

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Midwest Independent Transmission
System Operator, Inc.

Docket Nos. ER02-2458-002
and -003

ORDER CONDITIONALLY ACCEPTING AMENDMENTS TO SETTLEMENT
AGREEMENT, GRANTING REQUEST FOR REHEARING, IN PART,
AND ORDERING COMPLIANCE FILINGS

(Issued September 30, 2005)

Introduction

1. In this order we conditionally accept amendments to the offer of settlement that was conditionally accepted in *Midwest Independent Transmission System Operator, Inc.*, 106 FERC ¶ 61,219 (2004) (March 5 Order). We also grant, in part, Michigan Public Power Agency's (MPPA) request for rehearing of the March 5 Order.

Background

2. In August 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted proposed revisions to Schedules 7, 8, and 9 of the Midwest ISO's open access transmission tariff (OATT). The proposed revisions were designed to create a separate pricing zone for Wolverine Power Supply Cooperative, Inc. (Wolverine) within Midwest ISO upon its becoming a transmission owning member of Midwest ISO. The revisions were based on a proposed version of section II.A.1 of Appendix C of the Midwest ISO Agreement¹ that was then pending before the Commission in another proceeding. The proposed version of section II.A.1 permits new pricing zones to be created under certain conditions.² Midwest ISO argued that the proposed section II.A.1

¹ Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc. (Midwest ISO Agreement).

² The proposed revised section II permits Midwest ISO to create a pricing zone when it adds "a new Owner that is an existing transmission provider and is or would have been a specified zone for pricing under an existing or proposed regional transmission tariff." This proposed revised section II was subsequently accepted for filing in *Midwest Independent Transmission System Operator, Inc.*, 101 FERC ¶ 61,113 (2002).

permits a separate transmission pricing zone to be created because Wolverine: (1) is a transmission provider under the Wolverine OATT; and (2) operates a fully integrated transmission system that is connected with, and is electrically surrounded by, the transmission system owned by Michigan Electric Transmission Company, LLC (Michigan Electric), an existing transmission-owning member of Midwest ISO.

October 9 Order

3. On October 9, 2002,³ the Commission rejected, without prejudice, the proposed Wolverine pricing zone. The Commission determined that Wolverine did not meet the standard set out in the current section II.A.1⁴ that was in effect or the standard set out in the proposed revised section II.A.1.

4. Nevertheless, the Commission concluded that the parties had raised important issues that must be addressed for further development of the regional transmission organization (RTO). According to the Commission, the participation of new transmission owners can and should be encouraged if owners are compensated for the use of their transmission facilities, either by the use of separate pricing zones for those entities or by incorporating those entities into existing pricing zones. The Commission noted that section III.A.8 of Appendix C to the Midwest ISO Agreement set out the mechanism whereby multiple owners in a zone could agree to the distribution of zonal revenues.

5. The Commission established settlement judge procedures so that the parties could develop a joint Michigan Electric/Wolverine pricing zone that accommodates Wolverine's participation in Midwest ISO and compensates Wolverine for its transmission facilities. The Commission said:

³ See *Midwest Independent Transmission System Operator, Inc.*, 101 FERC ¶ 61,004 at P 21 (2003), *reh'g pending* (October 9 Order).

⁴ Section II.A.1 of Appendix C of the Midwest ISO Agreement that was in effect when Midwest ISO filed the proposed revisions stated in pertinent part:

[The Zones] only may be changed to reflect the effectuation of a merger to add a new Owner that operates a control area in existence on or before the date of the initial filing with the FERC to establish the Midwest ISO, or to reflect the withdrawal from the Midwest ISO of an Owner or Owners.

We agree with the protesters that Wolverine's transmission facilities must meet the requirements of the seven factor test,⁵ as interpreted by the [Michigan Public Service Commission (Michigan Commission)], [footnote omitted] in order to ensure that Wolverine receives compensation for its transmission facilities on a basis comparable to the compensation received by [Michigan Electric]. Application of the seven factor test should form the starting point for these negotiations. In order to aid the parties in this process, we will establish settlement judge procedures to address, among other things, revenue allocation among RTO members within the [Michigan Electric] pricing zone.⁶

6. Wolverine filed a request for rehearing of the October 9 Order. The Commission, however, deferred action on this rehearing.

