

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 2, 2004

In Reply Refer To:
Illinois Power Company
Docket Nos. ER04-1262-000
and ER04-1262-001

John R. Matson III, Esq.
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Dear Mr. Matson:

1. On September 30, 2004, as amended on October 12, 2004, Illinois Power Company (Illinois Power) filed a Notice of Cancellation for certain service agreements under its Open Access Transmission Tariff (OATT). The service agreements are being cancelled because Illinois Power is transferring functional control over its transmission system to the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and will no longer provide transmission service under its OATT. The Commission hereby accepts the Notice of Cancellation effective October 1, 2004, as requested.

Background

2. On July 29, 2004, the Commission issued an order authorizing the merger of Illinois Power into Ameren Corporation.¹ The merger order also approved Illinois Power's request to transfer functional control of its transmission facilities to the Midwest ISO. The consummation of the merger and the transfer of functional control became effective on October 1, 2004.²

3. In subsequent related proceedings, the Commission approved Illinois Power's request to modify its OATT to reflect that transmission and certain related services would

¹ *Ameren Corp.*, 108 FERC ¶ 61,094 (2004).

² *Midwest Independent Transmission System Operator*, 109 FERC ¶ 61,185 at P 2 (2004) (*Midwest ISO Order*).

be provided by the Midwest ISO beginning October 1, 2004.³ The *Midwest ISO Order* also granted the Midwest ISO's request to succeed Illinois Power as the transmission provider in a number of individual transmission service agreements.⁴

Illinois Power's Instant Filing

4. In its September 30, 2004 filing, Illinois Power asserts that many of the remaining transmission service agreements under Illinois Power's OATT need to be cancelled since Illinois Power will no longer be providing the services addressed in those agreements. On October 12, 2004, Illinois Power amended its September 30, 2004 filing to correct the omission of a particular agreement from its September 30 filing.

Notices and MidAmerican's Protest

5. Notices of the filings were published in the *Federal Register*, 69 Fed. Reg. 60,849 (2004), and 69 Fed. Reg. 62,263 (2004), with interventions and protests due on or before November 2, 2004. A motion to intervene and a protest were filed by MidAmerican Energy Company (MidAmerican).

6. In its protest, MidAmerican states that a number of Illinois Power transmission customers have experienced a dramatic increase in charges for their transmission service as a result of the transfer of functional control to the Midwest ISO. MidAmerican is also concerned that individual negotiations for transmission service, such as those occurring between Dynegy Power Marketing, Inc. and the Midwest ISO, create a potential for unduly discriminatory charges for transmission services. To the extent that the Commission grants relief to any one transmission customer from the Midwest ISO's through-and-out rates as part of the transfer, MidAmerican urges the Commission to ensure that non-discriminatory rate treatment is extended to all former Illinois Power transmission customers.

Discussion

7. MidAmerican's unopposed, timely-filed motion to intervene makes it a party pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004).

8. MidAmerican's protest addresses matters that are beyond the scope of this proceeding, which involves cancellation of certain transmission service agreements. In fact, MidAmerican filed an identical protest in Docket No. ER04-1239-000, which was

³ *Id.* at P 15.

⁴ *Id.* at P 13.

addressed in the *Midwest ISO Order*.⁵ In that order, the Commission rejected MidAmerican's protest, stating that "MidAmerican's concern about the potential for unduly discriminatory rates as a result of the outcome of future settlement negotiations is premature."⁶ Thus, we reject MidAmerican's protest and permit the service agreement cancellations to become effective October 1, 2004, as requested.

By direction of the Commission.

Magalie R. Salas,
Secretary.

⁵ *Id.* at P 14, n.4.

⁶ *Id.*