

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission  
System Operator, Inc.

Docket Nos. ER03-580-000  
ER03-580-001,  
ER03-580-002,  
ER03-580-003,  
ER03-580-004 and  
EL03-119-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued March 3, 2004)

1. On December 18, 2003, GridAmerica LLC (GridAmerica), the GridAmerica Companies,<sup>1</sup> the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), and certain Midwest ISO Transmission Owners<sup>2</sup>, filed a Stipulation and Agreement (Settlement) in the above-referenced dockets that resolves all issues in these proceedings. Comments were filed by Detroit Edison Company and the Midwest ISO. Both comments

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<sup>1</sup> The GridAmerica Companies are Ameren Services Company, as agent for its electric utility affiliates Union Electric Company d/b/a AmerenUE and Central Illinois Public Service Company d/b/a AmerenCIPS (“Ameren”); American Transmission Systems, Incorporated (“ATSI”) a subsidiary of FirstEnergy Corp. (“FirstEnergy”); and Northern Indiana Public Service Company (“NIPSCO”).

<sup>2</sup> For purposes of this Settlement the Midwest ISO Transmission Owners are: Central Illinois Light Co. d/b/a AmerenCilco: Cinergy Services Inc. (for Cincinnati Gas & Electric Co., PSI Energy, Inc., and Union Light Heat & PSI Energy, Inc., and Union Light Heat & Power Co.); Indianapolis Power & Light Company; LG&E Energy Corporation (for Louisville Gas and Electric Co. and Kentucky Utilities Co.); Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northwestern Wisconsin Electric Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (db/a Vectren Energy Delivery of Indiana); and Wabash Valley Power Association, Inc.

support approval of the Settlement as filed. No other comments were received. On January 29 2004, the Settlement Judge certified the Settlement to the Commission as uncontested.

2. The Settlement is in the public interest and is hereby approved. The revisions to the Open Access Transmission Tariff of the Midwest ISO are accepted for filing as designated. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

3. Within ninety (90) days from the date of this letter, the Midwest ISO shall pay refunds pursuant to the terms of the Settlement with interest computed under 18 C.F.R. § 35.19a (2003) of the Commission's regulations. Within fifteen (15) days after making such refunds, the Midwest ISO and the GridAmerica Companies shall file with this Commission a compliance refund report showing monthly billing determinants, revenue receipt dates, revenues under the prior, present, and settlement rates, the revenue refunds, and the monthly interest computed, together with a summary of such information for the total refund period. The Midwest ISO and the GridAmerica Companies shall furnish copies of the report to the affected wholesale customers and the state Commissions in the states where those wholesale customers serve retail customers.

4. This order terminates Docket Nos. ER03-580-000, ER03-580-001, ER03-580-002, ER03-580-003, ER03-580-004, and EL03-119-000.

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

( S E A L )

Linda Mitry,  
Acting Secretary.

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(Issued March 3, 2004)

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 approves a settlement that provides in Section 8.2 that “revisions to this Settlement following its approval by the Commission will be governed by the ‘public interest’ standard.”

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Suedeem G. Kelly