

144 FERC ¶ 61,193
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur and Tony Clark.

Prairie Power, Inc.

v.

Docket Nos. EL13-69-000

Ameren Services Company, Ameren Illinois Company
and Ameren Transmission Company of Illinois

Midcontinent Independent System Operator, Inc.

EL13-83-000

ORDER GRANTING COMPLAINT,
INSTITUTING SECTION 206 PROCEEDING, AND ESTABLISHING HEARING
AND SETTLEMENT JUDGE PROCEEDINGS

(Issued September 9, 2013)

1. On May 31, 2013, Prairie Power, Inc. (Prairie Power) filed a complaint against Ameren Services Company, Ameren Illinois Company (Ameren Illinois) and Ameren Transmission Company of Illinois (Ameren Transmission) (collectively, Ameren) pursuant to section 206 of the Federal Power Act (FPA).¹ Prairie Power's complaint asks the Commission for the following relief: (1) find Ameren in violation of the Agreement of Transmission Facilities Owners to Organize the Midcontinent Independent System Operator, Inc., A Delaware Non-Stock Corporation (Transmission Owners Agreement); (2) require that Ameren immediately resume good faith negotiations under the auspices of a Settlement Judge to complete and file as soon as possible a reasonable and fair Joint Pricing Zone Revenue Allocation Agreement (Joint Agreement); and (3) provide that Prairie Power suffer no harm, including no diminution of revenues to which it is entitled,

¹ 16 U.S.C. § 824e (2006).

that would otherwise be occasioned by any late filing by Ameren of an executed Joint Agreement.

2. As discussed below, the Commission grants the complaint and directs Ameren to negotiate with Prairie Power and file a Joint Agreement within 30 days of the date of issuance of this order. Additionally, the Commission institutes a proceeding pursuant to section 206 of the FPA in Docket No. EL13-83-000 regarding Midcontinent Independent System Operator's (MISO) existing Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) provisions in Schedules 7, 8, and 9, to revise those provisions to reflect the inclusion of Prairie Power's transmission facilities in the Ameren Illinois joint pricing zone rates, and to address issues raised by the parties in this proceeding concerning the transmission facilities to be included in Prairie Power's Attachment O revenue requirement that will be recovered through the Ameren Illinois joint pricing zone rates. We direct MISO to submit, within 30 days of the date of this order, revisions to Schedules 7, 8, and 9 to include Prairie Power in the Ameren Illinois pricing zone in order to allow Prairie Power to recover its Attachment O revenue requirement and revisions to Ameren Illinois' Attachment O (Attachment O – AIC) to remove the line item for Prairie Power's section 30.9 credit. We establish hearing and settlement judge procedures to address which facilities should be included in Prairie Power's Attachment O revenue requirement.

I. Background

A. Prairie Power and Ameren

3. Prairie Power is a member-owned, not-for-profit generation and transmission cooperative, organized and existing under Illinois law. Prairie Power currently provides all-requirements wholesale electric service to its members, who are 10 rural electric distribution cooperatives located in central Illinois. Among other facilities, Prairie Power owns and operates approximately 573 miles of transmission lines at 138 kV and 69 kV and 78 substations. All Prairie Power facilities are located in the Ameren Illinois pricing zone of MISO. Prairie Power is a MISO Transmission Owner.² Ameren Services Company, a subsidiary of Ameren Corporation, is a centralized service company that acts as agent for Ameren Illinois and other Ameren subsidiaries. Ameren Illinois is a MISO Transmission Owner and is the entity designated to receive MISO-generated revenues recovered from MISO's Ameren Illinois pricing zone.

4. On November 1, 2011, as amended on January 30, 2012, in Docket No. ER12-310-000, MISO and Ameren Illinois jointly filed proposed revisions to Attachment O of

² Prairie Power Complaint at 6.

the MISO Tariff to create a MISO Attachment O formula rate template specifically applicable to Ameren Illinois (Attachment O-AIC).³ The proposed revisions allow inclusion of the annual transmission revenue requirement and transmission credits associated with Prairie Power's 138 kV transmission facilities located in the Ameren Illinois pricing zone. The Commission accepted the proposed tariff revisions.⁴

