

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Jon Wellinghoff.

Midwest Independent Transmission System Operator, Docket No. ER06-586-002
Inc.

ORDER DENYING REHEARING
AND CLARIFICATION

(Issued October 25, 2006)

1. On June 26, 2006, Great River Energy (Great River) and Xcel Energy Services Inc. (Xcel Energy),¹ filed a joint request for rehearing of the Commission's May 26, 2006 Order in this proceeding.² In the alternative, if the Commission denies rehearing, Great River and Xcel Energy request clarification of the May 26, 2006 Order. The May 26, 2006 Order accepted for filing Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and Southern Minnesota Municipal Power Agency's (SMMPA) proposed revised formula rate for determining SMMPA's annual transmission revenue requirements. As discussed below, we deny Great River and Xcel Energy's request for rehearing and clarification.

Background

2. On January 31, 2006, in anticipation of SMMPA joining the Midwest ISO,³ the Midwest ISO and SMMPA (Applicants) proposed revisions, pursuant to section 205 of

¹ Xcel Energy states that its request for rehearing is on behalf of its utility operating company affiliates Northern States Power Company and Northern States Power Company (Wisconsin) (NSP Companies).

² *Midwest Independent Transmission System Operator, Inc.*, 115 FERC ¶ 61,252 (2006) (May 26, 2006 Order).

³ SMMPA became a Transmission Owning member of the Midwest ISO effective April 1, 2006.

the Federal Power Act (FPA),⁴ to the *pro forma* Attachment O formula rate template under the Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT) for the purpose of determining SMMPA's annual transmission revenue requirements more accurately.

3. Applicants stated that SMMPA was a participant in the proposed TRANSLink Transmission Company and would become a Transmission Owner member of Midwest ISO. As part of that proposal, Applicants stated that SMMPA completed the generic Attachment O formula rate template and discovered that certain aspects of the generic template⁵ did not apply to SMMPA's unique circumstances upon joining the Midwest ISO. As a result, Applicants proposed four specific changes to the Attachment O formula rate to reflect these circumstances: (1) direct assignment of certain intangible plant payments to transmission because the payments were made to access transmission owners' systems in lieu of building facilities; (2) use of a personnel work activity study to determine the wages and salary (W&S) allocation factor; (3) direct assignment of the transmission amount of the interest portion of commercial paper costs as a component of Debt Service Cost; and (4) use of functionally identifiable Payments in Lieu of Property Taxes for transmission instead of the general plant (GP) allocator to derive the transmission.

4. On March 15, 2006, the Director, Division of Tariffs and Market Development-Central, acting pursuant to delegated authority, issued a deficiency letter requesting additional information from Applicants for the purpose of evaluating the four proposed changes to the *pro forma* Attachment O formula rate. In addition, SMMPA was directed to explain how the transmission revenue credit that SMMPA received from the Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (NSP Companies), pursuant to settlement agreements,⁶ would be treated in the proposed

⁴ 16 U.S.C. § 824d (2000).

⁵ The generic versions of Attachment O in the Midwest ISO's TEMT may use one of three different data sources (FERC Form 1, RUS Form 12, and EIA-DOE Form 412). As a joint action agency serving municipal member customers, SMMPA uses the Cash Flow formula rate template found in Attachment O of the Midwest ISO's TEMT sourcing to the EIA-DOE Report No. 412.

⁶ See Northern States Power Co.(Minnesota) and Northern States Power Co. (Wisconsin), OA97-25-000, *et al.*, Letter Order issued May 17, 2000, 91 FERC ¶ 61,136 (2000); and Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin), OA97-25-000, *et al.*, Letter Order issued December 20, 1999, 89 FERC ¶ 61,300 (1999).

Attachment O formula rate template. The deficiency letter stated that SMMPA received transmission credits from the NSP Companies to compensate SMMPA for the revenue requirement associated with SMMPA network transmission facilities located in the NSP Companies' pricing zone.

5. On March 30, 2006, SMMPA filed a response indicating that the Attachment O template is silent as to the proper treatment of facilities credits and proposed to exclude the revenues it formerly received under its agreement with the NSP Companies from its Attachment O inputs.⁷ In support of such treatment, SMMPA argued that it will stop receiving payments from the NSP Companies on March 31, 2006, when it will begin to receive compensation for its facilities under the Midwest ISO Attachment O. Therefore, SMMPA asserted, including the revenue credit to reduce the annual transmission revenue requirement would be an improper offset of historic revenues and would create an under-collection of revenues during the present period. SMMPA further argued that it is appropriate to differentiate between revenues received by SMMPA for facilities in the NSP Companies' control area and those received by SMMPA for third-party use of its system in that, unlike third-party transactions, a facilities credit does not increase revenues above and beyond those needed to operate those facilities. Great River and Xcel Energy filed protests to the March 31, 2006 filing, asserting that SMMPA should include the facilities credits consistent with the treatment of such credits under the NSP Companies' respective Attachment O.

