

121 FERC ¶ 61,077
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. ER05-6-060
Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.	Docket No. EL04-135-062
Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.	Docket No. EL02-111-080
Ameren Services Company, <i>et al.</i>	Docket No. EL03-212-076

ORDER APPROVING
UNCONTESTED PARTIAL SETTLEMENT

(Issued October 22, 2007)

1. On April 28, 2006, Exelon Corporation (Exelon),¹ the PJM Interconnection, L.L.C. Transmission Owners (PJM Transmission Owners),² and Wisconsin Public

¹ Exelon filed on behalf of itself and its operating subsidiaries, Commonwealth Edison Company and Commonwealth Edison Company of Indiana (collectively, ComEd).

² The PJM Transmission Owners include, in addition to ComEd: 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; 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; (continued...)

Power, Inc. (WPPI) (collectively, Settling Parties) filed a settlement agreement (Settlement) that resolves all of WPPI's monetary obligations under the transitional rate mechanism set for hearing in the above-captioned dockets, and all issues between Exelon and WPPI in the captioned dockets.³

2. Pursuant to the Settlement, Exelon and WPPI agree that the treatment of existing charges for certain long-term point-to-point transmission reservations, between December 1, 2004 and March 31, 2006, will be left undisturbed, and that ComEd will pay WPPI all withheld reimbursements related to the settlement agreement between ComEd and WPPI in Docket No. ER01-780.⁴ WPPI agrees to pay \$2,011,609 to the PJM Transmission Owners to resolve the Seams Elimination Cost Adjustment charges issues, to be distributed as shown in Appendix A of the Settlement. WPPI agrees to pay an additional \$100,000 directly to ComEd, separately from the other PJM Transmission Owners.

3. On May 5, 2006, Trial Staff filed comments supporting the Settlement. On May 31, 2006, the presiding judge certified the Settlement to the Commission as a partial uncontested settlement.⁵

4. The Settlement is fair and reasonable and in the public interest and is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding any principle or issue in this proceeding.

FirstEnergy Corporation, on behalf of its operating company affiliates Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company; PECO; 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.

³ *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).

⁴ The Commission approved the settlement agreement between ComEd and WPPI in Docket No. ER01-780-002 on May 12, 2003. *Exelon Corp.*, 103 FERC ¶ 61,164 (2003).

⁵ *Midwest Indep. Transmission Sys. Operator*, 115 FERC ¶ 63,049 (2006).

5. The Settling Parties agree that these proceedings are subject to the Commission's "just and reasonable" standard.⁶ 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.⁷

6. This order terminates Docket Nos. ER05-6-060, EL04-135-062, EL02-111-080 and EL03-212-076.

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

(S E A L)

Kimberly D. Bose,
Secretary.

⁶ Settling Parties' April 28, 2006 Explanatory Statement in Support of Settlement Agreement at 8.

⁷ 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.

Philip D. Moeller
Commissioner