March 5 Order

7. In the March 5 Order, the Commission, among other things, conditionally approved an offer of settlement between Midwest ISO, Wolverine, Michigan Electric, and MPPA (collectively, the Settlement Parties) that established a new joint pricing zone under Midwest ISO's OATT (Settlement Agreement). That Settlement Agreement would establish a joint pricing zone within Midwest ISO that would include Wolverine,

⁵ To determine what facilities would be under the Commission's jurisdiction and what facilities would remain under the state's jurisdiction for purposes of retail stranded cost adders or other retail regulatory purposes, in Order No. 888 the Commission developed a seven factor test to determine what facilities are transmission facilities and what facilities are local distribution facilities. See *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21,540 (1996), FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996 ¶ 31,036, at pp. 31,783-84 (1996), *order on reh'g*, Order No. 888-A, 62 Fed. Reg. 12,274 (1997), FERC Statutes and Regulations ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁶ October 9 Order at P 21.

Michigan Electric, and MPPA.⁷ The Settlement Agreement would allow Wolverine to include facilities in the joint zone rate based on a seven-factor test analysis performed by its consultant and independently verified by Midwest ISO.

8. The Commission modified the Settlement Agreement by, among other things, limiting the portion of Wolverine's assets reflected in the new joint zone rates to Wolverine's 138 kV facilities, excluding all 69 kV and 44 kV facilities. Specifically, the Commission adopted a seven factor test analysis performed by the Michigan Commission in its Administrative Determination of August 26, 2003 (Administrative Determination).⁸ The Commission reasoned that comparability requires that the other facilities reflected in the joint zone rate with Michigan Electric's facilities should meet the requirements of the seven factor test as applied by the Michigan Commission to classify the facilities owned by Michigan Electric.⁹

9. In addition, since the Settlement Agreement was conditionally approved in the March 5 Order, the Commission again deferred action on Wolverine's pending request for rehearing of the October 9 Order.¹⁰

Requests For Rehearing/Clarification Of March 5 Order, Amendments To Settlement Agreement, The Motion To Lodge And Responses

10. Wolverine filed a request for rehearing of the March 5 Order asserting that the Commission should not have used the seven factor test for the purpose of excluding transmission facilities from the wholesale joint zone rate, and, furthermore, the Commission should not have relied on the Michigan Commission's Administrative

⁷ The Settlement Agreement also sets out the criteria for others to join this joint pricing zone.

⁸ The Michigan Commission's motion to lodge its Administrative Determination was granted in the March 5 Order.

⁹ March 5 Order at PP 55-56. The Commission also directed certain compliance filings to be made to implement the Settlement Agreement.

¹⁰ *Id.* at P 57. Wolverine stated in the explanatory statement to the proposed Settlement Agreement that its pending request for rehearing of the October 9 Order should be deemed withdrawn if the Commission approved the proposed settlement without modification.

Determination as the basis for that ruling.¹¹ Wolverine states that, as a result, many of the facilities that Wolverine contemplated transferring to Midwest ISO were classified as distribution facilities and thereby ineligible for inclusion in the joint pricing zone.

11. MPPA filed a request for clarification or, in the alternative, rehearing of Paragraph 19 of the March 5 Order. Specifically, Paragraph 19 of the March 5 Order modified the Wolverine and MPPA revenue requirements, included in the joint zone rate, to exclude the portion associated with load served by certain grandfathered agreements. MPPA seeks clarification of the formula for calculating the reduction that the Commission ordered to its transmission revenue requirement to exclude the portion associated with load served by the grandfathered agreements. Consumers Energy Company (Consumers Energy) filed an answer to MPPA's request for clarification. Wolverine filed an answer to MPPA's request for clarification. MPPA filed an answer to Consumers Energy's and Wolverine's answers to its request for clarification.

12. On April 1, 2004, the Settlement Parties filed an amendment to the Settlement Agreement that would postpone the date for withdrawing from the Settlement Agreement, from thirty days after the March 5 Order, to thirty days after the Commission issues a substantive order with respect to the requests for rehearing of the March 5 Order (April 1 Amendment).

13. On May 9, 2005, the Michigan Commission submitted a motion to lodge its April 28, 2005 Revised Administrative Determination. In its Revised Administrative Determination, the Michigan Commission states that it reviewed additional information and that the following should be classified as transmission facilities: (1) Wolverine's 69 kV and 138 kV looped line facilities; (2) Wolverine's 138 kV transmission stations; (3) Wolverine's 138 kV-69 kV interconnection facilities; and (4) Wolverine's 69 kV stations and equipment except those facilities that do not meet certain criteria and are, therefore, deemed to perform a distribution function.