5. On February 21, 2013, the MISO Board of Directors (MISO Board) voted to accept Prairie Power as a Transmission Owner effective June 1, 2013. On April 30, 2013, MISO notified Prairie Power that its revenue requirement would be included in the MISO Tariff for service beginning June 1, 2013.⁵

B. Transmission Owners Agreement and MISO Tariff

6. Appendix C of the Transmission Owners Agreement provides, in relevant part, that:

The [Transmission] Owners located within a [Pricing] Zone that has more than one (1) Owner shall appoint a single Owner or designee to receive the revenues allocated to the [Pricing] Zone and to further distribute such revenues pursuant to agreement of the [Transmission] Owners within the [Pricing] Zone. If the [Transmission] Owners in a [Pricing] Zone cannot agree to a methodology for distributing such revenues, [Transmission] Owners may seek recourse through the Dispute Resolution procedures under Attachment HH of the Tariff or the [Transmission] Owners may go to the FERC for resolution.⁶

³ The Attachment O-AIC is designated as Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff, FERC Electric Tariff, [38, AIC Rate Formula Template, 4.0.0](#).

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,234 (2012).

⁵ Prairie Power Complaint at 6 (citing email from Michael Gard of MISO to Alisha Anker of Prairie Power, Exhibit No. 2).

⁶ Transmission Owners Agreement at App. C.III.A.8.

7. Under the Tariff, a Transmission Owner becomes eligible to receive revenues from MISO as a result of transferring functional control of its transmission facilities to MISO through the execution of the Transmission Owners Agreement.⁷

8. Attachment O of MISO's Tariff requires that each Transmission Owner complete its appropriate Rate Formula Template based upon data from the appropriate financial reporting form. MISO, as the Transmission Provider, will then review each completed template for accuracy. After MISO has reviewed the templates for accuracy, it will issue a letter to each Transmission Owner informing them that the rates and revenue requirements resulting from the template was reviewed and approved by the Transmission Provider.⁸ The transmission rates calculated under Attachment O are then recovered in Schedule 7 (long-term firm and short-term firm point-to-point transmission service), Schedule 8 (non-firm point-to-point transmission service), and Schedule 9 (network integration transmission service) of the Tariff.

II. Notice of Filing and Responsive Pleadings

9. Notice of the complaint was published in the *Federal Register*, 78 Fed. Reg. 35,017 (2013), with interventions and protests due on or before June 20, 2013.

10. On June 20, 2013, Ameren timely filed its answer to the complaint. The Illinois Commerce Commission (Illinois Commission) filed a motion to intervene out-of-time and comments. On June 27, 2013, Prairie Power filed an answer to Ameren's answer. On July 17, 2013, Prairie Power filed an answer to the Illinois Commission's comments.

III. Procedural Matters

11. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), we will grant the Illinois Commission's out-of-time motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

⁷ See section 1.671 of the MISO Tariff.

⁸ See Tariff at Attachment O.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2013), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept Prairie Power's answers because they have provided information that assisted us in our decision-making process.

IV. Substantive Matters

A. Complaint

13. Prairie Power states that on April 2, 2013, it provided Ameren personnel with a draft Joint Agreement. According to Prairie Power, from April 10 through May 8, it responded to several questions from Ameren personnel, and on May 9, Ameren personnel informed Prairie Power that they could not provide their edits to the draft Joint Agreement until Ameren's internal review was completed. Prairie Power further states that on May 17, 2013, in response to Ameren's request to MISO, Prairie Power authorized MISO to release Prairie Power's Attachment O figures to Ameren, and from May 17 through May 30, Prairie Power continued to provide Ameren information and to inquire as of the status of signing the Joint Agreement. Prairie Power further states that on May 29, 2013, Ameren Transmission's President and Chief Executive Officer (CEO) telephoned Prairie Power's President and CEO and informed him that Ameren would not sign the Joint Agreement and would not submit it to the Commission.⁹

14. Prairie Power asserts that by acting to avoid the execution and filing of the Joint Agreement before June 1, 2013, Ameren unnecessarily puts into jeopardy Prairie Power's timely receipt of the revenues collected by Ameren Illinois from MISO for the Ameren Illinois pricing zone after that date. Prairie Power states that even with a later filing that would work to make Prairie Power whole, Prairie Power would not receive its revenues in a timely fashion as provided other Transmission Owners. Prairie Power argues that the harm by this delay is substantial - under MISO's Attachment O revenue requirements, Prairie Power estimates that it will be due \$300,000 per month.¹⁰

15. Prairie Power asserts that relief under its complaint must result in the prompt execution and filing of the Joint Agreement. Specifically, Prairie Power requests that the Commission: (1) find Ameren in violation of the Transmission Owners Agreement; (2) require that Ameren resume good faith negotiations before a Settlement Judge to complete and file as soon as possible a reasonable and fair Joint Agreement; and (3) hold Prairie Power harmless for any failure by Ameren to timely file, under section 205 of the

⁹ Prairie Power Complaint at 6-7.

