

123 FERC ¶ 61,065
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

International Transmission Company
Michigan Electric Transmission Company, LLC
American Transmission Company, LLC
Midwest Independent Transmission System Operator,
Inc.

Docket Nos. ER07-1141-001
ER07-1144-002

ORDER DENYING REHEARING

(Issued April 21, 2008)

1. This order denies requests for rehearing from the Michigan Public Service Commission (Michigan Commission), Michigan Public Power Agency (MPPA), Detroit Edison Company (Detroit Edison), and Consumers Energy Company (Consumers) of our order accepting proposed tariff sheets for International Transmission Company (ITC) and Michigan Electric Transmission Company, LLC (METC).¹ It also denies a request for rehearing from the Michigan Commission of our order accepting proposed tariff sheets for American Transmission Company, LLC (ATC).² These orders allowed ITC, METC and ATC to pay 100 percent of the cost of network upgrades needed to interconnect a new generation facility to their transmission facilities under the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) Open Access Transmission and Energy Markets Tariff (Tariff),³ and to recover the cost through their rates for transmission delivery service to customers within their license plate pricing zones and through regional cost sharing pursuant to the Tariff.

Background

2. The Commission approved a transmission cost allocation policy for new transmission projects and network upgrades in the Midwest ISO region in our order on

¹ *International Transmission Co.*, 120 FERC ¶ 61,220 (2007) (*ITC-METC*).

² *American Transmission Co. LLC*, 120 FERC ¶ 61,221 (2007) (*ATC*).

³ Midwest ISO, FERC Electric Tariff, Third Revised Volume No. 1.

Regional Expansion Criteria and Benefits (RECB).⁴ We accepted a 50/50 cost allocation for new network upgrades that are required for generating facility interconnections, as laid out in Attachment FF of the Tariff. This policy requires the interconnection customer to pay the entire cost of the network upgrades initially, but allows it to get back up to 50 percent of that money, if the interconnection customer meets certain criteria.

3. The Midwest ISO tariff also allows variations from the 50/50 cost allocation; a Market Participant may choose to pay for all of the costs of a network upgrade included in the Midwest ISO's Transmission Expansion Plan. If the Market Participant is also a transmission owner, this assumption must be done on a consistent, non-discriminatory basis.

4. ITC, METC and ATC filed proposed tariff changes that would allow them as transmission owners to pay 100 percent of the costs of network upgrades required to interconnect a generation facility.⁵ They argued that allowing such rate treatment would facilitate the building of new generation, especially renewable energy sources, without causing a greater allocation of costs to other regions or rate zones.

5. In *ITC-METC* and *ATC*, the Commission accepted the proposed changes to the Midwest ISO tariff.⁶ The Commission found that these changes were supported by Order No. 2003, which concluded that a 100 percent reimbursement policy for network upgrades is just and reasonable.⁷ The Commission also cited *Entergy Services v. FERC*, where the D.C. Circuit upheld a Commission order that pre-dated Order No. 2003 and

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,106 (RECB I Order), *order on reh'g*, 117 FERC ¶ 61,241 (2006) (RECB I Rehearing Order).

⁵ As accepted by the Commission, of the 100 percent of costs paid by ITC, METC and ATC, up to 50 percent are subject to regional cost-sharing approved in the RECB proceeding with the remaining costs meeting the criteria for reimbursement being recovered automatically through the zonal rate charged by ITC, METC and ATC.

⁶ ITC and METC proposed a new section III.A.2.d.3 to Attachment FF of the Midwest ISO tariff. ATC proposed a new Attachment FF-ATCLLC. ATC's proposal was conditionally accepted by the Commission pending a compliance filing. ATC made its compliance filing on October 5, 2007.

