

**E-3/E-5. Docket Numbers: ER05-1236-000/ER05-1235-000**

**Statement of Chairman Joseph T. Kelliher on Duke and MidAmerican ICTs  
December 15, 2005**

Today, the Commission approves two independent coordinator of transmission (ICT) proposals filed by Duke and MidAmerican. I refer to them as ICT proposals for purposes of short-hand; the actual acronyms used by Duke Power and MidAmerican Energy Company are different, namely “Independent Entity” and “Transmission Service Coordinator”.

I want to clarify that these filings are unrelated to the merger orders. They were filed separately from the merger filings, and the Commission did not approve the mergers conditioned on the ICTs. As I indicated earlier, Commission merger analysis concentrates on any competitive harm caused by the merger, not pre-existing conditions. The Commission is limited in conditioning mergers to mitigating harm caused by mergers. In the case of the Duke and MidAmerican mergers, the Commission found that the mergers posed no competitive harm.

The Duke and MidAmerican ICT proposals were considered by the Commission under the “consistent with or superior to” test. They were both approved because the Commission determined that assigning certain Open Access Transmission Tariff (OATT) functions to an independent third party is an improvement over the transmission service offered under the Duke and MidAmerican OATTs.

Under these proposals, the ICT will evaluate and approve transmission service requests, calculate Total Transfer Capacity and Available Transfer Capability, operation of OASIS, disposition of interconnection requests, and coordination of transmission planning.

These ICT filings vary from each other in some respects. Approval of MidAmerican ICT proposal is conditional because the TSC Agreement is incomplete in many areas and there is a need to eliminate provisions that would impair ICT independence.

Establishment of these ICTs should provide greater confidence in the independence and transparency of the operation of the Duke and MidAmerican transmission systems.

Both of these ICT filings were voluntary and both meet the “consistent with or superior to” test under the OATT.

I support the orders.