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. and FirstEnergy Services Company — Docket No. ER06-532-002

ORDER ON REHEARING

(Issued June 27, 2006)

1. This order denies American Municipal Power-Ohio, Inc.'s (AMP-Ohio) request for rehearing of the Commission's order which conditionally accepted proposed changes to American Transmission Systems, Inc.'s (American Transmission) transmission rate formula in Attachment O to Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) Open Access Transmission and Energy Markets Tariff (TEMT).[1]

Background

2. Under the TEMT American Transmission has continued to recover, from sources other than load in its license plate pricing zone, revenues that otherwise would have been lost due to the elimination of rate pancaking for transmission service within Midwest ISO, for a transitional period commencing October 1, 2003 (when it became a member of Midwest ISO) through October 31, 2005.[2] Additionally, on December 1, 2004, a new pricing structure took effect that eliminated through and out rates (because they resulted in rate pancaking) for transmission service between Midwest ISO and PJM Interconnection, LLC (PJM) and replaced them with a license plate rate design for service over the combined Midwest ISO/PJM region, together with a transitional rate mechanism to recover revenues that otherwise would have been lost due to the elimination of rate pancaking during a 16-month transition period ending March 31, 2006.[3]

---

[1] *Midwest Independent Transmission System Operator, Inc. and FirstEnergy Service Company*, 114 FERC ¶ 61,274 (2006) (March Order).

[2] *Midwest Independent Transmission System Operator, Inc.*, 103 FERC ¶ 61,090 (2003), *order approving settlement*, 106 FERC ¶ 61,200 (2004).

[3] This transitional rate mechanism, named Seams Elimination Charge/Cost Adjustment/Assignment (SECA), is currently the subject of an ongoing proceeding in Docket No. ER05-6, *et al.* *See Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,168 (2004), *order on clarification*, 109 FERC ¶ 61,243 (2005).

3. In the March Order, the Commission addressed proposed changes submitted by Midwest ISO and FirstEnergy Services Company (FirstEnergy), on behalf of American Transmission, (collectively, the Applicants) to American Transmission's transmission rate formula in Attachment O to the Midwest ISO TEMT.[4] In their filing, Applicants stated that the proposed changes to American Transmission's Attachment O formula rate were necessary because the Commission's orders that introduced a new pricing structure, as described above, permanently eliminated revenues associated with through and out service, *i.e.*, from sources other than the load in American Transmission's zone. Applicants explained that, although the elimination of through and out rates became effective December 1, 2004, revenues associated with through and out service continued through the transitional SECA adopted by the Commission and the continuation of through and out rates for certain pre-existing transactions, both of which expired on March 31, 2006.[5]

4. However, Applicants added that, since American Transmission's Attachment O formula rate is based on past calendar year data, revenues associated with through and out service would continue to be reflected as a revenue credit after March 31, 2006, even though American Transmission would no longer be receiving these revenues. Thus, as of April 1, 2006, the rates under American Transmission's Attachment O formula rate would no longer adequately reflect American Transmission's actual revenues because the revenue credits would include amounts for revenues that American Transmission no longer received due to the elimination of the revenues associated with through and out service.[6]

5. In support of their filing, Applicants stated that, although the Attachment O formula rate would eventually update to reflect the eliminated revenues, this would not occur until June 1, 2008, and American Transmission would significantly under-recover its revenue requirement from April 1, 2006 through May 31, 2008. Since the under-recovery of its revenue requirement arose as a result of the Commission's elimination of through and out rates, the Applicants proposed a so-called Revenue Credit Correction so that American Transmission could fully recover its revenue requirement upon the termination of the transitional SECA lost revenue recovery mechanism on March 31, 2006.[7]

---

[4] American Transmission, a stand-alone transmission company and a subsidiary of FirstEnergy, is a transmission-owning member of Midwest ISO, and transmission service over the American Transmission system is provided under the Midwest ISO TEMT. Attachment O to the TEMT contains formulas used in calculating rates for transmission service under the TEMT, including the license plate zonal rates for transmission service for delivery to load within each transmission owner's zone.

[5] March Order, 114 FERC ¶ 61,274 at P 5.

[6] *Id.* at P 5, 7.

[7] *Id.* at P 7-8.

6. In the March Order, the Commission found that, in the proposed changes to American Transmission's Attachment O formula rate, revenue credits would continue to be calculated using the same historical test period that is used to calculate other inputs to the formula rate, but the manner in which that test period data is reflected is changed to reflect the change in the rate design for through and out service in the Midwest ISO/PJM region. The Commission found that these requested changes to the Attachment O formula rate were necessary to provide American Transmission the opportunity for full recovery of its revenue requirement, given the change in rate design for through and out service in the Midwest ISO/PJM region.[8]

7. In the March Order, the Commission also rejected AMP-Ohio's arguments that American Transmission should not be allowed to make adjustments to one input of the formula rate without examining other inputs, and that American Transmission should update other aspects of its formula rate.[9]

AMP-Ohio's Request for Rehearing

8. On April 17, 2006, AMP-Ohio filed a request for rehearing of the March Order, alleging that the Commission erred in: (1) rejecting AMP-Ohio's contention that piecemeal changes to a formula rate should not be permitted; (2) finding that it is unnecessary to reflect a more fully updated cost-of-service when permitting a formula rate to increase on the basis of one element; and (3) failing to direct American Transmission to make whatever filing may be necessary in the future to assure that revenues from load outside its service area are reflected contemporaneously in its formula rate.

