its market and Locational Marginal Pricing while Midwest ISO uses TLRs for congestion management, there are necessarily some differences in how the RTOs will coordinate their systems. However, it is unclear specifically what each RTO will be doing differently from the other for purposes of implementing the JOA and the Seams White Paper during Phase 1. The specific differences between how PJM (market) and Midwest ISO (non-market) will implement the coordination provisions of the JOA and Seams White Paper during Phase 1 must be made more apparent.

38. Some of this confusion may be attributable to the Seams White Paper's date of August 4, 2003, while the JOA was filed on December 31, 2003. Because the JOA and the Seams White Paper are inexorably linked, it is important to remove unnecessary discrepancies between the two documents. Therefore, we will direct RTOs to revise the JOA and the Seams White Paper so that the interaction between the two documents is clear, consistent and easily understood. Such revisions should address our concerns as explained above. We expect that these modifications, as well as those we discuss below, can be timely filed to support the proposed May 1, 2004, date for integration of ComEd into PJM. We will direct RTOs to make a compliance filing with these revisions within 15 days of the date of this order.

D. Redispatch of Historic PJM Footprint

39. In the transmittal letter, Midwest ISO and PJM express different positions on certain outstanding issues. Some Midwest ISO stakeholders believe that equity requires PJM to use redispatch of generation in the historic PJM footprint³⁴ to address impacted flowgates after ComEd's integration into PJM. Midwest ISO understands the economic concerns that PJM will face as a result of this redispatch, but believes that those are

³⁴ For purposes of this discussion, historic PJM represents PJM as it is configured today.

internal PJM cost allocation issues and does not mean PJM should do nothing. PJM counters that the issue of redispatch on the historic PJM system is an economic issue and, therefore, should not be addressed by the JOA. These issues, PJM contends, should be handled as a hold harmless issue, and notes that the JOA does not commence until the hold harmless issues are resolved. PJM continues that it will fulfill its agreement to respect the limits of Midwest ISO flowgates affected by PJM flows by redispatching generation within ComEd. In any event, PJM argues, traditional utility practice does not provide for redispatch to neutralize congestion due to loop flow, and additional compensation in this regard would produce a windfall to Midwest ISO stakeholders at the expense of other market participants. PJM also states that it offered to enter into bilateral agreements with any Midwest ISO member to redispatch PJM generation to offset loop flow on the member's system, but only if that member agrees to redispatch its generation to offset loop flow on PJM's system.³⁵

40. Wisconsin Operating Companies, in their protest, state that it is only fair and reasonable that generation in the historic PJM footprint should be redispatched to relieve congestion if reciprocal flowgates in Midwest ISO are congested after the integration of ComEd into PJM. They state that PJM's redispatch of its generation to restore these flowgates must be a condition of the JOA's acceptance. Wisconsin Operating Companies dispute PJM's contention that traditional utility practice fails to provide for redispatch to mitigate congestion due to loop flow. They point to American Transmission Company, LLC, which has used redispatch for over two years to effectively mitigate congestion, much of which was caused by current loop flow. Finally, they argue, PJM's offer to enter into bilateral agreements is not an equitable solution because the issue at hand is the loop flow caused by the integration of ComEd into PJM, not the decision of a Midwest ISO member to stay in Midwest ISO.³⁶ In their answer, Wisconsin Operating Companies reiterate their concerns and state that Midwest ISO stakeholders will be harmed if generation in PJM is not redispatched to offset the additional congestion that occurs at PJM-Midwest ISO interfaces because of ComEd's and AEP's decisions to join PJM instead of Midwest ISO.³⁷

³⁵ Transmittal Letter at 28-31.

³⁶ Wisconsin Operating Companies' at 8-9.

³⁷ Wisconsin Operating Companies' Answer at 4.

41. Exelon, in its comments, contends that Midwest ISO stakeholders' claim, that PJM should redispatch its generation to relieve congestion in Midwest ISO, is "breathtakingly hypocritical" because Midwest ISO stakeholders have successfully resisted, for years now, allowing Midwest ISO to implement redispatch of generation, even to maintain firm transmission transactions. Exelon contends also that the notion that PJM should redispatch generation in its historic footprint to assist Midwest ISO under non-emergency conditions is based on "unadorned greed." It states that requiring PJM to redispatch generation within its historic footprint to relieve congestion on Midwest ISO flowgates would result in generation redispatch whether or not the congestion has any relationship to the integration of ComEd into PJM.³⁸ Exelon contends that integration of ComEd into PJM is not going to change the electricity flows so impacts from those flows will not be different just because ComEd is joining PJM.

Commission Determination

42. We find that PJM's commitment to redispatch generation within the ComEd control area to address those flowgates on Midwest ISO impacted by ComEd's integration into PJM is a reasonable interim measure as the RTOs look toward the integration of AEP into PJM and the development of the joint and common market. To the extent that entities argue that PJM should redispatch generation in the historic PJM footprint to relieve congestion caused specifically by ComEd's integration into PJM, we note that there is no evidence that redispatch on the historic PJM system to address such congestion is necessary. AEP lies between historic PJM and Midwest ISO. It is not clear to us how successful any redispatch on historic PJM would be to relieve congestion caused by the integration of ComEd into PJM. In short, it has not been shown that ComEd's decision to join PJM will have an impact on Midwest ISO that cannot be adequately addressed by redispatch of the ComEd system, at least for the interim period.

43. Intertwined with the issue of whether PJM should redispatch generation in its historic footprint is whether PJM should initially recognize flowgates over and above those impacted by ComEd's integration into PJM. To the extent that entities address the number of flowgates each RTO will initially respect and not just redispatch of the historic PJM footprint, we have addressed that issue in the previous section. In addition, any increase in loop flow or congestion on the Michigan and Wisconsin systems will be

³⁸ Exelon's Comments at 5-6.

addressed separately as a financial impact in the hold harmless order in Docket No. ER04-364-000.