¹⁰ *Id.* at 8.

FPA, an executed agreement with the Commission, and provide any necessary waivers to effectuate that result.¹¹

B. Ameren's Answer

16. Ameren responds that Prairie Power's complaint fails to demonstrate that Ameren has violated the Transmission Owners Agreement and must therefore be summarily dismissed. Ameren states that to the extent Prairie Power is accusing Ameren of violating the Transmission Owners Agreement because Ameren will not distribute revenues owed to Prairie Power without an agreement in place, this argument fails. Ameren states that it is already distributing revenues for Prairie Power's 138 kV facilities through a credit in Attachment O-AIC. However, Ameren states that it is exercising its right not to sign the Joint Agreement at this time because of its concerns with both the form of the Joint Agreement and the appropriateness of the revenue requirement.¹²

17. Ameren states that it has justifiable reasons not to sign the Joint Agreement at this time. First, the Proposed Joint Agreement is only between Ameren Illinois and Prairie Power. Ameren states that any agreement should include all Transmission Owners in the Ameren Illinois pricing zone so that the total revenues for the zone are correctly allocated; thus, Ameren Transmission must be included. Second, the Joint Agreement is written such that it assumes all transmission billing is performed by MISO with MISO then distributing all revenues to Ameren Illinois for further distribution. Ameren states that this assumption is flawed because Ameren Illinois performs the Schedule 9 Network Integration Transmission Service (NITS) billing within the Ameren Illinois pricing zone under an agency agreement and collects money directly from the NITS customer.¹³

18. Moreover, Ameren states that it has unanswered concerns with the Prairie Power revenue requirement and the 69 kV facilities underlying the revenue requirement. Ameren states that the Prairie Power revenue requirement has jumped from \$583,724 (the amount in the Attachment O-AIC credit to Prairie Power) to \$3,555,338. Ameren states that Ameren Illinois retail customers will be responsible for the vast majority of this increase in the revenue requirement in the Ameren Illinois pricing zone given that Ameren Illinois wholesale customers including Prairie Power make up 15 percent of the load in the Ameren Illinois pricing zone, and Ameren wants to insure that this increase is

¹¹ *Id.* at 14.

¹² Ameren Answer at 9-11.

¹³ *Id.* at 12.

just and reasonable. Ameren states that it has not been able to reach this conclusion with the information Prairie Power and MISO have provided.¹⁴

19. Ameren states that the substantial increase in Prairie Power's revenue requirement appears to be due to the inclusion of the 69 kV facilities as a component of the revenue requirement. Ameren states that it has asked Prairie Power for support for including the 69 kV facilities in its proposed revenue requirement, and Prairie Power has only provided the facilities to be included in the Transmission System,¹⁵ which was posted on the MISO website one day before the Prairie Power complaint was filed. Ameren states that this is not enough information for Ameren to sign the Joint Agreement. Ameren states that it is concerned with Prairie Power's attempt to include additional costs in its revenue requirement, driven by the inclusion of new facilities with limited opportunity for Ameren to verify these costs. According to Ameren, there are insufficient safeguards in the Joint Agreement for Ameren to verify the costs of new facilities, and the past two months of discussions with Prairie Power and MISO have reflected an unwillingness to share information.¹⁶

20. Finally, Ameren states that the Transmission Owners Agreement explicitly contemplates a situation in which Transmission Owners do not agree, and it spells out the

¹⁴ *Id.* at 12-13.

