

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Midwest Independent Transmission System Operator, Inc. Docket No. ER04-106-005

ORDER ACCEPTING
COMPLIANCE FILING, SUBJECT TO MODIFICATION

(Issued April 15, 2005)

1. In this order, we accept the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) compliance filing addressing proposed revisions to List of Grandfathered Agreements (GFAs) contained in Attachment P of the Midwest ISO's Open Access Transmission Tariff (OATT). This order benefits the customers by ensuring a comprehensive list of GFAs, consistent with the Commission's guidelines regarding the contracts which should be included in Attachment P.

Background

2. On May 26, 2004, in Docket No. ER04-106-002, the Midwest ISO submitted proposed revisions to Attachment P of its OATT to comply with the Commission's March 25, 2004 Order in Docket No. ER04-106-001.¹ On June 21, 2004, the Commission issued a letter order² accepting the May 26, 2004 compliance filing, subject to the outcome of the proceeding in Docket Nos. ER04-691-000 and EL04-104-000, and subject to further order in the proceeding in Docket No. ER04-106-002.

¹ *Midwest Independent Transmission System Operator, Inc.*, 106 FERC ¶ 61, 288 (2004).

² *Midwest Independent Transmission System Operator, Inc.*, 107 FERC ¶ 61,289 (2004).

3. On September 16, 2004, the Commission issued an “Order Addressing Treatment of Grandfathered Agreements in the Midwest ISO Energy Markets, and Establishing Hearing and Settlement Procedures” (September 16 Order).³ That order also acted on the Attachment P proceeding in Docket No. ER04-106-002, and required the Midwest ISO to submit a new compliance filing regarding Attachment P. The Commission directed the Midwest ISO to revise its Attachment P consistent with the directives of the September 16 Order. With respect to which GFAs should be included in Attachment P, the Commission concluded that the definition of the GFA provided in the Transmission and Energy Market Tariff (TEMT)⁴ should be utilized. In addition, the Midwest ISO was directed to specify, for each contract listed in Attachment P, the contract’s treatment according to the categories contained within the September 16 Order. The categories consisted of whether the GFA: (1) had been converted to the TEMT; (2) was subject to a choice among Options A, B, or C⁵ pursuant to a settlement regarding the treatment of the GFA; (3) was subject to the choices of Option A or Option C as a result of the just and reasonable standard of review; (4) was subject to a carve-out from the Midwest ISO Markets; or (5) was excluded from this proceeding.⁶

4. Concurrent with the order issued herein, the Commission is issuing an order addressing the requests for rehearing and clarification of our September 16 Order.

Filing

5. On November 15, 2004, the Midwest ISO submitted proposed revisions to Attachment P to comply with the Commission’s directives in the September 16 Order. The Midwest ISO proposes to revise Attachment P by: (1) creating a more readable format; (2) deleting the “Termination Provision” information; (3) deleting the “Services and Terms Grandfathered” information; (4) adding “Contract Numbers,” which have

³ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 (2004).

⁴ Section 1.126 of the TEMT defines GFAs as: An agreement or agreements executed or committed to prior to September 16, 1998 or Independent Transmission Company Grandfathered Agreements that are not subject to the specific terms and conditions of this Tariff consistent with the Commission’s policies. These agreements are set forth in Attachment P to this Tariff.

⁵ *See Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 at PP 226, 227, and 228 (2004).

⁶ These categories are more fully explained in the September 16 Order.

been assigned to the contracts during the GFA proceeding; (5) adding “GFA Treatment” information based on Appendix B to the GFA Order; and (6) adding a “Comments” section to reflect duplicative contract information and other relevant contract information.

6. The Midwest ISO states that it has also removed certain GFAs from Attachment P based on one of the following; (1) requests for the removal of an agreement by the GFA parties; (2) termination of the agreement, as noted in the May 26 compliance filing; or (3) conversion of service under the agreement to OATT service at the time of the May 26 compliance filing. The Midwest ISO states that it has included in Attachment P a list reflecting these specific additional modifications. The Midwest ISO further states that certain GFAs⁷ which were not originally part of Attachment P or the GFA proceeding were included in Attachment P to reflect the addition of Great River Energy and Illinois Power Company as new Midwest ISO Transmission Owners.