E. Rollover Rights

44. Consumers Energy raises a concern regarding section 5.1.7(c) of the JOA, which states "each party will limit approvals of transmission service reservations, including rollover transmission service, so as not to exceed the lesser of the sum of the thermal or stability capabilities of the tie lines that interconnect the Parties." This provision, according to Consumers Energy, appears to be inconsistent with the rollover rights provided in the Midwest ISO OATT. Specifically, Consumers Energy believes that the JOA violates sections 2.2 and 13.2 of the Midwest ISO OATT, which grant existing firm service customers with contract terms of at least one year the right to continue to take transmission service from the transmission provider when the contract expires, rolls over or is renewed. If the transmission system cannot accommodate all requests for transmission service, the existing firm service customer has the right to accept a contract term at least equal to a competing request. Consumers Energy believes that the JOA will inappropriately place new service requests on an equal basis with long-term firm service. Additionally, Consumers Energy states that section 5.1.7(c) of the JOA appears to eliminate certain existing rights given to long-term customers.³⁹

45. RTOs' answer explains that, under section 5.1.7 of the JOA, AFC will take into account all rollover rights by extending the end date of yearly firm transmission service requests with an end date beyond the next sixty days. Therefore, according to RTOs, there are no inconsistencies between section 5.1.7 of the JOA and rollover rights provided under sections 2.2 and 13.2 of the Midwest ISO OATT.

Commission Determination

46. We agree with Consumers Energy that section 5.1.7(c) of the JOA appears to be inconsistent with, or is unclear, regarding sections 2.2 and 13.2 of the Midwest ISO OATT. Therefore, we will direct that the JOA be modified to clarify that the rights granted to firm transmission service customers with terms of one year or longer retain the rollover rights and reservation priority granted to them under the Midwest ISO and PJM OATTs. Nevertheless, RTOs may, if explicitly stated in the service agreement, limit

³⁹ Consumers Energy's Protest at 9-10.

rollover rights for new long-term firm service if there is not enough ATC to accommodate rollover rights beyond the initial term.

F. ITC Functions

47. Appendix I to the Midwest ISO Agreement and Attachment U to the PJM OATT set forth functions applicable to any Independent Transmission Company (ITC), consistent with the Commission's ITC policies. GridAmerica argues that the filing of the JOA does not and cannot alter these existing contracts and rate schedules, and that nothing in the JOA suggests that Midwest ISO or PJM intends to modify the delineation of functions applicable to existing or future ITCs. GridAmerica urges the Commission to confirm that nothing in the JOA will modify or abrogate any of the rights and responsibilities of ITCs under existing contracts and rate schedules

Commission Determination

48. The Commission agrees that, with the approval of the JOA described in this order, the Commission has not revisited or sought to change its previous delineation of functions between RTOs and ITCs. Nor can Midwest ISO or PJM revise their contracts, rate schedules, or tariffs without making appropriate filings under Sections 205 or 206 of the FPA⁴⁰ to seek such modifications.

G. ITC Role in Transmission Planning

49. The JOA provides a process for Transmission Planning to be conducted jointly. Article 9 of the JOA establishes a Joint RTO Planning Committee (JRPC) that will be made up of staff representatives from PJM and Midwest ISO. The JRPC will, among other things, coordinate all planning activities, including the preparation of a Coordinated System Plan, which begins with PJM and Midwest ISO producing annual individual transmission plans.⁴¹ Under Article 9, Midwest ISO and PJM will each "engage in its customary internal system planning activities as required under its tariff and other

⁴⁰ See Section 206 of the FPA, 16 U.S.C. § 824e (2000).

⁴¹ ITCs in Midwest ISO and PJM are responsible for planning within their footprints. Those plans are then incorporated into the PJM and Midwest ISO annual transmission plans.

applicable standards." Midwest ISO and PJM will prepare a Coordinated System Plan applicable to both systems that will integrate the RTOs' respective transmission expansion plans, resolve impacts across the seams, and address results of the underlying analyses. PJM and Midwest ISO will also form an Inter-Regional Planning Stakeholder Advisory Committee (IPSAC) that will facilitate stakeholder review and input into development of the Coordinated System Plan. The Coordinated System Plan will be finalized only after the IPSAC has had an opportunity to review it and respond.⁴²

50. In its protest, GridAmerica states that the JOA addresses interaction between PJM and Midwest ISO, but not between the two RTOs and ITCs within their footprints. GridAmerica argues that the JOA must be modified to reflect the rights and responsibilities that the Commission has approved for ITCs. GridAmerica asserts that the standard split of functions provides for ITCs to assume responsibility for transmission planning and expansion within the ITC footprint. Grid America states that Article 9 of the JOA fails to account for the role of the ITC in regional planning.⁴³ GridAmerica requests modification of section 9.1 of the JOA to expressly provide for membership of ITCs on the JRPC. GridAmerica asserts that the failure to modify the JOA in this way will deprive ITCs of expanded planning rights and responsibilities, one of the primary benefits that the Commission has approved for ITCs. GridAmerica contends that, in granting such rights, the Commission did not exclude inter-regional planning issues from the ITCs' scope of responsibilities. It also notes that, in the July 31, 2002 Order, the Commission explicitly recognized that Grid America can help manage the seams between PJM and Midwest ISO.⁴⁴

51. In their answer, RTOs state that GridAmerica need not be concerned that ITCs will lack ample input because the planning process provides for considerable stakeholder input and review of the inter-regional transmission planning. Both RTOs state that they look forward to receiving input from the ITCs and all other stakeholders.⁴⁵

⁴² See section 9.3.5.1 of the JOA.

⁴³ Article 9: Coordinated Regional Transmission Expansion and Planning.

⁴⁴ Grid America Protest's at 7, citing July 31, 2002 Order at P 42.

⁴⁵ RTOs' Answer at 20-21.

Commission Determination

52. The Commission will not direct PJM and Midwest ISO to expressly provide for the membership of ITCs on the JRPC. The Commission notes that its comments in the July 31, 2002 Order, about GridAmerica's potential role bridging the seam between PJM and Midwest ISO, were made in expectation of GridAmerica managing transmission on both sides of the seam, an expectation that did not materialize. The Commission does not believe that ITCs should be singled out as the only market participants to have membership status on the JRPC. The planning process, as described above, and as pointed out by RTOs in their answer, includes extensive stakeholder input, which will allow ample opportunity for ITC input.

53. GridAmerica also argues that participation in the IPSAC is insufficient because this would provide an advisory role rather than a decisional role. However, in prior orders regarding PJM and TRANSLink Transmission Company,⁴⁶ the Commission has determined that "coordination between and among RTOs should be done at the RTO level."⁴⁷ The Commission acknowledges that GridAmerica's role in managing an extensive transmission system along the Midwest ISO side of the seam is unique and significant. However, the Commission finds that it is appropriate for JRPC membership to be comprised of RTO and ISO staff. Consistent with our previous findings, however, we expect RTOs to consider in the joint planning process any input from GridAmerica that it is uniquely situated to provide. With this caveat, the Commission believes that the ITCs' participation in inter-regional planning under Article 9, through individual planning processes and the IPSAC, will adequately protect the ITCs' important role in the planning process.

