UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission System Operator, Inc.	Docket Nos. ER06-18-004 ER06-18-005

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued March 15, 2007)

1. On November 1, 2006, as amended on November 8, 2006, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted proposed revisions to its Open Access Transmission and Energy Markets Tariff (TEMT)[1] to incorporate a proposed cost allocation methodology for Regionally Beneficial Projects. Regionally Beneficial Projects are economic upgrades that meet specific standards, as discussed herein. As discussed below, the Commission will conditionally accept the proposed tariff revisions, to become effective April 1, 2007. In addition to a compliance filing, the Midwest ISO will be required to file annual reports that will help the Commission, the Organization of MISO States (OMS)[2] and stakeholders evaluate the effectiveness of the proposed transmission expansion cost recovery plan and provide the basis for any potential future modifications.

I. **Background**

2. On October 7, 2005, the Midwest ISO filed proposed revisions to the TEMT to implement the transmission expansion cost allocation proposal that was developed

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[1] Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff, Third Revised Vol. No. 1.

[2] The OMS is a regional state committee formed in 2003 to address multi-jurisdictional issues in the region served by the Midwest ISO. The OMS is comprised of the public utility regulators with jurisdiction over entities participating in the Midwest ISO (with one provincial and fourteen state members). The OMS coordinates electricity transmission issues relating to pricing, market monitoring, generation and transmission needs, and general coordination with the Commission and the Midwest ISO on issues of mutual concern.

through Regional Expansion Criteria and Benefits (RECB) Task Force (RECB I Filing). The RECB I Filing addressed the cost allocation for various types of network upgrades, including Baseline Reliability Projects, requests for generator interconnection, requests for transmission service and economic upgrades. The RECB I Filing also proposed an excluded projects list and an option to fund for transmission owners. The RECB I Filing did not establish a permanent cost allocation methodology for the treatment of Regionally Beneficial Projects, but stated that, until the Midwest ISO derived its new proposal, cost responsibility for Regionally Beneficial Projects would be negotiated on a case-by-case basis. The Midwest ISO stated that it would take up the cost allocation for Regionally Beneficial Projects in further stakeholder conferences – its "RECB II" process – and make a subsequent filing. The subsequent filing is at issue here.

3. On February 3, 2006, the Commission issued an order conditionally accepting the RECB I Filing and suspending it for a nominal period, to become effective February 5, 2006, subject to refund.[3] The February 3 Order required the Midwest ISO to file a proposal for Regionally Beneficial Projects on or about June 1, 2006, to coincide with the development of a methodology for cross-border allocation of costs of economic upgrades for the Midwest ISO and PJM Interconnection, L.L.C. (PJM) regions.[4] The February 3 Order also directed a technical conference to discuss the degree of regional cost sharing for Baseline Reliability Projects at 345 kV and above. The technical conference was held on April 21, 2006.

4. On November 29, 2006, the Commission issued an order on the technical conference, requests for rehearing and clarification, and compliance.[5] The November 29 Order found that the Midwest ISO's proposed methodology for cost allocation for high-voltage Baseline Reliability Projects was just and reasonable. The November 29 Order also denied requests for rehearing, granted in part and denied in part requests for clarification, and accepted the Midwest ISO's compliance filing. Requests for rehearing and clarification have been filed as to the November 29 Order; these are addressed in the order on rehearing and clarification being issued concurrently in Docket No. ER06-18-006 (concurrent RECB I Order).

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[3] *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106 (2006) (February 3 Order).

[4] *Id.* P 90. The Commission granted the Midwest ISO several extensions of time to permit filing of the cost allocation methodology for Regionally Beneficial Projects on November 1, 2006.

[5] *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,241 (2006) (November 29 Order).

II. RECB II Filing

5. On November 1, 2006 (as amended on November 8, 2006) the Midwest ISO filed its proposed cost allocation methodology for Regionally Beneficial Projects (RECB II Filing). Under its "Weighted Gain-No Loss" proposal, the Midwest ISO seeks to ensure that proposed economic projects will have a regional benefit and that the cost of any such projects are borne only by those entities that benefit from the proposed upgrade. For a proposed project to qualify as a Regionally Beneficial Project in the Midwest ISO's Regional Transmission Expansion Plan (MTEP) process, it must satisfy two benefits tests. First, the present value of the Adjusted Production Cost benefit (production cost benefit)[6] and the Locational Marginal Pricing (LMP)-based energy cost benefit (LMP energy cost benefit),[7] determined in aggregate for all generation and load nodes under the TEMT, must each be greater than zero. The total project benefit is a weighted value defined as the sum of 70 percent of the production cost benefit and 30 percent of the load's LMP energy cost benefit. Second, a proposed project must satisfy a variable Benefits/Costs Ratio threshold, defined as the project benefit divided by the project cost. The Benefits/Costs Ratio thresholds vary linearly from 1.2 for projects that have an in-service date within one year of the project's MTEP approval date to 3.0 for projects that have an in-service date ten or more years from its MTEP approval date.

6. A proposed project must also meet three qualifying tests to be designated a Regionally Beneficial Project and qualify for regional cost allocation. The project must: (1) cost more than $5 million, (2) involve facilities with voltages of 345 kV or higher (high-voltage), and (3) not be determined to be a Baseline Reliability Project or New Transmission Access Project. If the project meets these three additional tests, then it is determined to be a Regionally Beneficial Project and, therefore, eligible for cost allocation. These tests are consistent with the qualifying tests the Commission accepted for Baseline Reliability Projects proposed in the RECB I Filing.

7. According to the proposed cost allocation methodology, if a project: (1) meets the Benefits/Costs Ratio threshold; and (2) meets the other threshold criteria tests specified above to determine if it qualifies to be designated a Regionally Beneficial Project and subject to regional cost allocation, then 20 percent of the costs of the project will be

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[6] The production cost benefit metric is the calculation of production cost savings (benefits) due to the transmission expansion adjusted to reflect changes in sales and purchases that may occur as a result of the expansion.

[7] The LMP energy cost benefit is calculated by multiplying the LMP at each load bus within the sub-region for each period of the planning model simulation. The intent is to measure reductions in load energy payments resulting from LMP reductions associated with the expansion.

allocated to all Midwest ISO customers (*i.e.*, on a "postage-stamp" basis) and 80 percent will be allocated among the three geographic sub-regions (West, Central and East) on a "license-plate" basis, based on a beneficiary analysis. Once each sub-region is assigned its license-plate portion of the project cost, the cost allocation to each individual entity within each geographic sub-region will be on a load ratio share basis to reflect the potential for shifting beneficiaries within the sub-region over time.

8. The proposed methodology provides for a deviation from the above cost allocation when the calculated benefits to any one of the three sub-regions, in terms of either production cost benefit or LMP energy cost benefit, are negative. Under this circumstance, that sub-region will not be allocated a share of the 80 percent sub-regional component; the 80 percent of costs will be allocated only to benefiting sub-regions. According to the Midwest ISO, this "No Loss" piece of the Weighted Gain-No Loss analysis is intended to protect customers in a sub-region from being allocated costs when they may not benefit from the upgrade.

9. For cost allocation with transmission owners outside the Midwest ISO region, the Midwest ISO proposes that costs related to Baseline Reliability Projects located in neighboring regions be allocated among Midwest ISO customers in accordance with the same procedures for comparable projects located within the Midwest ISO region. For inter-regional Regionally Beneficial Projects, the Midwest ISO is not proposing an allocation methodology pending further discussions regarding cross-border allocation with its neighboring Regional Transmission Organizations (RTOs).

10. The Midwest ISO also proposes a modification to the language in Attachment FF of the TEMT for reliability projects adopted in the RECB I proceeding to clarify the definition of a Baseline Reliability Project with regard to applicable reliability standards. The modification "addresses the concern that Baseline Reliability Projects to be cost shared should only be based on criteria established by [the North American Electric Reliability Corporation (NERC)] as the [Electric Reliability Organization (ERO)], or its regional reliability organizations under which the Midwest ISO operates, as opposed to . . . those based on local criteria, which may differ from zone to zone."[8] This is a revision that the OMS proposed in its comments on the RECB I Filing and that the Midwest ISO committed to make.

III. <u>Notices and Responsive Filings</u>

11. Notice of the Midwest ISO's RECB II Filing in Docket No. ER06-18-004 was published in the *Federal Register*, 71 Fed. Reg. 66,765 (2006), with protests and interventions due no later than November 22, 2006. Notice of the Midwest ISO's

[8] RECB II Filing Transmittal Letter at 11.

amendment to the RECB II Filing in Docket No. ER06-18-005 was published in the *Federal Register*, 71 Fed. Reg. 67,553 (2006), with protests and interventions due no later than November 29, 2006.

12. The OMS filed a motion for extension of time to file comments on the November 1 RECB II Filing. Indianapolis Power & Light Company (IPL) filed an answer in support of the OMS's motion. The Commission granted an extension of time for filing comments in both Docket Nos. ER06-18-004 and ER06-18-005 to December 21, 2006.

13. Timely comments and/or protests were filed by the parties listed in Appendix A. On January 5, 2007, ATCLLC, ITC & METC and the Midwest ISO filed answers to the protests and comments.

IV. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

15. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers of ATCLLC, ITC & METC and the Midwest ISO because they have provided information that assisted us in our decision-making process.

V. Discussion

A. Overview of RECB II Process

16. While the history of cost allocation and pricing in the Midwest ISO region is explained in our prior orders addressing cost recovery and ratemaking, we describe the major developments herein in order to put our findings below, as well as those in the concurrent RECB I Order, into the proper context.

17. The development of a comprehensive cost allocation and pricing mechanism for the Midwest ISO region has been an evolutionary process since the formation of the Midwest ISO. The Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation (TO Agreement),[9] which was originally accepted by the Commission in

[9] Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff, First Revised Rate Schedule No. 1.

1998,[10] lays out the skeletal structure for pricing and cost recovery for an initial transition period. The pricing of services, and ultimately the recovery of costs, was further defined and addressed in the various effective Midwest ISO tariffs. The instant filing is a further step in the on-going evolution towards an efficient post-transition period pricing and cost recovery paradigm within the Midwest ISO region, which is scheduled to be filed by August 1, 2007.[11]

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[10] *Midwest Independent Transmission System Operator, Inc.*, 84 FERC ¶ 61,231, *order on reconsideration*, 85 FERC ¶ 61,250, *order on reh'g*, 85 FERC ¶ 61,372 (1998).

[11] Although the Midwest ISO started providing transmission service under its own Open Access Transmission Tariff (OATT) on February 1, 2002, the generic interconnection proceedings at the Commission provided the mechanism to make a thorough review of interconnections and grid enhancements in the region. Specifically, in Order No. 2003 the Commission required all public utilities that own, control or operate facilities for transmitting electric energy in interstate commerce to append to their OATT *pro forma* Large Generator Interconnection Procedures (LGIP) and a *pro forma* Large Generator Interconnection Agreement (LGIA). *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 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171, *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*, No. 04-1148, 2007 U.S. App. LEXIS 626 (D.C. Cir. Jan. 12, 2007).

In order to achieve greater standardization of interconnection terms and conditions, Order No. 2003 required such public utilities to file revised OATTs containing the *pro forma* LGIP and LGIA included in Order No. 2003. Order No. 2003-A, issued on rehearing, made certain revisions to the *pro forma* LGIP and LGIA. The Commission permitted independent transmission providers, *e.g.*, RTOs, the flexibility to deviate from the *pro forma* LGIP and LGIA to meet their regional needs. An independent transmission provider could either file: (1) a notice that it intended to adopt the *pro forma* LGIP and LGIA; or (2) new standard interconnection procedures and agreements developed under an "independent entity variation" standard. In its compliance filings to Order Nos. 2003 and 2003-A, the Midwest ISO proposed certain variations from the *pro forma* Final Rule LGIP and LGIA that it asserted were based on its operating requirements and were consistent with the flexibility provided to RTOs by the Commission in Order No. 2003.

18. In the Commission's order on the Midwest ISO's compliance filings with Order Nos. 2003 and 2003-A,[12] the Commission encouraged the Midwest ISO to work with stakeholders to develop a permanent pricing policy for system upgrades based on the OMS's principle of payment for upgrades by parties that cause and benefit from the upgrades. While the Commission accepted the Midwest ISO's general proposal to implement the "default" pricing proposal of Order No. 2003, it noted that the Midwest ISO provided that the default pricing proposal would remain in effect only until a pricing policy based on the "beneficiaries pay" approach could be established by the Midwest ISO and its stakeholders. As this goal was supported by many stakeholders, the Commission encouraged the Midwest ISO to continue to work with stakeholders to develop such a pricing policy.

19. In March 2004, the Midwest ISO established the RECB Task Force to "explore the criteria to be used to justify inclusion of expansion proposals in the MTEP and to recommend appropriate tariff structures to recover the costs of such expansions."[13] The charter of the RECB Task Force included working toward a comprehensive policy for all upgrades, including generation and load growth as well as any other beneficial upgrades.

20. Over the course of 18 months, the RECB Task Force served as a stakeholder forum in which a "compromise" comprehensive cost allocation policy was developed. The RECB Task Force basically divided the proposed cost sharing into two general types of projects: (1) load growth or reliability projects (Baseline Reliability Projects), and (2) economic projects (Regionally Beneficial Projects). The RECB Task Force developed a regional cost sharing methodology for Baseline Reliability Projects, but was unable to develop a permanent cost allocation methodology for the treatment of Regionally Beneficial Projects.

21. The proposal of the RECB Task Force was brought before the Midwest ISO Advisory Committee in September 2005. The Midwest ISO Advisory Committee endorsed most, but not all, of the RECB Task Force's RECB I proposal. Faced with a conflict among two stakeholder groups, the Midwest ISO Board of Directors opted to present the Commission with the original proposal as set forth by the RECB Task Force in the RECB I Filing on October 7, 2005.[14]

[12] *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,027, at P 38, *order on reh'g*, 109 FERC ¶ 61,085 (2004) (accepting, in part, the Midwest ISO's compliance filings to Order Nos. 2003 and 2003-A).

[13] RECB I Filing Transmittal Letter at 2.

[14] *Id.* at 14-15.

22. As described above, the February 3 Order conditionally accepted the RECB I Filing with the exception of the proposal for the degree of regional cost sharing for high-voltage Baseline Reliability Projects, for which a technical conference was established. In the November 29 Order the Commission found, among other things, that the Midwest ISO's proposed methodology for cost allocation for high-voltage Baseline Reliability Projects was just and reasonable. As indicated above, requests for rehearing and clarification of the November 29 Order are addressed in the concurrent RECB I Order.

23. The RECB Task Force next turned its attention to the cost allocation methodology for economic projects so as to address the Commission's requirement in the February 3 Order that the Midwest ISO file a cost allocation proposal for Regionally Beneficial Projects. The Midwest ISO states that stakeholders, including the OMS, were provided opportunities throughout the formulation of the RECB II proposal to offer their views on the appropriate treatment of Regionally Beneficial Projects. The Midwest ISO states that it conducted several formal and informal polls to evaluate and rank competing cost recovery proposals, and it became clear that there are "many potential benefits of [t]ransmission [s]ystem expansions, and many possible ways to measure and calculate these benefits."[15] After receiving two extensions of time from the Commission to provide for additional stakeholder comment and possible consensus, the Midwest ISO made the RECB II Filing to incorporate into the TEMT the methodology to allocate costs for Regionally Beneficial Projects. This is the filing before us here.

B. Overview of Commission Findings

24. In Order No. 890, the Commission explained its policy regarding regional cost allocation:

> Our decisions regarding transmission cost allocation reflect the premise that "[a]llocation of costs is not a matter for the slide-rule. It involves judgment on a myriad of facts. It has no claim to an exact science." We therefore allow regional flexibility in cost allocation and, when considering a dispute over cost allocation, exercise our judgment by weighing several factors. First, we consider whether a cost allocation proposal fairly assigns costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, we consider whether a cost allocation proposal provides adequate incentives to construct new transmission. Third, we consider whether the proposal is generally supported by state authorities and participants across the region.

[15] RECB II Filing Transmittal Letter at 3.

> These three factors are interrelated. For example, a cost allocation proposal that has broad support across a region is more likely to provide adequate incentives to construct new infrastructure than one that does not. The states, which have primary transmission siting authority, may be reluctant to site regional transmission projects if they believe the costs are not being allocated fairly. Similarly, a proposal that allocates costs fairly to participants who benefit from them is more likely to support new investment than one that does not. Adequate financial support for major new transmission projects may not be obtained unless costs are assigned fairly to those who benefit from the project.[16]

25. The proposal at issue in this case addresses regional cost allocation for economic upgrades. In Order No. 890, the Commission held that the principles quoted above are "particularly important as applied to . . . economic upgrades" and provided the following additional guidance:

> As a general matter, we believe that the beneficiaries of any such project should agree to support the costs of such projects. However, we recognize that there are free rider problems associated with new transmission investment, such that customers who do not agree to support a particular project may nonetheless receive substantial benefits from it. In the past, different regions have attempted to address such issues in a variety of ways, such as by assigning transmission rights only to those who financially support a project or spreading a portion of the cost of certain high-voltage projects more broadly than the immediate beneficiary/supporters of the project. We believe that a range of solutions to this problem are available. We therefore continue to believe that regional solutions that garner the support of stakeholders, including affected state authorities, are preferable. Moreover, it is important that each region address these issues up front, at least in principle, rather than having them relitigated each time a project is proposed. Participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue such investments.[17]

26. Order No. 890, as indicated, underscored the importance of regional consensus. In this case, however, the Midwest ISO's participants have been unable to reach consensus.

[16] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12266 (Mar. 15, 2007), 118 FERC ¶ 61,119, at P 559-60 (2007) (internal citations omitted).

[17] *Id.* P 561.

Because consensus was not possible, we decide this case on the record before us and consistent with the principles enunciated in Order No. 890 and prior cases. Consistent therewith, we will give particular weight to the interests expressed by the states in the Midwest ISO region, as represented by the OMS. State support for regional cost allocation is important because "[t]he states, which have primary transmission siting authority, may be reluctant to site regional transmission projects if they believe the costs are not being allocated fairly."[18] The OMS supports this view, stating that, "[i]f a state's regulators are not reasonably convinced that the state's wholesale and retail customers will benefit from new transmission or that transmission cost allocations are fair, then the prospects for regulatory approvals for new transmission in that state will diminish."[19]

27. In this overview we summarize our findings on the two major areas of dispute. The first relates to the criteria for determining whether a particular project produces benefits that are sufficient to qualify for regional cost allocation. The second relates to the method for allocating the costs of those projects that do satisfy such benefits criteria. We summarize our findings on each issue and address them in more detail in subsequent sections.

