

108 FERC ¶ 61, 258
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 20, 2004

In Reply Refer To:
Illinois Power Company and
Midwest Independent Transmission System
Operator, Inc.
Docket No. ER04-1091-000

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Dear Sirs:

1. On August 2, 2004, Illinois Power Company (Illinois Power) and Midwest Independent Transmission System Operator, Inc. (Midwest ISO) jointly filed a request for recovery by Illinois Power of certain costs related to Regional Transmission Organization (RTO) membership. Specifically, they request that the Commission authorize the Midwest ISO to: (1) return to Illinois Power the \$6.5 million exit fee (plus interest) that Illinois Power paid when it previously withdrew from the Midwest ISO; (2) reimburse Illinois Power for the \$8,696,877 (inclusive of interest) in costs that Illinois Power incurred in connection with the development of the Alliance RTO; and (3) recover the amounts paid to Illinois Power through Schedule 10 of the Midwest ISO tariff. The Commission hereby authorizes the above payments and cost recovery, as explained below.

2. Notice of the filing was published in the *Federal Register*, 69 Fed. Reg. 50376 (2004), with interventions and protests due on or before August 23, 2004. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214. No protests were filed.

Background

3. Illinois Power was one of the original participants involved in the formation of the Midwest ISO, beginning in 1998.¹ However, in October 2000, Illinois Power filed a notice of intent to withdraw from the Midwest ISO, opting to participate in the development of the Alliance RTO. Illinois Power, along with additional participants who chose to withdraw, were permitted to leave Midwest ISO, provided that they paid a collective exit fee of \$60 million for costs incurred by the Midwest ISO related to the withdrawing parties' membership in the Midwest ISO that, as a result of their withdrawal, were no longer recoverable by the Midwest ISO.² Illinois Power's share of the exit fee was determined to be \$6.5 million. Illinois Power then incurred costs on activities associated with the development of the Alliance RTO, until the Commission directed the parties to abandon that effort.³

4. On March 25, 2004, Illinois Power filed an application for authorization to transfer functional control of its transmission facilities to the Midwest ISO, which was granted in a Commission order issued July 29, 2004.⁴ Illinois Power is scheduled to be integrated into the Midwest ISO on or about October 1, 2004. As a result of these recent developments, Illinois Power seeks to recoup the exit fee it paid when it withdrew from the Midwest ISO, and to recover the costs it prudently incurred pursuing establishment of the Alliance RTO.

Discussion

5. After the decision to disband the Alliance RTO, the Midwest ISO publicly stated that it would return the exit fee to any withdrawing member that decided to rejoin Midwest ISO. Midwest ISO, in joining in the instant filing, has correspondingly

¹ See *Midwest Independent Transmission System Operator, Inc., et al.*, 84 FERC ¶ 61,231, *clarified*, 85 FERC ¶ 61,250, *order on rehearing*, 85 FERC ¶ 61,372 (1998).

² See *Illinois Power Co.*, 95 FERC ¶ 61,183 (2001) (acting on a settlement certified in *Illinois Power Co.*, 95 FERC ¶ 63,003 (2001)), *reh'g denied*, 96 FERC ¶ 61,026 (2001).

³ See *Alliance Companies., et al.*, 97 FERC ¶ 61,327 (2001).

⁴ *Ameren Corp., et al.*, 108 FERC ¶ 61,094 (2004).

expressed its support of Illinois Power's request in this proceeding. Consistent with our decision in *Ameren*,⁵ we grant Illinois Power's request that its exit fee be returned.

6. With regard to Illinois Power's request that Midwest ISO reimburse the costs Illinois Power incurred in the development of the Alliance RTO, we find that granting such authorization is consistent with our actions in similar cases.⁶ Additionally, in *Midwest Independent Transmission System Operator, Inc., et al.*,⁷ the Commission approved a settlement which specifically provides that if Illinois Power is integrated into the Midwest ISO on or before October 1, 2004, Illinois Power may seek recovery of its Alliance RTO costs and that, with the exception of three specified parties (none of whom protested here), none of the other supporting parties to the agreement could oppose such proposal, provided that costs are ultimately recovered by Midwest ISO via Schedule 10 of its tariff and do not exceed \$10 million. The settlement also specifies that any cost recovery proposal must exclude: (a) legal costs associated with Illinois Power's exit, and (b) costs of employees "loaned" to BridgeCo, the corporate entity established as the precursor to the Alliance RTO. We find that Illinois has met the standards for recovery of these costs in this proceeding.

7. Finally, we note that Schedule 10 of Midwest ISO's tariff has previously been permitted to be the method of recovery for similar start-up costs.⁸ Furthermore, the Midwest ISO has stated that the negative impact of the additional Illinois Power costs to be recovered under the Schedule 10 cost adder is more than offset by the positive impact of the additional load, resulting in a net reduction in 2005 rates of \$0.0027 per MWh.

⁵ See *Ameren Services Co., et al.*, 101 FERC ¶ 61,320 at P 144 (2002) (*Ameren*) (the Commission authorized Midwest ISO to return to Ameren its exit fee of \$18 million), *reh'g denied*, 103 FERC ¶61,178 (2003).

⁶ See *GridAmerica LLC*, 104 FERC ¶ 61,178 (2003) (the Commission authorized recovery of Alliance RTO costs for the three GridAmerica companies when they joined the Midwest ISO).

⁷ 106 FERC ¶ 61,262 (2004) (approving settlement certified in *Midwest Independent Transmission System Operator, Inc., et al.*, 106 FERC ¶ 63,024 at Attachment P 15 (2004)).

⁸ See *Ameren*, 101 FERC ¶ 61,320 at P 143 (the Commission authorized recovery of Alliance RTO costs for the GridAmerica companies through the Schedule 10 adder).

Therefore, Schedule 10 is deemed to be an appropriate recovery mechanism for the costs of the payments paid to Illinois Power in this proceeding.

By direction of the Commission.

Magalie R. Salas,
Secretary.