

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Midwest Independent Transmission System Operator, Inc.	Docket No. ER05-6-039
Midwest Independent Transmission System Operator, Inc. PJM Interconnection, LLC, <i>et al.</i>	Docket No. EL04-135-041
Midwest Independent Transmission System Operator, Inc. PJM Interconnection, LLC, <i>et al.</i>	Docket No. EL02-111-054
Ameren Services Company, <i>et al.</i>	Docket No. EL03-212-055

ORDER APPROVING UNCONTESTED PARTIAL SETTLEMENT

(Issued May 16, 2006)

1. On January 27, 2006, Thumb Electric Cooperative, Inc; the Village of Sebewaing, Michigan; the City of Croswell, Michigan (collectively, TSC Systems) and The Detroit Edison Company (Detroit Edison) filed a Settlement Agreement (Settlement) which resolves all shift-to-shipper issues between TSC Systems and Detroit Edison in the above-captioned dockets. No comments were filed. On April 3, 2006, the Settlement Judge certified the Settlement as uncontested.
2. The Settlement is in the public interest and is hereby approved. Commission approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.
3. On July 23, 2003, the Commission issued an order which found the regional through and out rates between PJM Interconnection, L.L.C. (PJM) and the Midwest Independent System Operator, Inc. (Midwest ISO) unjust and unreasonable and,

accordingly, directed the elimination of those rates.<sup>1</sup> In addition, the Commission allowed load serving entities (LSE's) under existing contracts to demonstrate that the supplier is the shipper and propose to transfer a portion of their Seams Elimination Charge/Cost Adjustment/Assignment (SECA) obligation to the supplier, the "shift-to-shipper" issue.<sup>2</sup>

4. The Settlement provides a comprehensive resolution of the issues concerning TSC Systems' shift-to-shipper claim against Detroit Edison. Specifically, the Settlement provides that TSC Systems' maximum obligation for direct or indirect SECA charges is \$5,000 (Settled Maximum SECA Exposure) notwithstanding any larger amount assigned to TSC Systems. Detroit Edison shall pay TSC Systems the difference between the total SECA obligation for which the Midwest ISO has billed TSC Systems as of the Settlement Refund Date and the Settled Maximum SECA Exposure. After the Settlement Refund Date, any SECA charges owed by TSC Systems to the Midwest ISO or other billing entity will be paid by Detroit Edison. The Settled Maximum SECA Exposure established in the Settlement is a fixed amount that will not be adjusted.

5. This order terminates Docket Nos. ER05-6-039, EL04-135-041, EL02-111-054, and EL03-212-055.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>1</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 104 FERC ¶ 61,105 (2003) (Order on Initial Decision), *order on reh'g*, 105 FERC ¶ 61,212 (2003) (November 17 Order), *reh'g denied*, 105 FERC ¶ 61,216 (2003).

<sup>2</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 109 FERC ¶ 61,168 (2004), *reh'g pending*.

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(Issued May 16, 2006)

KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it accepts for filing a settlement that provides, in relevant part: “The standard of review for any modifications to this Settlement requested by a non-party to the Settlement and the Commission will be the most stringent standard permissible under applicable law.”

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Suedeen G. Kelly