28. On the issue of calculating regional benefits, the Midwest ISO proposes various metrics to determine whether a transmission project is likely to have regional economic benefits and therefore should merit regional cost sharing. The first set of metrics uses a weighted projection of production cost savings and reductions in LMPs to calculate project benefits. The second set of metrics applies these benefits to a "sliding scale" Benefits/Costs Ratio, such that projects scheduled to be constructed in a relatively short time frame need to demonstrate fewer projected benefits than projects scheduled to be built farther in the future. This sliding scale is intended to account for the difficulty of projecting benefits over long periods of time.

29. Before addressing these metrics, we emphasize that the RECB II proposal is not the *exclusive* method for sharing the costs of economic upgrades. The Midwest ISO's proposal retains the option for market participants to agree to develop and fund upgrades pursuant to mutually-agreeable arrangements.[20] This is consistent with our finding in Order No. 890 that "[a]s a general matter, we believe that the beneficiaries of [an economic] project *should agree* to support the costs of such projects."[21] However, as

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[18] *Id.* P 560.

[19] OMS Comments at 5.

[20] Midwest ISO Answer at 16 ("Limiting the types of projects that are eligible for region-wide cost recovery does not prohibit other valuable projects from being developed and recovered from specific zones that benefit . . . .").

[21] Order No. 890, 118 FERC ¶ 61,119 at P 561 (emphasis added).

Order No. 890 recognizes, "there are free rider problems associated with new transmission investment, such that customers who do not agree to support a particular project may nonetheless receive substantial benefits from it."[22] The RECB II proposal addresses this problem by ensuring that a project with significant regional benefits will be constructed even if the affected participants cannot agree on how to fund it. The availability of self-funding and regional cost sharing under the RECB II proposal ensure that market participants can efficiently expand the transmission system in order to benefit their customers.

30. We now discuss the metrics for projecting benefits. The Midwest ISO proposes to use production cost savings and the effect on LMPs to calculate project benefits. We approve these metrics because they are accepted measures of the economic benefits (and costs) of new investments. Further, no party argues that these measures are inappropriate. Rather, the parties argue that: (1) *other* benefit metrics should be considered as well, and/or (2) the proposed weighting of production cost savings and LMP energy cost benefit is inappropriate. With respect to the first challenge, we agree that other benefits may be relevant, but no party has presented a detailed methodology for calculating them on this record. We therefore have no basis for requiring the Midwest ISO to modify its just and reasonable proposal. However, we will, in response to the commenters, require that the Midwest ISO evaluate the feasibility of other benefits metrics and describe those efforts in future reports filed with the Commission. With regard to the weighting of production cost savings and LMP energy cost benefits, we agree with certain commenters that the proposal should be modified. In particular, we will: (1) require that the benefits be calculated on a net present value basis, and (2) reject the proposal to preclude regional cost sharing for projects that produce benefits on a net present value basis, even though one of the two metrics is negative.

31. With respect to the Benefits/Costs Ratio, the Midwest ISO has proposed a sliding scale whereby projects that can be constructed quickly face a lower Benefits/Costs Ratio (*e.g.*, 1.2) than projects that take longer to construct (*e.g.*, 3.0 for ten-year projects). Although some parties argue that there should be no sliding scale and that the ratio should be 1.0 for all projects, we accept the Midwest ISO's proposal as a reasonable first step. We agree that a sliding scale appropriately recognizes that benefits projections become less reliable over time and can be more difficult to predict than project costs. However, we also agree with the OMS that the Midwest ISO should continue to study whether its Benefits/Costs Ratios should be modified over time. As the Midwest ISO gains greater experience with projecting project benefits, we would expect these ratios to be reconsidered.

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[22] *Id.*.

32. We now address the cost allocation methodology for projects that satisfy these benefits tests. For such projects, the RECB II methodology assigns 20 percent of the costs on a postage-stamp basis across the entire Midwest ISO region and the remaining 80 percent among the three Midwest ISO planning sub-regions that benefit from the project. Certain parties argue that: (1) the 20 percent figure is too high or too low, and/or (2) the methodology for sub-regional allocation should be refined.

33. Several parties argue that the 20 percent figure should be increased, perhaps to 50 percent or 100 percent. We disagree. Although we believe that higher percentages could be justified on an appropriate record, we do not have such a record before us in this case. The parties supporting these higher percentages fail to provide evidence to support their proposals and some do not even specify a particular percentage. Furthermore, it is important to note that the OMS does not support these alternative proposals. As we indicated above, we carefully consider the views of the states on matters of regional cost allocation.

34. With respect to the sub-regional allocation, the OMS argues that the allocation should be made to individual pricing zones, rather than to planning sub-regions. We appreciate the OMS's concern that a more granular allocation to pricing zones could, in theory, more accurately match cost incurrence to project benefits. However, in response to the OMS proposal, the Midwest ISO states that it does not, at present, have the computer modeling tools available to perform an allocation to individual pricing zones. We therefore decline to accept the OMS proposal, but require the Midwest ISO to work with the OMS in the future to determine whether such a methodology may be feasible.

35. As explained in detail below, although we conditionally accept the Midwest ISO's instant proposal, we will direct a series of annual updates to be filed with the Commission to help us, the OMS, stakeholders and the Midwest ISO analyze the effectiveness of the proposed transmission expansion cost recovery plans. The November 29 Order already directed the Midwest ISO to study, as part of its post-transition rate design filing to be made in August 2007, the effectiveness of the cost sharing methodology accepted therein for new facilities.[23] We direct the Midwest ISO to include in that report a discussion of how the cost allocation methodology for Baseline Reliability Projects that was approved in the February 3 and November 29 Orders and the cost allocation methodology for Regionally Beneficial Projects approved herein relate to the methodology that the Midwest ISO is planning to submit for allocating the costs of existing projects. We also direct the Midwest ISO to make subsequent reports by August 2008 and August 2009 that analyze the effectiveness of all of the transmission expansion cost allocation

[23] November 29 Order, 117 FERC ¶ 61,241 at P 66. The November 29 Order also directed the Midwest ISO to file a report specifically as to generator interconnection cost allocation by November 29, 2007. *Id.* P 83 and Ordering Paragraphs (C) and (D).

methodologies. These reports will provide detail to enable the Commission to review, among other things: (1) the effectiveness of the postage-stamp rates for both Baseline Reliability Projects and Regionally Beneficial Projects, and (2) the discrete issues discussed herein.[24]

C. <u>Requests for Rejection and Conditional Approval</u>

1. <u>Comments and Protests</u>

36. Several parties request that we either reject the proposal or conditionally approve it subject to the filing of further transmission pricing allocation proposals later this year. Most of these comments involve the timing of the proposal and the belief that there is a need to coordinate with other transmission cost allocation proceedings in the region. Additionally, a few comments request that the proposal be rejected in favor of alternate proposals or pending policy guidance from the Commission.

37. For instance, IPL argues that the RECB II Filing should be rejected, without prejudice, and the current rate proposal should be considered in connection with other transmission rates due to be considered in mid-2007, including license-plate zonal rates within the Midwest ISO, pricing of Baseline Reliability Projects, and the Midwest ISO-PJM cross-border rate design. IPL argues that the Commission should direct that the cost allocation for Regionally Beneficial Projects be covered in these other proceedings.

38. Xcel is also concerned that the proposed cost allocation methodology for Regionally Beneficial Projects could be overtaken by the above mentioned on-going proceedings. Xcel argues that the Commission should "approve the procedures proposed in the RECB II Filing to *identify* [Regionally Beneficial Projects] . . . so as not to delay the Midwest ISO's efforts to develop such projects for its next MTEP (expected to be completed in spring 2008), but only conditionally approve the *cost allocation* provisions, subject to a requirement that these provisions ought to be revisited and re-justified when the new rate design proposals for the post transition period are filed in August 2007."[25] Xcel also states that "[a]nother solution could be to use the RECB II cost allocation provisions for [Regionally Beneficial Projects] only over the initial five or ten years after a new project is in service, and then transition to the provisions in place for reliability projects, in recognition that over the long term we are unable to separate the reliability impacts of projects from their potential to create economic benefit."[26]

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[24] *See infra* section V.M.

[25] Xcel Comments at 10 (emphasis in original).

[26] *Id.* at 11.

39. Additionally, the OMS and Consumers specifically note that the Commission has not made a final decision regarding cost allocations for inter-RTO cost allocations. They urge the Commission to ensure consistency between the methodology proposed herein and the ultimately-adopted cross-border allocation methodology.

40. Other entities provide alternative cost allocation methodologies to that proposed by the Midwest ISO. For example, IPL argues that the "beneficiaries pay" concept, standing alone, is too susceptible to arbitrary results to be considered just and reasonable. IPL also argues that the filing fails to address "cost trapping." In response to this IPL proposes an alternative "surcharge methodology," that is, "a surcharge can be applied to all MW injections (and withdrawals) on a location specific manner. Money collected from market participants will be distributed to Transmission Owners in the same proportions as the cost they are allocated, thus providing each Transmission Owner their annual revenue requirement and alleviating the trapped costs issue."[27] IPL suggests that the Commission may wish to consider holding a technical conference in connection with the issues raised by IPL and that the surcharge methodology could be discussed therein. Additionally, IPL reiterates arguments raised in the RECB I proceeding that a "safe harbor" mechanism is necessary to prevent disproportionate impacts on smaller transmission owners – "a ceiling on costs that any single entity would face."[28]

41. ATCLLC argues the Midwest ISO proposal is excessively complex, incomplete and presents so many hurdles for potential transmission projects to overcome that it will hinder transmission infrastructure development. ATCLLC states that the proposal is, at best, a work in progress and should be rejected with specific policy directions from the Commission regarding regional cost sharing. According to ATCLLC, a Commission-sponsored technical conference could be used as an appropriate method for allowing stakeholders and the Midwest ISO to go back to the drawing board to implement the policy directions.

2. Commission Determination

42. The Commission may reject a filing under section 205 only if it is patently deficient.[29] The RECB II Filing does not meet this test. The Midwest ISO was directed

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[27] IPL Comments at 12-13.

[28] *Id.* at 18.

[29] *Municipal Light Boards of Reading and Wakefield Massachusetts v. FPC*, 450 F.2d 1341, 1346 (D.C. Cir. 1971) ("A 'rejection' of a filing . . . may be used by an agency where the filing is so patently a nullity as a matter of substantive law, that administrative efficiency and justice are furthered by obviating any docket at the threshold rather than opening a futile docket.").

to make this filing and it has made a good-faith effort to develop a "beneficiaries pay" approach, as required by our prior orders. Furthermore, we do not believe that rejecting the proposal would be in the public interest. No party argues that a compromise on these issues is within reach if only the parties are given a little more time. Thus, rejection of the proposal would mean that no allocation methodology for economic projects is in place in the Midwest ISO region for a significant period of time.

43. Regarding the timing of this proposal and how it fits with other cost allocation proceedings for the Midwest ISO footprint, we cannot reject the filing simply because there are other on-going or future proceedings that relate to issues of cost allocation. These other proceedings do not concern the same issue presented here, *i.e.*, developing a "beneficiaries pay" approach to Regionally Beneficial Projects. However, to the extent the methodology adopted in this order should be refined or reformed based on information or decisions in subsequent cases, we can consider the matter at that time. We will therefore deny the requests that consideration of these issues be deferred until the post-transition pricing proceeding or other cost allocation proceedings are concluded.

44. In a related vein, we find that IPL's proposal to convene a technical conference on its surcharge concept for trapped costs in connection with the post-transition transmission pricing discussions is premature. With respect to IPL's efforts at engaging a debate on alternative mechanisms in the context of the post-transition pricing discussions, we decline to favor a specific outcome in those discussions as they are not presently before us.

45. We will also deny IPL's request for an explicit safe harbor period to prevent disproportionate impacts on smaller transmission owners. We find that proposed section III.A.2.f.iii of Attachment FF (which requires the Midwest ISO to make an annual assessment of the impacts of the project portfolios, in conjunction with the further reporting requirements discussed below), will provide adequate opportunity to ensure that participants such as IPL have the necessary data in a transparent forum with which to determine the impact of the allocation on smaller transmission owners.

D. Cost Allocation for Regionally Beneficial Projects

1. RECB II Filing

46. The Midwest ISO generally proposes to assign 20 percent of a Regionally Beneficial Project's costs on a postage-stamp basis to all Midwest ISO customers, and to allocate the remaining 80 percent of the project's costs to customers on a license-plate basis within three existing planning sub-regions.

47. In support of the 20 percent postage-stamp allocation, the Midwest ISO states that its analysis demonstrated that at least 20 percent of load within a pricing zone was served under market conditions by the market in aggregate. Specifically, the Midwest ISO found that "approximately 20 [percent] relative usage of the system of others by any

given designated pricing zone is required for a utility to 'self-serve' its load reliably."[30] The Midwest ISO also notes an analysis presented to the RECB II Task Force demonstrates that "when the loads of a single zone are served by all market generators in aggregate . . . the relative usage of the transmission system of others was at least as high as the 20 [percent] figure seen in the original evaluation for reliability purposes."[31] The Midwest ISO states that these analyses are not intended to be definitive measures of grid benefits, but rather are useful indicators of the general level of shared system usages and reflective of an appropriate region-wide postage-stamp cost allocation. Additionally, the Midwest ISO states that the proposed 20 percent postage-stamp component is consistent with the level applied to high-voltage Baseline Reliability Projects as set forth in the RECB I Filing and accepted by the Commission in the November 29 Order.

48. The Midwest ISO proposes to allocate the remaining 80 percent of a Regionally Beneficial Project's costs on a license-plate basis to three existing geographic sub-regions.[32] The geographic sub-regions were developed as part of the Midwest ISO's existing planning process and the sub-regions have approximately equal load.[33] Under the "No Loss" piece of the Weighted Gain-No Loss approach described above, in order to protect customers in a geographic sub-region from being allocated costs when they may not benefit from the upgrade, if the calculated benefits to a particular sub-region, in terms of either production cost benefit or LMP energy cost benefit, are negative, then that sub-region will not be allocated any of the sub-regional share of costs, which will only be applied to those sub-regions that do benefit from the project. The Midwest ISO states that it does not presume that every customer within its large service territory will benefit equally from all transmission expansion and, therefore, instead it requires a beneficiary analysis to determine the relative project benefits to customers within each of three sub-regions. Comments and protests about the Weighted Gain-No Loss approach are discussed in section V.G, *infra*.

2. <u>Comments and Protests</u>

49. Some entities, including the Midwest ISO TOs and Xcel, express general agreement with the proposed 20 percent postage-stamp rate as a reasonable compromise by the Midwest ISO's stakeholders on a contentious issue. The Midwest ISO TOs state that the Commission has accepted compromises resulting from the stakeholder process in

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[30] RECB II Filing Transmittal Letter at 8.

[31] *Id.*

[32] There are multiple pricing zones within each of the three planning regions.

[33] RECB II Filing, Affidavit of Jeffrey R. Webb at P 15.

the past and should also accept the compromise in the instant filing.[34] The Midwest ISO TOs conclude that the Midwest ISO's proposal to include a regional and sub-regional component to allocate costs associated with Regionally Beneficial Projects is appropriate.

50. Other entities, including the Illinois Commerce Commission (as part of the OMS's comments), ITC & METC, the Midwest TDUs and WPS Companies ask the Commission to reject the Midwest ISO's proposed 20 percent postage-stamp rate on the grounds that: (1) the Midwest ISO's proposal is unsupported, and (2) a much higher percent postage-stamp rate is warranted because high-voltage projects benefit all transmission customers.

51. The Midwest TDUs argue that "mechanically duplicating" the 20 percent/80 percent split used for Baseline Reliability Projects is inappropriate, because those numbers were supported, if at all, by reliability studies.[35] The Midwest TDUs argue that a 20 percent postage-stamp allocation fails to recognize the true regional benefits of such upgrades. The Midwest TDUs argue that studies demonstrate that over 90 percent of the generation in the Midwest ISO footprint is available for designation as a network resource throughout the region. The Midwest TDUs also argue that the Midwest ISO has embraced broad regional cost sharing in contexts other than transmission upgrades.[36] The Midwest TDUs also argue that Energy Policy Act of 2005 (EPAct 2005)[37] serves as a directive to the Commission to facilitate the expansion of the grid, a policy undercut by a low postage-stamp cost allocation. Further, the Midwest TDUs argue that the failure to properly spread the costs of regionally significant facilities would be inconsistent with Commission precedent.[38] The Midwest TDUs argue that, given that the Midwest ISO "has proposed that only selected 345 kV upgrades would be covered by RECB II, a 50 [percent postage-stamp] element would be amply justified. At a minimum, if RECB II eligibility is extended to projects of 100 kV or higher, the regional component should be raised to the one-third share that [Southwest Power Pool, Inc. (SPP)] applies to all Base Plan facilities of 60 kV and higher."[39]

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[34] Midwest ISO TOs Comments at 4.

[35] Midwest TDUs Comments at 17.

[36] *Id* at 18 (citing *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,237, at P 16, 22-23 (2006)).

[37] Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).

[38] *Id.* (citing *New England Power Pool*, 101 FERC ¶ 61,344, at P 36 (2002) and *Southwest Power Pool, Inc.*, 111 FERC ¶ 61,118, at P 25-35 (2005)).

[39] *Id.* at 21.

52. In the alternative, WPS Companies argue, if the Commission does not adopt a 100 percent postage-stamp rate, it should direct the Midwest ISO to adopt the methodology accepted by the Commission for Baseline Reliability Projects for Regionally Beneficial Projects as well. Similarly, ITC & METC also argue for a broader regional allocation of costs. UGPTC also supports a higher postage-stamp rate for economic projects that qualify for cost allocation.

53. Great River and ITC & METC also argue that the 20 percent postage-stamp cost allocation should be treated as an "initial step" that is not intended to prejudge the outcome of future rate design filings nor used to determine whether proposed projects are constructed.

54. UGPTC states that the 20 percent postage-stamp allocation is based on studies defined and used in the RECB I Process, and that the findings of such studies will change as new Regionally Beneficial Projects are added.

55. A number of entities focus on the issue of whether the Midwest ISO should allocate costs directly to pricing zones or to the sub-regions that contain multiple pricing zones. UGPTC accepts the 20 percent postage-stamp allocation "in reliance on the make up of the sub-regional zones as represented in the filing and as presented in the stakeholder meetings" and maintains that "[m]odifications that result in a reduction in size of the sub-zones should be accompanied by an increase in the region wide [postage-stamp] component of the cost allocation."[40]

56. By contrast, other commenters seek an allocation based on pricing zones, rather than the Midwest ISO's established sub-regions. For example, the Ohio Commission opposes any postage-stamp rate without an accompanying benefits test to ensure that costs are "allocated only to those pricing zones who are shown to benefit from a project and that no pricing zone that is not shown to receive benefit [sic] from the project should be required to pay for that project."[41] Similarly, the Missouri Commission argues that the Commission should require, as a condition for including 20 percent of high-voltage Regionally Beneficial Projects, that the portfolio of economic projects approved in MTEP provides to every pricing zone expected measurable benefits in excess of its allocated costs.