H. Status of Transmission Owner Plans

54. MW Parties state that but for ComEd's and AEP's decisions to join PJM instead of Midwest ISO, ComEd's and AEP's systems would be included in Midwest ISO's transmission planning process. MW Parties explain that this is of particular concern to

⁴⁶ PJM Interconnection, L.L.C., 102 FERC ¶ 61,296 (2003), reh'g pending, (PJM ITC Order); TRANSLink Transmission Company, LLC, et al., 99 FERC ¶ 61,106, order on reh'g 101 FERC ¶ 61,140 (2002) (TRANSLink).

⁴⁷ TRANSLink, 99 FERC at 61,473.

Wisconsin and Michigan utilities because it relates to the management and reduction of transmission congestion, and Wisconsin Upper Michigan System is one of the most congested areas in the United States. MW Parties state that, if the JOA is to enable the development of a vibrant, liquid, seamless joint and common market, it must provide for regional transmission planning and expansion that includes utilities that border Midwest ISO. MW Parties propose that ComEd and AEP submit transmission expansion plans annually to Midwest ISO, including any expansions that they have been directed to make by PJM under its regional expansion plan. Midwest ISO could then integrate ComEd and AEP's expansion plans with the rest of Midwest ISO transmission owners' expansion plans, and direct expansions on the ComEd and AEP systems as needed.

Commission Determination

55. The MW Parties' proposal appears to subject ComEd's and AEP's plans to two simultaneous RTO planning processes, with coordination to occur at the RTO level after the respective independent processes. We believe that there is a significant chance that subjecting ComEd and AEP directly to two separate RTO planning processes will cause confusion and disorder in the planning process. The MW Parties have not demonstrated that this will improve the proposed multi-regional planning process; nor have they addressed potential pitfalls. However, the Commission believes that the MW Parties have identified a shortfall in the proposed planning process. Unnecessary delays could result if planning information concerning facilities with inter-RTO impacts is unavailable until the RTO coordination level and if the RTOs develop their individual plans independently before coordinating. To address this potential for delays associated with the sequential approach contemplated by the JOA (*i.e.*, first the transmission owner plans, then the RTO plans, then the inter-RTO plan), we will direct RTOs to amend the JOA to provide for sharing of the relevant transmission owner plans and for coordination between the RTOs as each develops its regional plan. With these modifications, the proposed planning process will make significant progress toward the unified, cross-seam planning that is essential for a successful joint and common market.

I. Network Upgrades

56. GridAmerica objects to section 9.4.3 of the JOA, which addresses the allocation of costs for network upgrades identified in the Coordinated System Plan, particularly the provision that "the JRPC will propose the allocation of costs for such network upgrades." GridAmerica contends that this provision fails to recognize that RTOs do not have rights

to file cost allocation proposals. It states that ITCs retain unilateral rights under Section 205 of the FPA to make rate and rate design filings for transmission rates within the ITC footprint.⁴⁸ GridAmerica states that the RTOs cannot delegate rights that they do not have to the JRPC and asks the Commission to remove this section from the JOA. GridAmerica further asserts that JRPC input will be fully considered under current procedures because ITCs and transmission owners already have contractual agreements to consult with their RTO prior to making such filings, during which any JRPC recommendations will be considered and included when the cost allocation filings are subsequently submitted to the Commission.

Commission Determination

57. We find that section 9.4.3 of the JOA does not clearly recognize the filing rights of various parties. This provision of the JOA should not be construed to remove or supersede filing rights that transmission owners or ITCs have under the FPA. Similarly, the RTOs retain their rights under the FPA to propose tariff modifications, and can put forward proposals developed under this provision through appropriate filings. Therefore, we will direct RTOs to revise section 9.4.3 to indicate more clearly that cost responsibility for network upgrades will be consistent with the Midwest ISO and PJM tariffs, as those may be modified pursuant to the various parties' rights under the FPA, and to include this revision in their compliance filing. We believe that proposals developed by the JRPC process will provide valuable perspective to Commission decisions pertaining to cost allocation of network upgrades constructed pursuant to the Coordinated System Plan. We encourage stakeholder participation in that process and look forward to consideration of cost allocation proposals for network upgrades developed jointly at the RTO level.

J. Contingency of Changed Facility Plans

58. Ameren notes that sections 9.2 and 9.3 of the JOA, concerning exchange of planning models and system expansion plans, fail to address the possibility that future facilities are sometimes delayed or cancelled. Ameren argues that, just as current OATTs anticipate such contingencies, the JOA should contain provisions requiring modification

⁴⁸ The Commission understands GridAmerica to mean that ITCs retain the right to unilaterally file rates and rate designs for transmission rates within the ITC footprint.

of FTR and transmission service agreements to the extent they are premised on future facilities that become delayed or cancelled.

Commission Determination

59. We do not believe it is necessary to modify sections 9.3 and 9.4 of the JOA to address Ameren's concern. Any provisions for contingencies in the OATT will remain unaffected after the JOA is implemented. Terms and conditions of transmission service, transmission and interconnection study procedures, and individual RTO transmission system planning will not change. Therefore, Ameren's request for general terms and conditions regarding contingencies in the JOA is unnecessary.

K. Information Exchange

60. GridAmerica states that Article 3 (Coordination and Information Exchange) and Article 4 (Exchange of Information and Data) of the JOA do not address the sharing of data with ITCs. GridAmerica argues that it must have access to certain Midwest ISO data in order to perform the vital functions delegated to GridAmerica under Appendix I of the ITC Agreement. GridAmerica argues that in order to calculate AFC values, it must have full access to model data, merit or block dispatch order and load forecast data. Moreover, GridAmerica asserts that PJM, Midwest ISO and GridAmerica must share data and further improve the respective model representations in each organization. GridAmerica does not believe that Articles 3 and 4 need revision to reflect the exchange of data between RTOs and ITCs, but believes that the Commission should confirm that these provisions will not affect ITC data sharing practices.

61. International Transmission argues that the JOA will result in control area operators no longer receiving the same information they have received in the past because NERC tags will no longer be attached to transactions that will fall within the enlarged PJM footprint and therefore will not be included in NERC's modeling. International Transmission argues that if control area operators are permitted continued access to data, they can anticipate system changes, respond more accurately where necessary, and determine whether the grid is operated optimally. Operational data allows control area operators to confirm the effects of loop flows and constraints. International Transmission requests, at a minimum, that the Commission require RTOs to provide control area operators with the market-dispatch-to-load calculation, which will be used for monitoring and review but without overruling the operational decisions of the RTO or jeopardizing confidentiality. International Transmission also argues that control area operators should be entitled to all data generated historically and should be able to obtain the information shared between the RTOs.