⁷ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert denied* 76 U.S.L.W. 3454 (U.S. Feb. 25, 2008).

that required full reimbursement for network upgrades. The court stated that “[t]he Commission’s rationale for crediting network upgrades, based on a less cramped view of what constitutes a ‘benefit,’ reflects its policy determination that a competitive transmission system, with barriers to entry removed or reduced, is in the public interest.”⁸

6. The Commission required ITC, METC and ATC to use the eligibility criteria already in place in the Midwest ISO’s Attachment FF to determine whether a generator can receive reimbursement for network upgrades. These criteria require an interconnection customer to have a contract of at least one year to serve Midwest ISO customers, or for the generating facility to be designated as a network resource at the commencement of commercial operation, as defined in the Tariff.

7. The Commission also found that a cap on costs eligible for reimbursement was not necessary, as the Midwest ISO’s transmission planning process “is the forum that provides information and opportunity for comment on transmission upgrades - it is a transparent process administered by an independent entity charged with ensuring cost-effective planning.”⁹ The Commission further noted that the \$400/kW cap proposed by ATC was an arbitrary figure. We stated that transmission customers who believe that transmission costs are excessive can file a complaint under section 206 of the Federal Power Act (FPA).¹⁰

8. Finally, the Commission found that ITC, METC and ATC had rights under the Midwest ISO tariff to file their proposals for approval by the Commission. The Commission stated that although the parties were not “Market Participants” as that term is defined under the Tariff, they are the type of entity that Attachment FF intended to permit to assume full cost responsibility. The Commission also found that even if the parties lacked the authority to file, the Commission would grant any necessary waivers to allow them to do so.

9. The Michigan Commission, MPPA, Detroit Edison, and Consumers filed requests for rehearing of *ITC-METC* and *ATC*, claiming various errors by the Commission. Several arguments overlap in the four filings, and the arguments are addressed in the discussion below.

⁸ *ITC-METC*, 120 FERC ¶ 61,220 at P 16 (citing *Entergy Services, Inc. v. FERC*, 319 F.3d 536, 543-44 (D.C. Cir. 2003) (*Entergy Services*)).

⁹ *Id.* at P 21 (citing RECB I Order, 114 FERC ¶ 61,106 at P69 and the Midwest ISO Transmission Owners Agreement, Appendix B (Planning Framework), Section VI (Development of the Midwest ISO Transmission Plan)).

¹⁰ 16 U.S.C. § 824e (2000 & Supp. V 2005).

10. ITC and METC filed a joint motion to strike allegedly new arguments raised in the requests for rehearing by Consumers, Detroit Edison and MPPA of *ITC-METC*, or in the alternative, for leave to submit a limited answer. Consumers, Detroit Edison and MPPA filed answers to ITC and METC's motion to strike.

Discussion

A. Procedural Issues

11. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure¹¹ prohibits answers to requests for rehearing. We find that ITC and METC's motion to strike is, in essence, an answer to the rehearing requests.¹² Accordingly, we reject the motion to strike and answers from ITC and METC, Consumers, Detroit Edison and MPPA.

B. Authorization to File Alternative Cost Proposal

12. The Commission found in *ITC-METC* and *ATC* that ITC, METC and ATC were entitled to file under the Tariff. Although they are not "Market Participants" under the Tariff, they are the types of entities that the Tariff envisioned as being able to assume cost responsibility.¹³ We stated that even if the filing parties lacked authority under the Tariff, we would grant them any necessary waivers.

13. Both MPPA and Consumers argue that the Commission erred in finding that ITC and METC have filing rights under the Tariff. MPPA argues that we ignored the distinction between ITC and METC and market participants, which is that ITC and METC have no load of their own to serve and thus have no incentive to minimize their transmission rates. Consumers claims that the Commission provided no justification for its waiver, and that its decision was thus arbitrary and capricious.

14. We reaffirm our decision to allow these filings. While ITC, METC and ATC are not "Market Participants," they have many of the same roles as market participants and are the type of entities that the Tariff envisions assuming additional cost responsibility. For instance, as transmission owners, ITC, METC and ATC are involved with the local planning process, which includes building new transmission, making determinations on new reliability and economic projects, and facilitating new interconnections to the grid. The Commission notes that it has broad authority over ratemaking issues, including the

¹¹ 18 C.F.R. § 385.713(d)(1) (2007).