¹⁵ Transmission System is defined in the Tariff as follows:

The transmission facilities owned or controlled by entities that have conveyed operational control to the Transmission Provider that are used to provide Transmission Service under Module B of this Tariff. The Transmission System includes facilities, the operational control of which has been transferred to the Transmission Provider subject to Commission approval under Section 203 of the Federal Power Act. In addition, the Transmission System includes other facilities booked to transmission accounts that are not controlled or operated by the Transmission Provider but are facilities that the Transmission Owners, by way of the Agency Agreement, have allowed the Transmission Provider to use in providing service under this Tariff. While not part of the Transmission System, service over Distribution Facilities is available through the execution of a Service Agreement pursuant to Schedule 11 of this Tariff. The term Transmission System shall include the Transmission System (Michigan).

¹⁶ Ameren Answer at 13, 14.

process for resolving the disagreement.¹⁷ Ameren argues that that process does not support Prairie Power's unilateral complaint under section 206 of the FPA. Ameren states that the option of "go[ing] to the FERC for resolution"¹⁸ of a new agreement is more appropriately read to mean Prairie Power (or MISO) filing an unexecuted agreement under section 205 of the FPA to bring the matter to the Commission for resolution. Ameren asserts that Prairie Power's argument that Ameren is putting "into jeopardy Prairie Power actually receiving revenues to which it is due" is misleading as the parties did not even start negotiating the Joint Agreement until April 2, 2013, exactly 60 days before June 1, 2013.¹⁹ Thus, Ameren argues that Prairie Power (or MISO as administrator of the MISO Tariff) should have filed the Joint Agreement unexecuted and asked the Commission for waiver to obtain a June 1, 2013 effective date.

C. Illinois Commission Comments

21. The Illinois Commission states that the complaint raises questions regarding collateral issues relevant to the Illinois Commission's interests. The Illinois Commission is concerned about the accuracy and reasonableness of the proposed list of transmission facilities, and the costs associated with these facilities, which Prairie Power seeks to include in rates to be paid by the customers in the Ameren Illinois pricing zone. In addition, the Illinois Commission states that it is concerned about whether the proposed facilities are sufficiently integrated into the Ameren network and meet all of the other requirements necessary to justify allocating such costs to the customers in the Ameren Illinois pricing zone under the just and reasonable and not unduly discriminatory standard. In light of these concerns, the Illinois Commission requests that any action taken by the Commission with respect to the instant complaint require Ameren, Prairie Power, or MISO to make the necessary showings with respect to these identified issues and permit the Illinois Commission and other interested parties to review and comment on the same in this proceeding or in another appropriate proceeding.²⁰

¹⁷ *Id.* at 9. The Transmission Owners Agreement states that "[Transmission] Owners may seek recourse through Dispute Resolution procedures under Attachment HH of the Tariff or the [Transmission] Owners may go to the FERC for resolution." (Transmission Owners Agreement at App. C.III.A.8).

¹⁸ Transmission Owners Agreement at App. C.III.A.8.

¹⁹ Ameren Answer at 15 (citing Prairie Power Complaint at 5).

²⁰ Illinois Commission Comments at 3.

D. Prairie Power's Answers

22. Prairie Power states that contrary to Ameren's claims, Prairie Power responded, often in a matter of hours, to each inquiry made of it. Prairie Power further states that Ameren did not directly approach Prairie Power on the issues that Ameren wants to verify. Instead, according to Prairie Power, Ameren requested information from MISO personnel regarding Prairie Power's Attachment O and its facilities and upon being notified by MISO of those requests, Prairie Power voluntarily provided its Attachment O material to Ameren in a timely manner.²¹ Prairie Power also states that as to the inadequacies Ameren raised with the draft Joint Agreement, both should have been easily and promptly addressed by Ameren. Prairie Power claims that at no time did Ameren provide the necessary language or an existing Joint Agreement between itself and Ameren Transmission to which Prairie Power might join. With regard to the second issue regarding billing, Prairie Power claims the issue could have been quickly rectified had Ameren returned the draft Joint Agreement with the necessary revisions.²²

23. Prairie Power disputes Ameren's claim that it did not learn until April 2, 2013, when it received Prairie Power's draft Joint Agreement, that Prairie Power would be part of the Ameren Illinois pricing zone. Prairie Power claims that on February 21, 2013, when the MISO Board voted to accept Prairie Power's request to be a Transmission Owner, Ameren should have been aware that Prairie Power had been admitted, as one of Ameren's own employees chairs the Transmission Owners Committee. Prairie Power also notes that although Ameren complains that it did not receive the Prairie Power Attachment O revenue requirement calculation from MISO until May 17, 2013, Ameren never asked Prairie Power for this information.²³