57. The OMS supports the 20 percent/80 percent split for regional versus sub-regional cost allocation. The OMS, however, argues that the Midwest ISO should apply the 80 percent sub-regional cost allocation methodology to pricing zones, rather than across the three planning sub-regions set forth in proposed Attachment FF-3. The OMS argues that

[40] UGPTC Comments at 4.

[41] Ohio Commission Comments at 4.

the Midwest ISO should allocate project costs to pricing zones for an initial period ending five years from each project's in-service date before socializing the costs to the planning sub-regions.[42] The OMS argues that the Midwest ISO has failed to support the concept of using fixed geographic planning sub-regions, noting that "preliminary studies by the Midwest ISO regarding the level of interconnectedness of pricing zones to combine for the purpose of calculating Loss of Load Expectations tend to indicate that the Planning Sub Regions may not be the best specification of being highly interconnected."[43]

58. While the OMS does not propose to change the proposed tariff specification of planning sub-regions, the OMS proposes that the Commission require the Midwest ISO to submit a report on the appropriate sub-regions for the purpose of allocating the costs of Regionally Beneficial Projects. The OMS states that this report, which could be included as part of the three-year report proposed by the Midwest ISO, should include a study of: (1) the level of interconnectedness of proposed sub-regions; (2) other relevant factors to determine proposed sub-regions; (3) how well the benefits from Regionally Beneficial Projects are spread throughout the proposed sub-regions; (4) what, if any, transmission projects would be needed to both decrease the number and increase the size of the sub-regions; and (5) whether or not the benefits of such projects outweigh their costs.[44]

59. The OMS also asks that the Midwest ISO be required to thoroughly explain "the possible future implications of using the fixed geographic planning [sub-regions] as proposed in Attachment FF so that the Commission can assess the justness and reasonableness of that approach."[45]

60. Northern Indiana argues that if Regionally Beneficial Project costs are not allocated based on the relative benefits to pricing zones, the Midwest ISO should be required to determine the appropriate number and size of sub-regions to be used in the cost allocation process. Northern Indiana suggests that if the economic analyses for a

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[42] The Ohio Commission also supports this recommendation.

[43] OMS Comments at 20. However, some OMS states would add a further qualification that the 20 percent postage-stamp rate only apply when the proposed projects add measurable benefits to at least one pricing zone in all of the planning sub-regions. This further qualification is supported by the Iowa Utilities Board, the Kentucky Public Service Commission, the Minnesota Public Utilities Commission, the Missouri Commission, the Montana Public Service Commission and the Minnesota Department of Commerce.

[44] OMS Comments at 21. The Ohio Commission also supports this recommendation.

[45] *Id.* at 22.

Regionally Beneficial Project cannot definitively identify beneficiaries, Regionally Beneficial Projects should only be funded by the entities who believe that they will benefit sufficiently from a project to justify the cost.

61. Minnesota Power, Montana-Dakota & Otter Tail protest the Midwest ISO's proposed method of allocating costs of Regionally Beneficial Projects among transmission owners within the West Planning Region. They argue that the proposal to allocate costs to all users within planning regions based on a load share analysis, irrespective of the benefits projected for customers in the various pricing zones within those planning regions, is inconsistent with the "beneficiaries pay" theory. Specifically, Minnesota Power, Montana-Dakota & Otter Tail argue that Regionally Beneficial Projects constructed in the transmission-constrained eastern portion of the region may provide benefits to the region as whole, even though they are unlikely to provide demonstrable net benefits to entities like Minnesota Power, Montana-Dakota & Otter Tail. Minnesota Power, Montana-Dakota & Otter Tail argue that the "intra-planning region . . . cost-allocation approach adopted by the Midwest ISO is also unduly discriminatory, and in essence imposes guilt by association on all pricing zones within the West Planning Region."[46] Minnesota Power, Montana-Dakota & Otter Tail argue that "[i]n order to move towards satisfying cost-causation requirements, the Midwest ISO's TEMT must provide more reasonably precise information about the details of the method that the Midwest ISO will use to predict economic benefits from [Regionally Beneficial Projects] and validate that all customers that are allocated [Regionally Beneficial Project] costs are indeed beneficiaries of the [Regionally Beneficial Project] transmission upgrades."[47] They argue that the Commission should also require that the Midwest ISO demonstrate the basis that it will use to allocate the costs of transmission upgrades.

3. <u>Answers</u>

62. With respect to its proposed 20 percent postage-stamp rate, the Midwest ISO states that its proposal is consistent with reasonable assumptions that must be made given the existing state of technology for modeling Regionally Beneficial Projects. The Midwest ISO disagrees with protestors that the proposal will inhibit the construction of transmission, arguing that "[l]imiting the types of projects that are eligible for region-wide cost recovery does not prohibit other valuable projects from being developed and recovered from specific zones that benefit, based on existing state processes."[48]

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[46] Minnesota Power, Montana-Dakota & Otter Tail Comments at 15.

[47] *Id.* at 17.

[48] Midwest ISO Answer at 16.

63. The Midwest ISO states that although "more equitable demarcations in the [region] may be possible, at the current time the Midwest ISO believes that the proposed [three sub-regions] are the most appropriate geographic regions available."[49] In response to the OMS's concern about its commitment to a planning objective for the development of a portfolio of projects that will provide region-wide benefits, the Midwest ISO asserts its commitment "to developing MTEP proposals that include [Regionally Beneficial Project] which equitably allocate benefits, as well as costs, through the Midwest ISO Region consistent with the requirements in section VI of Appendix B of the [TO Agreement]."[50]

64. The Midwest ISO agrees with the OMS's request that "the Midwest ISO prepare an annual report to the Planning Advisory Committee and to the OMS of the steps taken in the MTEP 'to develop a portfolio of projects that spread benefits throughout each [sub-region].'"[51] However, the Midwest ISO also states its disagreement with the OMS's request to provide an annual regional report of project portfolios. The Midwest ISO states that report is, in essence, the MTEP report, which is required every two years under the TO Agreement. The Midwest ISO states that it would be improper to rush this important process by trying to develop reports on an annual basis. The Midwest ISO agrees, however, "to continue its meetings with the OMS and other interested stakeholders to ensure that they are able to participate in the MTEP process and the evaluation of [Regionally Beneficial Projects]" and states that the results of this process will be included in the three-year report proposed in the RECB II Filing.[52]

4. <u>Commission Determination</u>

65. We will conditionally accept the Midwest ISO's proposal to provide for a 20 percent postage-stamp allocation of costs to the whole region and an 80 percent allocation among the three proposed sub-regions, as further explained below.

66. We turn first to the proposed 20 percent postage-stamp allocation. Based on the evidence before us, we find that the Midwest ISO's proposed 20 percent postage-stamp cost allocation is just and reasonable. The Midwest ISO based its proposal for 20 percent postage-stamp cost allocation for Regionally Beneficial Projects on analysis that demonstrated that when the loads of a single zone are served by all market generators in aggregate, the relative usage of the transmission system of others outside that zone was at

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[49] *Id.* at 7.

[50] *Id.* at 3-4.

[51] *Id.* at 4.

[52] *Id.* at 12. *See* section V.M, *infra*.

least 20 percent. The Midwest ISO states that this figure should not be considered a definitive measure of grid benefits, but rather a useful indicator of general shared system usage.[53] We agree.

67. Several parties oppose the 20 percent figure. Some argue that it is too high[54] and others argue that it is too low.[55] The Midwest ISO has provided adequate support for the 20 percent postage-stamp allocation and we therefore accept it as just and reasonable. The parties opposing this allocation percentage, by contrast, fail to support their positions with evidence. For example, the Midwest TDUs support a 50 percent postage-stamp allocation but offer no evidence in support of that percentage.[56] Similarly, ITC & METC support a postage-stamp allocation "up to one hundred percent," but they do not provide support for this position nor do they even specify a particular percentage that should be adopted.[57] Although we agree that higher percentages could be just and reasonable (upon a proper evidentiary showing), given that the Midwest ISO has successfully supported the justness and reasonableness of its proposal, we must approve that proposal even if there are other just and reasonable ways to allocate transmission costs.[58]

68. We also find it important that the state commissions do not support a higher postage-stamp allocation; indeed, the OMS generally supports the 20 percent allocation.[59]

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[53] *See* RECB II Filing Transmittal Letter at 8.

[54] *See* Statement of Illinois Commerce Commission (Illinois Commission), OMS Comments at 43 (stating that the Illinois Commission "does not support an arbitrary allocation of any portion of the costs of so-called regionally beneficial transmission projects . . . via an unsupported region-wide postage stamp allocation").

[55] *See* ITC & METC Comments; Midwest TDUs Comments.

[56] Midwest TDUs Comments at 21.

[57] ITC & METC Comments at 14.

[58] November 29 Order, 117 FERC ¶ 61,241 at P 62 ("Under the FPA, if we find that the Midwest ISO has successfully supported the justness and reasonableness of its proposal, we must approve it even if there are other just and reasonable ways to allocate transmission costs."). *See also FPC v. Conway Corp.*, 426 U.S. 271, 278 (1976) (*Conway*) (finding that "there is no single cost-recovering rate, but a zone of reasonableness").

[59] One state (Illinois) argues that it is too high. *See supra* note 54.

This is important because, as we found in Order No. 890, regional cost allocation proposals will be more successful in supporting new investment if they have the support of affected states.[60] As the OMS explains:

> If a state's regulators are not reasonably convinced that the state's wholesale and retail customers will benefit from new transmission or that transmission cost allocations are fair, then the prospects for regulatory approvals for new transmission in that state will diminish. Thus, customer and regulator confidence in the value of new transmission and the fairness of allocated transmission costs is crucial for needed and otherwise beneficial transmission expansion.[61]

69. The Midwest TDUs, however, point to higher allocations adopted in other regions, such as SPP and New England,[62] and urge the Commission to follow such an approach in this proceeding. We disagree. The Commission accepts regional differences in cost allocation and does not mandate a one-size-fits-all approach. The states in the Midwest ISO region do not support the higher allocations proposed by the Midwest TDUs or adopted in other regions. Further, there are important differences between the regions. For example, the Midwest ISO serves an extremely large footprint that has not, to date, had a history of regional transmission planning or cost allocation. It is therefore neither surprising nor necessarily inappropriate that the Midwest ISO's proposal for regional cost allocation would fail to allocate costs as broadly as regions with a smaller footprint and, in the case of New England, a long history of integrated and coordinated operations.

70. By approving the Midwest ISO's proposal, however, we do not imply that the Midwest ISO could not justify, on a different record, a greater percentage postage-stamp allocation. As the region gains experience with implementation of the RECB II proposal, the Midwest ISO should re-evaluate the appropriateness of the 20 percent/80 percent split in consultation with the affected states and market participants.

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[60] Order No. 890, 118 FERC ¶ 61,119 at P 560.

[61] OMS Comments at 5 (internal citation omitted).

[62] Midwest TDUs Comments at 20-21 (citing *Southwest Power Pool, Inc.*, 111 FERC ¶ 61,118, at P 25, 31, *order on reh'g*, 112 FERC ¶ 61,319 (2005) (permitting 33 percent of new Base Plan upgrades to be allocated on a regional basis); *New England Power Pool and ISO New England, Inc.*, 105 FERC ¶ 61,300, at P 3, 21-23 (2003), *order on reh'g*, 109 FERC ¶ 61,252 (2004) (allowing 100 percent of costs of upgrades rated at 115 kV and above that meet certain non-voltage criteria to be allocated on a regional basis)).

71. While we recognize that the RECB II Filing adopts the same percentage that is used in the RECB I proceeding for high-voltage Baseline Reliability Projects, we are not "mechanically duplicating" our acceptance of that percentage, as the Midwest TDUs claim. The Commission must make, and is making, independent determinations of the justness and reasonableness of the cost allocation proposals in each proceeding. As indicated, the Midwest ISO has provided sufficient evidence to support its allocation and no party has provided evidence to support any particular alternative allocation percentage. Furthermore, we are not persuaded that using similar allocation percentages for reliability and economic projects is necessarily inappropriate, given that, as all parties generally agree, reliability projects can have economic benefits and economic projects can have reliability benefits.[63]

72. Among the Midwest TDUs' arguments for a higher postage-stamp allocation is that EPAct 2005 compels expansion of the grid, and that higher postage-stamp cost allocation will accomplish this goal. The Midwest TDUs offer no support for their contention that a higher postage-stamp allocation would better facilitate expansion of the grid and, importantly, they fail to recognize that the states in the region do not support such an approach. As indicated above, cost allocation proposals are more likely to facilitate grid expansion if they are supported by the states in the region.

73. We now turn to the proposed 80 percent allocation to the three planning sub-regions. Many commenters, including the Ohio Commission, the OMS, the Missouri Commission, Northern Indiana, and Minnesota Power, Montana-Dakota & Otter Tail, support use of pricing zones or argue that the Midwest ISO's proposal fails to consider the benefit of each project to customers in the various pricing zones. The OMS opposes allocating costs to the three planning sub-regions and, instead, argues that the Midwest ISO should allocate costs on a sub-regional basis directly to individual pricing zones.[64]

74. We are cognizant of the OMS's concerns on this issue. We do not disagree that direct allocations to pricing zones could, if supported, provide a more accurate methodology for matching cost incurrence with the beneficiaries of a particular project. However, as the Midwest ISO states in its Answer, "[t]he regional power flow and production cost models that are currently available to the Midwest ISO are not sophisticated enough to be able to reliably identify and isolate anticipated benefits from

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[63] RECB II Filing Transmittal Letter at 4 (stating that "[t]here was general agreement amongst RECB II Task Force participants that all projects have elements of both reliability benefits and economic benefits").

[64] OMS Comments at 13-17.

[Regionally Beneficial Projects] to individual pricing zones."[65] We therefore find that it is not appropriate, at this time, to require the Midwest ISO to modify its allocation method as proposed by the OMS. However, we direct the Midwest ISO to work with the OMS and other stakeholders to consider the feasibility of such modifications in the future.

75. As for UGPTC's concern that the 20 percent of costs to be applied on a postage-stamp basis should be revisited if the composition of the sub-regions changes, we find that this concern is premature. The Midwest ISO is required to file follow-up reports on both the efficacy of the 20 percent/80 percent split and the composition of the zones; stakeholders, the Midwest ISO and the Commission can all re-examine whether the 20 percent/80 percent split remains reasonable or if the sub-regions need to be realigned in a future proceeding. Consistent with the comments of Great River and ITC & METC, we agree that our ruling in this matter is not intended to prejudge any future rate filing. We emphasize that the Commission's determination here applies to the facts presented in this proceeding. Decisions in proceedings involving other regions or future Midwest ISO proceedings will have to be made based on the facts established in the filings submitted in those proceedings.

76. We also encourage the Midwest ISO to continue to work with the OMS and to provide the information needed for the OMS to understand the development of a portfolio of projects that spread benefits throughout each sub-region. Based on the Midwest ISO's commitment in its answer, we will direct the Midwest ISO to prepare an annual report to the Planning Advisory Committee and the OMS that details the steps taken in the MTEP to develop a portfolio of projects that spread benefits throughout each sub-region.[66] We will not, however, direct the Midwest ISO to modify its tariff as suggested by the OMS.

77. In order to gauge the effectiveness of the RECB I methodology, the November 29 Order directed the Midwest ISO and the Midwest ISO TOs to revisit the 20 percent postage-stamp cost allocation for Baseline Reliability Projects when they review the rate

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[65] Midwest ISO Answer at 5.

[66] OMS Comments at 19; Midwest ISO Answer at 4. We note that the Midwest ISO's answer also expresses concern that an annual report on the steps taken to develop project portfolios may be duplicative of the biannual MTEP report. Also, the Midwest ISO is concerned that requiring this report annually may not be enough time to complete the necessary analysis. Midwest ISO Answer at 7 (citing OMS Comments at 17-19). To the extent a report that details the development of project portfolios will be unduly burdensome, the Midwest ISO should explain, in its compliance filing to be submitted within 30 days of this order, how, absent the additional annual report, the information requested by the OMS will be provided in a timely way to stakeholders.

design for existing transmission facilities.[67] As stated in the concurrent RECB I Order, this filing requirement, along with the additional reports required in August 2008 and August 2009 directed below, is to ensure that the Midwest ISO and its stakeholders have the opportunity to re-examine the appropriateness of the 20 percent postage-stamp cost allocation for Baseline Reliability Projects and to ensure the Commission has the information to assess the appropriateness of the cost allocation.

78. To simplify reporting and the flow of information, the Commission directs the Midwest ISO and the Midwest ISO TOs to include in the August 2007 report a discussion of how the cost allocation methodology for Baseline Reliability Projects that was approved in the February 3 and November 29 Orders and the cost allocation methodology for Regionally Beneficial Projects approved herein relate to the methodology that the Midwest ISO is planning to submit for allocating the costs of existing projects. We also direct the Midwest ISO to make subsequent reports by August 2008 and August 2009 that analyze the effectiveness of all of the transmission expansion cost allocation methodologies. This report will provide detail that market participants, the Commission, the OMS and the Midwest ISO can use to review, among other things, the effectiveness of the postage-stamp rates for both Baseline Reliability Projects and Regionally Beneficial Projects.[68] We also direct the Midwest ISO to include in the reports a review of its experience under the methodology for Regionally Beneficial Projects as well as an analysis to determine if more equitable divisions of the Midwest ISO region into sub-regions would be justified in the future.[69]

79. The final report, which is due in August 2009, should also include a comprehensive analysis of the progress in the three years since the acceptance of the RECB I cost allocation methodology in November 2006 and make recommendations for future allocations.[70]

80. Although we believe these reports will be beneficial, we are not convinced that the entire cost methodology for Regionally Beneficial Projects should be conditionally accepted pending Commission receipt of these reports. While there may be different ways to equitably allocate these costs, the Midwest ISO's proposal is just and

[67] November 29 Order, 117 FERC ¶ 61,241 at P 66.

[68] *See infra* section V.M.

[69] OMS Comments at 21; Midwest ISO Answer at 7.

[70] Moreover, we note that the Midwest ISO can independently file to revise the 20 percent postage-stamp rate under FPA section 205 if it finds that it is necessary and/or appropriate to do so.

reasonable.[71]

E. Threshold Criteria of 345 kV

1. The RECB II Filing

81. The Midwest ISO proposes that projects must involve facilities with voltages of 345 kV or higher to qualify as Regionally Beneficial Projects. It states that the 345 kV threshold was established, in part, "[a]s an equitable balance to the concerns about the possible development of a high number of [Regionally Beneficial Projects] resulting in financial burdens, and in deference to the expectation that the most wide-reaching benefits will generally result from [higher-voltage] expansion facilities. . . ."[72] The Midwest ISO argues that the costs of lower-voltage facilities can be included in the Regionally Beneficial Project cost allocation if certain criteria are met, as discussed below. The Midwest ISO also states that determining the benefits of lower-voltage facilities is not relevant if such facilities are not integral to Regionally Beneficial Projects of 345 kV or more.

