

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 Nos. ER06-30-000 and  
ER06-30-001

ORDER REJECTING INTERCONNECTION AGREEMENT

(Issued January 27, 2006)

1. In this order we reject an executed Large Generator Interconnection Agreement (LGIA) among Midwest Independent Transmission System Operator, Inc. (Midwest ISO), Union Electric Company d/b/a Ameren UE (Union Electric), and Central Illinois Public Service Company d/b/a AmerenCIPS (Central Illinois) to interconnect Union Electric's Large Generating Facility to Central Illinois' transmission system.

**Background**

2. On October 11, 2005, as amended on November 29, 2005, Midwest ISO submitted for filing an executed LGIA among itself, Union Electric and Central Illinois. The LGIA contains a deviation from Midwest ISO's Order No. 2003 *pro forma* interconnection agreement.<sup>1</sup> Midwest ISO states that the non-conforming provision in Article 4.1 (Interconnection Product Options), addresses operational and other unique factors specific to this interconnection. Specifically, Midwest ISO states that the deviation allows Union Electric, the interconnection customer, to obtain conditional Network Resource interconnection service until a higher queued project goes into service. At that time, Midwest ISO states that Union Electric may need to be re-designated as an Energy Resource interconnection service or, in the alternative, may request to be restudied to determine what amount of generating capacity may remain as Network Resource interconnection service.

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<sup>1</sup> See *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (August 19, 2003), FERC Stats.& Regs. ¶ 31,146 (2003) (Order No. 2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (March 26, 2004), FERC Stats.& Regs. ¶ 31,160 (2004) (Order No. 2003-A), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (January 4, 2005), FERC Stats.& Regs. ¶ 31,171 (2005) (Order No. 2003-B), *order on reh'g*, Order No. 2003-C, FERC Stats.& Regs. ¶ 31,190 (2005) (Order No. 2003-C).

3. Midwest ISO states that the non-conforming provision in Article 4.1 addresses the situation where, because of existing constraints on the transmission system, the interconnection customer seeking Network Resource status does not qualify for unconditional Network Resource status until additional studies or upgrades are completed. Midwest ISO states that if the interconnection customer does not opt to fund the additional studies to determine the extent of upgrades necessary to obtain unconditional Network Resource status, the interconnection customer can seek to obtain conditional Network Resource status to the extent such service is available on the transmission system at that time. Midwest ISO states that the non-conforming provision in Article 4.1 clarifies the concept addressed in Article 5.9 (Limited Operation) of the *pro forma* IA and provides an additional option for the interconnection customer that maximizes the efficiency and use of the grid while higher-queued projects are being completed. Furthermore, Midwest ISO states that Article 4.1 also addresses the uncertainty of higher-queued projects going into service or being completed and allows the Transmission Provider and Transmission Owner to be able to coordinate to defer network upgrades until the higher-queued project actually goes into service.

4. Midwest ISO also indicates that the non-conforming provision in Article 4.1 comports with section 3.2 of the LGIA, which provides that once an interconnection customer requests Network Resource service, it may also request that it be concurrently studied for Energy Resource service. Under section 3.2, the interconnection customer may elect to proceed with Network Resource service or proceed under a lower level of interconnection service to the extent only certain upgrades will be completed. According to Midwest ISO, the proposed non-conforming provision in Article 4.1 is consistent with section 3.2 of the *pro forma* LGIA because Article 4.1 lets the interconnection customer obtain conditional Network Resource service, which is a step down from non-conditional Network Resource service. Midwest ISO states that the non-conditional nature of Network Resource service under Article 4.1 is consistent with the lower level of interconnection service described in section 3.2 of the LGIA.

### **Notice of Filings**

5. Notice of Midwest ISO's October 11, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 61,804 (2005), with interventions or protests due on or before November 1, 2005. None were filed. Notice of Midwest ISO's November 29, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 76,795 (2005), with interventions or protests due on or before December 20, 2005. None were filed.

## Discussion

6. In Order No. 2003, the Commission required Transmission Providers (such as Midwest ISO) to file *pro forma* interconnection documents and to offer their interconnection customers service consistent with these documents.<sup>2</sup> The use of *pro forma* documents ensures that interconnection customers receive non-discriminatory service and that all interconnection customers are treated on a consistent and fair basis. Using *pro forma* documents also streamlines the interconnection process by eliminating the need for an interconnection customer to negotiate each individual agreement. This reduces transaction costs and reduces the need to file interconnection agreements with the Commission to be evaluated on a case-by-case basis.<sup>3</sup> However, at the same time, the Commission recognized in Order No. 2003 that there would be a small number of extraordinary interconnections where reliability concerns, novel legal issues or other unique factors would call for the filing of a non-conforming agreement.<sup>4</sup> The Commission made clear that the filing party must clearly identify the portions of the interconnection agreement that differ from its *pro forma* agreement and explain why the unique circumstances of the interconnection require a non-conforming interconnection agreement.<sup>5</sup>

7. We recognize that the type of provision filed here can provide benefits. It allows the interconnection customer to receive a higher level of interconnection service, albeit on a conditional basis. It would leave queue positions undisturbed and would make use of available capacity, which results in a more efficient use of the transmission system. However, we see no reason why these benefits should only be available to this particular customer and Midwest ISO has failed, accordingly, to justify acceptance of this provision on a non-conforming basis. Such a right, if offered, must be offered in a not unduly discriminatory manner. Therefore, in order to ensure that all similarly situated interconnection customers are treated on a consistent and fair basis, we will reject the

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<sup>2</sup> See Order No. 2003.

<sup>3</sup> See *Id.* at P 10 (“it has become apparent that the case-by-case approach is an inadequate and inefficient means to address interconnection issues”).

<sup>4</sup> *Id.* at PP 913-15.

<sup>5</sup> Order No. 2003-B at P 140 (“each Transmission Provider submitting a non-conforming agreement for Commission approval must explain its justification for each non-conforming provision”).

non-conforming agreement filed by Midwest ISO. Midwest ISO may amend its *pro forma* tariff under the consistent with or superior to standard to include the proposed non-conforming provision. If it does not do so, it must remove the provision from the instant interconnection agreement.

The Commission orders:

The LGIA is rejected, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.