

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Midwest Independent Transmission System Operator, Inc. Docket No. ER05-6-004

Midwest Independent Transmission System Operator, Inc.
PJM Interconnection, LLC., *et al.* Docket No. EL04-135-006

Midwest Independent Transmission System Operator, Inc.
PJM Interconnection, LLC., *et al.* Docket No. EL02-111-023

Ameren Services Company, *et al.* Docket No. EL03-212-020

ORDER GRANTING CLARIFICATION

(Issued November 30, 2004)

1. On November 23, 2004, American Electric Power Service Corporation¹ (AEP) filed an emergency motion for clarification of the Commission's November 18th Order addressing transmission rate design in the region where the PJM Interconnection, LLC (PJM) and Midwest Independent Transmission System Operator, Inc. (Midwest ISO) regional transmission organizations (RTOs) operate.² In this order, we provide an opportunity for certain transmission owners to make a filing concerning rate design under

¹ AEP states that it filed on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company.

² *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,168 (2004) (November 18 Order).

PJM's open access transmission tariff (OATT) in order to reflect recent events. This order benefits customers by ensuring that no undue cost shifts occur among various transmission owners or customers as the transmission pricing structure changes in the region.

I. Background

2. In December 2002, AEP, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd), Dayton Power and Light Company (Dayton), and PJM, filed proposed revisions to PJM's OATT to enable the integration of AEP, ComEd, and Dayton into PJM. These proposed revisions included provisions for the recovery of lost revenues associated with the elimination of rate pancaking between AEP, ComEd, Dayton, and the rest of PJM (*intra*-RTO rate pancaking) once AEP, ComEd, and Dayton were integrated into PJM. The proposal provided for recovery of up to two years of lost revenues, beginning on the date that each company was integrated into PJM and ending in January 31, 2005. The proposed revisions reflected the parties' understanding that AEP and ComEd would integrate into PJM by February 1 or March 1, 2003.

3. On April 1, 2003, the Commission issued an order which approved AEP's and ComEd's integration into PJM, accepted and suspended the proposed OATT revisions, to take effect subject to refund, and established hearing procedures.³

4. In an order issued November 17, 2003, the Commission ordered the elimination of regional through and out rates under the Midwest ISO and PJM OATTs effective April 1, 2004.⁴ The November 17 Order adopted a replacement rate design for through and out service which included the so-called Seams Elimination Charge/Cost Adjustments/Assignments (SECA), a transitional rate mechanism for the recovery of lost revenues associated with the elimination of rate pancaking between PJM and Midwest ISO (*inter*-RTO rate pancaking). The SECA would have been in effect during a two-year transition period commencing April 1, 2004, in order to mitigate cost shifts among transmission owners or customers due to the elimination of inter-RTO rate pancaking. The November 17 Order specifically noted that proposals for lost revenue recovery mechanisms to address the elimination of intra-RTO rate pancaking, including the proposal in Docket No. ER03-262, were pending and subject to hearing and settlement procedures and provided guidance that "the transitional rate mechanisms associated with

³ *American Electric Power Service Corporation*, 103 FERC 61,008 (2003) (April 1 Order), *order on reh'g, New PJM Companies*, 108 FERC ¶ 61,140 (2004), *reh'g pending*.

⁴ *Midwest Independent Transmission System Operator*, 105 FERC 61,212 (2003), *reh'g pending* (November 17 Order).

the elimination of intra-RTO rate pancaking within the combined region should be the same as the mechanism prescribed here for the elimination of inter-RTO rate pancaking.”⁵

5. Subsequently, the Commission provided time for the parties to participate in a stakeholder process to develop SECA compliance filings. This process resulted in an agreement, the “Going Forward Principles and Procedures” (Going Forward Principles) that was accepted by the Commission.⁶ This agreement established principles and procedures to guide the parties in the development of a long-term transmission pricing structure that could take effect December 1, 2004, subject to refund and further procedures if appropriate, without the need for a transitional lost revenue recovery mechanism. The agreement retained the through and out rates until December 1, 2004, at which time they would be eliminated entirely. The agreement also provided for continued negotiations to develop a long-term transmission pricing structure that eliminates seams in the PJM and Midwest ISO regions and required the PJM and Midwest ISO transmission owners to file a long-term transmission pricing proposal on or before October 1, 2004. The agreement provided for the filing of one proposal or, if the parties were unable to agree to a single proposal, multiple proposals on or before October 1, 2004, with a proposed December 1, 2004 effective date. The agreement also provided for “backstop” SECA compliance filings to be made on or before November 24, 2004, to take effect December 1, 2004, subject to nominal suspension and refund, in the event that the Commission was unable to implement a replacement pricing structure that eliminates seams as of December 1, 2004.

6. On October 1, 2004, two competing proposals were submitted. In the November 18 Order, the Commission found that neither of the two proposals fully met the requirements of the Going Forward Principles, and nor had either proposal been shown to be just and reasonable. The Commission conditionally accepted one of the proposals, the Regional Zonal Rate Design, suspended it for a nominal period to take effect December 1, 2004, subject to refund and further orders, adopted the SECA transition methodology previously adopted in the November 17 Order to become effective December 1, 2004 to complement the Regional Zonal Rate Design, and directed compliance filings to implement the SECA transition methodology.

⁵ See November 17 Order, 107 FERC ¶ 61,212 at P 44 n. 92.

⁶ *Midwest Independent Transmission System Operator, Inc.*, 106 FERC ¶ 61,262 (2004), *reh’g pending*.

II. Motion for Clarification

7. AEP requests clarification that the Commission intended to permit the recovery of lost revenues associated with the elimination of *intra*-RTO rate pancaking through the SECA transition methodology adopted in the November 18 Order and did not intend to limit the SECA transition methodology to the recovery of lost revenues associated with the elimination of *inter*-RTO rate pancaking.

8. AEP requests clarification that the statement in the November 18 Order, at note 41, that lost revenues associated with the elimination of *intra*-RTO rate pancaking are not subject to that order,⁷ was a mistake and that lost revenues associated with the elimination of *intra*-RTO rate pancaking are to be recovered through the SECA that was adopted in the November 18 Order.

III. Commission Determination

9. AEP's request for clarification is granted. We clarify that AEP, ComEd and Dayton may recover lost revenues associated with the elimination of *intra*-RTO rate pancaking through the SECA transition methodology in Docket No. EL04-135-000. AEP, ComEd and Dayton are in a different position than other transmission owners because they were integrated into PJM in the midst of the *inter*-RTO rate proceedings and have not had an opportunity to fully recover their lost revenues associated with the elimination of *intra*-RTO rate pancaking. Therefore, we will permit AEP, ComEd and Dayton to make appropriate filings for recovery of lost revenues associated with the elimination of *intra*-RTO rate pancaking through March 31, 2006 through the SECA transition methodology.⁸

⁷ See November 18 Order, 109 FERC ¶ 61,168 at P 61 n. 41.

⁸ On November 30, 2004, Wisconsin Electric Power Company, Wisconsin Public Service Corporation and Upper Peninsula Power Company, Michigan Parties (Michigan South Central Power Agency, Michigan Public Power Agency, Consumers Energy Company and Detroit Edison Company), Multiple Transmission Dependent Utilities, and Certain PJM Transmission Owners filed answers to AEP's motion. The arguments raised in these answers speak to the merits of the Commission's November 18 Order, and are therefore more properly raised in requests for rehearing of the November 18 Order. Additionally, with respect to any filings that may be made, parties will have an opportunity to respond to those filings.

The Commission orders:

AEP's motion for clarification is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.