6. In the May 26 Order, the Commission accepted SMMPA's four proposed changes to the *pro forma* Attachment O formula rate template for filing and suspended the filing for a nominal period, effective April 1, 2006, subject to refund and subject to SMMPA's submission, within sixty (60) days, of an updated personnel work activity study. The Commission rejected Great River and Xcel Energy's arguments that SMMPA will over-collect revenues if SMMPA is not required by the Commission to include the NSP Companies' transmission credits in their Attachment O formula rate and that test period concepts warrant inclusion of the facilities credits. The Commission found that exclusion of the credits is necessary for SMMPA to fully recover its revenue requirement given the change in rate design that necessitated the filing and not because of test period concepts. In addition, in response to Great River and Xcel Energy's argument that Commission precedent precludes multiple transmission owners located in the same pricing zone from

⁷ In addition, SMMPA stated that it had been recording such revenues in Account 456, Other Electric Revenues, but the instructions for transactions recorded in that account appear inapplicable to facilities credits.

having different treatments in calculating revenue requirements,⁸ the Commission found that the exclusion of transmission credits has been shown to be just and reasonable and consistent with Commission precedent. The Commission stated that although comparable treatment of facilities of multiple transmission owners situated in a *joint* pricing zone was required in the case cited, in this proceeding SMMPA, Great River and the NSP Companies all have individual pricing zones. However, the Commission stated that each transmission owner may propose modifications to its individual pricing zone revenue requirement as allowed by the FPA.

Request for Rehearing or Clarification

7. Great River and Xcel Energy argue that the Commission erred by accepting the proposed revised Attachment O formula rate submitted by Applicants based on distinguishing SMMPA's circumstances from the circumstances in the Wolverine Order. They assert that the Commission should grant rehearing and require SMMPA to include transmission revenues received by SMMPA from the NSP Companies in SMMPA's revenue requirement and rate calculation pursuant to Attachment O. Great River and Xcel Energy base their argument on the assertion that their facilities are in fact, if not in name, within joint pricing zones and should be treated as such. Great River and Xcel Energy state that it is appropriate to give comparable treatment to payments made to compensate Transmission Owners for facilities located in joint zones. In support of their contention that SMPAA should be held to joint pricing treatment, Great River and Xcel Energy state that simply because SMMPA, Great River, and NSP Companies have individual pricing zones identified and listed in the Midwest ISO TEMT by the name of the principal (or host) transmission owner within the referenced pricing zone, this does not mean that each of the pricing zones only contains the costs of facilities of the principal owner. They state that, in fact, there are Great River and SMMPA facilities in the NSP pricing zone and NSP and SMMPA facilities in the Great River pricing zone. Great River and Xcel Energy argue that, therefore, SMMPA should be required to use the same methodology for calculating revenue requirements as the other transmission owners within a joint pricing zone.

8. Great River and Xcel Energy also point out that Applicants' initial pleading in this proceeding indicates that SMMPA owns hundreds of miles of transmission lines that are integrated with those of other members of the Mid-Continent Area Power Pool (MAPP) and the Midwest ISO, as well as several transmission substations at varying transmission

⁸ Citing *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,053 at P 15 (2006) (Wolverine Order).

voltages.⁹ Both Great River and Xcel Energy indicated in their comments to Applicants' January 31, 2006 filing that their respective transmission facilities are similarly integrated.¹⁰ Thus, Great River and Xcel Energy aver that the Great River and NSP Companies pricing zones each contain transmission facilities of multiple transmission owners. They cite the Midwest ISO's TEMT Transmission Owners Agreement (TOA) regarding the process whereby multiple transmission owners within a zone can seek a change in rate design for the zone.¹¹

9. Great River and Xcel Energy further aver that, as there are indisputably multiple transmission owners in the Great River and NSP Companies pricing zones, they are similarly situated to Wolverine Power Supply Cooperative, Inc. (Wolverine), a transmission owner in the Michigan Joint Zone, referenced in the May 26, 2006 Order. Great River and Xcel Energy assert that the Michigan Joint Zone contains multiple transmission owners and that litigation and dispute resolution before the Commission led to the "joint zone moniker."¹² They argue that simply because the word "joint" is not included in the name of their respective pricing zones within the Midwest ISO, this does not alter their status as joint pricing zones.

10. Great River and Xcel Energy further state that, if the Commission denies their request for rehearing, the Commission should nevertheless clarify that both the Great

⁹ Applicants January 31, 2006 Transmittal Letter at 4.

¹⁰ See Great River February 21, 2006 Comments at 2; Xcel Energy February 21, 2006 Conditional Protest at 3-4.