¹² See *Southwest Power Pool, Inc.*, 110 FERC ¶ 61,031, at P 19 (2005) (rejecting a motion to strike as an impermissible attempt to answer a request for rehearing).

¹³ *ITC-METC*, 120 FERC ¶ 61,220 at P 28.

authority to grant any necessary waivers to allow the filings at issue.¹⁴ The parties seeking rehearing make no claim that the Commission lacks authority to grant a waiver, and we do not see a reason to reverse our decision in *ITC-METC* and *ATC*.

15. Pure transmission companies are leading the way in building new transmission facilities.¹⁵ Although the requests for rehearing argue that pure transmission companies have the incentive to over-invest, they provide no evidence that such a result would occur. We find that the importance of new transmission in encouraging new and renewable sources of energy justifies a waiver here. In doing so, the Commission is guided by the same goals we expressed in Order No. 2003: “(1) limit[ing] opportunities for Transmission Providers to favor their own generation, (2) facilitat[ing] market entry for generation competitors by reducing interconnection costs and time, and (3) encourag[ing] needed investment in generator and transmission infrastructure.”¹⁶

C. Order No. 2003 and Subsidy Arguments

16. In *ITC-METC* and *ATC*, the Commission cited its findings in Order Nos. 2003 and 2003-A to address the argument that 100 percent reimbursement of interconnection costs results in other transmission customers subsidizing new generation, especially when the generator’s power is sold elsewhere. We noted that a 100 percent reimbursement policy had already been found to be just and reasonable in Order No. 2003. We also indicated that our approach to interconnection pricing in Order No. 2003-A looks beyond who buys

¹⁴ *Regional Transmission Organizations*, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092, at P 26 (2000), *aff’d sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001) (finding that the Commission could grant waivers of the “market participant” definition on a case-by-case basis); *see also California Indep. Sys. Operator*, 118 FERC ¶ 61,226, at P 24 (2007) (“Where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are evident, we have found that a one-time waiver is appropriate.”); *UtiliCorp United, Inc.*, 99 FERC ¶ 61,280, at P 12 (2002) (“The Commission has broad authority to waive the application of one [of] its regulations if waiver is consistent with the language and objective of the statute under which the regulation was promulgated.”); *cf. American Elec. Power Serv. Corp.*, 118 FERC ¶ 61,041, at P 18 (2007) (“The Commission has broad authority to provide incentive rate treatments...”).

¹⁵ *See Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, at P 222, *order on reh’g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh’g*, 119 FERC ¶ 61,062 (2007).

¹⁶ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 12.

the power and considers the effect of new transmission infrastructure on the reliability and competitiveness of the system as a whole, a view ratified by the D.C. Circuit in *Entergy Services*.¹⁷

17. MPPA, Detroit Edison, and Consumers argue that the Commission erred in relying on Order No. 2003 in *ITC-METC*. They argue that Order No. 2003 provides for customer protection and engages in a balancing of interests that is not present in *ITC-METC*. Order No. 2003 provides for reimbursement through crediting over time, only as the transmission service associated with the generator's output results in offsetting revenues. They argue that *ITC-METC*, on the other hand, provides for "full and almost immediate reimbursement."¹⁸ Additionally, this reimbursement is made regardless of whether the generator uses the upgrades to sell to load inside or outside of the affected pricing zones. Thus, the Commission's order ignores the objective in Order No. 2003 of protecting existing transmission customers from rate increases due to the costs of upgrades needed because of a generator interconnection.

18. The Commission disagrees that transmission customers are being unfairly treated or unduly discriminated against with regard to customer protection. Detroit Edison argues that its customers will be forced to pay for network upgrades that provide them no benefit, especially if the interconnection customer decides to serve load outside of the Midwest ISO region once its one year minimum term of service is met. However, this argument fails to recognize the offsetting benefits that customers will ordinarily receive from upgrades to the transmission grid and from a more competitive generation market.