14. On May 17, 2005, the Settlement Parties submitted a second amendment to the Settlement Agreement (May 17 Amendment). This second proposed amendment incorporates the Michigan Commission's Revised Administrative Determination into the settlement agreement and revises the list of Wolverine transmission facilities that are included in the joint zone rates. In the explanatory statement, Wolverine states that its two pending rehearing requests filed on November 8, 2002, and April 5, 2004, respectively, can be dismissed as moot upon the Commission's acceptance, without modification, of the Settlement Agreement as modified by the April 1 and May 17 Amendments.

¹¹ Wolverine indicates that it will not join Midwest ISO under the conditions imposed in the March 5 Order.

15. Michigan Electric submitted an answer in support of the Michigan Commission's motion to lodge.

16. Consumers Energy submitted a protest to the May 17 Amendment. Consumers Energy does not protest the inclusion of Wolverine's facilities in the joint zone rates that meet the criteria of the Michigan Commission's Revised Administrative Determination. However, Consumers Energy argues that modifications to other aspects of the original settlement agreement directed by the Commission in the March 5 Order have not been addressed in either the April 1 or May 17 Amendments.

17. The Settlement Parties submitted an answer to Consumers Energy's protest. As discussed below, the Settlement Parties state that Consumers Energy's comments reflect a misunderstanding of their intentions. The Settlement Parties' clarify that when they submitted the May 17 Amendment their intention was to seek a Commission order accepting the settlement agreement, *as modified by* the March 5 Order, and as further revised only in the narrow respects addressed by the April 1 and May 17 Amendments.

Discussion

A. Procedural Matters

18. Rule 213(a) (2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a) (2) (2004) prohibits answers to a protest, an answer, a motion for oral argument, or a request for rehearing unless otherwise ordered by the decisional authority. We are not persuaded to accept the Wolverine, MPPA or Consumers Energy answers filed in response to MPPA's request for clarification and will, therefore, reject them. However, we will accept the Settlement Parties' answer filed in response to the Consumers Energy protest as it has provided information that assisted us in our decision-making process.

19. We will also grant the Michigan Commission's motion to lodge its Revised Administrative Determination because it provided information useful to the Commission's decision-making process.

B. Amendments to Settlement Agreement

20. In the explanatory statement to the May 17 Amendment, the Settlement Parties state that Wolverine and the Michigan Commission engaged in discussions intended to reach an amicable resolution of the issues concerning Wolverine's transmission facilities and commissioned a supplemental seven factor test analysis of its system. They state that, after extensive review of comments from interested parties and information from Wolverine, the Michigan Commission issued a Revised Administrative Determination. The Revised Administrative Determination states that the following Wolverine facilities

perform a transmission function and are properly classified as transmission facilities: (1) all Wolverine 138 kV looped line facilities and transmission stations; (2) all Wolverine 138-69 kV interconnection facilities; (3) all Wolverine 69 kV looped line facilities; and (4) all 69 kV stations and equipment, except line switches and breaker/recloser stations on radial lines, generation step-up facilities, and transmission stations with only two looped line terminations. The Settlement Parties state that the May 17 Amendment is consistent with the Revised Administrative Determination and revises the list of Wolverine transmission facilities to be included in the joint zone rate.

21. By filing the May 17 Amendment to adhere to the Michigan Commission's Revised Administrative Determination, the Settlement Parties maintain that the joint zone will be appropriately implemented and will expand the scope of Midwest ISO. Therefore, the Settlement Parties state that the Commission should approve both the April 1 Amendment (that postpones the window of opportunity to withdraw from the settlement from thirty days after the March 5 Order to thirty days after the Commission issues an order on rehearing of the March 5 Order) and the May 17 Amendment to the Settlement Agreement.¹²

C. Consumers Energy's Protest

22. Consumers Energy argues that, contrary to the Commission's directives in the March 5 Order, no seven factor test analysis has been submitted for MPPA and that the May 17 Amendment does not state which MPPA facilities are to be included in the joint zone rates. Consumers Energy also argues that Midwest ISO has not made a determination as to which facilities of non-jurisdictional transmission owners to include in the joint zone rates as directed in the March 5 Order. Consumers Energy also notes that the March 5 Order directed Wolverine and MPPA to exclude from their transmission revenue requirements recovered through the joint zone rate a *pro rata* share associated with transactions under certain grandfathered agreements and that the Settlement Parties have not addressed this directive.