2. Comments and Protests

82. Several entities argue that the Midwest ISO's proposal would unduly discriminate against lower-voltage projects that provide crucial benefits to the Midwest ISO region. National Grid and WPS Companies argue that the 345 kV threshold is not justified and may disqualify many projects with significant regional benefits from eligibility for regional cost allocation. The Midwest TDUs argue that all upgrades 100 kV and above should be potentially eligible for RECB II regional cost sharing. WPS Companies argue that the 345 kV cut-off should be rejected because if NERC concluded that projects 100 kV and higher affect regional reliability (NERC's reliability standards apply to transmission projects greater than 100kV and lower-voltage facilities that support those facilities), then "it follows that they also can provide regional benefits."[73] WPS Companies argue that the high-voltage threshold ignores the regional benefits provided by lower-voltage projects and argue that the 345 kV threshold will encourage inefficient siting of projects.

83. Detroit Edison argues that excluding lower-voltage projects from Regionally Beneficial Project consideration ignores the Midwest ISO's own analyses demonstrating that such projects may provide economic benefits to load in more than one sub-region.

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[71] *Supra* note 58.

[72] RECB II Filing Transmittal Letter at 6.

[73] WPS Companies Comments at 15.

Detroit Edison argues that, at a minimum, the Midwest ISO should be required to apply the same benefit metrics and Benefits/Costs Ratio thresholds to lower-voltage transmission projects as a prerequisite to including these projects in the MTEP as "planned" projects. It believes that "[s]uch a requirement will help ensure that transmission expansion costs flowed through automatically to ratepayers under [the Midwest ISO's] Attachment O are just and reasonable, based on an independent analysis of cost vs. benefits."[74]

84. UGPTC maintains that the Midwest ISO stated in the stakeholder process that it would consider lower-voltage projects on a case-by-case basis but it is unclear "who would advance these [lower-voltage] projects and who has the burden of proof since only [the Midwest ISO] will have the forecasting capability to complete the necessary economic studies."[75]

85. Consumers argues that "[i]nstead of relying on the proposed 345kV demarcation point to determine which projects are [Regionally Beneficial Projects], . . . the five million dollar threshold will prevent smaller projects from being improperly included in the MTEP as [Regionally Beneficial Projects]."[76] Consumers argues that the Midwest ISO has failed to provide evidence upon which the Commission could evaluate what the appropriate voltage cut-off should be. Consumers argues that after the start of the Midwest ISO's Day 2 Energy Market, the appropriate threshold should be 100 kV.

86. Some entities, including the Ohio Commission, Northern Indiana, the OMS,[77] and Wisconsin Electric & Edison Sault, support the limitation on the postage-stamp component to high-voltage facilities. The Ohio Commission states that, to the extent the Commission accepts a postage-stamp component at all, it supports limiting regional cost sharing to projects 345 kV and above because the higher-voltage network better defines the interstate bulk power transmission system and better supports sharing of bulk power transmission project costs.

87. Northern Indiana supports the 345 kV threshold but asks the Commission to direct the Midwest ISO to add specific language to the TEMT indicating that a high-voltage

[74] Detroit Edison Comments at 4.

[75] UGPTC Comments at 3.

[76] Consumers Comments at 4.

[77] Some OMS members, such as the Michigan Commission, Indiana Utility Regulatory Commission and Public Service Commission of Wisconsin (Wisconsin Commission), do not believe, however, the 20 percent postage-stamp rate should be conditioned upon the voltage of the project.

project may also contain lower-voltage facilities "that in the judgment of the Midwest ISO form a necessary part of the [higher-voltage] project in order for the project to be implemented in a reliable and efficient manner."[78] Northern Indiana also states that, under the RECB II proposal, "the Midwest ISO Planning Advisory Committee . . . is to provide guidance to the Midwest ISO on the economic analyses that the Midwest ISO conducts for proposed [Regionally Beneficial Projects]" and expresses concern that "the [Planning Advisory Committee] may not have members with sufficient expertise in economic analyses to provide the necessary guidance to the Midwest ISO."[79]

88. The OMS and Wisconsin Electric & Edison Sault ask for clarification of the criterion that Regionally Beneficial Projects "involve facilities of 345 kV" or higher on proposed First Revised Sheet No. 1839, arguing that "involve" is too imprecise.

89. The OMS also proposes tariff revisions to clarify what is meant by delivery of the benefits of high-voltage facilities and to permit the Midwest ISO to include lower-voltage facilities as Regionally Beneficial Projects if they are needed to achieve the goal of distributing benefits throughout each of the sub-regions. The OMS asks that the Commission direct the Midwest ISO to explain why it has not included lower-voltage projects in its proposed planning and cross-zonal allocations of Regionally Beneficial Projects.

3. <u>Answers</u>

90. In its answer, the Midwest ISO argues that the costs of lower-voltage facilities are included in the costs of an economic project when: (1) the facilities are an integral part of the overall high-voltage project; and (2) the lower-voltage facilities form a necessary part of the higher-voltage project in order for the project to be implemented in a reliable and efficient manner. The Midwest ISO states its commitment "to evaluating in the planning process [lower-voltage] alternatives to the 345 kV [Regionally Beneficial Project] to see if they provide better value"[80] and agrees to report to the Commission, at the three-year reporting period, on whether there is sufficient information to conclude that lower-voltage projects should be defined as Regionally Beneficial Projects, even if such projects are not integrally related to 345 kV or larger facilities. The Midwest ISO reiterates that its TEMT should require a 345 kV threshold for projects to be eligible for cost sharing, arguing that the "345 kV factor was one of many compromise criteria that

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[78] Northern Indiana Comments at 8 (citing RECB II Filing Transmittal Letter at 6).

[79] *Id.* at 12.

[80] Midwest ISO Answer at 9.

were developed over many months by the RECB stakeholders."[81]

4. **Commission Determination**

91. In the February 3 Order, the Commission found that the 345 kV cut-off for high-voltage Baseline Reliability Projects facilities was reasonable.[82] We make the same finding here and agree that 345 kV is a reasonable cut-off line for regional allocations for Regionally Beneficial Projects.

92. No party has provided specific evidence that would support an alternative cut-off. The Midwest TDUs argue that all projects 100 kV and above should be eligible for cost sharing across the *entire* region, but provide no evidence to support their argument.[83] The Midwest ISO region is as large as it is geographically diverse, serving more than 100,000 MWs of load in an area that stretches from North Dakota to Ohio.[84] It is therefore reasonable, particularly as a first step, for the Midwest ISO to confine its cost-sharing methodology to higher-voltage backbone facilities. It is also important to note that the OMS agrees with the 345 kV cut-off.[85]

93. We will require the Midwest ISO to make various clarifications to the criterion that Regionally Beneficial Projects "involve facilities of 345 kV or higher" in a compliance filing to be submitted within 30 days of the date of this order.[86] The Midwest

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[81] *Id.* at 17.

[82] February 3 Order, 114 FERC ¶ 61,106 at P 44.

[83] Midwest TDUs Comments at 14.

[84] November 29 Order, 117 FERC ¶ 61,241 at P 65 (noting that the Midwest ISO region is "an expansive and diverse region"); *Midwest Independent Transmission System Operator, Inc.*, 103 FERC ¶ 61,210, at P 11 (2003) ("The Midwest ISO and its stakeholders are undertaking a monumental task in creating and coordinating energy markets across an area that is larger and more diverse than any other RTO or ISO created to date."); *Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,196, at P 38 (2003) (noting "the wide geographical scope of the Midwest ISO's market").

[85] OMS Comments at 13, 22-23. OMS only expresses concern with the criteria by which the Midwest ISO includes the costs of lower voltage facilities associated with a new 345 kV and above project. This issue is addressed below.

[86] Midwest ISO Answer at 9.

ISO must include in its tariff a detailed explanation of the statements made in its answer. As part of its filing, the Midwest ISO should specify what it means for facilities to be an "integral" or "necessary" part of a high-voltage project, and propose appropriate tariff language to implement these clarifications. In this regard, we agree with the OMS that the Midwest ISO's proposed tariff language "is unclear."[87]

94. In response to Northern Indiana's concern as to the expertise of the Planning Advisory Committee, we will not require any modifications to that provision at this time. The Planning Advisory Committee was established by stakeholders to provide guidance to the Midwest ISO on the planning process, including such topics as the economic analyses for proposed Regionally Beneficial Projects. If the Planning Advisory Committee concludes that its current members do not have sufficient expertise in economic analyses to provide the necessary guidance, it is incumbent upon the Committee to expand its membership in order to deepen the pool of expertise that it can offer the Midwest ISO.

F. Threshold Criteria of $5 Million

1. The RECB II Filing

95. The Midwest ISO proposes to limit the application of the 20 percent postage-stamp cost allocation methodology to projects with anticipated in-service costs of $5 million or more. This treatment is consistent with the methodology that the Commission accepted in the February 3 Order for Baseline Reliability Projects.

2. Comments and Protests

96. Several entities, including the Midwest ISO TOs, Northern Indiana, the OMS, the Ohio Commission and Xcel, express general support for limiting the cost allocation methodology to high-voltage projects that cost more than $5 million. These entities argue that a $5 million threshold is appropriate because it would limit regional cost sharing to larger projects, which are more likely to have regional impacts.

97. By contrast, National Grid argues that the $5 million threshold is arbitrary in that it fails to consider projected benefits. It argues that the Commission should allow lower-cost projects with significant regional benefits to qualify for regional cost allocation. The Midwest TDUs argue that the $5 million threshold is inappropriate and that "if the Commission is concerned that [the Midwest ISO] not be required to regionally fund a

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[87] OMS Comments at 22.

large number of small projects, then RECB II's $5,000,000 minimum *cost* threshold should be converted into a $5,000,000 minimum *benefit* threshold."[88]

98. Entities also raise concerns about how the $5 million threshold will be calculated. Ameren expresses concern that the proposal is unclear regarding what components are to be included in determining a project's total cost and states that the Midwest ISO should specify that a project's total cost is its corresponding revenue requirements. Wisconsin Electric & Edison Sault argue that implementation details are needed; for example, the proposal does not provide for independent verification of project cost estimates provided by the transmission owners. They argue that "[i]ndependent verification is required to ensure the Transmission Owners are not estimating costs too low so that the project passes the inclusion metric unfairly."[89]

3. Commission Determination

99. We conditionally accept the Midwest ISO's proposal for a $5 million minimum project cost to establish eligibility for cost sharing. We agree with the Midwest ISO TOs, Northern Indiana, the OMS, the Ohio Commission and Xcel that adopting a minimum project cost before granting regional cost sharing will appropriately limit the number of relatively small projects (unlikely to provide regional benefits) that will have to be integrated into MTEP. Given the time and expense associated with studying individual projects, measuring their projected benefits, and allocating and billing the associated costs, we find that it is reasonable for the Midwest ISO to exclude the smallest projects from its initial proposal for cost sharing for economic upgrades. The Midwest ISO should nonetheless evaluate, on an on-going basis, whether inclusion of such projects can be justified in the future.

100. As to how the project cost is going to be calculated, we agree with commenters that there are many outstanding questions and that the Midwest ISO has not sufficiently explained itself. Therefore, we direct the Midwest ISO to submit, within 30 days of the date of this order, detailed information regarding how it will calculate a project's cost. With regard to the specific protests of Ameren and Wisconsin Electric & Edison Sault, we will also require the Midwest ISO to include in its tariff an explanation of how project costs will be verified.

[88] Midwest TDUs Comments at 14 (emphasis in original).

[89] Wisconsin Electric & Edison Sault Comments at 3.

G. Weighted Gain-No Loss Approach

1. RECB II Filing

101. The Midwest ISO seeks to ensure that, in order to qualify for cost sharing: (1) a proposed transmission project will have a regional benefit, and (2) the cost of the proposed project is borne only by those entities that benefit from the proposed upgrade. The Midwest ISO states that its stakeholders did not agree over which metrics best measured anticipated benefits and notes that whether or nor rates in the affected region were bundled or unbundled could change the benefit outcome.[90] Due to the lack of stakeholder agreement, and based on stakeholder polling the Midwest ISO chose an approach based on "multiple metrics."[91]

102. To determine which proposed transmission upgrades qualify as Regionally Beneficial Projects, the Midwest ISO uses a Weighted Gain-No Loss metric. The Weighted Gain-No Loss metric calculates the anticipated annual benefits of a proposed project to customers in each of the three sub-regions using two metrics. The first metric is the production cost benefit,[92] which is intended to measure any reductions in production costs expected as a result of the proposed transmission expansion. The second is the LMP energy cost benefit,[93] which is intended to measure changes in LMPs as a result of the proposed project. The Weighted Gain-No Loss metric for each planning sub-region is the weighted sum of 70 percent of the production cost benefit metric and 30 percent of the LMP energy cost benefit metric.[94] Under the No Loss provision of the Weighted Gain-No Loss metric, the Midwest ISO will set the Weighted Gain-No Loss metric to zero for any planning sub-region for any year under analysis when either the production cost benefit or LMP energy cost benefit is calculated to be less than zero. In addition, the aggregate present value of the production cost benefit and the LMP energy

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[90] RECB II Filing Transmittal Letter at 5.

[91] *Id.* at 9-10.

[92] Production cost benefit is calculated by adjusting the production costs to account for changes in purchases and sales that are anticipated to occur as a result of the transmission expansion. RECB II Filing at Proposed Original Sheet No. 1839A.

[93] LMP energy cost benefit is calculated by multiplying the LMP at each modeled load bus in the sub-region by the load at each bus for each period of the planning model simulation. RECB II Filing at Proposed Original Sheet No. 1839A.

[94] *Id.* ("[Weighted Gain-No Loss] = (70% [production cost benefit] + 30% [LMP energy cost benefit])").

cost benefit must each be greater than zero for a proposed transmission upgrade to qualify as a Regionally Beneficial Project.

2. **Comments and Protests**

103. Commenters express varied opinions about the "Weighted Gain" piece of the Weighted Gain-No Loss approach, that is, the use of the production cost benefit and LMP energy cost benefit metrics to measure economic benefits. On the one hand, the Midwest ISO TOs generally support the Midwest ISO's benefit metrics to determine which projects qualify as Regionally Beneficial Projects. Similarly, Northern Indiana approves of the relative weighting of the production cost benefit at 70 percent and LMP energy cost benefit at 30 percent.

104. On the other hand, WPS Companies assert that the Weighted Gain-No Loss metrics proposed by the Midwest ISO are unjust and unreasonable because they use fixed weightings for production cost benefit and LMP energy cost benefit. WPS Companies argue that these fixed metrics fail to recognize that the benefits of a transmission project change over time.

105. WPS Companies also argue that production cost benefit and LMP energy cost benefit are really a single metric because they are both derived from the security-constrained economic dispatch simulation runs, with and without the prospective transmission project. From WPS Companies' perspective, this preliminary snapshot of data at the start of a project cannot capture the benefits of the project accurately enough to allocate costs. Also, WPS Companies argue that small changes to the assumptions at the start of a project cause dramatic changes to the expected cost savings of a new facility. In lieu of revising these metrics, WPS Companies believe that the Midwest ISO should simply adopt the methodology that applies to Baseline Reliability Projects during the transition period, currently expected to end on February 28, 2008.

106. A number of other entities also focus on the difficulties of forecasting benefits and beneficiaries. IPL argues that while the blended metric tries to assess who the beneficiaries are over time, "[a]t its core, this is still an approach that relies on a modeled forecast of what will happen, and cannot substitute for actual human behavior in a marketplace."[95] UGPTC says "[t]he ability to forecast production costs and LMP prices that far into the future is uncertain at best, grossly inaccurate at worst, and may prevent the inclusion of valuable projects in the MTEP simply due to modeling inaccuracies,"[96] and it is concerned that the Weighted Gain-No Loss may have an adverse impact on long-

[95] IPL Comments at 15.

[96] UGPTC Comments at 3.

lead-time projects as a result. Consumers states that "there is nothing in the record that demonstrates that LMP can be as accurately forecast as [the production cost benefit] over a ten year period"[97] and, as such, argues that the Commission should reject the blended metric approach for measuring benefits. It argues that the appropriate metric is 100 percent reliant on the forecasted production cost benefit because "[i]t is a simple measure that conservatively measures benefit and ultimately will produce lower costs to the customers without the uncertainty introduced by attempting to forecast future LMPs."[98] IPL argues that a superior approach is its "surcharge solution," discussed in section V.C, *supra*.

107. The OMS argues that the Midwest ISO should perform sensitivity analyses on the locations and amount of other transmission and non-transmission additions and retirements to ensure robustness of benefits from candidate Regionally Beneficial Projects. The OMS also suggests the Midwest ISO be required to provide a detailed description of how transmission and non-transmission future additions and retirements as well as load will be treated in scenario analyses.

108. The Midwest TDUs argue that by using only the Weighted Gain-No Loss metric, the Midwest ISO ignores other, non-economic, benefits that transmission projects provide. The Midwest TDUs argue that in EPAct 2005, Congress expressly recognized a broad range of factors that should be considered in evaluating transmission upgrades, including: economic vitality and development, economic growth, diversification of supply, energy independence, promotion of national energy policy, and enhancement of national defense and homeland security. ITC & METC also take issue with the omission of what they say are other benefits from the calculation of the Weighted Gain-No Loss, such as investor value, generation reserves reductions, and the economic benefits associated with improving reliability of the grid. ITC & METC note that transmission infrastructure development facilitates long-term power supply contracts, with corresponding FTRs, and can reduce load pockets, among other benefits.

109. The Missouri Commission voices concerns that load LMPs, as calculated by the Midwest ISO, do not measure detriments to Load Serving Entities that are contracting for power supplies, and that inclusion of the entire load at LMP overstates possible benefits or detriments from changes in spot market prices. It states that applying a 30 percent weighting to both benefits and detriments provides a reasonable alternative to the Weighted Gain-No Loss provision.

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[97] Consumers Comments at 5.

[98] *Id.*

110. WPS Companies request that the Commission reject the Midwest ISO's proposal to measure benefits and allocate the costs commensurate with these benefits based on three sub-regions. WPS Companies argue that the Midwest ISO has not sufficiently justified the methodology used to establish these sub-regions.

