

133 FERC ¶ 61,172  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

November 23, 2010

In Reply Refer To:  
Midwest Independent Transmission  
System Operator, Inc., *et al.*  
Docket Nos. ER05-6-121, EL04-135-123,  
EL02-111-142, and EL03-212-137

Locke Lord Bissell & Liddell LLP  
Attn: Bruce A. Grabow, Esq.  
Attorney for FirstEnergy Entities  
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Washington, DC 20001

Leonard, Street and Deinard, PA  
Attn: Steven A. Weiler, Esq.  
Attorney for Dayton Power & Light Company  
1350 I Street, NW  
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Dear Mr. Grabow and Mr. Weiler:

1. On October 7, 2010, you filed an Amendment No. 1 to a previously approved Settlement Agreement<sup>1</sup> (Settlement Amendment) for FirstEnergy Service Company (First Energy) on behalf of itself and American Transmission Systems, Inc., Cleveland Illuminating Electric Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Jersey Central Power & Light Company, Metropolitan Edison

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<sup>1</sup> FirstEnergy Entities and Dayton entered into a Stipulation and Agreement (Settlement Agreement) dated July 20, 2006, which resolved all issues between each of the FirstEnergy Entities and Dayton in the SECA proceedings, except as provided in sections 3.7 and 3.8 pertaining to the Green Mountain Energy Company (Green Mountain) SECA obligation. The Commission approved the Settlement Agreement in *Midwest Indep. Trans. Sys. Operator, Inc.*, 117 FERC ¶ 61,272 (2006).

Company, Pennsylvania Electric Company, and FirstEnergy Solutions Corp. (collectively, FirstEnergy Entities) and Dayton Power & Light Company (Dayton) that fully resolves all remaining issues in controversy between them related to the Seams Elimination Cost/Charge Adjustment/Assignment (SECA) charges that had been set for hearing in the above-captioned dockets. No comments were filed.

2. Under section 2.1 of the Settlement Amendment, FirstEnergy agrees to pay \$2,130,000 (Final Amount) and Dayton agrees to accept the Final Amount in full satisfaction of FirstEnergy's responsibility for any Green Mountain SECA obligation or interest on the Green Mountain SECA obligation claimed by Dayton. The Parties further agree to comprehensively settle and resolve any and all remaining issues between them in these SECA proceedings, including, but not limited to, FirstEnergy's responsibility for the Green Mountain SECA obligation, any claim of interest owed on such Green Mountain SECA obligation, and any associated claims regarding any revenue shortfall that might arise as Dayton raised in its June 21, 2010 Rehearing Request (Rehearing Request) in these proceedings.

3. Under section 2.3 of the Settlement Amendment, within thirty days of the effective date of the Settlement Amendment, Dayton shall file a notice of withdrawal of its Rehearing Request and its Answer, filed on July 15, 2010, as it pertains to FirstEnergy Entities. Also, FirstEnergy shall file a notice of withdrawal of its Answer, filed on July 8, 2010, as it pertains to Dayton. Section 2.4 states that, upon Commission approval of the Settlement Amendment, the Parties shall withdraw from active participation in these SECA proceedings with respect to one another. However, the Parties shall be free to litigate any and all issues as may pertain to any other Party or Parties to these SECA proceedings.

4. Section 5.4 of the Settlement Amendment states that the standard of review for any modifications to this Settlement Amendment requested by a Party that are not agreed to by all Parties shall be the public interest standard as set forth in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 128 S. Ct. 2733 (2008). The standard of review for any modifications to this Settlement Amendment requested by a non-Party to the Settlement Amendment and the Commission will be the most stringent standard permissible under applicable law.

5. The Settlement Amendment appears to be fair and reasonable and in the public interest and is hereby approved. The Commission's approval of this Settlement Amendment does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

6. This letter order terminates Docket Nos. ER05-6-121, EL04-135-123, EL02-111-142, and EL03-212-137.

By direction of the Commission. Commissioner Moeller is not participating.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.