

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

American Electric Power Service Corporation	Docket No. ER05-31-002 ER05-31-003
PJM Interconnection, LLC and Midwest Independent Transmission System Operator, Inc.	Docket No. EL05-70-001 EL05-70-002 EL05-70-003

ORDER ON REHEARING AND COMPLIANCE

(Issued July 26, 2005)

1. On April 8, 2005, PJM Interconnection, LLC (PJM) and American Electric Power Service Corporation (AEP) submitted requests for rehearing, in Docket Nos. ER05-31-002 and EL05-70-001, of the Commission's March 9, 2005 Order in these proceedings.<sup>1</sup> In the March 9 Order, the Commission conditionally accepted for filing a revised utility-to-utility interconnection agreement between Indiana Michigan Power Company (I&M) and Northern Indiana Public Service Company (NIPSCO). The Commission directed AEP and NIPSCO to file a revised agreement within 60 days including PJM and Midwest Independent Transmission System Operator, Inc. (Midwest ISO) as signatories to the agreement. Additionally, the March 9 Order required PJM and Midwest ISO to either designate this agreement as related to their Open Access Transmission Tariffs (OATTs) and provide such designations, or show cause why the agreement should not be so designated. In this order, the Commission will deny the requests for rehearing.

2. On April 8, 2005, PJM submitted a filing in Docket No. EL05-70-002 with the PJM OATT designation for the interconnection agreement. Additionally, on May 9,

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<sup>1</sup> *American Electric Power Service Corp.*, 110 FERC ¶ 61,276 (2005) (March 9 Order).

2005, in Docket Nos. ER05-31-003 and EL05-70-003, AEP submitted a compliance filing containing a revised copy of the interconnection agreement with the assigned PJM and Midwest ISO OATT designations, as required by the March 9 Order. In this order, the Commission will accept these compliance filings.

### **Background**

3. On October 12, 2004, and as amended on January 11, 2005, AEP, as agent for I&M, submitted for filing a revised composite utility-to-utility interconnection agreement between I&M and NIPSCO. This interconnection agreement sets forth the terms and conditions under which I&M and NIPSCO may continue the interconnected operation of their respective systems.

4. In the March 9 Order, the Commission conditionally accepted the interconnection agreement for filing. The Commission noted that the interconnection agreement between I&M and NIPSCO contains provision regarding the interconnected operation of their respective systems, which are under the operational control of PJM and Midwest ISO, respectively. Further, the Commission noted that in *Ameren Operating Companies*, 108 FERC ¶ 61,189 at P 4 (2004), it required Midwest ISO to be a signatory to a similar interconnection agreement, because Midwest ISO “has the responsibility to reliably operate and plan for transmission facilities under its management and control,” including the system covered by the interconnection agreement at issue in that case.<sup>2</sup> Consistent with this precedent, the Commission required in the March 9 Order that both PJM and Midwest ISO be signatories to the interconnection agreement because the two Regional Transmission Organizations (RTOs) each have operational and planning authority for the systems covered by the agreement.<sup>3</sup>

5. Additionally, in the March 9 Order the Commission instituted a proceeding under section 206 of the Federal Power Act (FPA),<sup>4</sup> and directed PJM and Midwest ISO to either designate the interconnection agreement as related to their OATTs and provide that designation, or show cause why the interconnection agreement should not be so designated. The Commission explained that designating the interconnection agreement as related to the PJM and Midwest ISO OATTs would make them “readily accessible to

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<sup>2</sup> *Id.* at P 8.

<sup>3</sup> *Id.*

<sup>4</sup> 16 U.S.C. § 824e (2000).

interested parties[,] . . . promote ‘one stop shopping’ for customers in the PJM and Midwest ISO footprints, and . . . enhance the transparency of the PJM and Midwest ISO Transmission Owners’ operations.”<sup>5</sup>

**Requests for Rehearing – Docket Nos. ER05-31-002 and EL05-70-001**

6. PJM and AEP both assert that the Commission erred in ruling that PJM and Midwest ISO should be signatories.<sup>6</sup> PJM and AEP contend that the nature of the interconnection agreement, which addresses how the I&M and NIPSCo facilities are physically interconnected, does not require that PJM (or the Midwest ISO) be a signatory.<sup>7</sup> PJM notes that the interconnection agreement sets forth terms and conditions regarding such matters as metering, energy losses, records retention, indemnification and insurance, and commits the parties to maintaining their equipment consistent with good utility practice. PJM argues that transferring the operational control of transmission facilities to the RTO does not eliminate the need for these kinds of agreements, because individual transmission owners are still responsible for maintaining the physical integrity of their systems. PJM states that, to the best of its knowledge, all transmission owners have separate physical interconnection agreements addressing access to facilities and maintenance and repair obligations, among other matters. According to PJM, these agreements address the physical aspect of interconnections, and not the operational matters covered by PJM’s governing documents. Accordingly, PJM asserts that there is no need for it to be involved in such agreements.<sup>8</sup> Furthermore, PJM notes that its Transmission Owners Agreement specifically contemplates and, in fact, requires that PJM transmission owners who are connected to the facilities of an entity who is not a PJM transmission owner execute a physical interconnection agreement.