62. Consumers Energy argues that section 8.1.7.1 of the JOA (Power System Restoration), should be modified to provide for the sharing of restoration plans and access to black start plans with local operating entities.

63. RTOs respond that the JOA will not diminish the information available to control area operators. RTOs anticipate that, within the bounds of confidentiality, these operators will have access to such information as appropriate to assist their operations. RTOs also state that they agree to make certain real-time information, such as Inter-Control Area Center Communication Protocol (ICCP) measurements, available to control areas. Concerning sharing of restoration plans and access to black start plans, RTOs state that the practice for sharing this information will be contained in the business practice manuals, which will be updated and available for control area operator review, as appropriate.⁴⁹

64. In its answer, International Transmission concedes that the JOA does not diminish the information available to control area operators, but argues that the specific information promised by RTOs in their answer is more generalized and therefore less useful than other data, especially in emergency conditions. International Transmission argues further that the JOA allows the RTOs too much discretion to judge what information is shared with which control area operators, and asserts that pertinent grid information should be shared widely with neighboring utilities to ensure reliable operation of the grid.⁵⁰

Commission Determination

65. We find that the JOA does not diminish in any way the amount or type of information available to control area operators. In fact, the fundamental basis of the JOA is increased sharing of information. International Transmission's concerns about not receiving needed information from the RTO is unfounded. Nothing in the JOA prevents RTOs from providing needed information to control area operators, and there is no reason, within the bounds of confidentiality and the Commission's Standards of Conduct,⁵¹ for an RTO to withhold information needed by control area operators. We

⁴⁹ RTOs' Answer at 18-19

⁵⁰ International Transmission's Answer at 10-12.

⁵¹ See 18 C.F.R. §§ 37.1 -- 37.8 (2003).

note that RTOs have agreed in their answer to provide certain real-time data to control area operators, and we expect them to uphold this agreement. We agree with International Transmission that reliability is of utmost importance. We believe that when information on facilities in neighboring systems is needed by a control area operator to optimize emergency procedures, the JOA allows RTOs to share that information, subject to the Commission's Standards of Conduct. Nothing in the JOA prevents this important information sharing between control areas, which can and should occur even absent specific provisions in the JOA.

66. As for GridAmerica's concern, we do not construe Articles 3 and 4 to curtail ITC access to information held at the RTO that is essential to regional support functions delegated to the ITCs. The Commission granted certain rights and responsibilities to ITCs under various orders, including PJM ITC Order. Therein, the Commission accepted PJM's proposal to share with ITCs information within its possession that is necessary for the ITC to perform those rights, responsibilities and functions that the Commission authorizes the ITC to perform.⁵² We expect this kind of exchange to continue under the JOA. Nevertheless, our finding does not endorse current practices as a static phenomenon. ITCs should remain aware that as calculation methodologies and modeling software evolve, data sharing practices between ITCs and RTOs may evolve to something other than what they are today. The fundamental rule is that ITCs receive the information they need.

67. We agree with Consumers Energy on the matter of sharing restoration plans and black start plans with control area operators, but finds that the JOA need not be changed to allow the continued sharing of this information. We consider RTOs' commitment to provide these plans in business planning manuals to suffice. We find that PJM and Midwest ISO must share their restoration plans and those of systems to which the local entities are interconnected, with the appropriate local entities (those operating and maintaining transmission in real time) and that provisions for such sharing should be included in the RTOs' respective business practice manuals.

L. Confidentiality

68. Consumers Energy states that section 18.1.2 of the JOA (Protection) and Section 4.1.1.2 (Real-time and Projected Operating Data) do not adequately protect from

⁵² 102 FERC ¶ 61,296 at P 71.

disclosure the components identified in sections 4.1.1.1.b.iii (Forced outage rates), 4.1.4.5.e (Equivalent forced outage rates), 4.1.4.10.a and c (Short term outages), and 5.1.1 (18 month outage schedule). Consumers Energy contends that this data is commercially sensitive, and that disclosure would allow participants to game the market.

69. In their answer, RTOs argue that Consumers Energy's concern is moot because the JOA allows for the information to be exchanged only between the RTOs. Nevertheless, RTOs agree to add language to section 4.1.1.2 such that the specific components addressed are subject to confidentiality.⁵³

Commission Determination

70. We agree with RTOs that the confidentiality provisions are not applicable to the information exchanged between RTOs. Nevertheless, we accept the RTOs' proposed modification to the JOA. We will direct RTOs to include in their compliance filing the language regarding confidentiality they have agreed to add to section 4.1.1.2, as described above.

M. Ancillary Services

71. WEPCO states that Midwest ISO and PJM must ensure that transmission service transactions that cross the seam (i.e., source in PJM and sink in Midwest ISO or source in Midwest ISO and sink in PJM) receive reciprocal and appropriate treatment. WEPCO argues that having Midwest ISO and PJM each, under its respective tariff, individually impose ancillary service schedules, including administrative cost recovery, could potentially discriminate against various transmission transactions that cross the RTOs' seam. Citing past Commission orders condemning rate pancaking as an impediment towards competitive markets,⁵⁴ WEPCO asks the Commission to consider the effects of continued rate pancaking with regard to ancillary services and administrative costs currently provided under Midwest ISO's and PJM's OATTs. WEPCO points out that the ancillary services included in the RTOs' OATTs pertain to transmission flow and have operational impacts. Accordingly, WEPCO asks that the RTOs be required to include

⁵³ RTOs' Answer at 21.

⁵⁴ See *Midwest Independent System Operator, Inc. et al.*, 104 FERC ¶ 61,105 (2003); *Midwest Independent System Operator, Inc.*, 105 FERC ¶ 61,212 (2003).

consideration of ancillary services in the JOA and to exclude those ancillary service charges from their respective OATTs for transactions that sink in the combined region once all former Alliance Companies fully integrate into their chosen RTO.

72. GridAmerica comments that the ancillary service of voltage and reactive resource coordination deserve a separate article in the JOA that describes in detail how PJM, Midwest ISO and others will coordinate all aspects associated with good voltage management from months in advance to real time. According to GridAmerica, such detailed contractual provisions should cover transmission outage scheduling, generation outage scheduling, generation megavolt-ampere-reactive (MVAR) limitations, voltage schedules, reactive demand forecasting, regional reactive reserves/margins and action plans for efficiently relieving difficulties caused by the seam, before voltage coordination difficulties arise in real-time operations that must be addressed in control rooms throughout the region.