19. In the present case, such benefits can take the form of improved reliability, improved ability to import generation due to counterflows that are created from the exporting generator, and reduced locational marginal prices (LMP). In an energy market with LMP, such as Midwest ISO's, when supply is increased, the load affected by that increased supply will benefit from lower energy prices because the new supply will generally displace more expensive generation, which would otherwise have been dispatched. Thus, other transmission customers can benefit from the increased amount of generation in their pricing zone even if that new generation capacity is not sold to them.

20. The Commission has consistently found that different rate proposals can be just and reasonable, and that more than one method can be correct for calculating rates.¹⁹ We

¹⁷ *Entergy Services*, 319 F.3d at 543.

¹⁸ Consumers Request for Rehearing at 3.

¹⁹ *ITC-METC*, 120 FERC ¶ 61,220 at P 14 citing *Mobil Oil Exploration & Producing Southeast, Inc. v. United Distribution Co.*, 498 U.S. 211, 224 (1991); *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944).

recognize the factual differences between the cases at hand and the cost allocation policy in Order No. 2003; we cited that order to illustrate the fact that 100 percent reimbursement can be just and reasonable. The Commission noted two “fail-safe” customer protections in Order No. 2003: the availability of “higher of” incremental pricing and the opportunity for customers to make a section 206 filing at the Commission seeking relief on a case-by-case basis if reimbursement of a generator’s network upgrade costs could result in improper subsidy. “Higher of” incremental pricing is not available in this situation, under the license plate zonal rate structure in the Midwest ISO. However, the second fail-safe measure of a section 206 filing continues to be a viable customer protection. Order No. 2003 did not foreclose other means of cost allocation, nor did it indicate that regional cost allocation proposals must include identical customer protections in the future. Indeed, the Commission accepted a different proposal for interconnection costs for the Midwest ISO in the RECB proceeding. Ratemaking is “less a science than it is an art,”²⁰ and there can be more than one just and reasonable cost allocation method.

21. MPPA argues that the Commission had previously rejected the ITC-METC proposal when we approved the 50-50 cost allocation scheme for Midwest ISO, and that our acceptance of ITC-METC’s filing will unravel the Midwest ISO’s cost-sharing compromise. On the contrary, Attachment FF of the Midwest ISO tariff as approved by the Commission explicitly anticipates that some transmission owners may choose to pay a greater portion of the costs of network upgrades associated with generator interconnection.²¹ The requirement under Attachment FF is that transmission owners’ exercise of this option not be unduly discriminatory. This provision was part of the compromise accepted by the Midwest ISO and the Commission in RECB, and is consistent with the ITC-METC proposal.

22. The Michigan Commission argues that the Commission’s reliance on *Entergy* was misplaced, since *Entergy Services* dealt with the benefits of network upgrades rather than subsidy issues. This is a misreading of the *Entergy Services* decision and of the Commission’s findings in the *ITC-METC* and *ATC* orders. The court in *Entergy Services* rejected the notion that reimbursement of interconnection costs results in other transmission customers subsidizing new generation. It noted that the Commission has long rejected such arguments because they are based on the faulty premise that native load customers receive no benefit from the upgrades, and that no subsidization occurs except where customers pay for other customers’ sole use facilities. The court accepted the Commission’s broader view of the benefits of network upgrades and found that,

²⁰ *Cities of Bethany v. FERC*, 727 F.2d 1131, 1138 (D.C. Cir. 1984), *cert. denied*, 469 U.S. 917 (1984); *Alabama Electric Cooperative, Inc. v. FERC*, 684 F.2d 20, 27 (D.C. Cir. 1982).

²¹ Midwest ISO tariff, Attachment FF, section III.A.2.a.

because all customers benefit through improvements to the network, subsidy concerns are mitigated. The Michigan Commission's argument suggests that customers should never have to pay for new network upgrades if they are built to meet the requests of other customers. This argument is not consistent with the way an integrated grid functions and ignores the benefits that flow to all customers from such integration.

