

131 FERC ¶ 61,187
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

Midwest Independent Transmission
System Operator, Inc. and
Dairyland Power Cooperative

Docket No. ER10-990-000

ORDER CONDITIONALLY ACCEPTING
PROPOSED TARIFF REVISIONS

(Issued May 28, 2010)

1. On April 1, 2010, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and Dairyland Power Cooperative (Dairyland) (collectively, Applicants) filed proposed revisions to Midwest ISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff) to facilitate Dairyland joining Midwest ISO as a transmission-owning member. We will conditionally accept the proposed revisions, effective June 1, 2010, as requested, or the date upon which Dairyland integrates its transmission facilities into the Midwest ISO region. We will also require a compliance filing.

I. Background

2. Midwest ISO is a Commission-approved Regional Transmission Organization (RTO) that provides transmission service pursuant to rates, terms and conditions of its Tariff on file with the Commission. Among other things, Midwest ISO provides Point-to-Point Transmission Service and Network Integration Transmission Service under its Tariff. Dairyland is a generation and transmission cooperative that provides service to 25 member cooperatives in Wisconsin, Iowa, and Minnesota. Dairyland is not a "public utility" as defined by the Federal Power Act (FPA);¹ however it owns or operates

¹ 16 U.S.C. § 824b (2006).

3,144 miles of transmission facilities. At several points, the transmission facilities owned or operated by Dairyland are interconnected with transmission facilities over which Midwest ISO exercises functional control. Dairyland has announced its intent to join Midwest ISO as a Transmission Owner and plans to integrate its facilities into Midwest ISO on June 1, 2010.

II. Applicants' Proposed Tariff Revisions

3. Applicants propose revisions to: Schedule 7 (Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service); Schedule 8 (Non-Firm Point-to-Point Transmission Service); Schedule 9 (Network Integration Transmission Service); and Schedule 26 (Network Upgrade Charge From Transmission Expansion Plan) of the Tariff to reflect the addition of Dairyland as a pricing zone in connection with its proposed integration with Midwest ISO on June 1, 2010. The proposed revisions adopt Midwest ISO's Commission-approved transmission formula rate template, which is contained in Attachment O to the Tariff. According to Applicants, by transitioning to Midwest ISO's Attachment O formula rate, Dairyland will fully migrate to the Tariff and be subject to the same terms and conditions of service as are other Midwest ISO Transmission Owners that utilize the Attachment O formula rate.

4. Applicants request that the Commission accept the proposed revisions, without hearing or suspension, to become effective on the date that Dairyland integrates its transmission facilities into Midwest ISO's region.²

III. Notice of Filing, Answer, and Responsive Pleadings

5. Notice of Applicants' proposed tariff revisions was published in the *Federal Register*, 75 Fed. Reg. 18,493 (2010), with interventions or protests due on or before April 22, 2010. Southern Minnesota Municipal Power Agency (Southern Minnesota Municipal) filed a timely motion to intervene and protest. Midwest ISO Transmission Owners³ (Midwest ISO TOs) and FirstEnergy Service Company (FirstEnergy)⁴ filed

² Applicants state that Dairyland is scheduled to fully integrate into Midwest ISO's system on June 1, 2010. See Midwest ISO Transmittal Letter at 2.

³ Midwest ISO Transmission Owners for purposes of this filing consist of: Ameren Services Company, as agent for Union Electric Company, Central Illinois Public Service Company, Central Illinois Light Co., and Illinois Power Company; American Transmission Company LLC; City of Columbia Water and Light Department (Columbia, Missouri); City Water, Light & Power (Springfield, Illinois); Duke Energy Corporation for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana

(continued...)

timely motions to intervene with comments requesting clarification. Consumers Energy Company, American Municipal Power, Inc., and Great River Energy filed timely motions to intervene, without substantive comments.

6. Dairyland filed an answer to Southern Minnesota Municipal's protest. That answer also included an answer to FirstEnergy's and Midwest ISO TOs' requests for clarification.

7. Southern Minnesota Municipal filed a response to Dairyland's answer. Dairyland filed an answer to Southern Minnesota Municipal's response.

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁵ the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure⁶ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept

Municipal Power Agency; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC; Michigan Electric Transmission Company, LLC; Michigan Public Power Agency; MidAmerican Energy Company (MidAmerican); Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

⁴ FirstEnergy Service Company, filed the motion to intervene and comments on behalf of its affiliate operating utility companies, The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company and its electric transmission affiliate American Transmission Systems, Incorporated.