111. Wisconsin Electric & Edison Sault seek "a data audit or validation process that engages all stakeholders that are paying the allocated transmission costs, so that the inputs used can be reviewed and vetted as the process continues to ensure that the best available inputs are used."[99] Similarly, Xcel argues that "[s]ince under the Midwest ISO's proposal the expected level of project benefits and who is expected to benefit are used both to determine whether a project merits inclusion in the [MTEP] for cost allocation and also to allocate at least 80 percent of a project's cost, it is important that the Midwest ISO provide more supporting documentation as to exactly how these expected benefits will be quantified."[100]

112. The Michigan Commission expresses concern about coordinating the modeling process and analyses between the Midwest ISO and the Michigan Commission. The Michigan Commission recommends that the TEMT be revised (at First Revised Sheet No. 1839) to require the Midwest ISO to "collaborate with the affected states on modeling formats, data selection, and assumptions used in estimating benefits for a [Regionally Beneficial Project]."[101]

113. Great River argues that experience with this new metric is needed and that future adjustments may be warranted. Therefore, Great River asks that the Commission direct a technical conference on the Weighted Gain-No Loss and other benefit metrics.

114. Ameren would like the methodology revised such that for five years after a project's in-service date, each pricing zone with a positive Weighted Gain-No Loss calculation is allocated its portion of a Regionally Beneficial Project's cost based upon its percentage of the total project benefits. After five years, Ameren supports implementing the proposed methodology of 20 percent system-wide allocation with the remaining 80 percent of the annual project cost allocated by the aggregation of pricing zone benefits. Ameren argues that "[t]he use of an initial five year period of pricing zone level cost assignment will better match cost allocation to beneficiaries, but will also recognize that, over time, the level of benefits and the actual beneficiaries may shift due to other

[99] Wisconsin Electric & Edison Sault Comments at 4.

[100] Xcel Comments at 6.

[101] Michigan Commission Comments at 4.

transmission system modifications."[102]

115. A number of parties oppose the requirement that *both* the production cost benefit and LMP energy cost benefit metrics be positive for a proposed project to qualify as a Regionally Beneficial Project. For example, National Grid argues that the requirement that both the production cost benefit and LMP metrics must both be positive for a sub-region in order for the postage-stamp allocation to apply "defeats the purpose of relying on two metrics to assess the value of new transmission to customers."[103] National Grid argues that "[t]he principal advantage of a multiple metric approach is to reveal, from a number of different perspectives, the benefits (or lack thereof) to customers of new transmission upgrades."[104] National Grid notes that this multiple-metric approach has been proposed by other system operators and supported by the Commission.[105] It argues that by discarding all the results if only one metric has a negative result, the Regionally Beneficial Project proposal would raise the bar unreasonably high, thus making it more difficult to qualify for cost allocation.

116. The OMS asserts that having positive numbers for both the production cost benefit and LMP energy cost benefit metrics appears to be an unrealistic requirement. First, the OMS asserts the Midwest ISO needs to specify a planning objective to develop a portfolio of projects that provide region-wide benefits. Second, the Midwest ISO should be required to specify the additional measures it intends to use to meet these objectives.

117. Others argue for the inclusion of negative benefits. WPS Companies oppose the exclusion of transmission expansion projects where there is either a negative production cost benefit or LMP energy cost benefit. Northern Indiana argues that the Weighted Gain-No Loss principle is only appropriate if the present value calculation of the total project benefit includes both the positive *and negative* expected benefits. It requests clarification of the term "economic harm" under Weighted Gain-No Loss methodology. Northern Indiana asks that the tariff language be revised for consistency with the RECB II Filing Transmittal Letter, which provides that "[u]nder the [Weighted Gain-No Loss] methodology, Network Upgrades also would not be included for regional cost allocation if Transmission Customers in designated sub-regions would be expected to suffer

[102] Ameren Comments at 5.

[103] National Grid Comments at 9.

[104] *Id.*

[105] *Id.* (citing *PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,218, at P 24 (2006)).

economic harm from the Network Upgrade."[106]

118. The OMS further argues that the Midwest ISO should apply the No Loss aspect of the Weighted Gain-No Loss metric to the sum of the present value of zonal benefits, rather than to year-to-year benefits.[107]

119. The Missouri Commission states that the Weighted Gain-No Loss metric should reflect both the positive and negative impacts of production cost benefits and the LMP energy cost benefits. Therefore, only when the overall metric is negative would the net benefits for an area be set equal to zero. The Missouri Commission also argues that areas that benefit from expanded export capability brought by a new project may have positive overall benefits even though such expanded export capability could also result in higher LMPs in those areas under the Weighted Gain-No Loss metric.

120. WPS Companies dispute that a sub-region showing a negative benefit for either the production cost benefit or LMP energy cost benefit should not have to share in 80 percent of the project's costs. WPS Companies argue that showing a negative LMP energy cost benefit is not necessarily detrimental to a sub-region because it may be hedged with an FTR. Conversely, WPS Companies assert that it is impossible and unreasonable to assign beneficiaries on a sub-regional basis.

121. National Grid wants positive and negative benefits aggregated regionally each year rather than sub-regionally. Absent this modification, National Grid requests that the Regionally Beneficial Project qualification process be revised "by aggregating bus-level benefit estimates for each metric to the pricing zone level, then performing the step of discarding results where either of the metrics are negative at this level rather than at the sub-regional level."[108] National Grid expresses concern that the Weighted Gain-No Loss approach "will act to divert costs away from beneficiaries and result in a distorted and perhaps overly narrow allocation of project costs."[109]

122. Ameren argues that the Midwest ISO should revise the Weighted Gain-No Loss so that each pricing zone that shows a positive overall Weighted Gain-No Loss calculation

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[106] Northern Indiana Comments at 11 (citing RECB II Filing Transmittal Letter at 9).

[107] As part of the OMS's comments, the Wisconsin and Missouri Public Service Commissions state their objection to the application of the no-loss provisions, as clarified in the Missouri Commission's separate comments. OMS Comments at 2, n.4.

[108] National Grid Comments at 12.

[109] *Id.* at 19.

is allocated its portion of a Regionally Beneficial Project's cost based upon its percentage of total project benefits. Ameren states that it supports a cost allocation based on percentage of benefits for five years after the project's in-service date, but thereafter, it requests implementation of the 20 percent postage-stamp allocation, with 80 percent allocated to sub-regions on a load-ratio share basis. Ameren argues that using two different cost assignments over time recognizes that the level of benefits from a project may shift among market participants.

123. ATCLLC protests the Midwest ISO's proposed requirement that a positive aggregate LMP energy cost benefit is necessary before any transmission is eligible for cost sharing. ATCLLC notes that LMP differentials between its zone and the rest of the Midwest ISO are frequently significant. However, ATCLLC also notes that LMP energy cost benefit represents a short-term energy price and most of the Midwest ISO load is served according to rates set on a regulatory cost-of-service or negotiated basis.

Accordingly, excluding projects from cost sharing that show a negative Midwest ISO-wide LMP energy cost benefit cannot be justified on the basis that it protects customers if contributing to projects will increase their rates.

3. Answers

124. The Midwest ISO defends its use of the weighted production cost benefit and LMP energy cost benefit metrics to determine the benefits of a proposed project. The Midwest ISO states, however, that it believes that additional measures of transmission benefits are appropriate and states its commitment to developing methods to demonstrate those metrics. The Midwest ISO states that, once better metrics are developed to reliably evaluate benefits, it will make a section 205 filing to amend Attachment FF.

125. With respect to allocating costs over pricing zones, rather than planning sub-regions, the Midwest ISO states that, despite extensive stakeholder meetings, it was not able to develop a practical methodology to achieve this goal. The Midwest ISO states that it has studied the application of the Weighted Gain-No Loss provisions at the zonal level, as requested by the OMS, but the power flow and production cost models cannot currently identify and isolate anticipated benefits from economic projects, except at the aggregate regional level.

126. The Midwest ISO agrees that the Weighted Gain-No Loss provisions should apply to the sum of the present value of the benefits over the entire modeling period, rather than applying year-to-year, and clarifies that this was its original intent. The Midwest ISO states its willingness to clarify Attachment FF to reflect this intent.

127. In response to the OMS's request for an on-the-record description of the system load-flow model, the Midwest ISO argues that while "many of the details describing how

Regionally Beneficial Projects will be evaluated will need to be documented and are not contained in the [TEMT]," much of the "specificity" requested by the OMS cannot be practicably included in the TEMT.[110] The Midwest ISO does state that "to the extent the Commission deems any specific clarifications necessary, [it] will work with its stakeholders to develop appropriate clarifying [TEMT] language" and that it is willing "to the extent permitted by the confidentiality terms and conditions in the [TEMT], to collaborate with the states on estimating [Regionally Beneficial Project] benefits. . . ."[111]

128. With respect to whether the modeling protocols should apply over the whole modeling period, the Midwest ISO agrees that the present value method should be used to calculate the benefits from a Regionally Beneficial Project. However, the Midwest ISO states that such details should properly be included in the Midwest ISO Business Practice Manuals, rather than the TEMT.

129. With respect to the OMS's request that it provide sensitivity analyses on location and amount of other transmission and non-transmission additions and retirements to ensure robustness of benefits from candidate Regionally Beneficial Projects, the Midwest ISO states that it routinely performs such sensitivity analysis operations as part of the MTEP procedures and agrees to include this clarification in Attachment FF.

130. With respect to the OMS's request that the Midwest ISO meet with stakeholders to develop and clarify its planning process for Regionally Beneficial Projects for subsequent inclusion in its TEMT, the Midwest ISO states that "the details regarding the implementation of the [Regionally Beneficial Project] analysis as part of the MTEP process is properly included in the Midwest ISO's Business Practice Manuals, rather than the [TEMT]."[112]

4. Commission Determination

131. We find the Weighted Gain-No Loss approach proposed by the Midwest ISO, as conditioned below, to be a reasonable approach to measuring benefits. We recognize that many different methodologies could be used to determine benefits, but are satisfied with the Midwest ISO's explanation in support of its methodology.[113] As we stated in the November 29 Order, if the Midwest ISO has successfully supported the justness and

[110] Midwest ISO Answer at 10.

[111] *Id.* at 11.

[112] *Id.* at 12.

[113] *See* RECB II Filing Transmittal Letter at 5.

reasonableness of its proposal, we must approve it even if there are other just and reasonable methods possible.[114] Moreover, the main objection to the Midwest ISO's proposal is that it fails to consider benefits *other than* production cost savings or reductions in LMPs. But the parties taking this position fail to provide a detailed methodology for calculating such other benefits.[115] Therefore, although we agree in principle that other benefits may be relevant, we have no basis on this record for adopting such proposals.

132. Moreover, we find that the Midwest ISO's commitment to revisit the benefits analysis is a practical way to deal with this issue. We accept the Midwest ISO's proposal to review its Weighted Gain-No Loss analysis as part of the review process, as revised herein, and accept its pledge that, as better metrics are developed to reliably evaluate benefits, it will make a section 205 filing to amend Attachment FF.[116] We note that any changes to the basic methodology of developing and allocating costs for Regionally Beneficial Projects in Attachment FF must be filed with the Commission. It is a reasonable assumption that these metrics will evolve over time, and that this evolution may require future tariff revisions to best reflect an accurate assessment of project benefits and the weighting of any different benefits measures. In such reviews, the Midwest ISO should also examine whether data verification is appropriate.

133. We direct the Midwest ISO to file revisions to Attachment FF within 30 days of the date of this order to provide information about the sensitivity analyses operations on the location and amount of transmission, non-transmission additions and retirements, as agreed to in the Midwest ISO's answer.[117]

134. We agree with the Midwest ISO that modeling protocols are quite detailed and require frequent updates, and therefore, are best suited for inclusion in the Business Practice Manuals. Therefore, we will not require the Midwest ISO to make all of the clarifications requested by the OMS. It is well-established that the tariff need only

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[114] November 29 Order, 117 FERC ¶ 61,241 at P 62; *see also Conway*, 426 U.S. at 278.

[115] For example, ATCLLC provides a list of potential other benefits without offering a specific methodology for calculating them. ATCLLC Comments at 17.

[116] Midwest ISO Answer at 16.

[117] *Id.* at 12.

include terms that affect rates and services "significantly."[118] We do not believe the modeling protocols to be such a case.

135. With respect to WPS Companies' request that the Commission reject the proposed use of sub-regions to measure benefits and allocate costs, we note that the Midwest ISO initially focused on pricing zones, but ultimately determined that allocation at this level was too granular, given the difficulties in forecasting. We agree with the Midwest ISO that allocation by sub-region is acceptable at this point in time. As described in section V.D, *supra*, however, we expect the Midwest ISO to work with stakeholders and the OMS to consider the feasibility of direct allocations to pricing zones in the future.

136. However, we reject the Midwest ISO's proposal that if a sub-region is shown to have negative benefits under either the production cost benefit or LMP energy cost benefit metric on a sub-regional level, then that sub-region will not be given a sub-regional allocation of cost. The Midwest ISO has not adequately supported this proposal. It has failed to explain why a project fails to qualify for regional cost allocation if the project has net benefits (*e.g.*, results in $100 million in production savings yet increases LMPs by only $1 million). While we support a general No Loss provision, we find that provision should apply to the *overall* weighted sum of measured benefits. The metrics, as proposed, could violate the principle that proposed economic projects that have a regional benefit are borne by those regions that benefit from the proposed upgrade. Therefore, when the weighted present value sum of the production cost benefit and the LMP energy benefit is a net positive, that project would qualify for cost sharing, subject to the additional qualification criteria for Regionally Beneficial Projects. This revision adheres to the general "beneficiaries pay" approach because projects are required to demonstrate overall benefits to each sub-region in order to qualify as a Regionally Beneficial Project. Therefore, we direct the Midwest ISO, in the compliance filing to be submitted within 30 days of the date of this order, to revise the Weighted Gain-No Loss metric so that only when the calculation results in a net negative benefit would a proposed project be disqualified as a Regionally Beneficial Project.

137. We also agree with the OMS that the tariff does not make it clear that the No Loss provisions apply to the sum of the present value of the benefits over the entire modeling period, rather than applying on a year-to-year basis.[119] The proposed tariff language implies that the Weighted Gain-No Loss metric is set to zero for any sub-region for each

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[118] *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file "only those practices that affect rates and service *significantly*, that are reasonably *susceptible* of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous") (emphasis in original).

[119] *See* RECB II Filing at Proposed Original Sheet No. 1839B.

year in the evaluation when either benefit metric is shown to be less than zero. The cumulative effect of this would be that only positive benefit values are reflected in the aggregate metric. Therefore, we direct the Midwest ISO to modify the TEMT, in the compliance filing to be submitted within 30 days of the date of this order, to clarify its intent that the Weighted Gain-No Loss provisions should apply to the sum of present value of the benefits over the entire modeling period as agreed to in its answer.[120]

138. We will also direct the Midwest ISO to revise certain ambiguities with regard to section II.B.1.b of Attachment FF[121] in the compliance filing to be submitted within 30 days of the date of this order. We interpret section II.B.1.b to mean that the aggregate present value benefits of all generation and loads under the TEMT must be greater than zero to qualify for a regional cost allocation *within each sub-region*. Moreover, we find the phrase ". . . for a Regionally Beneficial Projects [sic] to qualify for regional cost allocation" in section II.B.1.b to be somewhat illogical; our understanding is that any designated Regionally Beneficial Project qualifies to allocate 20 percent of its costs to the entire Midwest ISO region. Further, the No Loss analysis determines to which of the three sub-regions the 80 percent cost allocation applies. Accordingly, we find section II.B.1.b's use of the term "each" in the description of how the Midwest ISO is proposing for the aggregate cost allocation to work in relation to the sub-regions, to be unclear. We direct the Midwest ISO to clarify the intent of section II.B.1.b for aggregate cost allocations to the region, while accounting for the other revisions required herein.

139. We also find that the Midwest ISO needs to clarify how its criteria coincide with (or do not hinder) state/local criteria for project planning. Accordingly, we direct the Midwest ISO to make this clarification in the compliance filing to be submitted within 30 days of the date of this order. Updates, if necessary, should be made in the annual reports previously discussed.

H. The Calculation of Benefits, Costs and Benefit/Cost Ratio

1. RECB II Filing

140. The Midwest ISO proposes two thresholds to determine whether a project is eligible for cost allocation. As indicated above, the Benefits/Costs Ratio, which is one of these criteria, is calculated by dividing the estimated project benefit by the estimated

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[120] Midwest ISO Answer at 5-6.

[121] RECB II Filing at Proposed Original Sheet No. 1839B ("The present value of the [production cost] benefit and of the [LMP energy cost] benefit determined in aggregate for all generation and loads under this Tariff must each be greater than zero for a Regionally Beneficial Projects [sic] to qualify for regional cost allocation.").

project cost, where the project benefit is a weighted value of 70 percent of the production cost benefit plus 30 percent of the LMP energy cost benefit.

141. In the RECB II Filing, the Midwest ISO proposes a variable value Benefits/Costs Ratio threshold that would increase linearly with the project's in-service date. Projects with an in-service date one year from the MTEP in which they were approved would have to meet a threshold Benefits/Costs Ratio threshold of 1.2 to be eligible for cost allocation. Projects with an in-service date ten years or longer from the MTEP in which they were approved would have to meet a Benefits/Costs Ratio threshold of 3.0. In other words, the further out the in-service date from the time it is approved, the greater the projected benefits must be relative to projected costs in order to qualify for Regionally Beneficial Project cost allocation. The Midwest ISO states that this sliding scale proposal, which imposes more stringent benefit requirements on projects with longer lead times, is one way to account for the additional risk of inaccurate benefits estimates for periods further into the future.

142. The Midwest ISO states that the Benefits/Costs Ratio threshold was a contested issue. Entities concerned about the costs of too many upgrades being allocated among sub-regions encouraged a relatively high Benefits/Costs Ratio threshold, while those entities concerned about too few projects being shared on a regional basis encouraged a relatively low Benefits/Costs Ratio threshold. The Midwest ISO states that it was encouraged by a group of vertically-integrated transmission owners to consider a graduated or an escalating approach rather than a single Benefits/Costs Ratio threshold to determine whether the estimated benefits associated with a particular project sufficiently exceed the project's cost to render the project eligible for Regionally Beneficial Project status.

2. <u>Comments and Protests</u>

143. Comments on the Benefits/Costs Ratio vary significantly. Some entities explicitly support the Midwest ISO's proposal. For example, Wisconsin Electric & Edison Sault support the Benefits/Costs Ratio threshold as a reasonable stakeholder compromise that: (1) recognizes the uncertainty of the economic analysis methodology and the inaccuracy of forecasting new facility costs into the future, and (2) helps to ensure that only robust projects are constructed and not burdened by unneeded costs.

144. The Midwest ISO TOs argue that the graduated approach appropriately recognizes "the greater risk of potential incorrect analysis of anticipated financial benefits associated with projects with in-service dates long after their inclusion in the [MTEP], as compared to projects with in-service dates soon after their inclusion in the MTEP."[122] Northern Indiana and UGPTC also agree with the Midwest ISO proposal of a threshold value curve

[122] Midwest ISO TOs Comments at 6.

shape based on the in-service year.

