

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission
System Operator, Inc.

Docket No. ER09-1581-000

(Issued October 26, 2009)

Attached is the statement by Commissioner Kelly concurring in part and dissenting in part with a separate statement, to an order issued on October 9, 2009, in the above-referenced proceeding, *Midwest Independent Transmission System Operator, Inc.* 129 FERC ¶ 61,019 (2009).

Nathaniel J. Davis, Sr.,
Deputy Secretary

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KELLY, Commissioner, *concurring in part and dissenting in part*:

This order addresses an unexecuted Amended and Restated Generator Interconnection Agreement among the Midwest ISO, Northern States Power Company (transmission owner) and Community Wind North LLC (interconnection customer). The amended interconnection agreement seeks to allocate a portion of the costs of the Brookings County-Twin Cities 345 kV transmission line (Brookings Line) to Community Wind. The order rejects the Midwest ISO's proposal to allocate a portion of the costs to Community Wind, without prejudice to the Midwest ISO re-filing an allocation with appropriate support sometime in the future.

I concur with the majority's finding that Midwest ISO failed to provide any evidence that the Brookings Line would not have been built but for the interconnection of the Community Wind projects and other projects. The Order correctly directs the Midwest ISO to remove from the agreement the unsupported language relating to any cost responsibility of Community Wind for the cost of the Brookings Line. However, I disagree with the majority's decision to provide the Midwest ISO with an open-ended opportunity to re-file to allocate those costs. This deprives Community Wind of any certainty regarding its cost responsibility for the Brookings Line and will hinder, if not eliminate, Community Wind's ability to develop its planned generation. I would have directed the Midwest ISO to resolve Community Wind's cost allocation within a fixed period of time (e.g. 120 days).

For these reasons, I dissent in part.

Suedeem G. Kelly