⁵ 18 C.F.R. § 385.214 (2009).

⁶ 18 C.F.R. § 385.213(a)(2) (2009).

Dairyland's answer, Southern Minnesota Municipal's response, and Dairyland's answer to Southern Minnesota Municipal's response because they provided information that assisted us in our decision-making process.

B. Substantive Matters

1. Dairyland's Cost Recovery of Planned or Proposed Transmission Projects

a. Comments and Requests for Clarification

10. According to FirstEnergy, Applicants' filing does not provide sufficient information for the Commission to determine whether the proposed changes are just and reasonable because there is no explanation as to how the cost allocation and recovery provisions of Midwest ISO's Tariff will be applied to Dairyland's investments in the CapX2020 Projects.⁷ FirstEnergy points out that Dairyland intends to make substantial investments in certain CapX2020 Projects that previously have been approved under Midwest ISO's Transmission Expansion Plan of Attachment FF (Transmission Expansion Planning Protocol) to Midwest ISO's Tariff. However, FirstEnergy argues that the filing does not address whether Dairyland intends to recover these costs from other Midwest ISO transmission zones under the Tariff. FirstEnergy adds that Applicants do not explain whether load in the Dairyland zone will be responsible for an allocated share of the investments that other Midwest ISO transmission owners make in these same CapX2020 Projects or other Midwest ISO Transmission Expansion Plan projects. Accordingly, FirstEnergy asks the Commission to direct Applicants to clarify these issues regarding the cost allocation and recovery of Dairyland's planned and proposed transmission projects.

11. Similarly, Midwest ISO TOs seek clarification as to which of Dairyland's planned or proposed transmission projects will be subject to cost allocation pursuant to Attachment FF and cost recovery pursuant to Schedule 26. Midwest ISO TOs also request that Applicants clarify how Dairyland's CapX2020 investments, in addition to any other transmission projects, will be treated for cost allocation and cost recovery purposes under the Tariff. Midwest ISO TOs note that the Commission directed Midwest

⁷ The Transmission Capacity Expansion Initiative by the Year 2020 (CapX2020) is a joint initiative of eleven transmission-owning electric utilities in Minnesota and the surrounding region to expand the electric transmission grid to ensure continued reliable and affordable service. The new transmission lines are designed to meet increasing demand in the region as well as to support renewable energy expansion. *See* <http://www.capx2020.com>.

ISO to provide similar clarifications in a proceeding involving the integration of MidAmerican into Midwest ISO.⁸

b. Dairyland's Answer

12. Dairyland objects to providing additional information to clarify cost allocations and recovery provisions applicable to its investments in CapX2020 Projects. Dairyland disagrees with the Midwest ISO TOs contention that *Midwest ISO/MidAmerican* did not support a Commission finding that Dairyland needs to submit supplemental information clarifying how the cost allocation and recovery provisions of the Tariff will apply to Dairyland's investments in the CapX2020 Projects.⁹ Dairyland admits that the Commission in that case directed Midwest ISO to provide clarifications similar to those requested here; however, it argues that the Midwest ISO TOs do not put that order into its proper context.¹⁰ Dairyland contends that *Midwest ISO/MidAmerican* addressed Docket No. ER09-1248-000, in which MidAmerican filed a proposed Attachment FF-MidAmerican to the Tariff, and that one of the issues involved in that case was to what extent MidAmerican's local transmission planning process could be retained. By contrast, in this case, Dairyland states that it has not made a filing designed to retain a local planning process. Therefore, Dairyland argues it is not material or relevant for it to address planning issues in connection with this filing which seeks to create a Dairyland pricing zone.

13. Dairyland points out that Midwest ISO and MidAmerican made a filing in Docket No. ER09-1252-000 that was similar to the instant filing. It states that that filing was separate from the filing in *Midwest ISO/MidAmerican*, and that the Commission accepted the filing to establish MidAmerican as a pricing zone without requiring further information as to the cost allocation issues under Attachment FF.¹¹

⁸ Midwest ISO TOs Comments at 3 (*citing Midwest Indep. Transmission Sys. Operator, Inc.*, 128 FERC ¶ 61,046, at P 61 (2009) (*Midwest ISO/MidAmerican*)).