145. In contrast, several entities raise concerns about whether the proposed Benefits/Costs Ratio threshold has been demonstrated to be just and reasonable. Specifically, WPS Companies argue that: (1) the sliding-scale analysis is not reasonable because it is based on the unfounded assumption that the estimate of benefits becomes less reliable as the time between the estimate and the projected in-service date increases but that the cost estimate does not become less reliable as lead time increases; (2) the sliding scale will result in projects being approved only in the near term, which may be too short to actually construct them; and (3) the Benefits/Costs Ratio threshold ignores any benefits from the project that occur after the first ten years of service.

146. ITC & METC, the Midwest TDUs and National Grid argue that the Benefits/Costs Ratio approach guards only against the over-prediction of benefits and fails to recognize the relative likelihood of the under-prediction of the benefits of a project.

147. Entities also express concern about whether the Benefits/Costs Ratio accurately measures benefits from Regionally Beneficial Projects. For example, National Grid argues that the Midwest ISO's determination of eligibility for regional cost allocation is overly conservative because it focuses only on energy cost benefits and fails to consider additional benefits, such as the benefits of renewable resources, in determining if a Regionally Beneficial Project is eligible for cost sharing.

148. National Grid argues that the proposal fails to specify a horizon over which the benefits of a project should be calculated, arguing that "[g]iven the long lead-times needed for constructing new transmission projects, . . . a planning horizon of at least ten years, and ideally longer (*i.e.*, fifteen years) is appropriate."[123]

149. Ameren also argues that the RECB II proposal is unclear as to the time period that will be used to calculate a project's economic benefits and costs and advocates that this time period should be ten years after the project's in-service date. Moreover, Ameren argues that the RECB II Filing is unclear regarding the application of a net present value calculation and states that it supports an application of that calculation where:

> for purposes of determining whether or not a project is Regionally Beneficial, "project cost" is defined as the present value of the Revenue Requirements associated with a project calculated over the previously described ten year period. Correspondingly, the project benefits would be

[123] National Grid Comments at 15.

> the present value of its economic impact as measured using the [Weighted Gain-No Loss] methodology over the same ten year period.[124]

150. Several entities argue that the sliding scale of the proposal discriminates against long-term projects. ATCLLC submits that its experience has been that larger projects have longer lead times and greater benefits, but that a 3.0 ratio would make it hard to obtain financing. It adds that the Midwest ISO's plan will be hard to administer and will likely lead to disputes about the accuracy of in-service dates. ATCLLC adds that if a distinction is maintained between economic and reliability projects, the ratio of benefits to costs should be at most 1.0 for Regionally Beneficial Projects.

151. The Midwest TDUs maintain that "[l]arge, long-term regionally beneficial infrastructure projects that must be planned many years in advance and for which other regulatory approvals may take several years—*i.e.*, exactly the projects that the Commission should be most interested in promoting—will be particularly disadvantaged . . . ."[125] The Midwest TDUs argue that the Benefits/Costs Ratio "is designed to exclude projects from regional rate sharing, rather than promote transmission construction or assure just and reasonable rates."[126] ITC & METC agree and advocate elimination of the sliding scale and implementation of a flat 1.0 Benefits/Costs Ratio.

152. Detroit Edison argues that, while it supports the establishment of different Benefits/Costs Ratio thresholds for projects with near-term and distant in-service dates, the Midwest ISO's proposal "fails to account for the separate uncertainties and subjectivity inherent in the economic models (and modeling assumptions/inputs) [the Midwest ISO] relies on today to measure a project's economic benefit."[127] Detroit Edison argues that, until the Midwest ISO gains experience in determining how best to identify optimal economic transmission projects for the region, the Benefits/Costs Ratio for projects with in-service dates one year from the date of the MTEP in which they are proposed should be 2.0 and extend to 3.0 for projects whose in-service dates extend ten years into the future.

153. The OMS expresses concern that the Benefits/Costs Ratio thresholds are too

[124] Ameren Comments at 6-7.

[125] Midwest TDUs Comments at 13.

[126] *Id.* at 11.

[127] Detroit Edison Comments at 5.

conservative and, while it is not protesting the proposed ratio, says the Commission should require the Midwest ISO to review the appropriateness of the Benefits/Costs Ratio thresholds. The OMS does ask that Attachment FF identify project costs used to calculate the Benefits/Costs Ratio as the present value of revenue requirements over the same time period used to calculate benefits. The OMS also argues that the Benefits/Costs Ratio fails to define the time period over which the present value of benefits will be calculated and to specify whether the reference to cost is only to the upfront cost of the project, or to the revenue requirements associated with the project. The OMS further argues that Attachment FF should specify that the modeling period for calculating benefits should be at least ten years. The OMS also believes that the Midwest ISO should explain the specific interpolation method that it plans to apply for estimating benefits over the modeling period. The OMS states that the Midwest ISO should provide an on-the-record description of the system load-flow model it expects to use and the manner it expects to use it.

3. Answers

154. The Midwest ISO agrees to clarify in Attachment FF, as the OMS asks, that project costs used to calculate the Benefits/Costs Ratio equal the present value of revenue requirements over the same period used to calculate benefits. The Midwest ISO states that, as part of the three-year review process, it will review the appropriateness of the Benefits/Costs Ratio.

4. Commission Determination

155. We find the Midwest ISO’s proposed Benefits/Costs Ratio thresholds, subject to the conditions discussed below, to be just and reasonable for its initial planning and allocation of the costs of economic upgrades. Accordingly, we will conditionally accept the proposal to apply a gradual linear increase in the threshold net benefit margin based on the in-service date.

156. We recognize the concern of numerous commenters that projections of benefits for periods farther into the future will generally be less reliable than projections for the nearer term. We believe it is reasonable to require a more conservative threshold margin of net benefits in order for projects with longer lead times to qualify for regional cost sharing. We agree that it is generally more difficult to calculate the benefits of a particular project than its costs. A benefits calculation can involve a myriad of assumptions regarding future fuel prices, load growth, generator entry and retirement, etc., whereas a cost calculation is generally dependent on far fewer variables (*e.g.*, construction materials and land acquisition). The sliding scale proposed by the Midwest ISO will therefore help ensure that actual benefits will materialize that are commensurate with the costs of economic upgrades included in MTEP and subject to regional allocation.

157. However, we agree with commenters that the proposed Benefits/Costs Ratio thresholds may have the unintended consequence of disproportionately excluding long-

term projects from regional cost allocation. Accordingly, we will require the Midwest ISO to include an analysis of the effectiveness of the Benefits/Costs Ratio thresholds as part of its reporting requirement. We would expect that, as the Midwest ISO gains experience projecting costs and benefits for particular projects, the conservatism reflected in the RECB II Filing would be adjusted. We also reiterate, as indicated above, the Midwest ISO should consider the feasibility of calculating other potential benefits over time.

158. We also direct the Midwest ISO to modify Attachment FF in the compliance filing due within 30 days of the date of this order to clarify the following. First, as indicated above, it should clarify that the project costs used to calculate the Benefits/Costs Ratio are defined as the present value of revenue requirements for the project over the same period used to calculated benefits, as agreed to in its answer.[128] Second, it should clarify the time period over which the present value of benefits will be calculated. Finally, it should clarify how aggregate benefits will be calculated for each of the benefits tests. We note that under one benefits test, the proposed tariff language provides that "[t]he present value of the [production cost benefit] and of the [LMP energy cost benefit] determined in aggregate for all generation and loads under [the TEMT] must each be greater than zero" to qualify for cost sharing as a Regionally Beneficial Project.[129] However, the tariff provisions for applying the Benefits/Costs Ratio thresholds are silent as to how aggregate benefits will be calculated, and the Midwest ISO's filing indicates elsewhere that total system benefits will be calculated as the sum of the blended Weighted Gain-No Loss metric, after the No Loss protection, as conditioned above, for sub-regions is applied.[130]

I. Treatment of "Other Projects" and "Grandfathered Projects"

1. RECB II Filing

159. In proposed section II.C (Other Projects), the Midwest ISO proposes the creation of a new category for transmission expansions – network upgrades that do not qualify as Baseline Reliability Projects, Regionally Beneficial Projects, or New Transmission Access Projects but deserve to be included in the MTEP when they are justified under the criteria of Appendix B of the TO Agreement and section I.A of Attachment FF and do not violate any reliability criteria. Under the Midwest ISO's proposal, such "Other Projects" can be proposed by the Midwest ISO, Transmission Owners, ITCs, market participants, or regulatory authorities.

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[128] Midwest ISO Answer at 5-6.

[129] RECB II Filing at Proposed Original Sheet No. 1839B.

[130] *See Id.*, Affidavit of Jeffrey R. Webb at P 18.

160. In addition, the Midwest ISO has proposed revisions to section III.A.2.b (Grandfathered Projects), which addresses the projects listed in Attachment FF-1 that are excluded from regional cost allocation as approved in the February 3 and November 29 Orders on the RECB I proposal. Specifically, the Midwest ISO proposes to amend section III.A.2.b to add that "[n]o transmission project that is a Regionally Beneficial Project and that is not identified in Attachment FF-1 shall be excluded from consideration for cost allocation under this Attachment FF."[131]

2. **Comments and Protests**

161. Some entities, including Consumers and Northern Indiana, support the Midwest ISO's provision for Other Projects. Consumers argues that "[w]ithout the Midwest ISO's review process for inclusion of 'Other Projects,' transmission owners would have an opportunity and an incentive to build facilities that may not be necessary or prudent additions to the transmission system."[132] Consumers maintains that any proposed investment that would be included in a transmission owner's Attachment O rates should be subject to prudence review and demonstrable benefits.

162. Wisconsin Electric & Edison Sault say that it is not clear what costs transmission owners and independent transmission companies are to pay, and ask for clarification. Wisconsin Electric & Edison Sault, as well as Ameren, argue that the new tariff language: "No transmission project that is a Regionally Beneficial Project and that is not identified in Attachment FF-1 shall be excluded from consideration for cost allocations under this Attachment FF"[133] is unclear. Ameren suggests that the sentence be revised to read: "No transmission project that is a Regionally Beneficial Project and that is not identified as a Grandfathered Project shall be excluded from consideration for cost allocation under this Attachment FF."[134]

163. The OMS notes that the language on Other Projects provides that: "All projects subject to the Project Reporting Guidelines of the Transmission Provider shall be subject to such review in accordance with the [TO] Agreement and the Transmission Planning

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[131] *Id.* at Proposed First Revised Sheet No. 1842.

[132] Consumers Comments at 3.

[133] RECB II Filing at Proposed First Revised Sheet No. 1842.

[134] Ameren Comments at 7.

Business Practices."[135] The OMS argues that the Midwest ISO should identify the "Project Reporting Guidelines" and should place that document into the record of this case.

164. ATCLLC requests that the Commission reject the Midwest ISO's "Other Projects" category entirely. ATCLLC asserts that the Midwest ISO did not mention this category in its filing materials and that it is beyond the scope of the Commission's directives to address cost allocation for Regionally Beneficial Projects through a compliance filing. According to ATCLLC, projects that would be listed as "other" currently fall under the Appendix B of the TO Agreement, and the TO Agreement may not be amended through this docket. ATCLLC asserts that if the Commission approves the "Other Projects" provisions, the Midwest ISO will have unlawfully revised the TO Agreement and given itself unlimited discretion to decide which projects, where no cost sharing is sought, warrant inclusion in the MTEP.

3. **Answers**

165. ITC & METC do not agree with Consumers that the Midwest ISO has expanded its authority to prevent transmission projects from being included in the MTEP as a result of the new Other Projects section. They note that transmission construction and planning are also governed by Appendix B of the TO Agreement, which delineates the factors considered before determining that a project is included in the MTEP. ITC & METC also argue that Appendix K of the TO Agreement reserves transmission owners' right to file various cost recovery proposals under section 205 of the FPA. Finally, ITC & METC note that Attachment O of the TEMT provides a formula-based mechanism for transmission owners to recover the costs of new transmission investments.

166. Further, ITC & METC state that the provisions of Appendices B and K of the TO Agreement and Attachment O of the TEMT are not at issue in this proceeding. ITC & METC also note that the Midwest ISO is contractually prohibited from modifying the TO Agreement without a unanimous vote of the transmission owners. While ITC & METC state that there is value in a "catch-all" provision like "Other Projects," they want the section revised to clarify that the costs of these types of projects continue to be recovered in local rates through Attachment O.

167. ATCLLC also responds to Consumers' comments in support of increased Midwest ISO planning authority over local projects. It urges the Commission not to shift more planning responsibilities to the Midwest ISO for local projects where no regional cost sharing is sought. In support, ATCLLC notes that such a change was not vetted through the stakeholder process and it is not clear how this discretion would work. ATCLLC

[135] OMS Comments at 39 (citing RECB II Filing at Proposed Original Sheet No. 1839G).

notes that its local project planning, governed by Wisconsin law, is subject to extensive state regulatory scrutiny, and therefore, need not be scrutinized by the Midwest ISO beyond existing levels. ATCLLC states that pre-approving Other Projects should come only after much more study and amendments to Appendix B and K of the TO Agreement. Therefore, ATCLLC asks the Commission to reject the new provision.

168. In its answer, the Midwest ISO responds to the OMS's concern about the Project Reporting Guidelines. The Midwest ISO states that these guidelines are properly included as a part of its Business Practice Manual and, therefore do not need to be separately submitted to the Commission.

4. Commission Determination

169. We agree with the commenters that the Midwest ISO has not adequately explained its proposal regarding Other Projects. Some parties believe the Midwest ISO is proposing to expand its authority beyond what is provided in the TO Agreement to prevent transmission projects from being included in the MTEP, given the lack of discussion of this provision in the RECB II Filing Transmittal Letter and in its answer. We share these concerns and reject this provision. As we indicated above, nothing in the RECB II proposal should preclude parties from supporting the construction of projects that, although failing to satisfy the benefits tests set forth in the RECB II proposal, provide benefits that are sufficient to allow them to support the projects financially. Indeed, as the Midwest ISO states in its Answer:

> Limiting the types of projects that are eligible for region-wide cost recovery does not prohibit other valuable projects from being developed and recovered from specific zones that benefit, based on existing state processes. The Tariff and Transmission Owners Agreement provides that the Midwest ISO will support such locally beneficial projects in state proceedings. In addition, participant funded expansion of beneficial projects is also supported.[136]

170. Moreover, the proposal to address cross-border allocation of reliability upgrade costs is outside the scope of this compliance proceeding, which concerns the allocation of Regionally Beneficial Projects built within the Midwest ISO.[137] Therefore, we direct the Midwest ISO to delete this provision in the compliance filing to be submitted within 30 days of the date of this order.

171. We agree with commenters that the proposed language on grandfathered projects

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[136] Midwest ISO Answer at 16.

[137] *See infra* section V.K.

in section III.A.2.b is unclear: "No transmission project that is a Regionally Beneficial Project and that is not identified in Attachment FF-1 shall be excluded from consideration for cost allocations under this Attachment FF." Rather than require the specific revisions offered by commenters, we direct the Midwest ISO to clarify that provision consistent with its intent in the compliance filing to be submitted within 30 days of the date of this order.

J. Separate Treatment of Economic and Reliability Projects

1. RECB II Filing

172. Beginning with the RECB I Filing, the Midwest ISO proposed separate cost allocation methodologies for reliability projects and economic projects. The Midwest ISO states that there was general agreement among RECB II Task Force members that "all projects have elements of both reliability benefits and economic benefits."[138] It notes that, notwithstanding the "somewhat overlapping nature" of reliability upgrades and economic upgrades, the RECB Task Force developed minimum standards for a Regionally Beneficial Project because "[t]here was a concern that unless the metrics to value such projects were clearly articulated and prescribed under the [TEMT], there could be substantial disagreement and argument over whether the benefits ascribed to a [Regionally Beneficial Project] outweighed its costs, and therefore should be implemented with cost sharing."[139]

2. Comments and Protests

173. Several entities challenge the assumption underlying both the RECB I and RECB II Filings that there is a distinction between reliability projects and economic projects and, assuming such a distinction exists, that the Midwest ISO can make such a distinction.[140] For example, the Midwest ISO TOs note that consistent treatment of Baseline Reliability Projects and Regionally Beneficial Projects is beneficial and "recognizes that the voltage of a project should not be the determining factor as to whether the project is treated as a Baseline Reliability Project or a Regionally Beneficial Project."[141] ITC & METC argue that the Midwest ISO has failed to provide any new

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[138] RECB II Filing Transmittal Letter at 4.

[139] *Id.*

[140] This issue was also raised in the RECB I proceeding. *See, e.g.*, February 3 Order, 114 FERC ¶ 61,106 at P 85-86 and November 29 Order, 117 FERC ¶ 61,241 at P 53.

[141] Midwest ISO TOs Comments at 7.

evidence or explain why the distinction is appropriate.

174. Xcel notes that "once constructed, a new transmission facility of the size subject to RECB II – 345 kV and above – will likely provide *both* reliability and economic benefits to a broad population of regional transmission users."[142] Xcel supports using the same 20 percent postage-stamp cost allocation and the same 345 kV threshold for region-wide sharing included in the RECB I cost allocation provisions for Baseline Reliability Projects as for Regionally Beneficial Projects under RECB II. Xcel argues that "[t]his consistency will help mitigate potential unending arguments about a project's benefits if a project has both baseline reliability and economic attributes."[143]

175. WPS Companies argue that, if the Commission does not require a 100 percent postage-stamp cost allocation, it should require the Midwest ISO to adopt the same cost allocation policy for Regionally Beneficial Projects as it adopted for Baseline Reliability Projects. WPS Companies maintain that "[b]ecause all new projects provide both economic and reliability benefits, all new projects approved in the [MTEP] over their service lives will either be reliability projects or will delay or replace future reliability projects."[144] WPS Companies argue that if the Commission does not require a postage-stamp rate for all new Regionally Beneficial Projects included in the MTEP, it should consider all new transition projects as Baseline Reliability Projects until the end of the transition period.

176. Northern Indiana believes it is better to use the criteria for Baseline Reliability Projects because the process for Regionally Beneficial Projects, "with its more extensive and possibly contentious analysis requirement, could result in delaying implementation of a solution to the original reliability problem."[145]

177. ATCLLC argues that economic and reliability projects cannot be distinguished, and therefore, the Midwest ISO's proposal to distinguish them is unworkable in the long run. ATCLLC states that its analyses demonstrate that projects selected for reliability reasons and then subjected to the Midwest ISO's benefit metrics show that reliability projects consistently show economic benefits that significantly exceed their costs. ATCLLC also notes that PJM recently abandoned its effort to distinguish between reliability and economic projects. ATCLLC asserts that the divergence between the Midwest ISO and PJM planning protocols will exacerbate seams, particularly at the

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[142] Xcel Comments at 8 (emphasis in original).