7. In addition, the Midwest ISO notes that certain GFAs⁸ have been set for hearing, pursuant to the September 16 Order, to determine whether these agreements should remain classified as carved-out GFAs or whether they should be excluded from the TEMT. The Midwest ISO contends that it has included all such agreements in Attachment P on a temporary basis, pending the Commission outcome regarding their status. The Midwest ISO further contends that it will revise Attachment P following the Commission determinations.

Notice of Filing, Interventions, Protests and Answers

8. Notice of the Midwest ISO’s proposed revisions was published in the *Federal Register*, (69 Fed. Reg. 70,137 (2004)), with comments, interventions, and protests due on or before November 29, 2004.

9. Associated Electric Cooperative, Inc. (Associated) and Northeast Missouri Electric Power Cooperative (Northeast) (jointly); Dairyland Power Cooperative (Dairyland); Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier); Southern Indiana Gas and Electric Company (Southern Indiana); and WPS Resources Corporation (WPS Resources) filed protests. Southern Minnesota Municipal Power Agency (SMMPA) filed a conditional protest. The City of Columbia, Missouri (Columbia) filed a protest out of time. The Midwest ISO Transmission Owners filed a motion to intervene out of time.

10. Alliant Energy Corporate Services, Inc. (Alliant); Great River Energy (Great River) and Wisconsin Electric Power Company (Wisconsin Electric) filed comments. LG&E Energy LLC (LG&E) filed a motion to intervene and comments.

⁷ See GFA Nos. 451- 464.

⁸ See GFA Nos. 273, 284, 297, 306, 309, 311, 313, 314, 316, 317, 450 and 374.

11. The Midwest ISO and Great River Energy filed answers to the protests and comments. The Midwest ISO's answer included both general answers to the protests and comments, and also specific answers to various GFAs. The specific answers are set forth in the Midwest ISO's Attachment A to its answer. The specific answers in its Attachment A are directed at GFA's for Alliant, Great River, and Wisconsin Electric.

Discussion

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Due to the early stage of the proceeding and lack of undue prejudice or delay, we will allow the Midwest ISO Transmission Owners' motion to intervene out of time and protest out of time and Columbia's⁹ motion for leave to file protest out of time and protest.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits answers to protests unless otherwise ordered by the decisional authority. We will accept the Midwest ISO's and Great River Energy's answers, as they have provided information that assisted us in our decision-making process.

B. Associated and Northeast's Joint Protest

1. Protestors' Arguments

14. Associated requests that the Midwest ISO amend Attachment P to reflect that GFA No. 403 receives GFA treatment under Option B.¹⁰ In its Request for Clarification or Rehearing of the September 16 Order, Associated requests clarification that Associated be allowed to adopt Option B with respect to the treatment of the transmission service it receives from Ameren Service Company. Associated explains in its request that although Associated omitted from its joint filing a statement that it desired to choose Option B,

⁹ In its motion for late intervention, Columbia explains that, on June 22, 2004, it filed a request to intervene in the proceedings in Docket No. ER04-106-002, but that it does not appear that the Commission acted on that request. Thus, it renews its request here.

¹⁰ Option B provides that the GFA Responsible Entity will not nominate or receive Financial Transmission Rights.

Associated settled all six of the GFA issues¹¹ prior to the July 28, 2004 deadline. Therefore, Associated states that it should be allowed to adopt Option B. Accordingly, Associated requests that the Commission direct the Midwest ISO to modify GFA No. 403 to reflect GFA treatment under Option B.

15. Northeast explains that GFA No. 14 in Attachment P states that its GFA treatment is carved out. Northeast contends that this is not completely accurate. Northeast requests that the Commission direct the Midwest ISO to modify the description of GFA No. 14 to be consistent with the Presiding Law Judges' July 15, 2004 Order (Judges' Order) and their July 29, 2004 Findings of Fact (Findings of Fact). Northeast states that GFA No. 14 provides for transmission service from Northeast to Interstate Power Company (Interstate) and from Interstate to Northeast.

16. Northeast states that it agreed on the six issues identified in the Findings of Fact and, accordingly, Northeast submitted a template to the Commission explaining that GFA No. 14 provides for each party to provide transmission service to each other. Northeast argues that since both parties agree that the transmission service that Interstate provides to Northeast is the only service relevant to this proceeding, it should be carved out of the Energy Market.