⁹ Dairyland Answer at 11-13.

¹⁰ *Id.* at 12-13.

¹¹ *Id.* (*citing* Docket No. ER09-1248-000 as the docket addressed in *Midwest ISO/MidAmerican*, and Docket No. ER09-1252-000 as the separate filing to establish MidAmerican as a pricing zone).

c. **Commission Determination**

14. FirstEnergy and the Midwest ISO TOs contend that it is unclear which Dairyland transmission projects will be subject to cost allocation pursuant to Attachment FF and Schedule 26 of the Tariff. Dairyland objects to providing this information on the grounds that FirstEnergy and the Midwest ISO TOs do not provide adequate legal grounds to substantiate their request, and because Dairyland has not sought to establish a separate local planning process, such planning issues are neither relevant nor material here. With respect to FirstEnergy's and the Midwest ISO TOs' request that Dairyland and Midwest ISO clarify which Dairyland projects will be subject to regional cost allocation pursuant to Attachment FF and Schedule 26 of the Tariff, we will require Midwest ISO and Dairyland to provide these clarifications in the compliance filing directed below, consistent with *Midwest ISO/MidAmerican*. In response to Dairyland, while MidAmerican proposed a separate local planning process under Attachment FF of the Tariff, and it was in that proceeding that parties requested clarification as to when MidAmerican projects will be subject to the Midwest ISO regional planning process and which MidAmerican transmission projects will be subject to cost allocation pursuant Attachment FF and Schedule 26, this issue is not unique to new transmission-owning members who choose to establish their own separate local planning process under Attachment FF, but is instead an issue associated with the integration of any new transmission-owning member into the Midwest ISO regional planning process. Here, Dairyland has not made a filing to establish a separate local planning process under Attachment FF and, therefore, we find it appropriate to address this discrete issue in the instant proceeding involving Dairyland's integration into Midwest ISO.

2. **Southern Minnesota Municipal's Facilities in Dairyland's Pricing Zone**

a. **Protest**

15. Southern Minnesota Municipal states that its investment in transmission facilities in the proposed Dairyland pricing zone is the result of a 1982 Shared Transmission Agreement (Shared Transmission Agreement), between itself and Dairyland. According to Southern Minnesota Municipal, the purpose of the Shared Transmission Agreement was "to attempt to avoid duplication of transmission facilities through the development and utilization of a shared transmission system[.]"¹² Southern Minnesota Municipal states that it joined Midwest ISO on April 1, 2006, as a transmission-owning member and established its own pricing zone based on its existing control area. Starting on September 1, 2006, by virtue of a pseudo-tie, Southern Minnesota Municipal added three

¹² See Southern Minnesota Municipal Protest at 3.

member cities that were still being served under the Shared Transmission Agreement to its control area. With all of the four member city loads that had been served under the Shared Transmission Agreement included in Southern Minnesota Municipal's control area and pricing zone, Southern Minnesota Municipal and Dairyland acknowledged that transfer, among other things, in an "Agreement for Assignment and Bill of Sale of Electrical Transmission Line Facilities" (2008 Agreement).

16. Southern Minnesota Municipal asserts that Dairyland's proposed pricing zone does not account for Southern Minnesota Municipal's substantial ownership interests in transmission facilities within that zone. Southern Minnesota Municipal maintains that its facilities benefit customers who will pay the new Dairyland zonal rate because Dairyland uses those facilities to serve Dairyland's own load.¹³ Therefore, Southern Minnesota Municipal argues that, consistent with *PJM Interconnection, L.L.C.*¹⁴ its costs of owning and operating facilities located in Dairyland's pricing zone and used by Dairyland must be reflected in the proposed zonal rates. Furthermore, Southern Minnesota Municipal argues that it is entitled to a portion of the revenues generated by those proposed zonal

¹³ Southern Minnesota Municipal states that it owns a number of transmission facilities that are an integral part of the shared transmission system that Dairyland uses to serve its own loads. According to Southern Minnesota Municipal, it owns the North Austin substation, as well as several transmission line segments emanating from that substation, including about 38 miles of 161 kV lines connecting the North Austin substation to the Hayward and Adams substations owned by ITC Midwest. Southern Minnesota Municipal asserts that Dairyland serves load off the Austin bus, and it serves load through its Corning substation which can only be accessed using Southern Minnesota Municipal-owned facilities. Southern Minnesota Municipal states that it also owns transmission line segments from Spring Valley to Fountain and Fountain to Harmony Tap, totaling approximately 25 miles, which provide a link between the Dairyland-owned Harmony Tap with transmission facilities owned by ITC Midwest. Southern Minnesota Municipal asserts that Dairyland's loads at Spring Valley, Fountain, and North Preston can be served only through these Southern Minnesota Municipal-owned line segments. Finally, Southern Minnesota Municipal points out that it owns several other substations that link Dairyland-owned lines and serve Dairyland load. *Id.* at 6.