[143] *Id.* at 7.

[144] WPS Companies Comments at 6-7.

[145] Northern Indiana Comments at 12.

Illinois and Wisconsin borders.

178. The OMS also believes that the vast majority of projects have both economic and reliability benefits. The OMS argues that the Commission should direct the Midwest ISO to explain whether, or how, it intends to evolve its determination of Baseline Reliability Projects and Regionally Beneficial Projects into a single planning process.

179. Additionally, the OMS, Northern Indiana and IPL argue that there are contradictions between proposed sections II.B.v (the definition of Regionally Beneficial Projects), which states that Baseline Reliability Projects are network upgrades that are not determined to be Regionally Beneficial Projects or New Transmission Access Projects, and III.A.2.g (Treatment of Projects that meet both Baseline Reliability Project Criteria and the Regionally Beneficial Project Criteria), which outlines the cost allocation for projects that meet the criteria for both Baseline Reliability Projects and Regionally Beneficial Projects.

3. Answers

180. The Midwest ISO states that it will analyze whether it is appropriate to evolve the Attachment FF procedures into a single planning process for Regionally Beneficial Projects and Baseline Reliability Projects as part of its three-year report. Further, the Midwest ISO states that it will review Attachment FF and will propose clarifying amendments to these provisions for any potential conflicting language between Baseline Reliability Projects and Regionally Beneficial Projects.

4. Commission Determination

181. We agree that economic and reliability projects share certain characteristics, and that the benefits associated with each may not be completely distinguishable. However, acknowledging these areas of overlap does not mean that any cost allocation policy that draws distinctions between economic and reliability projects must be unjust and unreasonable. For example, reliability projects are planned to satisfy minimum NERC reliability criteria, whereas economic projects are planned to lower the cost of serving customers. The fact that many projects, once constructed, will produce both benefits – *i.e.*, reliability projects can produce economic benefits and economic projects can enhance reliability – does not mean the two types of projects are indistinguishable. Moreover, the Midwest ISO was directed to file a cost allocation policy for economic projects[146] and, as stated herein, we believe that it complied with that directive reasonably. Finally, we note that, although the RECB I and RECB II Filings may differ in many respects, each uses an overall 20 percent/80 percent methodology for allocating costs on a region-wide versus sub-regional basis.

[146] February 3 Order, 114 FERC ¶ 61,106 at P 90.

182. While we are not foreclosing further modifications to the cost allocation policy, including further reconciling the economic and reliability distinctions, we believe that the instant proposal represents an improvement over the status quo and a reasonable first step toward regional pricing for transmission upgrades. If further modifications are required, those modifications should be based on the information that is required by the reporting requirements we have placed on the Midwest ISO. We are satisfied by the Midwest ISO's answer that it will analyze the possible evolution of Attachment FF into one planning process for both Regionally Beneficial Projects and Baseline Reliability Projects and direct the Midwest ISO to provide the results of its analysis in its reports to the Commission.

183. We agree with IPL, Northern Indiana and the OMS that there appears to be a conflict between proposed sections II.B.v[147] and III.A.2.g[148] of Attachment FF. Section II.B.v defines a Regionally Beneficial Project, in part, as a project that is not a Baseline Reliability Project, but section III.A.2.g discusses projects that meet both criteria. We believe that clarifying language in section II.B.v stating that a Regionally Beneficial Project is a project that is not determined to be a Baseline Reliability Project or New Transmission Access Project *or a project determined to be a Regionally Beneficial Project under section III.A.2.g*, will resolve this ambiguity. Therefore, we direct the Midwest ISO to file new language, in the compliance filing to be submitted within 30 days of the date of this order, to resolve the conflict between sections II.B.v and III.A.2.g of Attachment FF.[149]

K. Treatment of Cross-Border Projects

1. RECB II Filing

184. The Midwest ISO proposal amends section III.B (Sharing of Costs with other Transmission Providers) of Attachment FF to establish a procedure for the internal allocation of costs for reliability projects in neighboring regions. Costs relating to such cross-border reliability projects are to be allocated in the same manner as costs for intra-Midwest ISO Baseline Reliability Projects. The Midwest ISO is not yet proposing an allocation method for cross-border Regionally Beneficial Projects, pending further discussion on the developing policies for cross-border allocation of costs associated with economic projects in Docket No. ER05-6, *et al.*[150]

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[147] RECB II Filing at Proposed First Revised Sheet No. 1839.

[148] *Id.* at Proposed Original Sheet No. 1849C.

[149] Midwest ISO Answer at 13.

[150] *See* RECB II Filing Transmittal Letter at 10.

2. Comments and Protests

185. Entities such as Northern Indiana agree with the Midwest ISO's proposal for treatment of cross-border projects. They argue that it is reasonable to allocate the costs associated with cross-border reliability projects using the same method as used to allocate the cost of the Midwest ISO's Baseline Reliability Projects.

186. Other entities, including ATCLLC and the OMS, note that the Commission has not made a final decision regarding inter-RTO cost allocations. The OMS also argues that the Midwest ISO's proposed tariff language regarding cross-border transmission projects is prematurely filed because the issue has not been vetted through the stakeholder process. ATCLLC views a Commission acceptance of the current Midwest ISO proposal as a set-back to the development of any cross-border transmission upgrades process.

3. Answers

187. In its answer, the Midwest ISO agrees that many important cross-border rate design issues have not yet been resolved by the Commission. It states, however that it "needs to have something in its [TEMT] at the time that the Commission issues a cross border reliability order to state how cross border costs allocated to the Midwest ISO will be distributed within the Midwest ISO."[151]

4. Commission Determination

188. We find that it is inappropriate to accept the Midwest ISO's proposal to allocate cross-border costs for reliability projects. The Commission has already accepted provisions in Schedule 25 of the Midwest ISO TEMT for allocating the costs of reliability projects located in PJM, subject to further proceedings.[152] In the RECB II Filing, the Midwest ISO does not propose to supersede such Schedule 25 provisions or address how implementation of its instant proposal would coordinate with the existing Schedule 25 provisions. Moreover, the proposal to address cross-border allocation of reliability upgrades costs is outside of the scope of this compliance proceeding, which concerns the allocation of Regionally Beneficial Projects built within the Midwest ISO.

189. Therefore, we direct the Midwest ISO to remove section III.B.1.a of Attachment

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[151] Midwest ISO Answer at 9.

[152] *Midwest Independent Transmission System Operator, Inc.*, 113 FERC ¶ 61,194, at P 5 (2005).

FF. We note that the Commission recently granted an extension of time for the Midwest ISO and PJM to achieve a compromise regarding cross-border cost allocations for reliability projects.[153] Our action here is without prejudice to the Midwest ISO proposing revisions to Schedule 25 in the on-going cross-border allocation proceeding, or in a new section 205 proceeding.

L. Transmission Owner Cost Obligations in the Event of Withdrawal from the Midwest ISO

1. RECB II Filing

190. The Midwest ISO does not include provisions in the RECB II Filing that specify a transmission owner's responsibility for transmission costs allocated prior to that transmission owner's withdrawal from the Midwest ISO.

2. Comments and Protests

191. CMTC believes that the Midwest ISO should include in the TEMT specific provisions governing allocations to transmission owners that withdraw from the Midwest ISO after being assigned project costs. CMTC asserts that it is highly likely that the Midwest ISO's transmission owner membership will change during the long life of a transmission investment.

3. Answers

192. The Midwest ISO states that it believes that the RECB II Task Force stakeholders intended that a withdrawing party would not be able to escape its Attachment FF cost responsibilities, consistent with the withdrawal provisions found in the TO Agreement. The Midwest ISO states that it is willing to revise Attachment FF to clarify this interpretation.[154]

4. Commission Determination

193. We agree that the cost allocations for withdrawing transmission owners should be clarified in the TEMT. In principle, a transmission owner should not be able to avoid previously allocated costs by withdrawing from the Midwest ISO. Article V of the TO Agreement states that a withdrawing transmission owner shall honor its existing obligations.[155] Therefore, we direct the Midwest ISO to revise Attachment FF in the

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[153] Notice of Extension of Time, Docket No. ER05-6-044 (Feb. 6, 2007).

[154] Midwest ISO Answer at 15.

[155] TO Agreement at Article Five, § II.B ("All financial obligations incurred and payments applicable to time periods prior to the effective date of such withdrawal shall

(continued)

compliance filing to be submitted within 30 days of the date of this order to clarify that withdrawal does not absolve a transmission owner of its responsibility for the costs of upgrades previously allocated to it.

M. Review and Duration of the Proposed Cost Allocation Methodology for Regionally Beneficial Projects

1. RECB II Filing

194. In response to calls for a sunset provision on the cost allocation methodology for Regionally Beneficial Projects, the Midwest ISO proposes a review of the methodology after a three-year period. Proposed section IV (Report of Impact of Regionally Beneficial Project Provisions) of Attachment FF requires the Midwest ISO, within three years, to review whether its Regionally Beneficial Project procedures "have resulted in efficient and economic expansion of transmission facilities" and develop a report on the results of that review.[156] After one or more stakeholder forums on the review, the Midwest ISO is to file the report, along with any corresponding proposals for revisions to the tariff language.

2. Comments and Protests

195. Some entities, including WPS Companies, argue that the Commission should impose a mandatory sunset date on the benefits-based cost allocation and should require "full [postage-stamp] pricing for all new transmission infrastructure beginning March 1, 2008 to match the current and future regional use of the transmission system."[157] WPS Companies argue that the three-year reporting requirement will add more time to an already long-awaited transition to system-wide pricing and would be totally ineffective since transmission planning, approval and construction is a ten- to fifteen-year process.

196. By contrast, other entities, such as Wisconsin Electric & Edison Sault, argue that the proposed three-year report for review of the RECB cost allocation methodology is a reasonable approach.

197. Some of the latter entities seek clarification of, or additions to, what will be included in the report. For example, Northern Indiana supports the Midwest ISO

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be honored by the Midwest ISO and the withdrawing Owner."). The TO Agreement also states that Article V cannot be changed without a unanimous vote by the transmission owners. TO Agreement at Article Two, § IX.C.8.

[156] RECB II Filing at Proposed Original Sheet No. 1850A.

[157] WPS Companies at 7.

proposal that it "propose through Tariff amendments subsequent adjustments to the inclusion criteria for transmission projects as analytical techniques mature."[158] National Grid argues that, as part of the three-year report, the Midwest ISO should "evaluate whether changes to the metric weights are appropriate, as well as whether the inclusion of other measures is appropriate, so as to give greater consideration to the value of transmission to the region under conditions where more customers are taking competitive supply in order to facilitate the construction of transmission needed to promote such a shift. . . ."[159] National Grid also asks the Commission to require that the Midwest ISO reconsider the 70 percent production cost benefit and 30 percent LMP energy cost benefit weighting as part of the three-year report.

198. While Great River argues that the RECB II Filing is a reasonable compromise in the short term, it asks that the Commission require the Midwest ISO to provide more specific detailed information as part of its reporting requirement. Specifically, Great River requests: (1) more detailed information about the 345 kV threshold (including whether the 345 kV and above inclusion criterion has resulted in under-building); (2) the use of the Weighted Gain-No Loss metric; and (3) the use of the Benefits/Costs Ratio (including whether and how the Benefits/Costs Ratio for projects with an in-service date of ten years and beyond should be capped). Great River asks that the Midwest ISO be required to: (1) provide a draft report for stakeholder forum review beginning January 1, 2010; and (2) file the final report and proposed tariff revisions within three years of the effective date of the RECB II Filing.

199. National Grid states that if the Commission is not prepared to direct the modifications it proposes, the Commission should convene a technical conference to address these issues. Similarly, Great River asks that the Commission hold a technical conference 18 months from the effective date of the RECB II Filing to discuss, among other things: additional metrics developed, inclusion of lower-voltage projects, use of the Weighted Gain-No Loss metric, alternatives to or composition of sub-regions, an increase in the 20 percent postage-stamp allocation, analysis of the effects of other policy decisions or initiatives on inclusion and cost allocation, and the grandfathering of Regionally Beneficial Project treatment.

200. UGPTC urges the Commission to include the reporting requirement "as a regular part of the biannual MTEP process" to determine the effectiveness of the RECB II process "since projects may be added to the MTEP but never constructed."[160]

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[158] Northern Indiana Comments at 13 (citing RECB II Filing at Proposed Original Sheet No. 1839F).

[159] National Grid Comments at 13-14.

[160] UGPTC Comments at 4.

3. Answers

201. In its answer, the Midwest ISO argues that the imposition of a sunset date would lead to excessive uncertainty because “[g]iven that many Network Upgrade projects take five or more years to implement, the [Regionally Beneficial Project] procedures would likely be doomed to failure given the inability for parties to plan beyond 3 years with such a sunset requirement.”[161]

4. Commission Determination

202. Given the long-term nature of many of the projects that should qualify for the proposed cost-sharing methodology, we agree with the Midwest ISO that a sunset date would be inappropriate. We expect that the reporting requirement proposed by the Midwest ISO, modified as annual reporting requirements herein, will allow projects to move forward with some certainty while ensuring that the Midwest ISO stakeholders can review the cost allocations and other aspects of the proposed methodology, as additional information becomes available. We do not agree with UGPTC that the Midwest ISO should incorporate the reporting requirement as part of the biannual MTEP process. Given the depth of information required as part of the review and analyses required for the reports, we do not believe that requiring a full analysis of these issues on a biannual basis would be practicable.

203. The Midwest ISO’s August 2008 and August 2009 reports should, however, provide detailed analysis of the effectiveness of the proposed cost allocation methodology for Regionally Beneficial Projects. As discussed above, the reports should include, but are not limited to: whether the 20 percent/80 percent cost allocation remains appropriate; whether the sub-regional component is appropriate or whether pricing zones or another means of apportioning costs are feasible and more effective in allocating costs to beneficiaries; further information about the use of the 345 kV and $5 million thresholds (specifically whether the inclusion criterion has resulted in under-building); whether changes to the metric weights are appropriate; whether the inclusion of other benefits measures is appropriate and whether an alternative weighting of production cost benefit and LMP energy cost benefit benefits is warranted; how the Midwest ISO’s planning criteria impacts state/local planning criteria; whether the sliding scale Benefits/Costs Ratio remains appropriate (including whether and how to cap the Benefits/Costs Ratio for projects with an in-service date of ten years and beyond); whether there have been any unintended consequences of the Midwest ISO’s cost allocation methodology (either for Baseline Reliability Projects or Regionally Beneficial Projects); whether cost allocation for Baseline Reliability Projects and Regionally Beneficial Projects should be further reconciled or otherwise consolidated; and whether

[161] Midwest ISO Answer at 17.

changes in the Regionally Beneficial Project cost allocation methodology are warranted given the outcome of the cross-border proceeding and other on-going proceedings.

204. We will not provide deadlines by which the Midwest ISO must provide drafts or other information to its stakeholders, as requested by Great River. We expect the Midwest ISO will provide all information to stakeholders in a timely manner, in order to allow stakeholders adequate time for review and consideration. In addition, with respect to any future modifications proposed by the Midwest ISO to its stakeholders, we expect the stakeholders to provide timely comment on such proposals and make a good-faith effort to reach consensus, rather than waiting to litigate the issues before the Commission.

205. We disagree with National Grid and Great River that a technical conference is needed, but we will revisit this issue based on the information provided in the Midwest ISO's future reports.

N. Additional Clarifications to the Definition of Regionally Beneficial Projects

1. Mechanics of Collecting Costs

a. Comments and Protests

206. Wisconsin Electric & Edison Sault argue that the proposed revisions are "all but silent" on the mechanisms of collecting the costs.[162] They seek further details on the mechanics of cost collecting, including a more detailed description of the rate, what billing determinants are to be applied and a process to track accepted costs.

b. Commission Determination

207. We agree with commenters that the mechanisms for the collection of costs belong in the TEMT. The cost allocation methodology for transmission expansions is generally contained in the tariff in Attachments FF, GG, N, R and X, and Schedule 26. Attachment GG provides formulas for calculating the rates applicable to customers in each pricing zone to recover the costs of network upgrades, other than costs associated with upgrades needed to meet requests for transmission or generation interconnection service that are recovered from the requesting customers pursuant to Attachments N, R or X. The rates calculated under the Attachment GG formulas are then recovered from customers through Schedule 26. The rates calculated pursuant to Attachment GG and recovered through Schedule 26 include recovery of the costs of Baseline Reliability Projects and Regionally Beneficial Projects subject to regional cost-sharing pursuant to Attachment FF. With

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[162] Wisconsin Electric & Edison Sault Comments at 5.

certain exceptions, discussed below, the provisions of Attachment GG adequately explain how the rates for recovery of the costs of network upgrades are derived.

208. Section 2(c) of Attachment GG provides that the network upgrade charge applicable to a pricing zone would be calculated by summing the revenue requirements of all transmission owners apportioned to that pricing zone, “including those annual revenue requirements allocated on a system-wide basis to all pricing zones as provided under Attachment FF,” and then developing a per-unit charge in accordance with the rate formula in Attachment O of the TEMT.[163] However, neither Attachment FF nor Attachment GG specify how the Midwest ISO will apportion to each pricing zone the portion of revenue requirements associated with network upgrades that is allocated on a system-wide or postage-stamp basis, or the portion of revenue requirements associated with network upgrades that is allocated to the three geographic sub-regions used for allocating the costs of Regionally Beneficial Projects. Therefore, we will direct the Midwest ISO to revise Attachment GG in the compliance filing to be submitted within 30 days of the date of this order, to clarify the methodology by which it will apportion such costs to each pricing zone. The rates calculated pursuant to Attachment GG for each pricing zone must appropriately reflect the partial postage-stamp allocation, reliability and economic upgrades and the partial sub-regional license-plate allocation, of the cost of economic upgrades approved in the RECB I proceeding and in the instant proceeding.

209. In addition, we find that section 2(c)’s simple reference to the Attachment O rate formula methodology to calculate the per-unit charge lacks adequate specificity and could result in inappropriately calculated per-unit charges in Schedule 26. While the Attachment O rate methodology would generally be appropriate to calculate the per-unit charge for network upgrades, it cannot be applied to the calculation of the per-unit charge in Attachment GG without clarification or modification. For instance, the revenue crediting provisions in the Attachment O methodology would have to be modified or clarified to reflect only the revenue credits associated with charges for network upgrades associated with transactions not included in the rate divisor. To ensure that the tariff provisions for calculating the per-unit charge are adequately specified and will result in just and reasonable rates, we will direct the Midwest ISO to revise Attachment GG, in the compliance filing to be submitted within 30 days of the date of this order, to specify the formula for calculating the per-unit charge for network upgrades, rather than simply referencing the methodology in Attachment O. In such revised Attachment GG, the Midwest ISO may reference specific values defined in Attachment O, but must otherwise specify all adjustments to such values and all other calculations required to derive the per-unit charge for network upgrades.