24. Prairie Power objects to the Illinois Commission's motion to intervene out-of-time and states that the concerns that the Illinois Commission puts forward are not within the scope of Prairie Power's complaint and are properly directed to MISO, an entity that is not a party to this proceeding. Prairie Power further states that contrary to the Illinois Commission's claims, there are no proposed transmission facilities at issue, nor are there costs that Prairie Power now seeks to include in rates.²⁴ Prairie Power states that the facilities and costs that the Illinois Commission wants reviewed have already been

²¹ Prairie Power Answer to Ameren Answer at 3-4.

²² *Id.* at 6-7.

²³ *Id.* at 10-11.

²⁴ Prairie Power Answer to Illinois Commission Comments at 2-3.

reviewed and approved under MISO's process for assessing which facilities are transmission facilities within its control. Prairie Power disputes the Illinois Commission's claim that the issues raised in its comments are collateral issues to the complaint and argues that neither the makeup of the Prairie Power facilities nor the Prairie Power revenue requirements are at issue in Prairie Power's complaint. Prairie Power states that its complaint goes to the development of the required Joint Agreement which would govern no matter what facilities or costs may be involved.²⁵

E. Commission Determination

25. As explained below, we grant the complaint and find that it is unjust and unreasonable for Ameren to delay filing the Joint Agreement based upon its disagreement with Prairie Power's revenue requirement. Therefore, we direct Ameren to file a Joint Agreement within 30 days of the date of issuance of this order. As explained below, we further find that MISO's existing Tariff is unjust and unreasonable because it does not include any provisions that would allow Prairie Power to recover its Attachment O revenue requirement through a joint pricing zone. Thus, we institute an FPA section 206 proceeding in Docket EL13-83-000 regarding existing Tariff provisions in Schedules 7, 8, and 9 setting forth pricing zones, to: (1) revise those provisions to reflect the inclusion of Prairie Power's transmission facilities in the Ameren Illinois joint pricing zone rates; and (2) address issues raised by the parties in this proceeding concerning the transmission facilities to be included in Prairie Power's Attachment O revenue requirement that that will be recovered through the Ameren Illinois joint pricing zone rates. We direct MISO to submit, within 30 days of the date of this order, revisions to Schedules 7, 8, and 9 to include Prairie Power in the Ameren Illinois pricing zone in order to allow Prairie Power to recover its Attachment O revenue requirement and revisions to Attachment O – AIC to remove the line item for Prairie Power's section 30.9 credit. We establish hearing and settlement judge procedures to address which facilities should be included in Prairie Power's Attachment O revenue requirement.

26. At the outset, we note that this dispute centers on Prairie Power's claim that Ameren puts into jeopardy Prairie Power's timely receipt of revenues by not executing and filing a Joint Agreement before June 1, 2013. Although an executed and filed Joint Agreement between Prairie Power and Ameren would provide a means for distribution of revenues to Prairie Power, recovery of Prairie Power's transmission revenue requirement under MISO's Tariff requires more than filing a Joint Agreement with the Commission. As relevant here, rates for transmission service are calculated using the formula included in Attachment O of the Tariff. The transmission rates calculated under Attachment O are then recovered through charges in Schedule 7 (long-term firm and short-term firm point-

²⁵ *Id.* at 3-4.

to-point transmission service), Schedule 8 (non-firm point-to-point transmission service), and Schedule 9 (network integration transmission service) of the Tariff, which set forth the pricing zones, including the Transmission Owners whose facilities are included in each such zone. Finally, we note that Ameren is already recovering and distributing revenues for Prairie Power's 138 kV facilities in the Ameren Illinois pricing zone through a section 30.9 credit in Attachment O-AIC.²⁶ With this background information in mind, we turn to Prairie Power's complaint.