¹⁴ In *PJM*, the Commission found that it was proper to have the costs of the facilities included in the rates of the zone in which the transmission facilities were located and into which they were integrated, irrespective of whether the entity owning those facilities served significant load in that zone. *PJM Interconnection, L.L.C.*, 94 FERC ¶ 61,295, *reh'g denied*, 95 FERC ¶ 61,217 (2001) (*PJM*).

rates so that it can be reimbursed for the costs of owning and operating those facilities. In other words, Southern Minnesota Municipal argues that Dairyland must pay it a share of the zonal revenues equal to its annual revenue requirements.¹⁵

17. Southern Minnesota Municipal points out that its ownership of transmission facilities in other Midwest ISO transmission owners' pricing zones is reflected in Tariff Schedules 7, 8, 9 and 26¹⁶ and that those Midwest ISO transmission owners negotiated joint pricing zone agreements that recognize Southern Minnesota Municipal's transmission ownership. In contrast, Southern Minnesota Municipal states that Dairyland has not agreed to negotiate terms of a joint-pricing-zone agreement despite Southern Minnesota Municipal's request that it do so.¹⁷

18. Southern Minnesota Municipal also points out that section III.A.8 of Appendix C to the Midwest ISO Transmission Owners' Agreement provides for the establishment of multi-owner joint pricing zones, through agreement of the owners upon distribution of the revenues produced by the zonal rate. Southern Minnesota Municipal states that Dairyland has already created a pricing zone (Zone 26) that includes facilities owned by Northwestern Wisconsin Electric Company (Northwestern Wisconsin), but does not include Southern Minnesota Municipal facilities.¹⁸ This omission, Southern Minnesota Municipal argues, makes the proposed Dairyland pricing zone unduly discriminatory especially since Applicants' instant filing does not justify the existence of Northwestern Wisconsin's facilities in that zone and the Applicants do not explain why Southern Minnesota Municipal is being treated differently from Northwestern Wisconsin.

19. Southern Minnesota Municipal argues that in order to be consistent with Commission policy, Applicants must create a multi-owner pricing zone.¹⁹ Thus, Southern Minnesota Municipal requests that the Commission direct Applicants to include the costs of the Southern Minnesota Municipal-owned shared transmission facilities in

¹⁵ Southern Minnesota Municipal Protest at 7.

¹⁶ *Id.* at 2, (citing Midwest ISO Tariff, Fourth Revised Volume No. 1, Second Revised Sheet No. 1889C, Zones 1, 8, and 16).

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 7-8 (citing Midwest ISO Transmittal, Redlined Tariff Sheet, Fourth Revised Vol. No. 1, Second Revised Sheet No. 1998C).

¹⁹ *Id.* at 8.

the proposed Dairyland pricing zone and to compensate Southern Minnesota Municipal for its revenue requirements associated with those facilities.

b. Dairyland's Answer

20. Dairyland objects to the Commission considering whether Dairyland and Southern Minnesota Municipal should form a joint rate zone. According to Dairyland, whether or not Southern Minnesota Municipal's facilities are included in a joint pricing zone is not a relevant issue when considering whether the formula rates using the Attachment O formula template are just and reasonable. Dairyland points out that the Shared Transmission Agreement is a carved-out Grandfathered Agreement (GFA) listed as GFA No. 467 on Attachment P of the Tariff. As a result, transmission service for Southern Minnesota Municipal's load utilizing Dairyland's transmission facilities is not provided directly under the Midwest ISO Tariff.²⁰

21. Dairyland states that it does not dispute that as the result of a pseudo-tie, as of September 1, 2006, Southern Minnesota Municipal had no load in Dairyland's control area. However, Dairyland argues that the impetus for the 2008 Agreement was the fact that Southern Minnesota Municipal owed outstanding system control charges to Dairyland because Dairyland had been providing system control services under the Shared Transmission Agreement for the Southern Minnesota Municipal load in Dairyland's control area. According to Dairyland, Southern Minnesota Municipal "paid" these outstanding system control charges by transferring ownership of a 161 kV transmission line and a 69 kV line to Dairyland. Dairyland also points out that it no longer needed to provide system control services for Southern Minnesota Municipal's load that had been pseudo-tied out of the Dairyland control area, so it agreed to suspend providing those services under the Shared Transmission Agreement.