73. In their transmittal letter accompanying the JOA, the RTOs acknowledge the need to establish daily voltage/reactive management plans to assure adequate static and dynamic reactive supply. They state that they will address this requirement in an update to the JOA.⁵⁵

Commission Determination

74. WEPCO's request for the Commission to eliminate rate pancaking of ancillary service charges in the JOA is outside of the scope of this proceeding. The purpose of this proceeding is to determine how the JOA will provide effective coordination between Midwest ISO and PJM. If WEPCO believes the ancillary service charge rates of either RTO are no longer just and reasonable, the proper avenue is for it to make a filing under Section 206 of the FPA.

75. We agree with GridAmerica on the need to establish a separate Article in the JOA articulating proposed voltage control and reactive power coordination. We endorse RTOs' commitment to revise the JOA to establish voltage control and reactive power management plans. We will require these revisions to acknowledge that voltage control and reactive power coordination are essential to promote reliability and to include coordination procedures, as discussed by GridAmerica. This is especially important

⁵⁵ Transmittal letter at 41, n. 17.

given the role voltage control and reactive power may have played in the August 14, 2004 blackout. Therefore, we will direct the RTOs to modify the JOA to address this matter in their compliance filing.

N. Network and Native Load

76. In its protest, Consumers Energy argues that during Phase 1, the use of historic Network Native Load (NNL)⁵⁶ to determine flows on Coordinated Flowgates grants a cost free reservation to PJM and denies capacity to Midwest ISO load-serving entities. Consumers Energy points out that PJM is expanding before start-up of the Midwest ISO market, and that parallel flows may increase “as a result of expanded LMP flow load growth, changes to topology, or designation of new generation resources.” Any new flow on PJM, it continues, will have a corresponding new flow on Midwest ISO flowgates. Accordingly, Consumers Energy contends that the recalculation of NNL limits and the NNL allocation on Coordinated Flowgates should not yield an increased allocation to PJM prior to the commencement of a joint and common market, because such an increase would economically harm Midwest ISO load serving entities. Consumers Energy’s concern is that each MW of additional allocation on Midwest ISO flowgates has a corresponding transmission capacity denial for use by Midwest ISO transmission customers.⁵⁷

77. RTOs respond that NNL does not grant PJM a cost free reservation on Midwest ISO but instead inherently recognizes flows that already occur. The NNL process is the product of negotiations in which each RTO advocated the equitable interests of its stakeholders and sought to achieve equitable results that would not compromise the quantities of historic flows attributable to market participants of each RTO. RTOs also state that the historic NNL concept recognizes that, prior to the expansion of PJM or the start of the Midwest ISO market, it is necessary to limit the market flow usage of flowgates. As described in the Seams White Paper, the RTOs agree that a fair allocation

⁵⁶ Historic NNL is defined in Appendix A to Seams White Paper as the NNL values that would have occurred if all control areas maintained their current configuration and continued to serve their native load with their generation.

⁵⁷ Consumers Energy’s Protest at 6.

of flowgate capacity will be based on the respective historic usages by Midwest ISO and PJM prior to the expansion of PJM and the start of the Midwest ISO market.⁵⁸

Commission Determination

78. We believe that the use of historic NNL to allocate capacity on Coordinated Flowgates represents a fair methodology that allows both RTOs to maintain the capacity that they used prior to the JOA, and considers how the transmission system is actually used to deliver energy and which facilities are impacted. Using a historic allocation allows market participants to protect the service that they used prior to the implementation of the JOA. It also represents an equitable way to allocate the use of remaining capacity over those flowgates for future needs of both RTOs, since the remaining capacity will be available on a non-discriminatory, first-come, first-served basis pursuant to the RTOs' OATTs.

O. JOA Phase 2

79. RTOs explain that Phase 2 (market-to-market) will commence when any PJM and Midwest ISO control areas on adjacent boundaries are included in LMP-based markets. They state that Phase 2 will include a continuation of all Phase 1 elements (except those completed or impractical). Phase 2 will also provide for generation redispatch and coordination with consistent LMP calculation on Coordinated Flowgates.⁵⁹ RTOs state that they are currently working together to develop protocols for coordination during Phase 2 and will continue to do so.⁶⁰

80. Various protesters filed comments requesting more detail on the JOA's proposed Phase 2 market-to-market implementation. International Transmission in particular urges the Commission to defer consideration of the Phase 2 provisions of the JOA until a further filing is made, within 60-120 days prior to the commencement of Phase 2, to provide appropriate detail regarding Phase 2 operations. It states that the JOA as proposed includes broad normative conditions regarding Phase 2 and not the kind of

⁵⁸ RTOs' Answer at 13-14.

⁵⁹ Transmittal Letter at 8.

⁶⁰ Transmittal Letter at 37.

detailed operating provisions that normally would be included in an operating agreement.⁶¹

Commission Determination

81. We endorse the objectives of the Phase 2 provisions of the JOA -- consistent LMP across the two RTO-operated markets. However, we believe that consideration of provisions of the JOA related to Phase 2 would be premature. We expect that implementation of Phase 1 will provide important information on how the coordination in the JOA is working. As Phase 2 will incorporate many of the aspects of Phase 1, we find it sensible to wait and to gain insights into which sections of the JOA may require revision or improvement based on operational experience. We also note that much of Phase 2 will not occur until Midwest ISO implements a market, projected to occur on December 1, 2004. Therefore, we find it appropriate to give PJM and Midwest ISO more time to provide further details on Phase 2 in order to accommodate the details of Midwest ISO's planned markets and more fully developed procedures for achieving consistent locational marginal prices. Accordingly, we will accept the Phase 2 provisions of the JOA subject to RTOs filing a revised JOA with more detail for Phase 2, within sixty days of the proposed effective date for Phase 2, and subject to further Commission orders after receipt of that compliance filing. We will require the RTOs to address in that filing should the concerns about Phase 2 provisions raised by intervenors in this proceeding.

P. Relationship of the JOA and the Seams White Paper

82. Section 2.3.6 of the JOA states, in pertinent part:

The [Seams] White Paper is hereby incorporated into this Agreement and in the event there is a conflict between this Agreement and the [Seams] White Paper, the [Seams] White Paper prevails. The [Seams] White Paper may be amended from time to time upon agreement of the Parties.

83. Section 2.2.9 of the JOA defines the Seams White Paper as that document as it exists on the JOA's effective date, and as it may be amended or revised from time to time. The section incorporates specifically, in Appendix A, the document located on the NERC website, which at present is the Seams White Paper as of August 4, 2003.

⁶¹ International Transmission's Comments at 15-16.