17. Northeast indicates that Alliant filed a motion to withdraw GFA No. 14 from the proceeding with respect to the service that Northeast provides to Interstate. Northeast claims that Alliant's motion was granted in the Judges' Order and Findings of Fact. Northeast requests that the Commission direct the Midwest ISO to modify the description of GFA No. 14 to indicate that the carved out designation only applies to service from Interstate to Northeast. Northeast contends that Northeast's service to Interstate is not subject to this proceeding because Northeast is not subject to the jurisdiction of the Commission.

18. In addition, Northeast requests that the Midwest ISO amend its Attachment P to reflect that transmission service from Northeast to Interstate under GFA No. 14 is excluded from the proceeding because Northeast does not provide transmission service within the Midwest ISO's footprint as set forth in the Judges' Order and Findings of Fact.

2. The Midwest ISO's Answer

19. With respect to GFA No. 403, the Midwest ISO states that it will appropriately amend Attachment P, based on Associated's requests herein, in accordance with the Commission's ruling with respect to Associated's and Northeast's requests for rehearing and/or clarification of the September 16 Order.

¹¹ Responsible Entity, Scheduling Entity, Source Point(s), Sink Point(s), Number Megawatts and Standard of Review.

20. With respect to GFA No. 14, the Midwest ISO states that it agrees to revise Attachment P to reflect that carve-out designation for GFA No. 14 only applies to service from Interstate to Northeast and that the service from Northeast to Interstate is excluded from these proceedings.

3. Commission Ruling

21. For the reasons set forth in our Midwest ISO order being issued contemporaneously in Docket No. ER04-691-001, *et al.*, the Commission is denying Associated's request that GFA No. 403 receive treatment under Option B. The Commission stands by its previous decision that if the parties settled prior to July 28, 2004, a simple statement in their joint filing to indicate which option the parties wanted to adopt should have been included.

22. Northeast and the Midwest ISO agree that there are errors in GFA No. 14 with respect to the carve-out designation and exclusions. The Commission directs the Midwest ISO to revise GFA No. 14 in Attachment P accordingly.

C. Dairyland's Protest

1. Arguments

23. Dairyland contends that the Midwest ISO did not list GFA No. 377, which is an Interconnection and Interchange Agreement between Dairyland and Northern States Power Company (NSP) and Northern States Power Company-Wisconsin, dated July 1, 1996 (DPC-NSP I&I) and a Network Operating Agreement dated, November 26, 1996 (DPC-NSP NOA). Dairyland states that these agreements should be included in Attachment P because they meet the Midwest ISO's criteria.

24. Dairyland alleges that during the GFA hearing, Dairyland, NSP, and the Midwest ISO stipulated on the record that GFA No. 377 consisted of the DCP-NSP Network Service Agreement and the agreements incorporated therein by reference, namely the DPC-NSP I&I Agreement and DPC-NSP NOA.

25. Dairyland requests that the Commission direct the Midwest ISO to amend its Attachment P to add the following as "comments" under GFA No. 377:

Includes the Interchange & Interconnection Agreement dated July 1, 1996 and the Network Operating Agreement dated November 26, 1996 between Dairyland and the NSP Companies.

26. In addition, Dairyland maintains that GFA No. 293, which is an Interconnection and Facility Use Agreement between Dairyland and Northwestern Wisconsin Electric Company (NWEC) dated September 16, 1983, is not fully explained in Attachment P. Dairyland alleges that revised Attachment P incorrectly describes GFA No. 293 as “carved out.” Dairyland further contends that NWEC, the Midwest ISO and Dairyland stipulated on the record, in the hearing established by the September 16 Order, that GFA No. 293 should be partially removed, since it relates to Dairyland’s Eureka and Meenon loads, provided that Dairyland telemeters said loads into the Dairyland control area. Dairyland requests that the Commission direct the Midwest ISO to amend its Attachment P to add the following as comments under GFA No. 293:

Partially excluded from the GFA proceeding as it relates to Dairyland’s Eureka and Meenon loads, provided that Dairyland telemeter said loads into the Dairyland control area.