23. In addition, Consumers Energy points out that the Settlement Agreement states that, Wolverine's transmission facilities to be included in the joint zone rate would include any "FERC-jurisdictional transmission facilities" constructed by Wolverine after the settlement filing date, but it does not specify the criteria for judging whether such facility additions qualify as "FERC-jurisdictional transmission facilities." Consumers

¹² The Settlement Parties state that they agree that, in all other respects, the provisions of the Settlement Agreement shall remain as filed on July 11, 2003, and conditionally approved by the Commission in its March 5 Order.

Energy argues that the Settlement Agreement should clearly state that such determinations will be made consistent with the criteria outlined in the Revised Administrative Determination.

24. Finally, Consumers Energy states that the Commission accepted, in the March 5 Order, the use of the 12.88 percent return on equity (ROE) previously afforded to other transmission owners in Midwest ISO. Consumers Energy states that the Commission should address and clarify the status of that ruling in light of its recent June 3, 2005 Order on Remand in Docket No. ER02-485-004.¹³

Settlement Parties' Answer

25. The Settlement Parties state that the May 17 Amendment only adopts the classification of Wolverine's facilities consistent with the Revised Administrative Determination and does not address the Commission's other modifications to the Settlement Agreement in the March 5 Order. The Settlement Parties clarify their intention to seek an order accepting the Settlement Agreement, *as modified by the March 5 Order*, and as further revised only in the narrow respects addressed specifically by the April 1 and May 17 Amendments. The Settlement Parties state that it should be clear that the May 17 Amendment proposes nothing other than to adopt the classification of Wolverine's facilities as described in the Revised Administrative Determination.

26. In response to Consumers Energy's claim that the Settlement Parties should clarify their criteria for determining the classification of newly constructed facilities, the Settlement Parties state that the May 17 Amendment does not change the criteria for classifying newly constructed facilities previously accepted in the March 5 Order. The Settlement Parties also argue that the Settlement Agreement should not be further modified to include Wolverine-specific criteria for evaluating future facilities nor should Wolverine be subject to criteria different from those applied to other members of the joint zone.

27. The Settlement Parties acknowledge and clarify that, once Wolverine and MPPA become participating members of Midwest ISO, they should receive the same 12.38 percent ROE generally applicable to other transmission owners in the Midwest ISO or as otherwise approved by the Commission.

¹³ *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,355 (2005) (Order on Remand).

Commission Determination

28. The Commission has stated in the past that Wolverine's facilities should meet the requirements of the seven factor test as applied by the Michigan Commission in order to be included in the joint zone rate. The May 17 Amendment complies with this directive because it revises the list of Wolverine transmission facilities to be included in the joint zone rate in a manner consistent with the Michigan Commission's classification of Wolverine's facilities set out in the Revised Administrative Determination. Accordingly, we will accept the May 17 Amendment. We will also accept the April 1 Amendment to the Settlement Agreement that permits the parties to withdraw from the Settlement Agreement within thirty days of this order.

29. The Settlement Parties' response to Consumers Energy's protest sufficiently clarifies that the May 17 Amendment revises the list of Wolverine transmission facilities to be included in the joint zone rate, consistent with the Revised Administrative Determination, and that it contains no other changes to the Settlement Agreement as modified by the March 5 Order. The Settlement Parties clarification also emphasizes that the Settlement Agreement, as modified by the March 5 Order, will remain the same in all other respects. This addresses Consumers Energy's concern that no seven factor test analysis was submitted for MPPA's facilities, or the facilities of other entities not subject to Commission or state regulation, that are included in the joint zone. The Settlement Agreement, as modified by the March 5 Order, requires that Midwest ISO will perform a seven factor test analysis on MPPA's facilities, and the facilities of other entities not subject to Commission or state regulation, to determine which are eligible for inclusion in the joint zone and file the results of that analysis when Midwest ISO files to include those facilities in the joint zone rates.

30. With respect to Consumers Energy's concerns regarding the classification of new facilities constructed by Wolverine, we agree that, in the future, Wolverine should classify its new facilities as transmission consistent with the classification guidelines set forth in the Michigan Commission's Revised Administrative Determination in Appendix A of the Settlement Agreement and reflect that classification in its transmission plant accounts. Should Wolverine wish to change these criteria for classification of new facilities as transmission, it must submit those changes to the Commission for review under section 205 of the Federal Power Act¹⁴ before reflecting the revised classification in the joint zone rates. Adoption of this criteria for classification of new facilities is appropriate because, unlike Michigan Electric, Wolverine has not divested itself of facilities that do not meet the criteria for classification as transmission under the seven factor test, and these criteria will ensure that any additions to such facilities are not included in the joint zone rates.