7. PJM argues that, in several recent cases involving “wires-to-wires” agreements similar to the agreement at issue here, the Commission has required only that the

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<sup>5</sup> *Id.* at P 9-10.

<sup>6</sup> AEP states that it adopts PJM’s arguments on rehearing. *See* AEP Request for Rehearing at 2-3.

<sup>7</sup> AEP adds that requiring RTOs to be a signatory to such agreements does not advance their “central mission – the independent provision of open, non-discriminatory, transmission service.” *Id.* at 3.

<sup>8</sup> PJM adds that such agreements do not conflict with any PJM requirements.

agreements be designated as related to the RTO's tariff, and not that the RTO become a signatory.<sup>9</sup> For example, PJM contends that in *Delmarva*, the Commission did not require PJM to become a signatory to mutual operating agreements between a PJM transmission owner and non-PJM municipal electric systems. According to PJM, the interconnection agreement between I&M and NIPSCO is similar to the mutual operating agreements considered in that case. PJM also asserts that the agreements in *Delmarva* included terms similar to those that the Commission considered "operational" in the March 9 Order.

8. Finally, PJM argues that the March 9 Order is internally inconsistent. Specifically, PJM notes that the order states that designating the interconnection agreement under the PJM tariff does not imply that PJM (or Midwest ISO) has any additional obligations or liability with regard to the agreement. PJM asserts that requiring PJM to be a party to the agreement, however, will in fact impose additional obligations and liabilities on PJM.

9. AEP, in addition to the arguments noted above, also asserts in its rehearing request that requiring PJM and Midwest ISO to be signatories to the interconnection agreement will result in duplicate administrative responsibilities for the RTOs, making administration more difficult and increasing costs.

### **Commission Conclusion**

10. The Commission will deny the requests for rehearing of AEP and PJM. We continue to believe that PJM and the Midwest ISO, which are charged with planning and reliably operating the transmission systems under their control, must be parties to agreements like the interconnection agreement between I&M and NIPSCO that is at issue here. Even accepting for sake of argument that the interconnection agreement at issue here only addresses the physical interconnection of the I&M and NIPSCO systems as opposed to the operation of the systems, as PJM suggests, we nonetheless find that it is important that PJM and Midwest ISO be a signatory to these types of agreements.<sup>10</sup> The

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<sup>9</sup> See PJM Request for Rehearing at 6-8, citing *PPL Electric Utilities Corp.*, 110 FERC ¶ 61,248 (2005) (*PPL*); *Delmarva Power & Light Co.*, 110 FERC ¶ 61,186 (2005) (*Delmarva*); *American Electric Power Service Corp.*, 110 FERC ¶ 61,187 (2005); *Virginia Electric and Power Co.*, 110 FERC ¶ 61,348 (2005).

<sup>10</sup> We are not persuaded by PJM's assertion that certain provisions in the interconnection agreement identified in the March 9 Order as "operational" in nature do not pertain to the actual operation of the I&M and NIPSCO transmission systems.

(continued)

Commission requires PJM and Midwest ISO to be signatories to the interconnection agreement to ensure that they are fully apprised of the matters addressed and to ensure, before the agreement is executed, that the RTOs have had an opportunity to raise with the relevant transmission owners any reliability concerns that they may have. The Commission believes that this requirement will best ensure that the RTOs can continue to plan and operate the facilities under their control in a safe and reliable manner.<sup>11</sup>

11. The interconnection agreement between I&M and NIPSCo at issue here contains provisions regarding interruption of service, control of reactive power exchange, control of unscheduled energy, control of certain breakers, and maintenance of existing facilities. The agreement also sets forth the points of interconnection. Agreements between transmission-owning members of RTOs addressing these types of issues necessarily impact the operation of the transmission facilities by the relevant RTOs. In particular, the RTOs, as the operators of the transmission facilities, must have the opportunity, before the agreement is executed, to raise reliability and operations-related concerns. Requiring the RTO to be a signatory to the agreement versus providing it with just an opportunity to comment ensures that RTO is actively involved and reviews the document in a timely manner to ensure that any reliability and operations-related concerns are addressed prior to the agreement's execution and filing. Furthermore, the operator should have knowledge of the design and other physical characteristics of the facilities, and likewise of the operational characteristics of the facilities, covered by such agreements. Such information can be critical to operate and control the transmission system, particularly in emergency situations.<sup>12</sup> PJM itself acknowledges that interconnection agreements like the I&M-NIPSCo interconnection agreement at issue in this case are necessary, and in the case of PJM members who are interconnected with a non-PJM entity (like NIPSCo), required by the PJM tariff.