27. Finally, Dairyland argues that GFA No. 455 should be removed from Attachment P because it does not believe that Great River provides transmission service to anyone under GFA No. 455. Dairyland states that it provides transmission service to Great River over Dairyland’s transmission facilities. Dairyland acknowledges that it has not discussed the issue of the inclusion of GFA No. 455 in Attachment P with Great River or the Midwest ISO. However, out of an abundance of caution, Dairyland protests the inclusion of GFA No. 455 in Attachment P until such discussion can take place in the future.

2. The Midwest ISO’s and Great River’s Answers

28. The Midwest ISO notes that, in Great River’s comments, Great River requests that GFA No. 455 reflect “operation of Midwest ISO Energy Markets unaffected,” as Great River also requests in its Motion¹² to add GFAs filed with the Commission on November 22, 2004.

29. With respect to Dairyland’s protest regarding GFA No. 455, the Midwest ISO states that it will enter into discussions with Dairyland and Great River to resolve the issue and amend Attachment P, accordingly, in its compliance filing.

30. Great River states that it agrees with Dairyland that GFA No. 455, to which Great River is a party, should be removed from Attachment P.

¹² Motion filed in Docket No. ER04-691-000 on November 22, 2004.

3. Commission Ruling

31. Since added comments under Attachment P serve to clarify provisions of the GFAs with no impact on the status of the GFAs, the Commission will direct the Midwest ISO to amend Attachment P to add comments to GFA Nos. 377 and 293 in accordance with Dairyland's request.

32. With respect to GFA No. 455, since both Dairyland and Great River agree that GFA No. 455 should be removed from Attachment P and circumstances indicate that this is the correct action, the Commission will direct the Midwest ISO to remove GFA No. 455 from Attachment P.

D. Hoosier's Protest

1. Arguments

33. Hoosier contends that the Midwest ISO omitted GFA No. 179 from Attachment P. Hoosier states that GFA No. 179 consists of two agreements between Hoosier and PECO Energy Company. Hoosier disagrees with the Midwest ISO's rationale for omitting these agreements, *i.e.*, that these contracts were terminated, as reflected in Exhibit B of the Midwest ISO's May 26, 2004 Filing in Docket No. ER04-106-002. Hoosier states that the Midwest ISO is clearly in possession of information which demonstrates that these agreements have not terminated.

34. Hoosier further states that it filed an answer to the Midwest ISO's May 26, 2004 Filing, explaining that the agreements have not terminated. Hoosier alleges that the Midwest ISO responded by filing, on June 24, 2004, an amended list of GFAs as Exhibit 1A, wherein the Midwest ISO reinstated the agreements at the request of Hoosier. Hoosier notes that since the Commission included these agreements in Appendix B to the September 16 Order, as agreements that should be carved out of the TEMT, the Midwest ISO should not be allowed to argue that GFA No. 179 should be omitted in Attachment P.

35. In addition, Hoosier contends that GFA No. 186 was mistakenly omitted from Attachment P. Hoosier explains that GFA No. 186 is an Interconnection Agreement between Hoosier and Indianapolis Power and Light Company (Indianapolis), which provides that each company will provide service to the other upon request (Interconnection Agreement).

36. As noted in the September 16 Order Hoosier, which is not a public utility according to the Federal Power Act, states that the service it provides to Indianapolis under the Interconnection Agreement is carved out of the Midwest ISO's Energy Market. Also, Hoosier contends that an "Agreement in Principle" was filed on June 25, 2004,

wherein Hoosier and Indianapolis chose Option B for the service provided by Indianapolis pursuant to the Interconnection Agreement. Hoosier alleges that the Commission found Option B to be just and reasonable for those parties that voluntarily settled prior to July 28, 2004. Hoosier states that, therefore, this finding would apply to service provided by Indianapolis to Hoosier pursuant to the Interconnection Agreement.

2. The Midwest ISO's Answer

37. The Midwest ISO states that it agrees to the revisions to Attachment P requested by Hoosier, with respect to GFA Nos. 179 and 186.

3. Commission Ruling

38. With respect to GFA No. 179, the Midwest ISO agrees that GFA No. 179 should be included in Attachment P; therefore, the Commission will direct the Midwest ISO to amend Attachment P to include GFA No. 179 in accordance with Hoosier's request.