D. Eligibility Criteria

23. In *ITC-METC* and *ATC*, the Commission rejected requests from intervenors that we require the applicants to apply more stringent eligibility criteria to generators seeking to interconnect under the proposals at issue. Instead, the Commission found that the criteria adopted by the Midwest ISO in RECB are sufficient to ensure that interconnections are not made solely for the purpose of receiving better cost treatment.²²

24. MPPA, Detroit Edison and the Michigan Commission argue that the eligibility criteria adopted by the Commission do not assure that those who cause and benefit from new generation will pay the costs associated with it, and are thus not just and reasonable. They argue that Midwest ISO customers will only be assured of one year of benefits from the interconnection customer's generation unit, even though they will be charged the full cost of the upgrades needed for interconnection. The Michigan Commission argues that the Commission's suggestion that a customer that feels it is subsidizing a generator make a section 206 filing is not useful when generators sell outside of the Midwest ISO after the one-year period, since the Commission has stated that this is just and reasonable.

25. The requests for rehearing do not raise any new arguments that justify granting rehearing of our decision on eligibility criteria. The Commission addressed concerns over new generation selling load outside the zone in which it is located in both Order No. 2003 and in *ITC-METC* and *ATC*. We stated that a network upgrade benefits all customers, as it is part of the interconnected transmission system.²³ The Commission views network upgrades as improving the transmission system as a whole, a perspective supported by the *Entergy Services* decision.²⁴ Also, as discussed above, there are other benefits from interconnection of new generation to the network that are received by customers serving loads local to the interconnection.

²² *ITC-METC*, 120 FERC ¶ 61,220 at P 18; *ATC*, 120 FERC ¶ 61,221 at P 20.

²³ See Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 584; *ITC-METC*, 120 FERC ¶ 61,220 at P 14; *ATC*, 120 FERC ¶ 61,221 at P 17.

²⁴ *Entergy Services*, 319 F.3d at 543.

26. The requests for rehearing argue that to prevent subsidies,²⁵ the term of the mandatory commitment should be extended to ten years. At the outset, we reiterate our belief that the likelihood of subsidy is remote: parties would need to show that the benefits they received from new interconnection were disproportionate to the costs passed on to them from such interconnection. These benefits include improved reliability, improved import capability due to counterflows that are created by the exporting generator, and reduced LMP. In this vein, we find that a ten year requirement is an extreme measure to address an unlikely problem.

27. However, we also note that a similar argument was addressed in the RECB I Order. In that proceeding, the Midwest ISO noted concerns by state regulatory participants in the RECB Task Force that interconnection customers would be tempted to locate in the Midwest ISO “because the Midwest ISO’s cost allocation policy for such upgrades may be construed by Interconnection Customers as more favorable than that of adjacent Transmission Providers” such as PJM, where 100 percent of the costs of similar projects are directly assigned to Interconnection Customers. The Midwest ISO proposed its one year commitment to serve load in the Midwest ISO to address these concerns. In the RECB I Order, we found that the proposed provision was “a reasonable approach to mitigate any incentive for generators to locate in the Midwest ISO solely to take advantage of the 50 percent cost sharing.”²⁶ The parties in this proceeding do not explain why that one year requirement is not effective in the present circumstances.

28. We also note that a 206 complaint that demonstrates a subsidy would not be dismissed merely because the generator would meet its minimum one year requirement to sell its energy on system.

E. Cap on Transmission Costs

29. In *ITC-METC* and *ATC*, the Commission rejected requests from intervenors for a cap on interconnection costs eligible for reimbursement for ITC and METC, and found that a proposed cap for ATC was not necessary. We noted that the proposed \$400/kW cap was arbitrary, and did not recognize that costs can vary depending on the facts. Customer protection is better provided by the Midwest ISO planning process, and individual section 206 filings if transmission customers believe costs are excessive.

30. The Michigan Commission, Detroit Edison and Consumers argue that the Commission should have imposed a cap on reimbursable costs. The Michigan

²⁵ The requests for rehearing argue that a subsidy would occur in the case that a generating entity sells its energy off-system into PJM while Midwest ISO transmission customers pay for the network upgrade.