Section 2.2.26 of the JOA defines Parties as “each party to this Agreement or both, as applicable.” Midwest ISO and PJM are the only parties to the JOA. The transmittal letter states that the Seams White Paper and any amendments to it will be subject to stakeholder review and NERC approval.⁶²

84. International Transmission points out the contradiction between the texts of the JOA, and RTOs’ transmittal letter, whereby the JOA text requires neither NERC nor Commission approval to amend the Seams White Paper. International Transmission states that, as the JOA is currently drafted, the Seams White Paper is more important than the JOA because of the RTOs’ agreement that in case of discrepancy, the Seams White Paper prevails. Pointing out further that the Seams White Paper governs the RTOs’ flowgate allocations, International Transmission asks the Commission to rule that the Seams White Paper is part of both RTOs’ tariffs, and to require that any amendment to it be filed with the Commission, under Section 205 of the FPA, and be subject to Commission approval prior to becoming effective.

85. International Transmission comments that the stakeholders gave greater scrutiny to the JOA than to the very technical Seams White Paper. It asks the Commission to require amendment of section 2.3.6 to state that in case of conflict between the JOA and the Seams White Paper, the JOA will prevail. Lastly, International Transmission asks the Commission to require the filing, under section 205 of the FPA, of the technical manuals supplementing the Seams White Paper if the RTOs intend to rely on these manuals to allocate capacity or determine the level of service availability on their systems.⁶³

86. GridAmerica observes that the Seams White Paper is under revision, and echoes International Transmission’s concern that the Seams White Paper supersedes the JOA. It wants an updated Seams White Paper to be subject to independent review by all interested parties, including NERC. It asks the Commission to require, as a condition of accepting the JOA, a JOA amendment that includes the updated version of the Seams

⁶² Transmittal Letter at 9, 19.

⁶³ International Transmission’s Protest at 10-11.

White Paper concerning coordination with AEP and reliability recommendations set forth in the Blackout Report.⁶⁴

87. WEPCO comments that the JOA fails to make clear whether Midwest ISO and PJM envision informing interested parties or using their respective stakeholder processes before implementing revisions to the JOA and the Seams White Paper. WEPCO asks the Commission to require that any and all proposed revisions to both documents be fully vetted through the stakeholder process, and that RTOs be directed to seek Commission approval for any and all amendments to the JOA before the amendments become effective.⁶⁵

88. In their answer, RTOs state that all changes to the JOA and any material changes to the Seams White Paper will be subject to stakeholder review as a matter of course. They cite sections 3.3.1(n), 5.2, 8.1.7, and 9.1.2 of the JOA as demonstrating stakeholder review of an expected Phase 2 Seams White Paper and the JOA. While acknowledging that the JOA is a filed rate schedule, so that any amendments will be subject to Commission review and approval, RTOs consider the Seams White Paper to be an operational document, much like RTO manuals, which the Commission does not generally review. They find Commission review of the Seams White Paper unnecessary, and note that all parties retain their rights under Section 206 of the FPA.⁶⁶

Commission Determination

89. To determine the necessity to file the Seams White Paper and material or significant amendments to it or future versions for Commission review, under Section 205 of the FPA, the Commission will follow its “rule of reason” policy governing the types of jurisdictional documents that must be filed for Commission approval. Only

⁶⁴ GridAmerica’s Comments at 14-16. In November 2003, the U.S.-Canada Power System Outage Task Force issued its “Interim Report: Causes of the August 14th Blackout in the United States and Canada.”

⁶⁵ WEPCO’s Comments at 5-6.

⁶⁶ RTOs’ Answer at 16-17.

those practices that significantly affect rates and services come under the statutory directive of Section 205(c) of the FPA.⁶⁷

90. The significance of the Seams White Paper is shown by the JOA's provision, in section 2.3.6, that the Seams White Paper prevails over the JOA. Therefore, we will direct RTOs to file the Seams White Paper, as it was incorporated into the JOA at Appendix A, and any revisions or amendments thereto for our approval before the provisions may become effective. In addition, the Commission encourages RTOs to utilize their stakeholder process in developing modifications to the JOA and Seams White Paper.

Q. ComEd Integration into PJM before AEP

91. Many protestors and commentators raise concerns because AEP will not be subject to the JOA until its integration into PJM, and because it and PJM do not have, at present, an operating agreement similar to the JOA. These entities point out that currently PJM plans to integrate ComEd first, on May 1, 2004, and then AEP, on October 1, 2004. They state that as a condition of integrating these utilities, the Commission required the RTOs to develop and implement efficient and reliable seams management. However, the lack of AEP's participation in the JOA, or its execution of an operating agreement, causes apprehension among many protestors and commentators that the seam between Midwest ISO and PJM cannot be managed efficiently without AEP's participation, and that the result will be ineffective markets. They also find troublesome ComEd's integration prior to, and possibly without, AEP, given that the Commission approved integration of both AEP and ComEd into PJM together, not individually. Some entities raise reliability concerns based on ComEd's integration into PJM before AEP.

92. In its answer, RTOs acknowledge that the participation of AEP would further enhance operational flexibility, reliability and competition. However, the RTOs highlight their lack of authority to force AEP to transfer control of transmission facilities to PJM or to surmount outstanding state-imposed delays as the main impediment towards AEP integration. Accordingly, the RTOs cannot require AEP, despite their preference, to

⁶⁷ See Pennsylvania-New Jersey-Maryland Interconnection, et al., 81 FERC ¶ 61,257 at 62,267 (1997), reh'g denied, 92 FERC ¶ 61,282 (2000), vacated and remanded in part on other issues sub nom. Atlantic City Electric Co. v. FERC, 295 F.3d 1 (D.C. Cir. 2002).

become a party to the JOA, or to enter into a similar, separate agreement. They believe, however, that there are benefits to be gained by implementing the JOA even before AEP integrates into PJM.

Commission Determination

93. The integration of AEP into PJM is the subject of another proceeding, Docket No. ER03-262-009, where the Commission has made a preliminary, conditional finding that AEP must fulfill its commitment to join PJM by October 1, 2004, and set for hearing questions about this integration, including whether the states of Virginia and Kentucky have authority, under Federal law, or for other public protection reasons, to prevent AEP from fulfilling its commitment.⁶⁸ On March 12, 2004, the Presiding Judge issued an Initial Decision concluding, among other things, that AEP should be exempted from the requirements of the Virginia and Kentucky laws and regulations to the extent required to consummate its timely integration into PJM.⁶⁹

94. The RTOs conclude that even without AEP, the JOA is “sufficiently robust to accomplish the integration of ComEd, provide a framework for the integration of other transmission facilities owners, and enhance reliability within the Eastern Interconnection.”⁷⁰ We agree, and with the modifications discussed above, we believe the JOA is a positive step forward that will bring market and reliability benefits even if ComEd integrates into PJM before AEP.

