

107 FERC ¶ 61,289  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

June 21, 2004

In Reply Refer To:  
Midwest Independent Transmission System  
Operator, Inc.  
Docket Nos. ER04-106-002, ER04-106-001,  
ER04-691-000, EL04-104-000  
(Not consolidated)

Midwest Independent Transmission  
System Operator, Inc.  
Attn: Lori A. Spence, Esq.  
Associate General Counsel  
701 City Center Drive  
Carmel, IN 46032

Dear Ms. Spence:

1. On May 26, 2004, in Docket No. ER04-106-002, the Midwest Independent Transmission System Operator, Inc. (MISO) submitted proposed revisions to Attachment P (List of Grandfathered Agreements) of its Open Access Transmission Tariff (OATT) to comply with the Commission's March 25, 2004 Order in Docket No. ER04-106-001.<sup>1</sup> That order accepted, subject to modifications, MISO's proposed revisions to Attachment P. Specifically, as discussed in paragraphs 14, 15, and 17 of that order, MISO was directed to: (1) list the agreements in Attachment P to the extent that MISO determined they met the definition of grandfathered agreements, as set forth in section 1.19 of MISO's OATT; (2) clarify certain points in its filing and develop more comprehensive, objective criteria for determining specifically which agreements would be included in Attachment P; (3) revise Attachment P to add, or remove, agreements that satisfied the criteria required therein; and (4) explain how agreements that MISO determined should be removed did not meet the criteria required therein.<sup>2</sup>

---

<sup>1</sup> Midwest Independent Transmission System Operator, Inc., 106 FERC ¶ 61,288 (2004).

<sup>2</sup> Separately, on June 1, 2004, in Docket Nos. ER04-106-001, et al., MISO filed a Motion to Consolidate and Request for Expedited Treatment. In view of our action herein, we are dismissing this motion as moot.

2. The instant filing is intended to comply with the above directives. MISO states that it conferred with the parties to the existing and potential grandfathered agreements and with its stakeholders prior to its filing to comply with the Commission's March 25, 2004 Order. MISO also notes that over 400 agreements are involved and that substantial information continues to be provided by the parties to the grandfathered agreements. MISO states that such information could potentially require additional modifications to Attachment P.

3. Notice of the filing was published in the Federal Register, 69 Fed. Reg. 32,338 (2004), with interventions, protests and comments due on or before June 16, 2004. Numerous protests, comments, and interventions were filed.<sup>3</sup> Pursuant to Rule 214 of the Commission's Rules of Practices and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding to the extent they are not already parties to this proceeding. The protestors contend that various agreements should have been included in Attachment P, whereas various other agreements should not have been included in Attachment P. Additionally, certain protestors raise issues regarding the criteria for determining which agreements should be included in Attachment P.

4. Upon review, we accept the criteria proposed by MISO to determine which agreements should be included in Attachment P, subject to further order by the Commission. The criteria provide standards that allow for agreements with similar terms and conditions to be included as grandfathered agreements on a consistent and objective basis in Attachment P.

5. We accept the filed Attachment P, subject to the outcome of the proceeding in Docket Nos. ER04-691-000 and EL04-104-000, and subject to further order in the instant proceeding in Docket No. ER04-106-002.<sup>4</sup> We recognize that, on May 26,

---

<sup>3</sup> Protests were filed by: Midwest Municipal Transmission Group; Hoosier Energy Rural Electric Cooperative, Inc.; Tennessee Valley Authority; Associated Electric Cooperative, Inc.; Dairyland Power Cooperative; Cities of Kirkwood, Centralia and Hannibal, Missouri; and Southern Minnesota Municipal Power Agency. Protests and Comments were filed by: Kansas City Board of Public Utilities; Michigan Public Power Agency; and Illinois Power Company. A protest and request for clarification was filed by Great River Energy. Comments were filed by: Michigan Electric Transmission Company; Wisconsin Public Power Inc.; Wisconsin Electric Power Company; and The Detroit Edison Company; LG&E Energy LLC.

<sup>4</sup> Following the outcome of the proceeding in Docket Nos. ER04-691-000 and EL04-104-000, we will address the protests in a further order in Docket No. ER04-106-002.

2004, we issued an order in Docket Nos. ER04-691-000 and EL04-104-000,<sup>5</sup> where, among other things, we set for hearing MISO's grandfathered agreements listed in the then-currently effective Attachment P, recognizing that Attachment P would be updated.<sup>6</sup>

6. Given the time constraints in the proceeding in Docket Nos. ER04-691-000 and EL04-104-000, it is our expectation that the Administrative Law Judges will use their discretion to use the latest, most up-to-date version of Attachment P that they reasonably can when evaluating the subject agreements in the hearing.

By direction of the Commission.

Magalie R. Salas,  
Secretary.

---

<sup>5</sup> Midwest Independent Transmission System Operator, Inc., et al., 107 FERC ¶ 61,191 (2004).

<sup>6</sup> See Midwest Independent Transmission System Operator, Inc. et al., 107 FERC ¶ 61,191 at P 69 n. 59 (2004).