22. Dairyland further argues that the Shared Transmission Agreement does not allocate the parties' respective financial obligations depending on the control area in which the party's load is located, but on a load-ratio share basis.²¹ Dairyland maintains that ignoring this method of allocating investment responsibility between Southern Minnesota Municipal and Dairyland would violate Section III.A.8 of Appendix C to the Midwest ISO Transmission Owners' Agreement which states in part: "An intra-Zonal revenue distribution methodology shall, to the greatest extent possible, minimize cost shifts so that Owners shall continue to receive the revenues they would have received absent the formation of the Midwest ISO." According to Dairyland, putting all of

²⁰ See Dairyland Answer at 6.

²¹ *Id.* at 7-8.

Southern Minnesota Municipal's revenue requirements for its facilities located in Dairyland's pricing zone into Dairyland's pricing zone, while at the same time leaving Southern Minnesota Municipal's load in Southern Minnesota Municipal's pricing zone via a pseudo-tie, would shift all financial responsibility for those facilities to Dairyland's load. Dairyland argues that a joint Dairyland/Southern Minnesota Municipal pricing zone needs to include Southern Minnesota Municipal's load as well as its facilities.²²

23. Finally, Dairyland argues that *PJM* does not apply here. Dairyland points out that unlike the situation in *PJM*, Southern Minnesota Municipal did not purchase from Dairyland a discrete transmission line segment that is the backbone of the area's transmission system. In addition, Dairyland points out that it does not have operational control of Southern Minnesota Municipal's transmission facilities. Further, unlike in *PJM*, transmission service between Dairyland and Southern Minnesota Municipal is provided pursuant to a GFA.

c. Southern Minnesota Municipal's Response

24. Southern Minnesota Municipal filed a response to correct what it characterizes as a misstatement made by Dairyland in its answer. According to Southern Minnesota Municipal, the Shared Transmission Agreement is listed as GFA No. 467 on Attachment P to the Tariff only for the purpose of allowing Dairyland to move power out of Midwest ISO through the Southern Minnesota Municipal zone. According to Southern Minnesota Municipal, the April 30, 2010, informational filing made by Midwest ISO lists GFA No. 467 as a carved-out GFA with Southern Minnesota Municipal as the transmission owner and Gen-Sys Energy as the Market Participant taking service under the agreement. Southern Minnesota Municipal points out that Gen-Sys Energy is a power-marketing affiliate of Dairyland.²³

25. Southern Minnesota Municipal argues that there is no need for the Shared Transmission Agreement to be listed as GFA No. 467 because the Shared Transmission Agreement was carved-out for the purpose of serving Dairyland's load which is now within Midwest ISO.

d. Commission Determination

26. We will accept the revisions to Schedules 7, 8, 9 and 26 to the Midwest ISO Tariff to reflect the addition of Dairyland as a pricing zone in connection with its proposed

²² *Id.* at 9.

²³ *See* Southern Minnesota Response at 2.

integration with Midwest ISO on June 1, 2010. Southern Minnesota Municipal does not persuade us that Dairyland must create a multi-owner pricing zone to include the costs of the Southern Minnesota Municipal-owned shared transmission facilities in the proposed Dairyland pricing zone. As an initial matter, we find that the Shared Transmission Agreement is properly considered a GFA that provides both for Dairyland's use of Southern Minnesota Municipal's portion of the shared transmission facilities and, upon Dairyland's integration into Midwest ISO, Southern Minnesota Municipal's use of Dairyland's portion of the shared transmission facilities.²⁴ Under this agreement, Southern Minnesota Municipal and Dairyland each share the costs of the shared transmission facilities in proportion to their load on the system and allow each other use of those facilities in the shared transmission system to serve their respective load.²⁵