Discussion

9. We find that AMP-Ohio's request for rehearing basically repeats the arguments it made previously in its protest in this proceeding. In the March Order, the Commission responded to AMP-Ohio's assertion that American Transmission should not be allowed to make adjustments to one input of the formula rate (*e.g.*, revenue credits) without examining other inputs, such as load included in the rate divisor and the return on equity, that according to AMO-Ohio may have the effect, if updated, of lowering transmission charges. The Commission rejected AMP-Ohio's arguments, stating that the Commission had previously found that it was unnecessary to require an updated cost-of service analysis to reflect the change in rate design associated with the elimination of rate

---

[8] *Id.* at P 15.

[9] *Id.* at P 16.

pancaking. The Commission also noted that, in any event, the proposed change to the formula rate would be subject to the outcome of the proceeding in Docket No. ER05-6, *et al.*[10]

10. We continue to find that there is no need to require an updated cost-of-service analysis and to adjust any other inputs to the formula rate in order to find that the proposed change in American Transmission's Attachment O formula rate is just and reasonable. The Revenue Credit Correction is a discrete transitional mechanism that is intended to only, and that does only, reduce the amount of the revenue credits that are incorporated into the calculation of American Transmission's zonal transmission rate, commencing April 1, 2006 -- to recognize the reduction in revenues from sources other than load in American Transmission's zone due to the Commission-ordered change in allocation and rate design for transmission service in the Midwest ISO/PJM region. The proposed Revenue Credit Correction, in essence, changes the mechanism for allocating the revenue requirement among services provided during the test period, to reflect the license plate rate design adopted in the Commission's orders in Docket No. ER05-6, *et al.*, for service between the Midwest ISO and PJM regions. The Revenue Credit Correction is an essential adjustment to American Transmission's rate design because the elimination of through and out rates and the corresponding elimination of through and out revenues are not otherwise accounted for in American Transmission's Attachment O formula rate.

11. We reject AMP-Ohio's characterization of the Revenue Credit Correction as a selective out-of period adjustment requiring that other formula inputs be reviewed to determine if updates to those inputs would lower the zonal transmission rates. The Commission has previously adopted changes in rate design without opening the level of the utility's revenue requirement to review.[11] In this regard, we emphasize that the Revenue Credit Correction does not change the level of American Transmission's revenue requirement or the test-period used for any input to the formula rate -- the rates will reflect the costs and level of service on the American Transmission system for the same historical test year. Rather, the Revenue Credit Correction changes the allocation of costs among services, to reflect the new rate design adopted by the Commission. The proposed change, therefore, does not result in cost over-recovery (indeed, without it there

---

[10] *Id.*

[11] *See Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, FERC Stats. & Regs. ¶ 30,939 at 30,437, *order on reh'g*, Order No. 636-A, FERC Stats. & Regs. ¶ 30,950 at 30,607, *order on reh'g*, Order No. 636-B, 61 FERC ¶ 61,272 (1992), *order on reh'g*, 62 FERC ¶ 61,007 (1993), *aff'd in part and remanded in part sub nom. United Distribution Cos. v. FERC*, 88 F.3d 1105 at (D.C. Cir. 1996).

would be cost under-recovery) and is consistent with the rate design adopted by the Commission for this region. Accordingly, we continue to find the proposal just and reasonable without further adjustment.[12]

12. Finally, AMP-Ohio argues that the March Order failed to address its request that, if the Revenue Credit Correction is accepted, the Commission order American Transmission to incorporate as well, on a contemporaneous basis, the reflection of any revenues received by American Transmission from sources other than load in its zone that are intended to replace in whole or in part the through and out rate or SECA revenues that have been eliminated. We note that American Transmission, in its answer filed February 27, 2006, already committed to recognize any revenues that it receives in replacement of through and out rates or SECA revenues. American Transmission noted that the proposed language of the Revenue Credit Correction states that, should the Commission issue an order modifying the revenues included in the Revenue Credit Correction, an adjustment will be made to reflect the ordered revenue modification. American Transmission stated that it believes that this language already requires it to incorporate any revenues it may receive in the future from sources outside its zone and, in any event, it again commits to make a new filing, if necessary, to capture such changes. Consequently, we expect that, consistent with this commitment, American Transmission will make a new filing, as necessary, to incorporate any revenues it may receive in the future from load outside its service area.

<u>The Commission orders</u>:

AMP-Ohio's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

[12] The Commission monitors and reviews cost-based rates to ensure that they continue to be just and reasonable. When there is reason to believe that the level of a rate on file may no longer be just and reasonable, the Commission takes appropriate action. *See* 16 U.S.C. § 824e (2000).