

125 FERC ¶ 61,293  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission System  
Operator, Inc.

Docket No. ER09-91-000

ORDER ACCEPTING FOR FILING PROPOSED TARIFF REVISIONS, AS  
MODIFIED

(Issued December 16, 2008)

1. In this order we accept for filing, as modified below, the proposed revisions to Attachments O (“Rate Formulae”) and GG (“Network Upgrade Charge”) to Midwest Independent Transmission System Operator, Inc.’s (Midwest ISO) Open Access Transmission and Energy Markets Tariff (Midwest ISO Tariff) submitted by Midwest ISO and the Midwest ISO Transmission Owners<sup>1</sup> (collectively, Filing Parties)

---

<sup>1</sup> The Midwest ISO Transmission Owners for this filing consist of: Ameren Services Company, as agent for Union Electric Company, Central Illinois Public Service Company, Central Illinois Light Co., and Illinois Power Company; American Transmission Company LLC; American Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp.; City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Business Services, LLC for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; Michigan Public Power Agency; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

on October 17, 2008. The accepted revisions, as modified below, will become effective December 16, 2008, as requested.

## **I. Background**

2. Midwest ISO Transmission Owners calculate their annual transmission revenue requirements using the formulae contained in Attachment O. Some of these formulae are company-specific and include provisions accepted by the Commission for use by individual transmission owners,<sup>2</sup> while other formulae are generic and apply to transmission owners that have not filed company-specific formulae.<sup>3</sup> In all cases, the formulae are used to calculate an annual transmission revenue requirement for each transmission owner. These annual transmission revenue requirements are then used to calculate rates for Firm and Non-Firm Point-to-Point Transmission Service provided under Schedules 7 and 8 and Network Integration Transmission Service provided under Schedule 9 of Midwest ISO's Tariff.

3. The Commission has accepted certain tariff changes developed by Midwest ISO's Regional Expansion Criteria and Benefits task force that permit cost allocation and recovery for new transmission facilities.<sup>4</sup> The Regional Expansion Criteria and Benefits cost allocation provisions establish a methodology for allocating and recovering the costs of qualifying transmission expansion projects, the costs of which are apportioned between local and regional customers. If a project qualifies for regional cost allocation pursuant to the Regional Expansion Criteria and Benefits criteria, then the annual revenue requirement associated with that project is not included in the transmission owner's Attachment O revenue requirement. Instead, the revenue requirement is calculated using a formula contained in Attachment GG and is recovered in charges under Schedule 26 ("Network Upgrade Charge from Transmission Expansion Plan") of the Tariff. Currently, Attachment GG requires Midwest ISO to remove the revenue requirement for Network Upgrades from the revenue requirement calculated in Attachment O. Similar language does not exist in Attachment O.

4. Based on their experience with the 2006 and 2007 Midwest ISO Transmission Expansion Plans, the Filing Parties propose these revisions to Attachments O and GG.

---

<sup>2</sup> See e.g., *Xcel Energy Services, Inc.*, 121 FERC ¶ 61,284 (2007); *Michigan Elec. Transmission Co.*, 117 FERC ¶ 61,314 (2006), *order on reh'g*, 118 FERC ¶ 61,139, *order on compliance*, 119 FERC ¶ 61,203 (2007); *International Transmission Co.*, 116 FERC ¶ 61,036 (2006); *American Transmission Co.*, 97 FERC ¶ 61,139 (2001).

<sup>3</sup> See Transmittal Letter at 2.

<sup>4</sup> *Id.*

## II. The Filing

5. The proposed revisions: (1) clarify that revenue requirements calculated under Attachment GG are to be subtracted from revenue requirements calculated under Attachment O; (2) establish a placeholder in Attachment GG for transmission owners that calculate their revenue requirements on a forward-looking basis to true up revenue collected under Schedule 26; and (3) make certain typographical and other non-substantive corrections to Attachments O and GG. Filing Parties request an effective date of December 16, 2008.