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Regardless, as discussed in this order, even assuming that these provisions are not "operational," the Commission will deny rehearing.

<sup>11</sup> This information can also be particularly crucial when the systems covered by the agreement are at a seam between two RTOs, like NIPSCo and I&M. *See, e.g., Northern Indiana Public Service Co. v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,474 (2005) (order on complaint regarding congestion, and resulting operational problems, on the NIPSCo system at the seam between Midwest ISO and PJM).

<sup>12</sup> *See id.*

12. PJM's reliance on several recent Commission orders regarding "wires-to-wires" interconnection agreements is misplaced. The agreements considered in each of those cases are different from the I&M/NIPSCO interconnection agreement, and thus not instructive in this proceeding. In *PPL*, for example, the Commission found that PJM was not required to be a signatory to a letter agreement permitting PPL Electric Utilities Corporation to act as an agent for a generator in submitting plant output data to PJM. Such an agency agreement is not likely to have an impact on the transmission system like the interconnection agreement at issue here will. Furthermore, in the other three cases cited by PJM, the agreements at issue involved local delivery services, local interconnections or transmission-distribution interconnections, which are fundamentally different from transmission-transmission interconnections.<sup>13</sup> An interconnection with lower-voltage distribution facilities, including radial distribution facilities, is likely to have far less effect on the interconnected systems that the RTOs are responsible for planning and operating than a higher voltage, transmission-to-transmission interconnection. As the Commission recently explained in *American Transmission Company*, transmission-distribution interconnection agreements have a limited impact on the transmission system, and thus do not require that the RTO be a signatory.<sup>14</sup>

13. Furthermore, we reject PJM's contention that the March 9 Order is internally inconsistent. Requiring that PJM and Midwest ISO become signatories to the interconnection agreement does not necessarily require that they assume any added obligations or liabilities under the agreement, and PJM does not explain how merely being a signatory to the interconnection agreement, without the agreement expressly imposing any additional obligations or liabilities on PJM (or the Midwest ISO), would require PJM (or the Midwest ISO) to assume any additional obligations or liabilities.

14. Finally, we are not persuaded by AEP's argument that requiring PJM and Midwest ISO to be signatories to the I&M/NIPSCO interconnection agreement will duplicate RTO administrative responsibilities and increase RTO costs. AEP does not explain how such duplication of administrative responsibilities will occur, or how costs will be increased. Both PJM and Midwest ISO, in short, should be signatories to the interconnection agreement because each RTO has planning and operating criteria and responsibilities that may be impacted by the terms of the agreement.

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<sup>13</sup> See *supra* note 9.

<sup>14</sup> 111 FERC ¶ 61,350 at P 7 (2005).

**Compliance Filings – Docket Nos. ER05-31-003, EL05-70-002 and EL05-70-003**

15. On April 8, 2005, PJM submitted a compliance filing in Docket No. EL05-70-003 that provides a tariff sheet designation for the I&M/NIPSCo interconnection agreement.

16. On May 9, 2005, AEP submitted a compliance filing in Docket Nos. ER05-31-003 and EL05-70-003. The compliance filing contains a revised interconnection agreement between I&M and NIPSCo that includes tariff sheet designations under the PJM and Midwest ISO OATTs. AEP states in the filing that, with respect to the Commission's requirement in the March 9 Order that PJM and Midwest ISO become signatories to the interconnection agreement, it was unable to obtain the signatures of either RTO. AEP notes that it and PJM submitted requests for rehearing regarding this requirement. Additionally, AEP reports in its compliance filing that Midwest ISO has stated that it will sign the interconnection agreement, but has not yet responded to AEP's requests for a signature.

**Commission Conclusion**

17. We will accept PJM's April 8, 2005 compliance filing, designating the interconnection agreement under its OATT. Additionally, the Commission will accept that portion of AEP's May 9, 2005 compliance filing that includes tariff sheet designations under the PJM and Midwest ISO OATTs.

18. With regard to that portion of AEP's May 9, 2005 compliance filing describing its efforts to obtain the signatures of PJM and Midwest ISO, the Commission will, consistent with our determination on rehearing above, direct AEP and NIPSCo to file, within 30 days, a revised interconnection agreement that includes PJM and Midwest ISO as signatories.

**The Commission orders:**

(A) The requests for rehearing are hereby denied, as discussed in the body of this order.

(B) The tariff sheet designations under the PJM and Midwest ISO OATTs submitted by PJM and AEP are hereby accepted, as discussed in the body of this order.

(C) AEP and NIPSCo are hereby directed to file, within 30 days of the date of this order, a revised interconnection agreement that includes PJM and Midwest ISO as signatories, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.