¹⁴ 16 U.S.C. § 824d (2000).

31. In response to Consumers Energy's request for clarification of the appropriate ROE for Wolverine and MPPA in light of the June 3, 2005 Order on Remand, the Settlement Parties clarify that they seek the same ROE generally applicable to other transmission owners in Midwest ISO, which is currently 12.38 percent pursuant to the Order on Remand. In the March 5 Order, the Commission found that Wolverine and MPPA should receive the same ROE that is approved for general use by all transmission owners in the Attachment O rate formula under the Midwest ISO tariff. Accordingly, we accept the Settlement Parties' proposal, as clarified in their answer, as consistent with the March 5 Order.

D. MPPA's Rehearing Request

32. The Settlement Agreement recognizes transmission ownership and operating agreements that outline Wolverine's, MPPA's, and Michigan Electric's joint ownership of certain transmission facilities on the Michigan Electric system.¹⁵ Control of these jointly-owned facilities and all of Michigan Electric's facilities have already been transferred to Midwest ISO.¹⁶ However, Michigan Electric does not include the cost of Wolverine's or MPPA's ownership shares in its revenue requirement and neither Wolverine nor MPPA recover any costs related to their ownership shares in the jointly-owned facilities from Midwest ISO.

33. In exchange for Wolverine's and MPPA's continued payment for costs related to their ownership shares, Wolverine and MPPA receive transmission service rights on Michigan Electric's system. Midwest ISO then offsets Wolverine's and MPPA's network load by the amount of their transmission service rights. Consequently, Wolverine and MPPA only pay Midwest ISO for the amount of transmission service above and beyond their transmission service rights on the Michigan Electric system. In the Settlement Agreement, the parties seek to continue this arrangement (*i.e.*, Wolverine and MPPA will continue paying all costs associated with their ownership shares in the jointly-owned facilities and will not recover these costs under any Midwest ISO OATT revenue requirement).

34. In the March 5 Order, the Commission found that, under the treatment of ownership entitlements contained in the settlement agreement, Wolverine and MPPA would not bear an appropriate share of the cost of their own facilities used to serve the load associated with the transmission service rights. The Commission stated that the grandfathered agreements provide for transmission service over the Michigan Electric transmission system, not for transmission service over the Wolverine and MPPA facilities

¹⁵ These ownership and operating agreements are listed as Grandfathered Agreements under the Midwest ISO OATT.

¹⁶ See *Trans-Elect, Inc.*, 99 FERC ¶ 61,068 (2002).

used to transmit power to Wolverine's and MPPA's members. In order to ensure that Wolverine and MPPA bear the appropriate share of the cost of their facilities used to deliver power wheeled under the grandfathered agreements to their load once the joint zone is implemented, the Commission found that Wolverine and MPPA must exclude from their transmission revenue requirements recovered through the joint zone rate, a *pro rata* share (*i.e.*, load associated with the transmission service rights as a proportion of total joint zone load excluding such transmission service rights) of the total revenue requirements associated with their facilities included in the joint zone.

35. In its request for rehearing, MPPA states that the March 5 Order appears to require a reduction in MPPA's and Wolverine's revenue requirements in the aggregate. Therefore, it seeks clarification that the Commission did not intend for MPPA and Wolverine to exclude more than their respective zonal load ratio shares from their transmission revenue requirements recovered through the joint zone rate. It also seeks clarification that the *pro rata* share must be based on the difference between the party's zonal load ratio share and its tariff load ratio share.

Commission Determination

36. As an initial matter, the *pro rata* share adjustment directed in the March 5 Order inadvertently excluded the transmission service rights from the divisor, which would result in exclusion of more than MPPA and Wolverine's zonal load ratio share of their transmission revenue requirements from the joint zone rates. The correct *pro rata* share is load associated with the transmission service rights as a proportion of total joint zone load. We will not adopt MPPA's proposal that the *pro rata* share be based on the difference between the party's zonal load ratio share and its tariff load ratio share. We note that MPPA's proposal mixes ratios with different denominators and understates the zonal load ratio share associated with the entitlements. In addition, we deny MPPA's request that we clarify that MPPA and Wolverine should not exclude any more than their respective zonal load ratio shares from their transmission revenue requirements, as that would go against the concept of a joint zone. In the March 5 Order, we explained that the grandfathered agreements provide for transmission service over the Michigan Electric transmission system, not for transmission service over the Wolverine and MPPA facilities used to transmit power from the Michigan Electric transmission system to Wolverine's and MPPA's members. Thus, unless Wolverine and MPPA have grandfathered arrangements to use each other's joint zone facilities to transmit power to their loads associated with the transmission service rights on the Michigan Electric system under the ownership and operating agreements, MPPA and Wolverine must each exclude the combined zonal load ratio shares associated with Wolverine's and MPPA's transmission service rights from its transmission revenue requirement. However, we clarify that MPPA and Wolverine may include a mechanism in the Midwest ISO tariff to recover

from each other such costs for transmission service over their joint zone facilities to the other's loads associated with the transmission service rights on the Michigan Electric system under the ownership and operating agreements.