95. We note that some protestors have raised reliability concerns relating to ComEd’s integration into PJM before AEP. In this order, we are not specifically addressing the reliability aspects of whether ComEd should integrate into PJM before AEP. The Commission has previously conditioned its approval of ComEd’s integration into PJM on NERC review and approval of the RTOs’ reliability plans. Currently, NERC is reviewing the reliability plans. We see no reason to delay our approval of this filing, with our modifications, until NERC approves the RTOs’ reliability plans. However, our

⁶⁸ The New PJM Companies, *et al.*, 105 FERC ¶61,251 at Ordering Paragraphs (A)-(E) (2003).

⁶⁹ The New PJM Companies, *et al.*, 106 FERC ¶ 63,029 at P 311 (2004).

⁷⁰ RTO’s Answer at 5.

approval cannot be made final, and an effective date for PJM integration cannot be set, until we determine that our previously-imposed conditions have been met. Accordingly, we direct the RTOs to make a filing describing the outcome of NERC's review along with any conditions imposed by NERC or changes to this filing required by NERC's actions within ten days of NERC's approval of the RTOs' reliability plans. Thereafter, the Commission will issue an order addressing this remaining condition and establish an effective date for Phase 1 of the JOA. The requested May 1 integration date may still be feasible depending on the timing and conditions of NERC's approval.

R. AEP-PJM Agreements

96. Since AEP will not be subject to the JOA until it integrates into PJM, AEP and PJM are currently negotiating an agreement to enhance reliability coordination between themselves (Enhanced Reliability Agreement) under which PJM will be authorized and directed, in its capacity as AEP's reliability coordinator, to transfer the necessary data to Midwest ISO as needed for the two RTOs to manage the seam. According to PJM, this agreement is expected, at a minimum, to set standards for calculation of TTC/ATC/AFC, provide for coordination of scheduled outages of facilities and provide for emergency operations principles.⁷¹

97. PJM and AEP also have negotiated an "Agreement on Operating and Business Practices to Implement Generation Transfer Pathway" (Pathway Agreement).⁷² Under the Pathway Agreement, PJM may be the recipient of assignments of firm transmission rights on the AEP system. The Pathway Agreement also establishes certain reliability-related limits and protocols upon PJM's use of the pathway.

98. In the MMU Assessment, the market monitoring units also address the issue of the need for an agreement with AEP if ComEd integrates into PJM first. AEP's location between Midwest ISO and PJM creates an ongoing market-to-non-market seam between the two RTOs that the market monitoring units fear will be prone to inefficiencies and gaming. More specifically, the market monitoring units cite concerns regarding interface

⁷¹ Transmittal Letter at 33. PJM states that it and AEP plan to file the agreement upon execution. *Id.* at 19 n.8.

⁷² AEP filed the Pathway Agreement on March 1, 2004, in Docket No. ER04-603-000. The Commission will address this filing in a separate order.

pricing issues, TLR misuse and inefficient dispatch protocols. Accordingly, the market monitoring units suggest that AEP be required to engage in the market-to-non-market coordination protocols identified in the Seams White Paper until AEP joins PJM.⁷³

Commission Determination

99. We believe that an Enhanced Reliability Agreement with AEP will be an important step toward effective regional coordination across a the seam between two RTOs. While further coordination would be beneficial, we will not delay the effective date of the JOA by waiting for the execution of an Enhanced Reliability Agreement. The coordination provisions of the JOA allow for the robust exchange of information and other important coordination, such as the standardization of TTC, ATC and AFC calculation and allocation. AEP's participation in similar provisions would further regional coordination, but is not essential to the implementation of the enhanced coordination of the JOA.

100. Because AEP is not a party to the JOA and because an Enhanced Reliability Agreement has not yet been filed, we will require the market monitoring units to closely watch the situation along the seam (*i.e.*, AEP) to be sure that no gaming or other inappropriate behavior takes place. We will direct market monitoring units to file a report identifying potential for gaming, actual experience, and proposed solutions to prevent opportunities for gaming, within 90 days after the integration of ComEd into the PJM market. If the market monitoring units find any such gaming or other inefficiencies, we may take appropriate action, as necessary, to remedy the situation. We will direct the market monitoring units, Midwest ISO and PJM to notify us immediately if gaming becomes apparent and direct further that they propose remedies. In addition, we expect AEP and PJM to address the concerns contained in the MMU Assessment when they file the Enhanced Reliability Agreement with the Commission.

S. Implementation Issues

101. FirstEnergy asks the Commission to focus attention on section 3.3.1 of the JOA, which lists in (a) through (l) the elements that Midwest ISO and PJM "shall commence full performance of" upon the initiation of Phase I. FirstEnergy argues that each of these items is critical to the success of the JOA and that, therefore, the Commission should

⁷³ MMU Assessment at 10.

require the RTOs to submit to an audit by NERC or the appropriate regional reliability council at regular intervals. Comments from many others echoed the theme that information and communications must be faithfully exchanged in order for reliability to be enhanced rather than impeded by the JOA.

102. The Commission expects that the extent to which RTO operations adhere to the JOA will be evident in the NERC readiness audit processes now underway. We note that, in the course of this proceeding, approval of the Midwest ISO and PJM reliability plans has moved forward in the NERC process subject to numerous conditions related to the Seams White Paper and the JOA, and specifically to the condition that PJM and Midwest ISO successfully pass NERC audits on their readiness to implement their reliability plans. Commission staff is also participating in these audits. For this reason, the Commission will not now imposing further third-party audit requirements.

103. However, in order for the Commission fulfill its own monitoring role concerning RTOs' implementation of the JOA, we will direct RTOs to make an informational filing on or about every 60 days with a detailed description of the progress they are making in implementing each section of the JOA. The progress report should: (1) explain how their implementation of the JOA is resulting in an efficient and reliable operation of their combined transmission systems; (2) indicate any modifications to the JOA, the Seams White Paper, or implementation of those documents that would result in more efficient and reliable operation of their combined transmission systems; and (3) indicate RTOs' plans to adopt such modifications and to make appropriate filings with the Commission. This informational filing should be combined with the implementation progress report RTOs already make every 60 days concerning progress on achieving a common market across Midwest ISO and PJM regions.⁷⁴ This informational filing must also include business practice manuals that contain information regarding the actual implementation of any section of the JOA. The first combined informational filing should be filed 60 days after the effective date of the JOA.