## III. Notice of Filing and Responsive Pleadings

6. Notice of the filing was published in the *Federal Register*, 73 Fed. Reg. 64,312 (2008), with interventions and protests due on or before November 11, 2008. Timely, unopposed motions to intervene without substantive comments were filed by Exelon Corporation, Alliant Energy Corporate Services, Inc. on behalf of Interstate Power and Light Company and Wisconsin Power and Light Company, and Consumers Energy Company. Southwestern Electric Cooperative, Inc. (Southwestern Electric) filed a timely motion to intervene with comments, which will be discussed below.

7. On November 24, 2008, Midwest ISO and the Midwest ISO Transmission Owners filed separate answers to Southwestern Electric's comments.

## IV. Discussion

### A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2008), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept Midwest ISO's and the Midwest ISO Transmission Owners' answers because they provided information that assisted us in our decision-making process.

### B. Substantive Matters

#### 1. Prevention of Double Recovery under Attachments O and GG

10. According to the Filing Parties, the annual transmission revenue requirements associated with projects eligible for Regional Expansions Criteria and Benefits pricing

are calculated under Attachment GG and recovered under Schedule 26. They state that these same revenue requirements should not also be included in annual transmission revenue requirements calculated under Attachment O and recovered under Schedules 7, 8, and 9 of the Tariff. The Filing Parties state that Midwest ISO has prevented double recovery in the past by subtracting the costs in Attachment GG revenue requirements from the calculation of revenue requirements under Attachment O. However, they state that there is no express provision or line item in any of the Attachment O formulae that reflect this treatment. In order to provide greater clarity and transparency and to avoid the potential for over-recovery of the aggregate revenue requirement, the Filing Parties propose several revisions to explicitly set forth this adjustment in Attachments O and GG.

11. First, the Filing Parties propose to include an "Attachment GG Adjustment" line item in Attachment O. This line item will subtract the revenue requirement calculated under Attachment GG for Network Upgrades from the revenue requirement calculated under Attachment O that would otherwise also include these same costs associated with Network Upgrades, yielding the net "Revenue Requirement to be Collected Under Attachment O."

12. Second, the revenue requirement developed through Attachment O reflects revenue credits for Account 456.1 (Other Electric Revenue). These revenue credits would include revenues collected under Schedule 26 (the implementation schedule for Attachment GG). Because the revisions noted above subtract Attachment GG revenue requirements from Attachment O, there is no need to subtract the Schedule 26 revenue a second time as a revenue credit. Accordingly, the Filing Parties propose to clarify that Attachment GG revenue requirements collected under Schedule 26 are not included in the Account 456.1 revenue credit by adding the additional line item, "Transmission charges associated with Schedule 26," to be deducted from the Account 456.1 revenue credit.

13. Finally, the Filing Parties propose to replace the current section 2(c) of Attachment GG with the following:

In order to prevent over recovery of Attachment O revenue, the revenue requirement calculated pursuant to Attachment GG will be subtracted from the Attachment O revenue requirement.

**a. Comments**

14. Southwestern Electric does not object to the proposed revisions. However, Southwestern Electric questions whether Midwest ISO has successfully avoided duplicative charges in the past. Therefore, it requests that the Commission direct Midwest ISO to make a compliance filing demonstrating that its transmission customers have not been paying duplicative charges since the inception of the Regional Expansion Criteria and Benefits program.

**b. Answers**

15. Midwest ISO points out that section 2(c) of Attachment GG requires that the annual revenue requirement for Network Upgrades for each Transmission Owner be deducted from the Transmission Owner's Attachment O revenue requirement. Furthermore, Midwest ISO maintains that it has been deducting the Attachment GG revenue requirement from the Attachment O revenue requirement since March 2007, when the Regional Expansion Criteria and Benefits costs began to be allocated.<sup>5</sup> Midwest ISO states that "the burden rests on Southwestern [Electric] to demonstrate any such potential double recovery."<sup>6</sup>

16. The Midwest ISO Transmission Owners object to Southwestern Electric's request that the Commission direct Midwest ISO to make a compliance filing.

**c. Commission Determination**

17. We find that the proposed revisions are just and reasonable and will incorporate explicit language in the Tariff designed to prevent double recovery under Attachments O and GG. In fact, provisions required to prevent double recovery already exist in Schedules 7, 8, and 9 as well as section 2(c) of Attachment GG.<sup>7</sup> We find that adding an "Attachment GG Adjustment" line item in Attachment O makes it easier to see how the revenue requirement associated with RECB cost allocations is subtracted from an entity's total revenue requirement in the derivation of the Schedules 7, 8, and 9 rates so as to prevent double collection.