[163] TEMT at Original Sheet No. 1879.

2. Excessive Funding or Requirements

a. RECB II Filing

210. Proposed section III.A.2.f.iii of Attachment FF (Excessive Funding or Requirements) requires the Midwest ISO to make an annual assessment of whether the project portfolios would, among other things, "unintentionally result in unjust or unreasonable annual capital funding requirements for any Transmission Owner or rate increases for Transmission Customers in designated pricing zones; or otherwise result in undue discrimination between the Transmission Customers, Transmission Owners, or Market Participants" and to report any such consequences to the Planning Advisory Committee and the OMS.[164]

b. Comments and Protests

211. Northern Indiana and the Midwest TDUs argue that the proposed language is unclear. Northern Indiana notes that the RECB II Filing Transmittal Letter states that the proposed section requires "the Midwest ISO to monitor and report to stakeholders on any unintended consequences *(with the intent to modify the proposal as necessary)*."[165] Northern Indiana also asks that the proposed language be revised to include the obligation for the Midwest ISO to modify the TEMT in the event it identifies any unintended consequences discussed in that section. The Midwest TDUs also argue that the tariff language should be clarified to say that the provision "is *not* intended to endorse the continuation of license-plate rates, or to guarantee that cost allocation via RECB II will not affect those [license-plate] rates."[166]

212. Wisconsin Electric & Edison Sault argue that further clarification is needed on how the Midwest ISO's Regionally Beneficial Project process will handle projected or actual costs overruns. Moreover, Wisconsin Electric & Edison Sault express concerns about the Midwest ISO's proposal to "leave within its own discretion a determination of whether annual capital funding requirements are 'unjust and unreasonable' and whether project portfolios result in 'undue discrimination.'"[167] Wisconsin Electric & Edison Sault

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[164] RECB II Filing at Proposed Original Sheet Nos. 1849B and 1849C.

[165] Northern Indiana Comments at 9 (citing RECB II Filing Transmittal Letter at 6) (emphasis in original).

[166] Midwest TDUs Comments at 15-16 (emphasis in original).

[167] Wisconsin Electric & Edison Sault Comments at 5.

argue that the Midwest ISO's proposal to "refer any identified consequences" to the Planning Advisory Committee and the OMS may usurp the Commission's authority under the FPA to determine the justness and reasonableness of rates within its jurisdiction.

c. Commission Determination

213. We believe the Midwest ISO's proposed language regarding Excessive Funding or Requirements appropriately requires the Midwest ISO to make an annual assessment of the impact of the project portfolios on impacted Transmission Owners and customers. We think it is appropriate that that the Midwest ISO, as the independent transmission provider, be responsible for making an *initial* determination of whether annual capital funding requirements are unjust and unreasonable or discriminatory. We do not believe that the Midwest ISO's analysis, along with its referral to the Planning Advisory Committee and the OMS, will usurp the Commission's responsibility to determine the justness and reasonableness of the rates. First, if the Midwest ISO believes the results are not just and reasonable based on this initial determination, it must make a filing with the Commission proposing an alternative allocation. Additionally, the Commission's acceptance of the cost allocation methodology will not prevent any entity from filing a complaint under FPA section 206 to challenge the Midwest ISO's initial determination that the annual capital funding requirements are not rates that the market participant believes unjust, unreasonable, unduly discriminatory or preferential. Moreover, the reporting requirements imposed in this order will enable the Commission to monitor the Midwest ISO's and stakeholders' activities in this area.

214. We do not find it necessary for the Midwest ISO to clarify that the tariff language is not intended to endorse or guarantee the continuation of any existing rates. However, we agree with commenters that the Midwest ISO should clarify its tariff language to clearly establish whether the Midwest ISO must make a filing to modify the TEMT in the event it identifies any unintended consequences. We direct the Midwest ISO to file, in the compliance filing to be submitted within 30 days of the date of this order, revised tariff sheets or further explanation of this provision to explain its original intent.

3. The June 16, 2005 Effective Date

a. RECB II Filing

215. In its proposed definition of Regionally Beneficial Projects, the Midwest ISO includes network upgrades that are "found to be eligible for inclusion in the MTEP or are approved pursuant to Appendix B section VII of the [TO] Agreement after June 16, 2005, applying the factors set forth in section I.A. of this Attachment FF."[168]

[168] RECB II Filing at Proposed First Revised Sheet No. 1839.

b. Comments and Protests

216. Wisconsin Electric & Edison Sault seek clarification of the Midwest ISO's use of June 16, 2005 as the cut-off date for determining which approved projects may be Regionally Beneficial Projects.

c. Commission Determination

217. We accept the Midwest ISO's proposal to use June 16, 2005 as the cut-off date to establish which projects may qualify as Regionally Beneficial Projects. The Midwest ISO's use of this date is consistent with the use of June 16, 2005 in section III.A.2.b of Attachment FF to establish which projects are grandfathered from the cost allocation provisions of Attachment FF.[169] We find this language is sufficiently straightforward as proposed by the Midwest ISO.

4. Clarification of "Potential" Regionally Beneficial Projects

a. Comments and Protests

218. The OMS states that the Midwest ISO's proposal introduces the concept of "potential" Regionally Beneficial Projects but fails to define the term. The OMS asks for further explanation of how the Midwest ISO will identify potential Regionally Beneficial Projects and how the process of identifying these potential Regionally Beneficial Projects relates to: "(1) the project coordination obligations in section I.B of Attachment FF; or (2) the project portfolio development obligations in section III.A.2.f.iii."[170]

b. Answers

219. In its answer, the Midwest ISO states that the term potential Regionally Beneficial Projects was intended as a "short hand" expression for projects that have the potential for meeting the criteria found in Attachment FF to qualify as a Regionally Beneficial Project.

c. Commission Determination

220. We direct the Midwest ISO to clarify the process for identifying potential Regionally Beneficial Projects and how such potential Regionally Beneficial Projects relate to project coordination obligations or project portfolio development obligations within 30 days of the date of this order.

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[169] TEMT at Substitute Original Sheet No. 1841.

[170] OMS Comments at 36.

O. Clarification to the Definition of Baseline Reliability Project

1. RECB II Filing

221. The Midwest ISO proposes a modification to Attachment FF to clarify the definition of a Baseline Reliability Project with regard to applicable reliability standards. "This modification addresses the concern that Baseline Reliability Projects to be cost shared should only be based on criteria established by NERC as the ERO, or its regional reliability organizations under which the Midwest ISO operates, as opposed to . . . those based on local criteria, which may differ from zone to zone."[171] This is a revision that the OMS proposed in its comments to the RECB I Filing and that the Midwest ISO committed to making in its answer to comments and protests.

2. Comments and Protests

222. Northern Indiana seeks clarification with respect to the relationship between the costs related to compliance with ERO standards and costs related to compliance with state and local system planning and operating reliability criteria. Northern Indiana recommends that "[i]f the cost of a Network Upgrade is projected to be less than the cost threshold to comply with ERO standards but compliance with state or local system planning and operating reliability criteria would increase the projected cost of the Network Upgrade to be in excess of the threshold . . . the Network Upgrade not be eligible for [cost sharing]."[172]

3. Commission Determination

223. We accept the Midwest ISO's revisions to the definition of Baseline Reliability Projects as consistent with our requirements in the February 3 Order.[173]

224. We expect the Midwest ISO to address the relationship between the costs of compliance with ERO standards and the costs of compliance with state and local system planning and operating reliability criteria in the calculation of a Baseline Reliability Project's costs. We will not now find, as Northern Indiana asks, that projects that rise above the $5 million threshold only as a result of compliance with state or local reliability criteria should not be eligible for cost sharing. Northern Indiana's inquiry seems to relate

[171] RECB II Filing Transmittal Letter at 11.

[172] Northern Indiana Comments at 9.

[173] February 3 Order, 114 FERC ¶ 61,106 at P 120-21.

to the issue of what is and is not included in the $5 million threshold, and we have already required the Midwest ISO to file appropriate tariff changes to make this clear. We ask the Midwest ISO to identify any projects of the types Northern Indiana describes in its annual reports to the Commission so that we may assess their number and their cost.

P. Stakeholder Consensus

1. RECB II Filing

225. The Midwest ISO states that, in the nine months between the RECB I Filing and the RECB II Filing the RECB Task Force has focused on what should be the appropriate cost allocation for Regionally Beneficial Projects.[174] According to the Midwest ISO, the recent stakeholder process reviewed numerous possible cost allocation policies, identified key components of the RECB II Filing, and the Midwest ISO conducted formal and informal polls of stakeholders' views. The Midwest ISO believes that the proposal is a reasonable and equitable compromise of the divergent positions that stakeholders maintained during the stakeholder process.

2. Comments and Protests

226. The Midwest ISO TOs believe the Midwest ISO's filing represents a reasonable consensus among the Midwest ISO stakeholders. The Midwest ISO TOs ask the Commission to accept the Midwest ISO's compliance filing and to note that stakeholder processes involve compromise. They note that prior Commission orders demonstrate that unanimous consent on every issue is not the standard for acceptance. Some of the Midwest ISO TOs, such as Great River and Xcel, filed separate comments on the proposal that also commend the Midwest ISO's stakeholder process for developing a reasonable compromise. Detroit Edison also commends the proposal as a reasonable compromise.

227. By contrast, the Midwest TDUs state that the Midwest ISO proposal does not represent a consensus or compromise acceptable to stakeholders. The Midwest TDUs maintain that the Midwest ISO's description of the stakeholder process fails to state that the RECB II Filing "was submitted without *any* vote by the balanced stakeholder Advisory Committee on the complete [Midwest ISO] proposal. And unlike RECB I, no formal votes of the final proposal were taken by the RECB Task Force either."[175] The Midwest TDUs also argue that the Midwest ISO's "polling" was insufficient, having only been taken "on individual components of the cost allocation proposal, taken early in the

[174] RECB II Filing Transmittal Letter at 2-3.

[175] Midwest TDUs Comments at 6 (emphasis in original).

RECB II process, did not provide an opportunity for stakeholders to see the interaction of the different components, or the overall balance reached among the various aspects of its rate design proposal."[176] The Midwest TDUs, therefore, request that the Commission not give the Midwest ISO's proposal any deference as a compromise solution.

228. The OMS asks the Commission to view the Midwest ISO's proposal as neither a compromise nor a settlement. Going forward, the OMS recommends that the Commission direct the Midwest ISO to continue to meet with stakeholders on the proposed cost allocation methodology and then report the results of those meetings back to the Commission within a definite time frame (*e.g.*, one year).

3. Answers

229. In its answer, the Midwest ISO argues that, although there was no formal negotiated settlement between stakeholders and the Midwest ISO, it refers to the filed proposal as a "compromise" to reflect, among other things, the complexity of the Regionally Beneficial Project procedures. The Midwest ISO states that it "did its best to balance the many opposing viewpoint of stakeholders with the subject filing."[177]

4. Commission Determination

230. We recognize that the cost allocation methodology filed by the Midwest ISO has not been agreed to by all stakeholders. However, no party, including the Midwest TDUs, argues that consensus could be achieved if the parties simply had more time. Instead, the Midwest TDUs and OMS argue that the Commission should not "defer" to the stakeholder process or the Midwest ISO's proposal as a compromise or settlement.[178] We agree. We have, as indicated above, decided this case on the record before us, rather than deferring to the Midwest ISO proposal as a compromise or settlement.

231. By taking this action, we do not intend to diminish the importance of the Midwest ISO stakeholder process. Indeed, we believe that a robust stakeholder process, including the advice of the Advisory Committee, is important to the development of proposals that the Midwest ISO submits to the Commission. We note that the Midwest ISO stakeholder process in this instance reviewed numerous possible cost allocation policies for Regionally Beneficial Projects, but ultimately did not produce a consensus. The absence of a consensus does not preclude the Midwest ISO from presenting a proposal to the

[176] *Id.*

[177] Midwest ISO Answer at 14.

[178] OMS Comments at 39-40; Midwest TDUs Protest at 5-7.

Commission.[179] Nonetheless, when the Midwest ISO plans to make such a filing, we encourage the Midwest ISO to provide stakeholders the opportunity to express views on the overall proposal. In addition, we expect participants in the Midwest ISO stakeholder process to make a good-faith effort to reach consensus.

Q. Effective Date and Request for Waiver

1. RECB II Filing

232. The Midwest ISO requests an effective date of April 1, 2007 for the RECB II Filing. The Midwest ISO states that good cause exists for such waiver because "the additional time is necessary in order to allow the Midwest ISO stakeholders sufficient time to review this complex filing and to provide their comments to the Commission." The Midwest ISO states that "[t]he 150-day delay in making the [TEMT] sheets effective will not adversely impact the existing [MTEP] work for 2007."[180]

2. Commission Determination

233. We will grant waiver of the Commission's 120-day prior notice requirement, 18 C.F.R. § 35.3 (2005), to allow the proposal to be effective April 1, 2007, as requested.[181]

The Commission orders:

(A) The Midwest ISO's proposed cost allocation methodology for Regionally Beneficial Projects is hereby conditionally accepted for filing, to be effective April 1, 2007, as discussed in the body of this order.

(B) The Midwest ISO is hereby directed to submit a compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

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[179] *See* February 3 Order, 114 FERC ¶ 61,106 at P 19, note 20(citing TO Agreement at First Revised Sheet No. 44 ("The Advisory Committee shall be a forum for its members to be apprised of the Midwest ISO's activities and to provide information and advice to the Board on policy matters of concern to the Advisory Committee, or its constituent stakeholder groups, but neither the Advisory Committee nor any of its constituent groups shall exercise control over the Board or the Midwest ISO.")).

[180] RECB II Filing Transmittal Letter at 11.

[181] *Central Hudson Gas and Electric Corporation*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

(C) The Midwest ISO is directed to file informational reports in August 2007, August 2008 and August 2009 on its experience under its cost allocation methodologies, as discussed in the body of this order.

By the Commission. Commissioner Spitzer concurring with a separate statement attached.
Commissioner Moeller not participating.

(S E A L)

Philis J. Posey,
Acting Secretary.

Appendix A

Ameren Services Company (Ameren)
American Transmission Company LLC (ATCLLC)
Coalition of Midwest Transmission Customers (CMTC)
Consumers Energy Company (Consumers)
The Detroit Edison Company (Detroit Edison)
Great River Energy (Great River)
Indianapolis Power & Light Company (IPL)[182]
International Transmission Company d/b/a ITC *Transmission* and Michigan Electric Transmission Company, LLC (ITC & METC)
Michigan Public Service Commission (Michigan Commission)[183]
Midwest ISO Transmission Owners (Midwest ISO TOs)[184]

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[182] IPL also filed a separate motion to intervene.

[183] The Michigan Commission also filed a notice of intervention.

[184] The Midwest ISO Transmission Owners include: Ameren Services Company, as agent for Union Electric Company d/b/a AmerenUE, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Co. d/b/a AmerenCILCO, and Illinois Power Company d/b/a AmerenIP; Alliant Energy Corporate Services, Inc. on behalf of its operating company affiliate Interstate Power and Light Company (f/k/a IES Utilities Inc. and Interstate Power Company); American Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp.; Aquila, Inc. d/b/a Aquila Networks (f/k/a Utilicorp United, Inc.); City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Shared Services for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Michigan Public Power Agency; 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 (d/b/a Vectren Energy Delivery of Indiana); Southern Minnesota Municipal Power Agency; and Wabash Valley Power Association, Inc.

Midwest Transmission Dependent Utilities (Midwest TDUs)[185]
Minnesota Power Company, a division of Allete, Inc., Montana-Dakota Utilities Company, a division of MDU Resources Group, Inc., and Otter Tail Company, a division of Otter Tail Corporation (Minnesota Power, Montana-Dakota & Otter Tail)[186]
Missouri Public Service Commission (Missouri Commission)
National Grid USA (National Grid)[187]
Northern Indiana Public Service Company (Northern Indiana)
North Dakota Industrial Commission (North Dakota Commission)
Organization of MISO States (OMS)
Public Utilities Commission of Ohio (Ohio Commission)
Upper Great Plains Transmission Coalition (UGPTC)
Wisconsin Electric Power Company and Edison Sault Electric Company (Wisconsin Electric & Edison Sault)
Wolverine Power Supply Cooperative, Inc. (Wolverine)[188]
WPS Resources Corporation and its subsidiaries, Wisconsin Public Service Corporation, Upper Peninsula Power Company and WPS Energy Services Inc. (ESI) and ESI's subsidiary, WPS Power Development, LLC (collectively, WPS Companies)
Xcel Energy Services Inc. (Xcel)

[185] The Midwest TDUs include: Great Lakes Utilities, Lincoln Electric System, Madison Gas and Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Southern Minnesota Municipal Power Agency and Wisconsin Public Power Inc. The Midwest TDUs also filed a motion to intervene.

[186] Minnesota Power, Montana-Dakota & Otter Tail also filed a motion to intervene.

[187] National Grid also filed a motion to intervene.

[188] Wolverine filed a motion to intervene and joined ITC & METC's protest.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission System Operator, Inc. | Docket Nos. ER06-18-004, ER06-18-005

(Issued March 15, 2007)

SPITZER, Commissioner, *concurring*:

I agree with the reasoning in and the conclusion of this Order. I write only to highlight two aspects of this proceeding worthy of further discussion.

The allocation of transmission costs is an often contentious undertaking, particularly involving large investments and multiple parties. A stakeholder process is a means to transform a "zero sum game" into a positive and consensual result. The Order correctly expresses general approval of the Midwest ISO's stakeholder process. Order at P 230.

This Order reflects the presence of a range or zone of reasonableness arising from any of a number of proposed allocations. *Id.* at P 67-71. Often, the Commission is called upon to select from one of many "just and reasonable" options. *Id.* at P 67 n 66. I believe the Commission, while not constrained to "rubber stamp" each stakeholder vote, should respect a stakeholder consensus where appropriate.

I too commend the MISO stakeholder process. However, I note forcefully and specifically our preference that the stakeholders take a vote on future allocations (with the aspiration of forging a consensus thereon) rather than keeping their cards close to the vest in hope of "getting a better deal" by protraction and/or litigation. *Id*. at P 204. The stakeholder process produces better results where the parties meaningfully participate and then express contemporaneous views on the record (*i.e.*, voting), rather than deferring formal expression until the time for filing comments before this Commission.

Secondly, I agree with the observation by some parties and the Commission concerning the arbitrariness of the distinction between reliability and economic transmission projects. *Id.* at P 173. Denomination of a significant project as "economic" could be a red herring in a subsequent siting case even where the project entailed substantial reliability benefits. The Commission's resolution of the matter (*Id*. at P 181-182) is appropriate.

Marc Spitzer
Commissioner