104. In addition, for assurance that readiness is complete, the RTOs shall file with the Commission an informational report 20 days in advance of the integration of a new transmission system or the implementation of a new JOA phase. This report shall explain any testing of data exchange and communications systems, or other measures taken to assure that systems are ready to implement any newly effective provisions of the JOA.

⁷⁴ See Alliance Companies, 100 FERC at 61,530.

T. Compliance Filings

105. RTOs are directed to make a compliance filing, within 15 days of the date of this order, making the revisions to the JOA and Seams White Paper, as discussed above. RTOs are directed to file a progress report, every 60 days after the effective date of the JOA, as discussed above. RTOs are also directed to make a further compliance filing within 60 days of the effective date of Phase 2 with a revised JOA containing further details on Phase 2, as discussed above. Market Monitoring Units are directed to file, 90 days after the effective date of Phase 1, a joint report, as discussed above.

The Commission orders:

(A) Midwest ISO's and PJM's proposed Joint Operating Agreement is hereby conditionally accepted for filing, as discussed in the body of this order, with Phase 1 of the JOA to become effective the date the Commission issues an order stating that all conditions for Phase 1 have been met.

(B) Midwest ISO and PJM are required to make a filing describing the outcome of NERC's review along with any conditions imposed by NERC or changes to this filing required by NERC's actions within ten days of NERC's approval of the RTOs' reliability plans.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

Appendix A

The listed parties have filed notices or motions to intervene in Docket No. ER04-375-000. Short-hand references to parties are indicated in parentheses after the name. Late filings are indicated by an asterisk.

Allegheny Companies (Allegheny)
Allegheny Power
Allegheny Supply company, LLC

Alliant Energy Corporate Services, Inc.* (Alliant)

Ameren Service Company (Ameren)
Union Electric Company d/b/a AmerenUE
Central Illinois Public Service Company d/b/a AmerenCIPS
Central Illinois Light Company d/b/a AmerenCILCO

American Municipal Power-Ohio (AMP-Ohio)
Chambersburg, Pennsylvania, Borough of (Chambersburg)

Cinergy Services, Inc. (Cinergy)

Coalition of Retail Energy Suppliers (Retail Coalition)
Ameren Energy Marketing Company
Peoples Energy Services Corp.

Clay Electric Cooperative (Clay)

Constellation Power Source, Inc. and Constellation NewEnergy (NewEnergy) (together, Constellation)

Consumers Energy Company (Consumers Energy)

Dairyland Power Cooperative (Dairyland Power)

Delaware Municipal Electric Corporation (Delaware MEC)

Detroit Edison Company (Detroit Edison)

District of Columbia, People's Counsel of (DC People's Counsel)
Dominion Resources, Inc. (Dominion)

Duke Energy North America and Duke Energy Trading and Marketing, L.L.C. (together, Duke)

Dynegy Power Marketing, Inc. and Dynegy Midwest Generation, Inc. (together, Dynegy)

EME Companies (Edison)

Edison Mission Energy

Edison Mission Marketing & Trading, Inc.

Midwest Generation EME

Exelon Corporation (Exelon) (parent company of Commonwealth Edison Company)

FirstEnergy Service Company (FirstEnergy)

American Transmission Systems, Inc.

Jersey Central Power & Light Company

Pennsylvania Electric Company

Metropolitan Edison Company

GridAmerica LLC (GridAmerica)

Illinois Commerce Commission (Illinois Commission)

Illinois Industrial Energy Consumers (Illinois IEC)

Illinois Municipal Electric Agency (Illinois MEA)

Illinois Power Company (Illinois Power)

Indiana Office of Utility Consumer Counselor (Indiana OUCC)

International Transmission Company (International Transmission)

Kentucky Public Service Commission (Kentucky Commission)

Madison Gas and Electric Company (Madison)

Maryland Office of People's Counsel (Maryland People's Counsel)

Michigan Electric Transmission Company, LLC (Michigan Electric)

Michigan Public Power Agency and Michigan South Central Power Agency* (together, Michigan Agencies)

Michigan Public Service Commission (Michigan Commission)

MidAmerica Energy Company (MidAmerica)

Midwest ISO Transmission Owners (Midwest ISO Owners)

NRG Companies (NRG)

NRG Power Marketing, Inc.

Indian River Power LLC

Vienna Power LLC

Keystone Power LLC

Conemaugh Power LLC

LSP-Kendall LLC

NRG Rockford LLC

NRG Rockford II LLC

Naperville, City of (Naperville)

North Carolina Electric Membership Corporation (North Carolina EMC)

Ohio Consumers' Counsel (Ohio Consumers)

Ohio, Public Utilities Commission of (Ohio Commission)

Organization of MISO States (OMS)

PPL Electric Utilities Corporation and PPL EnergyPlus, LLC (together, PPL)

Reliant Resources, Inc. (Reliant)

Southwestern Electric Cooperative, Inc. (Southwestern)

Virginia State Corporation Commission (Virginia Commission)

Wisconsin Electric Power Company (WEPCO)

Wisconsin, Public Service Commission of (Wisconsin Commission)

Wisconsin Public Service Corporation and Upper Peninsula Power Company (together, Wisconsin Operating Companies)

Appendix B**The MW Parties**(a) **Michigan Stakeholders**

DTE Energy Company (on behalf of its subsidiary, The Detroit Edison Company)
International Transmission Company
Consumers Energy Company
Michigan Electric Transmission Company, LLC
The Michigan Public Power Agency
The Michigan South Central Power Agency
Nordic Marketing, LLC
Wabash Valley Power Association
Wolverine Power Supply Cooperative

(b) **Wisconsin Stakeholders**

American Transmission Company LLC
Dairyland Power Cooperative
Madison Gas & Electric Company
Wisconsin Electric Power Company
WPS Resources Corporation (on behalf of Wisconsin Public Service Corporation
and Upper Peninsula Power Company)
Wisconsin Public Power, Inc.

(c) **The Association of Businesses Advocating Tariff Equity**

AVTco, a Louisiana-Pacific Company
Autofina Chemicals
BASF Corporation
The Budd Company
Cargill
DaimlerChrysler Corporation
Delphi Automotive Systems
Eaton Corporation
Edward C., Levy Company
Ford Motor Company
General Motors Corporation
Martin Marietta Magnesia Specialities Inc.
Mead Westvaco Corporation
National Steel Corporation—Great Lakes Division
Pharmacia & Upjohn Company
Quanex Corporation
Steelcase, Inc.