18. We will not grant Southwestern Electric's request that Midwest ISO be required to make a compliance filing regarding the actions it took to avoid duplicative charges in the past. This proceeding is not the proper forum for such a request. If Southwestern

---

<sup>5</sup> See Midwest ISO Answer at 3.

<sup>6</sup> Midwest ISO Answer at 4.

<sup>7</sup> Section 2(c) of Attachment GG currently provides a methodology for calculating a credit to the per-unit charges under Schedules 7, 8, and 9 to remove the costs recovered under Schedule 26, and Schedules 7, 8, and 9 of Midwest ISO's Tariff include language stating that both zonal and single system-wide rates "shall be adjusted by the Transmission Provider to reflect those charges collected under Schedule 26 of this Tariff."

Electric questions the accuracy of past charges, it has more appropriate options available to it under the Federal Power Act (*e.g.*, filing a complaint pursuant to section 206 of the Federal Power Act).<sup>8</sup>

2. **True-up for Transmission Owners and Independent Transmission Companies**

19. Several Midwest ISO Transmission Owners have Commission authorization to use forward-looking test periods when calculating their annual transmission revenue requirements, subject to true-up.<sup>9</sup> The true-up mechanism used by such transmission owners is set out in each company-specific Attachment O formula. This ensures an appropriate true-up of revenues collected under Schedules 7, 8, and 9, because the transmission rates charged under those schedules are derived from the annual transmission revenue requirements calculated under Attachment O. However, the Filing Parties note that while such transmission owners include projected costs in their Attachment GG revenue requirements, which are then used to calculate Schedule 26 rates, there is no mechanism to true-up over- or under-recoveries of Schedule 26 revenues.<sup>10</sup>

20. In order to ensure greater consistency with Attachment O, the Midwest ISO Transmission Owners voted to require Transmission Owners that calculate their revenue requirements on a forward-looking basis to file Attachment GG true-up procedures and to revise the rate formula in Attachment GG to include a placeholder for such procedures. Accordingly, the Filing Parties propose to add new lines 24a, "True-Up Adjustment," and 24b, "Total Revenue Requirement," and Note I to Attachment GG (Sheet Nos. 1883-1884) to establish the placeholder and to state those Transmission Owners' obligation to file Attachment GG true-up procedures by March 1, 2009.

---

<sup>8</sup> See 16 U.S.C. § 824e (2006).

<sup>9</sup> Such transmission owners project a transmission revenue requirement for the following year and collect revenue during the year based on the projected revenue requirement. At the end of the year, an actual revenue requirement is calculated for the previous year and compared with revenues actually collected to determine a net over- or under-recovery. Any such over- or under-recovery is then "trued up" through an adjustment to the rate for the following year. See Transmittal Letter at 7.

<sup>10</sup> *Id.*

**a. Comments**

21. Southwestern Electric does not oppose the principle of true-up procedures. However, it objects to the use of a placeholder in the Tariff because that would leave the format of the Transmission Owners' filings, including costs and data submitted, up to their discretion. Southwestern Energy asserts that if the Filing Parties submit greater detail for the form and substance of the true-up filings, customer and Commission review would be greatly facilitated.

22. In addition, Southwestern Electric notes the problems that PJM Interconnection, LLC (PJM) transmission customers had in evaluating the proposed true-up of some PJM Transmission Owners because those transmission owners ignored load growth. According to Southwestern Electric, the PJM Transmission Owners were required to resolve these issues because they would otherwise over-recover revenue requirements. Southwestern Electric requests that the Commission direct the Filing Parties to account for load growth in their true-up filings to ensure that transmission revenue requirements are not over-recovered.<sup>11</sup>

**b. Answers**

23. The Midwest ISO Transmission Owners assert that Southwestern Electric's request for additional information about the true-up is misplaced, since the proposal does nothing more than create a placeholder for future true-up mechanisms. Therefore, they state that it would be inappropriate to require further detail regarding "form and substance" or "accounting for load growth" on filings that have not yet been made to the Commission. Finally, the Midwest ISO Transmission Owners state that "[i]nterested parties will have an opportunity to request additional detail when the individual Midwest ISO Transmission Owners with forward-looking revenue requirements file proposed company-specific Attachment GG true-up procedures."<sup>12</sup>