¹¹ Great River and Xcel Energy cite Appendix K of the TOA, which states that, "If there are multiple Transmission Owners within a zone, those Transmission Owners should seek to reach agreement on a rate design. If no agreement is reached, then each Transmission Owner within the zone shall have the right to submit a FPA section 205 filing proposing an initial rate design or rate design change for the zone." Midwest ISO TOA, App. K II.C.2, FERC Electric Tariff, First Revised Rate Schedule No. 1, Original Sheet Nos. 225-226. Also see TOA Appendix C III.A.8, Original Sheet No. 128, which provides that if multiple owners in a pricing zone cannot agree upon the protocols for distribution of zonal revenue, they may seek recourse through dispute resolution procedures or they may come to the Commission for resolution.

¹² Request for Rehearing at 5.

River and NSP Companies' pricing zones within the Midwest ISO are *joint* pricing zones, where the rate charged in these zones is based upon the composite loads and facilities of the transmission owners within the zones.

Discussion

11. We will deny Great River and Xcel Energy's request for rehearing and their alternate request for clarification without prejudice to Great River and Xcel Energy seeking relief through an appropriate section 205 filing. Great River and Xcel Energy argue that because the Great River and NSP Companies' pricing zones contain the costs of facilities of not only the principal owner, but also other transmission owners, the Commission should consider these to be joint pricing zones and require SMMPA to treat transmission revenues previously received from NSP Companies for calculating revenue requirements in a method comparable to how Great River treated similar revenues in its Attachment O. We disagree.

12. As the Commission stated in the May 26, 2006 Order, the exclusion of the transmission revenue credits is necessary for SMMPA to fully recover its revenue requirement given the change in rate design that necessitated Applicants' filing. SMMPA no longer receives revenues from NSP Companies associated with SMMPA network facilities that are located in the NSP Companies' zones when SMMPA serves its load in the NSP Companies' zones. These past facilities credits from NSP Companies were previously treated as revenue credits by SMMPA, reducing SMMPA's annual transmission revenue requirement. As a member of the Midwest ISO, SMMPA's zonal rate reflects its annual transmission revenue requirement divided by all of SMMPA's load (including SMMPA load in the NSP Companies' control area) – thus ensuring appropriate matching of load and costs.¹³ Moreover, this treatment is consistent with previous Commission actions.¹⁴ Accordingly, we continue to find the proposal just and reasonable without further adjustment and deny rehearing on the issue of whether to require SMMPA to include transmission facilities credits for revenues it formerly received from NSP in its revenue requirement and rate calculation pursuant to Attachment O. The decision by Great River not to seek similar rate treatment following its membership as a Transmission Owner in the Midwest ISO does not warrant rejection

¹³ See Mr. Winter's Affidavit at 8 in SMMPA's March 30, 2006 Response.

¹⁴ See, e.g., *Midwest Independent Transmission System Operator, Inc., FirstEnergy Services Co.*, 114 FERC ¶ 61,274 (2006), *reh'g denied*, 115 FERC ¶ 61,371 (2006) (exclusion of transmission revenue credits based on the change in rate design for service in the Midwest ISO/PJM region).

of SMMPA's just and reasonable proposal. As the Commission stated in the May 26, 2006 Order, each transmission owner may propose modifications as necessary to its individual pricing zone revenue requirement as allowed by the FPA.¹⁵

13. Finally, we reject Great River and Xcel Energy's request for clarification that both the Great River and NSP Companies' pricing zones are *joint* pricing zones. The Midwest ISO TEMT clearly assigns each to a separate pricing zone. Moreover, Great River and Xcel Energy have not followed the appropriate procedures for demonstrating to the Commission in a section 205 filing that integration of their facilities warrants the joint pricing zone designation.¹⁶ This request for clarification simply represents a collateral attempt by Great River and Xcel Energy to achieve the result they seek in their request for rehearing without making the required demonstration through an FPA section 205 filing seeking joint pricing zones. In sum, this issue is not properly before the Commission for consideration at this time. However, just as Transmission Owners may seek to modify their individual pricing zone revenue requirements through section 205 filings as discussed above, Great River and NSP Companies may choose to file under section 205 to propose joint zones.

The Commission orders:

Great River and Xcel Energy's request for rehearing and clarification is denied.

By the Commission. Commissioner Moeller not participating.

(S E A L)

Magalie R. Salas,
Secretary.

¹⁵ See May 26, 2006 Order at P 26.

¹⁶ See *Midwest Independent Transmission System Operator, Inc.*, 101 FERC ¶ 61,004 at P 21(2003)(order highlighting steps and factors necessary for approval of joint pricing zones). We note that the Great River and Xcel Energy request for rehearing at 5 cites the TOA provision which identifies the right to propose a rate design change in a section 205 filing. See footnote 9 above.