²⁶ RECB I Order, 114 FERC ¶ 61,106 at P 63.

Commission and Detroit Edison argue that moving from 50 percent to 100 percent reimbursement removes the incentive for the generator to reduce the costs of new interconnections. Accordingly, the Commission should impose a cap to provide an incentive for generators to identify sites for new generation that minimize the cost of upgrading the network. The requests for rehearing also argue that the Midwest ISO planning process does not provide adequate protection for customers because the process does not begin until after the completion of site selection and the signing of an interconnection agreement. This does not provide time to reverse course if costs are excessive. Consumers provides data in its request for rehearing indicating that anticipated rate levels in the Michigan Joint Pricing Zone show that a cap is needed to protect customers.

31. The Commission finds that there are sufficient safeguards in place to protect parties against excessive costs and inefficient siting including: 1) the fact that the Midwest ISO transmission planning process provides information and opportunity for comment on transmission upgrades and is a transparent process administered by an independent entity charged with ensuring cost-effective planning, and 2) the individual siting decisions exercised by the states (i.e., we trust that state agencies will ensure that proposals for siting meet state requirements).

32. We also note that none of the requests for rehearing suggest a specific figure for the cap on interconnection costs. Given the many factors that can affect the cost of new interconnection, placing a single cap on all new interconnection projects would be inherently arbitrary.²⁷ The figure of \$400/kW originally suggested by ATC is no more logical than any other figure one could suggest, nor have the rehearing requests suggested any basis for determining where to set the cap. Given the uncertainty involved with setting a single figure, the Commission finds that reliance on the Midwest ISO planning process and section 206 is a superior method of preventing abuse while allowing new generation to be built in varying circumstances.

F. Access to Data

33. Detroit Edison and Consumers argue that they do not have sufficient access to data on planned interconnection projects to allow them to make informed decisions on whether to file a section 206 complaint. Consumers cites to the Notice of Proposed Rulemaking in Docket No. RM07-9-000, where we stated that pipeline users should have ready access to data to make informed assessments on their rates.²⁸ Detroit Edison cites

²⁷ Cf. *San Diego Gas & Elec. Co. v. Sellers of Energy and Ancillary Serv.*, 92 FERC ¶ 61,172, at 61,606 (2000) (noting that a proposed \$250/MWh cap was arbitrary and unsupported).

²⁸ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Notice of Proposed Rulemaking, 120 FERC ¶ 61,256 (2007).

to a transmission project planned by ITC in the 2006 Midwest ISO regional transmission plan; Detroit Edison claims that it was not able to receive correct cost estimates from ITC before the planning process.

34. As stated previously, we believe that transmission customers will generally benefit when generation is sited nearby and the grid is upgraded. The cost allocation in the present proceeding will not normally create a subsidy. However, the Commission will consider complaints alleging a subsidy in a specific case. The Commission notes that detailed technical and cost information for proposed interconnection projects (including Feasibility Studies, System Impact Studies, and Facilities Studies) are available on the Midwest ISO's Open Access Same Time Information System (OASIS). This system permits parties to perform analyses of a proposed project. We further note that parties have time to dispute the cost allocation of a proposed project, because reimbursement of the generator's initial payment for network upgrades occurs after the Commercial Operation Date which would follow necessary construction for both the generation unit and related network upgrades. While all parties retain any rights they may have under FPA section 206 to file a complaint with the Commission, we encourage parties to exhaust the avenues for redress through the stakeholder process before exercising their section 206 rights.²⁹

The Commission orders:

The rehearing requests of Michigan Commission, MPPA, Detroit Edison, and Consumers are hereby denied for the reasons discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁹ See, e.g., *New England Power Pool*, 107 FERC ¶ 61,135, at P 24 (2004); *New Power Co. v. PJM Interconnection, L.L.C.*, 98 FERC ¶ 61,208, at 61,759 (2002); *Morgan Stanley Capital Group Inc. v. PJM Interconnection, L.L.C.*, 96 FERC ¶ 61,331, at 62,269 (2001).