**c. Commission Determination**

24. We will accept the proposed placeholder for a True-Up Adjustment and the associated footnote stating the obligation for Transmission Owners that calculate their revenue requirements on a forward-looking basis to file mechanisms to true-up their revenue requirements under Attachment GG. We are not persuaded by Southwestern Electric's arguments. Every entity that uses a forward-looking test year already has a customized Attachment O that includes an individualized true-up methodology. It would

---

<sup>11</sup> See Southwestern Electric Comments at 6.

<sup>12</sup> Midwest ISO Transmission Owners Answer at 5 (footnote omitted).

be inconsistent for the Commission to require generic true-up requirements in Attachment GG for those entities that use a forward-looking test year, while allowing individualized true-up methodologies in Attachment O, nor does Southwestern Electric explain why a generic true-up mechanism is necessary for rates calculated pursuant to Attachment GG to be just and reasonable. In any event, as the Midwest ISO Transmission Owners correctly point out, parties will have the opportunity to review and comment on each entity's proposed Attachment GG true-up methodology when it is filed with the Commission.

### **3. Attachment O and GG Typographical Errors**

25. While reviewing Attachment GG and the Attachment O templates in preparation for this filing, the Filing Parties identified certain errors and inconsistencies that they propose to correct. According to the Filing Parties, most of the proposed corrections are self-explanatory and involve the correction of typographical errors or the updating of line and/or page references.

26. First, the Filing Parties note that various page and line references in the Attachment O templates that rely on EIA Form 412 or RUS Form 12 data require updating. In addition, the Filing Parties propose to clarify the point-to-point transmission rate derivations set forth on Page 1, Lines 19 and 20 of each Attachment O rate template.<sup>13</sup> Currently, each individual Attachment O template specifies that daily rates are to be derived from weekly rates, and hourly rates are to be derived from daily rates. By contrast, the generic rate formula set forth on Sheet No. 1317 of the Midwest ISO Tariff, which applies to all of the Attachment O templates, specifies that daily and hourly rates are to be derived by dividing annual costs by the number of peak or off-peak days or hours in a year. While the derivations in the individual Attachment O templates are mathematically equivalent to the derivation in the generic rate formula, the Filing Parties nevertheless propose to modify the derivations in the individual Attachment O templates to match the derivation in the generic rate formula. Doing so, they maintain, will ensure greater consistency and clarity without affecting the actual calculation of rates.<sup>14</sup>

27. We note that there were no comments addressing any of the proposed typographical or ministerial revisions. Our examination of these proposed revisions indicates that the proposed changes are just and reasonable and not unduly

---

<sup>13</sup> Lines 19 and 20 on Sheet Nos. 1318, 1323, 1328, 1333, 1337, 1341, 1350, 1365Z.06, 1365Z.12, 1365Z.16C, 1365Z.16J, and 1365Z.17 (page 1 of each Attachment O template).

<sup>14</sup> See Transmittal Letter at 8.

discriminatory. However, we will require that Filing Parties file revisions, within 30 days of this order, to Sheet Nos. 1883 and 1884 so that line numbers 24, 24a, and 24b are consistent with the language in Note I on Sheet No. 1884.

28. Finally, we note that Filing Parties did not include comparable tariff sheets for the Fourth Revised Volume No. 1 Tariff currently pending before the Commission.<sup>15</sup> We remind Midwest ISO that it will have to revise its Fourth Revised Volume No. 1 Tariff in order to incorporate the changes accepted here.

The Commission orders:

(A) The proposed revisions to Attachments O and GG to Midwest ISO's Tariff are hereby accepted for filing, as modified by the compliance filing ordered below, to become effective December 16, 2008, as requested.

(B) The Filing Parties are hereby directed to submit a compliance filing within thirty (30) days, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

---

<sup>15</sup> In Docket No. ER09-15-000, Midwest ISO submitted its Fourth Revised Volume No. 1 Tariff in order to implement its proposed Ancillary Services Markets. This tariff is proposed to supersede the existing Third Revised Volume No. 1 Tariff.