39. With respect to GFA No. 186, for the reasons set forth in our Midwest ISO order, issued contemporaneously herein in Docket No. ER04-691-001, *et al.*, the service provided by Hoosier under GFA No. 186 should be included in Attachment P as receiving carved out treatment. Therefore, the Commission will direct the Midwest ISO to amend Attachment P to add GFA No. 186 accordingly. Regarding GFA No. 199, as discussed in the Midwest ISO order issued contemporaneously in Docket No. ER04-691-001, *et al.*, Indianapolis should request that the Midwest ISO file with the Commission a revised Attachment P that includes GFA No. 199, if it believes that GFA No. 199 was incorrectly deleted from Attachment P. .

E. Southern Indiana's Protest

1. Arguments

40. In its Request for Rehearing and Clarification,¹³ Southern Indiana states that since the Commission has fully explained the various options available to the GFAs, the parties to GFA No. 343 should be given the opportunity to determine whether that GFA should be carved out of the proceeding, or whether they should adopt one the Midwest ISO's settlement options.

41. Southern Indiana further states that if the Commission grants Southern Indiana's request for rehearing and finds that Southern Indiana and Alcoa Power Generating, Inc. (Alcoa) should be permitted to make a new choice as to whether to adopt one of the three

¹³ Filed in Docket No. ER04-691-000, *et al.*, on October 18, 2004.

settlement options or to carve out GFA No. 343, the Commission should direct the Midwest ISO to modify the GFA treatment description of GFA No. 343 to whichever option Southern Indiana and Alcoa choose.

2. The Midwest ISO's Answer

42. The Midwest ISO states that it will comply with the Commission's ruling in Southern Indiana's request for rehearing and clarification of the September 16 Order.

3. Commission Ruling

43. For the reasons set forth in our Midwest ISO order, being issued contemporaneously in Docket No. ER04-691-001, *et al.*, the Commission will not allow Southern Indiana to choose another option but must retain Option B.

F. SMMPA's Conditional Protest

1. Arguments

44. SMMPA states that it is a party to an Integrated Transmission Agreement between United Power Association, SMMPA, and Hutchinson, which is GFA No. 451 in Attachment P. SMMPA further states that several Great River GFAs listed in Attachment P, including GFA No. 451, do not include the GFA treatment, per the directives of the September 16 Order.

45. SMMPA contends that it anticipates that the Midwest ISO will amend Attachment P, accordingly, once the Commission determines the appropriate treatment of the Great River GFAs, as sought by a motion filed in Docket No. ER04-691-000, *et al.*

46. SMMPA further states that if an explicit directive addressing the contents of Attachment P is necessary, SMMPA requests that the Commission direct the Midwest ISO to amend Attachment P to reflect the Midwest ISO's GFA treatment for GFA No. 451.

47. Further, SMMPA maintains that while it is not challenging the Midwest ISO's approach in developing its Attachment P, it is SMMPA's expectation that the administration of Attachment P will remain subject to the Commission's review and that the Commission will continue to entertain challenges both to the criteria utilized by the Midwest ISO and the Midwest ISO's administration of Attachment P to ensure that the Midwest ISO is interpreting them rationally and applying them equitably. SMMPA states that if this understanding is incorrect, then SMMPA requests that the Commission direct the Midwest ISO to provide additional information regarding its basis for exclusion of

various agreements executed before the September 16, 1998 cut-off date, including an Interconnection and Interchange Agreement between SMMPA and NSP dated January 19, 1996, whose exclusion from Attachment P was litigated earlier in this proceeding.

2. The Midwest ISO's Answer

48. The Midwest ISO states that, as it stated in its answer filed in Docket No. ER04-691, *et al.* on March 4, 2004, the Midwest ISO submits that all agreements listed in Attachment P are provided to the Midwest ISO by its transmission-owning members, and the Midwest ISO relies upon them for the provision of such information. The Midwest ISO states it held discussions with Xcel Energy, the transmission-owning member for Northern States Power Company, and that Xcel did not agree with the inclusion of these agreements in Attachment P.