27. We disagree with Southern Minnesota Municipal's argument that Dairyland's membership in Midwest ISO necessitates that the costs of Southern Minnesota Municipal's portion of the shared transmission system be removed from the Southern Minnesota Municipal zone Attachment O formula rate revenue requirement and instead be included in the Dairyland zone revenue requirement.²⁶ While Southern Minnesota Municipal load is pseudo-tied to the Southern Minnesota Municipal zone for metering purposes, its load is physically located within the shared transmission system and Southern Minnesota Municipal uses the shared transmission system (via the pseudo-tie) to serve its load. The result of Southern Minnesota Municipal's request would be to unjustly and unreasonably shift costs related to the Shared Transmission Agreement that are currently paid by Southern Minnesota Municipal load within the shared transmission system for that load's use of the shared transmission system so that it is borne entirely by other customers within the Dairyland zone.

²⁴ The Commission recently accepted a Midwest ISO compliance filing that revised Attachment P to include some of Dairyland's GFAs, with a new footnote recognizing that Dairyland is also a party to GFA No. 467. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,163, at P 72, 78 (2010).

²⁵ We also note that the Commission has found that existing GFAs between Dairyland and current Midwest ISO members (including specifically GFA No. 467 between Dairyland and Southern Minnesota) should not lose their status as GFAs as a result of Dairyland becoming a member of Midwest ISO. *See Midwest Indep. Transmission Sys. Operator, Inc.*, 129 FERC ¶ 61,221, at P 42-44 (2009), *order on reh'g and compliance filing*, 131 FERC ¶ 61,163 (2010).

²⁶ Southern Minnesota Municipal states that it currently recovers the costs related to its portion of the shared transmission system as part of its Attachment O formula rate revenue requirement. Southern Minnesota Protest at 6, n.5.

28. Finally, we find that the situation the Commission addressed in *PJM* is distinguishable from the situation here given the difference in how GFAs are treated by PJM and how they are treated by Midwest ISO. As part of the formation of PJM, the Commission required that all bilateral agreements in PJM be modified to eliminate the potential for multiple transmission service charges within the PJM control area.²⁷ In contrast, the Midwest ISO Tariff does not require elimination of multiple transmission charges for GFAs within Midwest ISO. The Shared Transmission Agreement, as a GFA, has not been modified and both Dairyland and Southern Minnesota Municipal's use of the shared transmission system continues to be governed by that agreement. Therefore, we find that in *PJM*, the Commission determination to include Allegheny Electric Cooperative, Inc. in the PPL Group zone²⁸ is consistent with the treatment of GFAs in PJM, but is inapplicable to Midwest ISO in the instant proceeding given the different GFA treatment.

29. Our decision here is not meant to preclude Dairyland from agreeing to include costs related to Southern Minnesota Municipal's portion of the shared transmission facilities in a joint Dairyland zone. As Dairyland states in its answer, it and Southern Minnesota Municipal have discussed the possibility of forming a joint pricing zone, but certain issues related to the Shared Transmission Agreement have not yet been settled.²⁹ Further, consistent with the provision of Section III.A.8 of Appendix C to the Midwest ISO Transmission Owners' Agreement to minimize cost shifts, we believe it is important for the parties to work toward an agreement to resolve issues related to the formation of any new joint pricing zone. In the meantime, Southern Minnesota Municipal may continue to recover its revenue requirement for the shared transmission facilities under Southern Minnesota Municipal's Attachment O formula rate.

C. Conclusion

30. We will grant waiver of the prior notice requirement³⁰ so that the proposed Dairyland pricing zone, as modified by the compliance filing ordered below, will become

²⁷ *PJM Interconnection, L.L.C., et al.*, 81 FERC ¶ 61,257, at 62,281 (1997).

²⁸ PPL Electric Utilities Corporation (PPL) and UGI Utilities, Inc. are the transmission owners within the PPL Group zone.

²⁹ See Dairyland Answer at 11.

³⁰ See *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

effective June 1, 2010, or the date upon which Dairyland fully integrates into Midwest ISO.

31. Applicants are directed to make a compliance filing that addresses the issues and determinations set out in this order within 30 days of the date of this order.

The Commission orders:

(A) The proposed revisions to Midwest ISO's Tariff are hereby conditionally accepted for filing effective June 1, 2010, as requested, or the date upon which Dairyland integrates its transmission facilities into the Midwest ISO system, as discussed in the body of this order.

(B) Applicants are hereby directed to make a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.