27. Prairie Power asserts that Ameren puts into jeopardy Prairie Power's timely receipt of the revenues collected by Ameren Illinois from MISO for the Ameren Illinois pricing zone and that relief under its complaint must result in the prompt execution and filing of the Joint Agreement. Ameren argues that the Commission should summarily dismiss Prairie Power's complaint, claiming that the language in Appendix C of the Transmission Owners Agreement that states "the [Transmission] Owners may go to FERC for resolution" is read to mean that Prairie Power should have filed an unexecuted agreement under FPA section 205 instead of filing a complaint under FPA section 206. We disagree with Ameren's claim. Instead, we read the language "the [Transmission] Owners may go to FERC for resolution" to include the option of filing a complaint under FPA section 206 to bring the matter to the Commission for resolution. Thus, we decline Ameren's request to summarily dismiss Prairie Power's complaint.

28. Ameren claims that it is not avoiding the execution and filing of the Joint Agreement, but simply exercising due diligence before signing. However, Ameren's disagreement with Prairie Power's revenue requirement is not an appropriate reason to avoid executing and filing the Joint Agreement. Once Ameren knew of MISO's inclusion of Prairie Power's facilities in the Transmission System, Ameren's execution of the Joint Agreement should have been a largely ministerial act, and neither the Tariff nor the Transmission Owners Agreement appear to give Ameren any right to delay execution of the Joint Agreement based on such a dispute. Accordingly, we find that it is unjust and unreasonable for Ameren to delay filing the Joint Agreement based upon its disagreement with Prairie Power's revenue requirement.

29. Thus, we direct Ameren to file, within 30 days of the date of issuance of this order, a Joint Agreement between Prairie Power and Ameren that appoints a single Transmission Owner or designee to receive the revenues allocated to the Ameren Illinois pricing zone and that further provides for distribution of such revenues pursuant to

²⁶ Section 30.9 of the Tariff provides that "[t]he Network Customer that owns existing transmission facilities that are integrated with the Transmission system may be eligible to receive consideration either through a billing credit or some other mechanism." Tariff, section 30.9.

Appendix C of the MISO Transmission Owners Agreement. Although Prairie Power requests that the Commission require that Ameren immediately resume good faith negotiations under the auspices of a Settlement Judge to complete and file as soon as possible a reasonable and fair Joint Agreement, we find it more appropriate to require Ameren to promptly file an agreement given the fact that Prairie Power and Ameren have had ample time to negotiate the terms and conditions of a revenue distribution agreement, including the opportunity to seek recourse through Dispute Resolution procedures under Attachment HH of the Tariff, and we have a sufficient record here to resolve the issues concerning the specific terms of the Joint Agreement raised thus far in this proceeding.

30. We also note that Ameren raised issues in its answer regarding the list of Transmission Owners included in the proposed agreement and the proposed agreement's billing arrangement. We agree with Ameren that the Joint Agreement should include all Transmission Owners in the Ameren Illinois pricing zone so that the total revenues for the zone are correctly allocated. Accordingly, the Joint Agreement that we direct Ameren to file within 30 days of the date of this order should include Ameren Transmission and any other owners in the pricing zone. We also direct Ameren to clarify in the Joint Agreement, to the extent necessary, that Ameren Illinois performs the Schedule 9 NITS billing within the Ameren Illinois pricing zone under an agency agreement, as indicated by Ameren.

31. As discussed above, recovery of a Transmission Owner's Attachment O revenue requirement under MISO's Tariff involves more than just filing a Joint Agreement with the Commission. Transmission rates calculated under Attachment O are recovered in Schedules 7, 8, and 9 of the Tariff, which set forth the pricing zones and the Transmission Owners whose facilities are included in each such zone. However, Schedules 7, 8, and 9 of the Tariff have not been revised to include Prairie Power as a Transmission Owner in the Ameren Illinois pricing zone. We find that without the appropriate revisions to Schedules 7, 8, and 9 of the MISO Tariff, Prairie Power is unable to recover its Attachment O revenue requirement, even though Prairie Power transferred functional control of its transmission facilities to MISO effective June 1, 2013.