3. Commission Ruling

49. The Commission previously established criteria for determining which GFAs were to be included in Attachment P in the September 16 Order. Also, the Commission directed the Midwest ISO to specify the treatment for the individual GFAs. Specifically, the Midwest ISO was to indicate whether the GFAs were to receive treatment under Options A, B, or C, or whether the GFAs were to convert to the TEMT service as determined in the September 16 Order. Accordingly, the Commission directs the Midwest ISO to amend its Attachment P to include the contract treatment for GFA No. 451 which is consistent with the order issued contemporaneously in Docket No. ER04-691-001, *et al.* Regarding SMMPA's contention that the Commission should continue to entertain challenges to the criteria utilized by the Midwest ISO, we find that any such challenges at this time to be a collateral attack on our September 16 Order, as no party filed for rehearing of our requirement. Regarding SMMPA's concern about the administration of Attachment P, we expect the Midwest ISO to maintain such Attachment consistent with the Commission's rulings in the September 16 Order, and to periodically update the Attachment to maintain its accuracy. The Commission will review any challenges to the accuracy of the tariff in an appropriate proceeding, such as a complaint proceeding initiated under section 206 of the FPA, or in a future section 205 filing made by the Midwest ISO.

G. WPS Resources' Protest

1. Arguments

50. WPS Resources states that the Midwest ISO deviated from the Commission's instruction. WPS argues that the Midwest ISO removed important information (*i.e.*, termination dates and service provisions) from Attachment P that the Midwest ISO and market participants will need to ensure that the capacity associated with a terminated

GFA is promptly made available to the financial transmission rights' market. WPS further argues that the Midwest ISO gave no explanation for the deletion of such information. WPS Resources requests that the Midwest ISO restore the termination dates and service provisions to Attachment P.

51. WPS Resources contends that Attachment P does not reflect the treatment described in WPS Resources' October 1, 2004, request for clarification or rehearing for GFA Nos. 101-107, 111 and 112.¹⁴ WPS Resources further contends that although the GFAs were listed as carved-out, the GFAs and parties to the carved-out GFAs were given the opportunity to convert to TEMT service or Options A or C. WPS Resources states that the Midwest ISO did not provide a functional description of how a carved-out GFA would be treated.

52. WPS Resources alleges that the carved-out option was not one of the options offered by the Midwest ISO. WPS Resources requests clarification that if it chooses to select Option A treatment with the Midwest ISO, until such time that the Midwest ISO files provisions with sufficient detail to allow market participants to fully understand the consequences of carved-out treatment, then WPS Resources will be allowed to do so. WPS Resources also requests clarification that once the carved-out treatment has been defined by the Midwest ISO, if WPS Resources chooses, it will have the right to return to carved-out treatment.

53. WPS Resources requests further clarification as to whether Attachment P contains all GFAs, or only some GFAs. WPS Resources states that if the Midwest ISO intends to limit the category of GFAs to only existing agreements that provide for transmission service, then section 1.126 should be revised to reflect the change and the Midwest ISO should also clarify how those agreements that are not listed in Attachment P as GFAs will be treated.

2. The Midwest ISO's Answer

54. The Midwest ISO states that it revised the format of the Attachment P template, based on the Commission's directives to use the definition of GFAs in section 1.126 of the TEMT as the criteria. The Midwest ISO claims that most of the GFAs listed in Attachment P are agreements that do not verify a termination date. To the extent that an agreement does include a specific termination date, however, it is the Midwest ISO's position that the transmission-owning member is the entity that should have the responsibility for notifying the Midwest ISO of such termination.

¹⁴ Filed in Docket No. ER04-691-000, *et al.*

55. The Midwest ISO states that, with respect to WPS Resources' argument regarding its request for clarification or rehearing filed on October 1, 2004, in Docket No. ER04-691-001, *et al.*, the Midwest ISO will amend Attachment P based on the Commission's ruling of WPS Resources' request in that proceeding.

56. With respect to WPS Resources' allegations that Attachment P excludes Revenue Sharing Agreements, and thus confuses the process of what GFAs should be listed in Attachment P, the Midwest ISO denies that such GFAs are excluded. In support of this contention, the Midwest ISO points to GFA No. 148 as an example of a Revenue Sharing Agreement which was characterized as such by the Midwest ISO in the Docket No. EL04-104 GFA proceeding and is included in Attachment P.

3. Commission Ruling

57. For the reasons set forth in the Midwest ISO Order being issued contemporaneously in Docket No. ER04-691-001, *et al.*, the Commission will allow WPS Resources to switch to Options A or C, however, WPS Resources will not be allowed to switch back to the carved-out treatment.

