

121 FERC ¶ 61,078  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Midwest Independent Transmission System Operator, Inc.	Docket No. ER05-6-058
Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C., <i>et al.</i>	Docket No. EL04-135-060
Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C., <i>et al.</i>	Docket No. EL02-111-078
Ameren Services Company, <i>et al.</i>	Docket No. EL03-212-074

ORDER APPROVING  
UNCONTESTED PARTIAL SETTLEMENT

(Issued October 22, 2007)

1. On April 28, 2006, the PJM Interconnection, L.L.C. (PJM) Transmission Owners (PJM Transmission Owners)<sup>1</sup> and Madison Gas and Electric Company (Madison)

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<sup>1</sup> The entities comprising PJM Transmission Owners are, in addition to Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd) and the American Electric Power Service Corporation, on behalf of certain operating companies of the American Electric Power System, including Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company (collectively, AEP): The Dayton Power and Light Company; Allegheny Electric Cooperative, Inc.; Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, all doing business as Allegheny Power; Baltimore Gas and Electric Company; FirstEnergy Corporation, on behalf of its operating company affiliates Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company; PECO Energy

(continued...)

(together, Settling Parties) filed a settlement agreement (Settlement) that resolves among them all the issues related to Seams Elimination Cost Adjustment (SECA) monetary obligations that were set for hearing in the above-captioned dockets.<sup>2</sup>

2. Pursuant to the Settlement, Madison agrees to pay \$1,612,778 to resolve this issue, to be distributed as shown in Appendix A of the Settlement, with section 2 of Attachment R of the PJM Tariff (Attachment R) governing the distribution to companies other than ComEd and AEP. Because Madison has already paid the individual and collective PJM Transmission Owners more than the agreed-to amount, the parties agree that PJM and the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), administrators of the PJM and Midwest ISO Tariffs, will refund to Madison, with interest, amounts exceeding its total monetary obligation. PJM and Midwest ISO also agree to submit a refund report to the Commission, to the extent necessary.

3. On May 3, 2006, American Municipal Power-Ohio, Inc. (AMP-Ohio) filed comments urging the Commission to accept the Settlement only if it is modified to protect explicitly non-settling parties from additional charges resulting from the Settlement, or if the Settling Parties expressly confirm that the Settlement is not intended to result in the imposition of additional costs on non-settling parties.<sup>3</sup> In reply comments filed on May 8, 2007, the Settling Parties confirmed that the Settlement was not intended to adversely affect non-settling parties and requested that the presiding judge certify the Settlement as an uncontested settlement.<sup>4</sup>

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Company; the PHI Operating Companies, *i.e.*, Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company; PPL Electric Utilities Corporation; Public Service Electric and Gas Company; Rockland Electric Company; UGI Utilities, Inc.; Duquesne Light Company; and Virginia Electric and Power Company.

<sup>2</sup> *Midwest Indep. Transmission Sys. Operator, Inc., et al.*, 104 FERC ¶ 61,105 (2003); *Midwest Indep. Transmission Sys. Operator, Inc., et al.*, 105 FERC ¶ 61,212 (2003); *Midwest Indep. Transmission Sys. Operator, Inc., et al.*, 109 FERC ¶ 61,168 (2004) *Midwest Indep. Transmission Sys. Operator, Inc., et al.*, 110 FERC ¶ 61,107 (2005).

<sup>3</sup> AMP-Ohio's May 3, 2006 Comments at 2.

<sup>4</sup> Settling Parties' May 8, 2006 Reply Comments at 3.

4. On May 5, 2006, Trial Staff filed comments supporting the Settlement.<sup>5</sup> On May 25, 2006, the presiding judge certified the Settlement to the Commission as an uncontested settlement.<sup>6</sup>

5. The Settlement is fair and reasonable and in the public interest and is hereby approved. If refunds are made pursuant to the Settlement, Midwest ISO and PJM shall file a compliance report with this Commission within fifteen (15) days of making the refunds. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding any principle or issue in this proceeding.

6. The Settling Parties agree that these proceedings are subject to the Commission's "just and reasonable" standard.<sup>7</sup> Because the applicable standard of review for the Settlement is the just and reasonable standard, the Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act.<sup>8</sup>

7. This order terminates Docket Nos. ER05-6-058, EL04-135-060, EL02-111-078, and EL03-212-074. New sub-dockets will be opened for the compliance proceeding.

By the Commission. Commissioner Moeller concurring in part with  
a separate statement attached.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>5</sup> Trial Staff's May 5, 2006 Comments at 14-15.

<sup>6</sup> *Midwest Indep. Transmission Sys. Operator*, 115 FERC ¶ 63,045 (2006).

<sup>7</sup> Settling Parties' April 28, 2006 Explanatory Statement in Support of Settlement Agreement at 8.

<sup>8</sup> 16 U.S.C. § 824e (2000).

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MOELLER, Commissioner *concurring in part*:

While the settlement agreement does not state the applicable standard of review for changes, the explanatory statement clearly indicates that changes to the settlement agreement shall be subject to the “just and reasonable” standard. I remind parties that the standard of review they intend to apply to changes to the settlement agreement must match the standard set forth in the explanatory statement. An explanatory statement does not control the terms of a settlement agreement and in the event of a conflict, I will rely on the terms of the settlement agreement, not the explanatory statement, in determining the applicable standard of review.

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Philip D. Moeller  
Commissioner