

140 FERC ¶ 61,029
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

City of Pella, Iowa

v.

Docket Nos. EL10-77-000
EL10-77-001

Midwest Independent Transmission System
Operator, Inc.
MidAmerican Energy Company

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued July 16, 2012)

1. In this order, the Commission approves an uncontested settlement filed by MidAmerican Energy Company (MidAmerican) on January 30, 2012 (Settlement). The Settlement resolves all issues in the above-captioned proceedings. In addition, the Commission notes that the Settlement notes that, if the Settlement is accepted, the Commission should treat the requests for rehearing of MidAmerican, the Midwest ISO Transmission Owners, and the City of Pella, Iowa (Pella), in Docket No. EL10-77-001, as withdrawn.

I. Background

2. On July 2, 2010, Pella filed a Petition for Declaratory Order and a Complaint against Midwest Independent Transmission System Operator, Inc. and MidAmerican. Pella asked the Commission to classify Pella's 69 kV facilities as transmission facilities under the Midwest Independent Transmission System Operator, Inc.'s (MISO) Open Access Transmission, Energy and Operating Reserves Markets Tariff (Tariff). Pella also argued that MISO and MidAmerican had violated sections 205, 206, 211, and 212 of the Federal Power Act (FPA) and Commission policy by failing to recognize Pella's facilities as transmission facilities and by failing to compensate Pella for its facilities.

3. On February 2, 2011, the Commission issued an order granting in part and denying in part Pella's complaint and request for declaratory order. The Commission found that Pella's 69 kV facilities are transmission facilities.¹ However, the Commission denied Pella's complaint to the extent that it argued that MISO and MidAmerican had acted improperly by failing to compensate Pella for its facilities. In particular, the Commission found that Pella's 69 kV Facilities were not integrated with MISO's transmission system and, as a result, Pella was not eligible to receive credits for its facilities under section 30.9 of the Tariff.² The Commission based its decision on the fact that Pella's 69 kV facilities were directly interconnected to 69 kV facilities owned by MidAmerican that had been classified as distribution facilities. The Commission also found that MISO and MidAmerican had not violated the Tariff or the FPA by declining to include Pella's 69 kV Facilities for revenue sharing under the Tariff.³
4. On March 4, 2011, MidAmerican, Pella, and the Midwest ISO Transmission Owners filed requests for rehearing. MISO subsequently filed an answer to the requests for rehearing. Pella and MidAmerican each filed an answer to MISO's answer.
5. Pella and MidAmerican subsequently agreed to Alternative Dispute Resolution with the Commission Dispute Resolution Service, and, on January 30, 2012, MidAmerican filed the Settlement.
6. On February 14, 2012, Pella filed comments in support of the settlement.
7. In addition, since issuance of the Commission's order, MidAmerican has reviewed the delineation of its own electrical facilities and has determined that its non-radial 69 kV electrical facilities previously classified as local distribution, including the facilities that are interconnected with Pella's *facilities*, are now performing transmission functions. According to MidAmerican, the Iowa Utilities Board (Iowa Commission) and the Illinois Commerce Commission (Illinois Commission) have approved MidAmerican's proposal. Additionally, on April 20, 2012, MidAmerican filed a petition for a declaratory order requesting that the Commission approve its proposed re-delineation and re-classification of its electric facilities between transmission and local distribution.⁴

¹ *City of Pella, Iowa v. Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,081 (2011).

² *Id.* PP 92-95.

³ *Id.* PP 68-83, 108.

⁴ An order addressing MidAmerican's petition is being issued concurrently with this order. *MidAmerican Energy Company*, 140 FERC ¶ 61,028 (2012) .

II. Settlement

A. Overview

8. The Settlement resolves all matters at issue in this proceeding between the parties.⁵ Under the Settlement, the parties request that the rehearing requests pending at the Commission be stayed and that the Commission treat those rehearing requests as withdrawn if the Settlement is approved in a manner acceptable to all parties.⁶

9. Article III of the Settlement requires MidAmerican to make best efforts to complete the process of re-delineating its 69 kV facilities that are connected with Pella's 69 kV facilities at the relevant regulatory bodies, including the Iowa Board, the Illinois Commission, and the Commission.⁷ The Settlement also indicates that MidAmerican will timely amend or enter into documents that are necessary to enable Pella to receive compensation for its 69 kV facilities.⁸ Article V of the Settlement states that MidAmerican will not object to Pella's inclusion of all of its 69 kV non-radial transmission facilities in the transmission rates of MISO.⁹ The Settlement further provides that Pella will not contest re-delineation of MidAmerican's 69 kV network facilities before these regulatory bodies.¹⁰ Finally, the Settlement includes provisions addressing generation re-dispatch and operation of certain of Pella's facilities.¹¹

⁵ The Settlement states that the Midwest ISO Transmission Owners are not a party to the Settlement, but that they have authorized the parties to represent that they do not oppose the Settlement.

⁶ Settlement Agreement, Art. VIII.

⁷ *Id.*, Art. III. Additionally, on April 20, 2012, MidAmerican filed a petition for a declaratory order requesting that the Commission approve its proposed re-delineation and re-classification of its electric facilities between transmission and local distribution. An order addressing MidAmerican's petition is being issued concurrently with this order. *MidAmerican Energy Company*, 140 FERC ¶ 61,028 (2012).

⁸ Settlement Agreement, Art. III.

⁹ *Id.*, Art. V.

¹⁰ *Id.*, Art. III.

¹¹ *Id.*, Art. I, II.

B. Comments

10. On February 14, 2012, Pella filed comments expressing its full support for the Settlement.¹²

III. Substantive Matters

11. The Settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission's approval does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.¹³

The Commission orders:

The Settlement filed on January 30, 2012 is hereby approved, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹² Pella Comments at 1.

¹³ We note that, in accordance with Article VIII of the Settlement, our approval of the Settlement indicates that the parties deem the rehearing requests filed by the Midwest ISO Transmission Owners, Pella, and MidAmerican to have been withdrawn.