E. Compliance Filings

37. In the transmittal letter accompanying the May 17 Amendment, the Settlement Parties propose to make compliance filings to implement the amended settlement agreement as follows: (1) Midwest ISO will file revised tariff sheets within 30 days of an order accepting the first and second amendments to the settlement; (2) Wolverine will file revised wholesale power rates to reflect changes in its revenues resulting from its participation in the joint zone within 30 days of the effective date of the settlement agreement;¹⁷ and (3) the Settlement Parties will file the methodology for the joint zone loss factor within 60 days of an order accepting the first and second amendments to the settlement agreement. The Settlement Parties acknowledge that the loss methodology must be filed and approved by the Commission prior to the effective date of the settlement agreement. Consumers Energy states that, while it does not object to the Settlement Parties' proposed timeline for filing the joint zone loss methodology, it requests that it be allowed to participate in the development of that joint zone loss methodology.

38. In their answer to Consumers Energy's protest, the Settlement Parties state that that they anticipate developing the joint zone loss methodology, consistent with Midwest ISO's Open Access Transmission and Energy Market Tariff (EMT), through a participatory process among affected Midwest ISO participants.

Commission Determination

39. We will accept the proposed timeline for compliance filings to implement the settlement agreement, as modified below. We agree with the Settlement Parties that the loss methodology must be filed prior to the effective date of the settlement agreement. Therefore, we will require that the Settlement Parties file the joint zone loss methodology no less than 60 days prior to the effective date for the joint zone settlement rates (*i.e.*, no less than 60 days prior to the date that a new transmission-owning member of the joint

¹⁷ The March 5 Order required Wolverine to file, within 30 days of the effective date of the settlement agreement, revisions to its existing wholesale rates to reflect any changes in its revenues resulting from its participation as a transmission owning member of Midwest ISO. *See* March 5 Order at P 21. The effective date of the settlement agreement is the date upon which the first joint zone transmission owner other than Michigan Electric transfers functional control of its transmission facilities to Midwest ISO.

zone transfers control of its facilities to Midwest ISO). In response to Consumers Energy's request that it be allowed to participate in the development of the joint zone loss methodology, we direct the Settlement Parties to develop the methodology consistent with Midwest ISO's EMT through a participatory process among affected Midwest ISO participants.

F. Wolverine's Requests for Rehearing

40. Wolverine states that its two pending requests for rehearing filed on November 8, 2002, and April 5, 2004, respectively, can be dismissed as moot upon the Commission's acceptance, without modification, of the Settlement Agreement as modified by the April 1 and May 17 Amendments. As discussed above, we are requiring modification to the amended settlement agreement only to require Wolverine to classify its new facilities as transmission consistent with the classification guidelines set forth in the Michigan Commission's Revised Administrative Determination. Therefore, we will defer action on the requests for rehearing of the October 9 and March 5 Orders and direct Wolverine to notify us of the status of its requests for rehearing within 30 days of the date of this order.

The Commission orders:

(A) MPPA's request for rehearing of the March 5 Order is granted in part, and denied in part, as discussed in the body of this order.

(B) The amendments to the settlement agreement filed on April 1, 2004, and May 17, 2005, are hereby conditionally accepted for filing, as discussed in the body of this order.

(C) Wolverine is directed to notify the Commission, within 30 days of the date of this order, of the status of its pending requests for rehearing of the October 9 Order and the March 5 Order.

(D) Midwest ISO is directed to file revised tariff sheets implementing the settlement within 30 days of this order.

(E) Settlement Parties are directed to file the loss methodology for the joint zone within 60 days of the date of this order and no less than 60 days prior to the date that a new transmission-owning member of the joint zone transfers control of its facilities to Midwest ISO.

(F) Wolverine is directed to file revised wholesale power rates to reflect changes in its revenues resulting from its participation in the joint zone within 30 days of the date that a new transmission-owning member of the joint zone transfers control of its facilities to Midwest ISO.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.