32. Thus, pursuant to the Commission's authority under section 206 of the FPA, we find that MISO's existing Tariff, in particular Schedules 7, 8, and 9, is unjust, unreasonable, unduly discriminatory, or preferential, because it does not include any provisions for Prairie Power to recover its Attachment O revenue requirement. Accordingly, we will institute an FPA section 206 proceeding in Docket No. EL13-83-000 with respect to MISO's existing Tariff provisions. Pursuant to our authority under section 206, we direct MISO to submit, within 30 days of the date of this order, revisions to Schedules 7, 8, and 9 to include Prairie Power as a Transmission Owner in the Ameren Illinois pricing zone in order to allow Prairie Power to recover its Attachment O revenue requirement. The effective date for such revisions will be the date the Commission makes the revised Schedules 7, 8, and 9 effective when it issues an order deciding which

transmission facilities are appropriately included in Prairie Power's Attachment O revenue requirement included in the Ameren Illinois joint pricing zone rates following the hearing and settlement judge procedures established below.²⁷

33. We further find that Ameren has raised sufficient concerns as to the facilities to be included in Prairie Power's Attachment O revenue requirement to warrant investigation. Accordingly, as part of the section 206 proceeding in Docket No. EL13-83-000, we also set for hearing the issues concerning the transmission facilities that MISO has approved for inclusion in Prairie Power's Attachment O revenue requirement and in the Ameren Illinois joint pricing zone rates.

34. Finally, pursuant to our authority under section 206 of the FPA, in order to prevent any double recovery by Prairie Power of the revenue requirement associated with its 138 kV facilities once Prairie Power's recovery of its Attachment O revenue requirement takes effect, we direct MISO to file revisions to Ameren Illinois' Attachment O-AIC to remove the line item for Prairie Power's section 30.9 credit within 30 days of the date of issuance of this order, which revisions will take effect at the same time as the revisions to Schedules 7, 8, and 9 ordered above are made effective.

35. In cases where, as here, the Commission institutes a section 206 proceeding on its own motion, section 206(b) of the FPA requires the Commission to establish a refund effective date that is no earlier than publication of the notice of its initiation of the proceeding, but no later than five months after that date. The refund effective date in Docket No. EL13-83-000 shall be the date of publication of the notice of initiation of the investigation in the *Federal Register*.

36. Section 206(b) also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. Based on our review of the record, we expect that, if this case does not settle, the presiding judge should be able to render a decision within nine months of the commencement of hearing

²⁷ We note that in other instances non-public utilities have committed to providing refunds when submitting proposals for cost recovery for Commission review resulting in an earlier effective date than a date after hearing and settlement judge procedures. See *City of Riverside, California*, 136 FERC ¶ 61,137, at P 27 (2011); *New York Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,240, at P 31 (2012). Similarly, Prairie Power retains the opportunity to make a commitment to provide refunds in order to allow the Commission to establish a different effective date for Prairie Power's recovery of its Attachment O revenue requirement through the Ameren Illinois joint pricing zone rates.

procedures, or, if the case were to go to hearing immediately, by May 31, 2014. Thus, we estimate that if the case were to go to hearing immediately, we would be able to issue our decision within approximately six months of the filing of briefs on and opposing exceptions, or by January 31, 2015.

37. While we are setting the matters in Docket No. EL13-83-000 for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before the hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.²⁸ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding, otherwise the Chief Judge will select a judge for this purpose.²⁹ The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) Prairie Power's complaint is hereby granted, as discussed in the body of this order.

(B) We hereby direct Ameren to file a Joint Agreement between Prairie Power and Ameren within 30 days of the date of issuance of this order, as discussed in the body of this order.

(C) We hereby direct MISO to file, within 30 days of the date of issuance of this order, revised Schedules 7, 8, and 9 to include Prairie Power in the Ameren Illinois pricing zone in order to allow Prairie Power to recover its Attachment O revenue requirement, as discussed in the body of this order.

²⁸ 18 C.F.R. § 385.603 (2013).

²⁹ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of the date of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

(D) We hereby direct MISO to file, within 30 days of the date of issuance of this order, revisions to Attachment O to remove the line item for Prairie Power's section 30.9 credit, as discussed in the body of this order.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held in Docket No. EL13-83-000 concerning the justness and reasonableness of the transmission facilities that MISO has approved for inclusion in Prairie Power's Attachment O revenue requirement and in the Ameren Illinois joint pricing zone rates. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (H) and (I) below.

(F) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of section 206 proceedings in Docket No. EL13-83-000.

(G) The refund effective date established in Docket No. EL13-83-000 pursuant to section 206(b) of the Federal Power Act will be the date of publication in the *Federal Register* of the notice discussed in Ordering Paragraph (F) above.

(H) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2013), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(I) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(J) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street,

NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.