58. With respect to WPS Resources' claim that the Midwest ISO removed certain information from Attachment P regarding WPS Resources' GFAs, the Commission finds that the transmission owning members are in the best position to know when service is "actually" terminated. Accordingly, the Commission agrees with the Midwest ISO on this point.

59. With respect to WPS Resources' request for clarification as to whether Attachment P contains all GFAs, or only some GFAs, the Commission has addressed this issue in prior a order¹⁵ regarding the Midwest ISO's Attachment P, and the Commission stands on its previous decision; the GFAs included in Attachment P meet the definition as provided in section 1.126 of the TEMT.

H. Columbia's Protest

1. Arguments

60. Columbia alleges that Attachment P contains several errors. Columbia states the following: (1) it is filing its protest out of an abundance of caution; (2) the Midwest ISO incorrectly lists Columbia as the Midwest ISO Transmission-Owning Member for GFA

¹⁵ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 (2004).

No. 444; and (3) Columbia was incorrectly listed as the Midwest ISO Transmission-Owning Member instead of GridAmerica Companies/Ameren Service Company for GFA No. 445. Columbia requests that GFA No. 444 be removed from the portion of Attachment P referencing Columbia's agreement and re-listed elsewhere and that the GFA No. 445 be re-listed to reflect its relationship to the Midwest ISO Transmission Owning Member.

2. The Midwest ISO's Answer

61. The Midwest ISO states that it agrees to revise GFA No. 444 to remove from the City of Columbia's section from Attachment P, as the City of Columbia is not a party to GFA No. 444.

62. The Midwest ISO states that it agrees to re-list GFA No. 445 to reflect the proper relationship to the Transmission Owner.

3. Commission Ruling

63. Columbia and the Midwest ISO agree that there are errors in GFA Nos. 444 and 445 with respect to the listing of the City of Columbia. Since the parties have resolved this matter with regard to the context of the errors, the Commission will direct the Midwest ISO to revise GFA Nos. 444 and 445 in Attachment P in accordance with Columbia's request.

I. Alliant's Comments

1. Arguments

64. Alliant comments that the Midwest ISO describes GFA No. 21 as an original contract and that GFA Nos. 27 and 393 are duplicates of GFA No. 21. Alliant argues that while GFA Nos. 27 and 393 are ancillary and related to GFA No. 21, they are not duplicates. Alliant states that while both agreements are entitled "Assignment for Transmission Capacity," each GFA has a different agreement date. Alliant further comments that the Midwest ISO has excluded GFA No. 21 from the GFA proceeding; however, this information is also applicable for GFA Nos. 27 and 393.

2. The Midwest ISO's Answer

65. In response, the Midwest ISO claims that GFA No. 21 is not an original agreement, but rather a duplicate, and that GFA Nos. 27 and 393 are amendments to GFA No. 21.

66. With respect to GFA No. 27, the Midwest ISO states that the parties to the agreement are the City of Eldridge, Indiana, plus all of the parties for GFA No. 21. The Midwest ISO also states that the contract title is “Assignments for Transmission Capacity” and the date is October 1, 1984.

67. With respect to GFA No. 393, the Midwest ISO states that the parties to the agreement are the City of Eldridge, Indiana, plus all of the parties for GFA No. 21. The Midwest also states that the contract title is “Assignments for Transmission Capacity” and the date is February 21, 1985.

3. Commission Ruling

68. Alliant and the Midwest ISO agree that there are errors in GFA Nos. 21, 27 and 393, as discussed above. Since the parties have resolved this matter with regard to the context of the errors, and the Midwest ISO states that it agrees to amend Attachment P to reflect Alliant’s requested changes, the Commission will direct the Midwest ISO to revise GFA Nos. 21, 27 and 393 in Attachment P in accordance with Alliant’s request.

J. Wisconsin Electric’s Comments

69. Wisconsin Electric requests that the Midwest ISO amend Attachment P to remove the GFA with Badger Power Marketing Authority of Wisconsin, Inc. which is GFA No. 99. Wisconsin Electric states that the agreement was previously terminated and should not have been included in Attachment P.

70. Wisconsin Electric points out that the Midwest ISO previously filed, in Docket No. EL04-104-000, a corrected version of Attachment P that accurately reflected Wisconsin Electric’s request. Wisconsin Electric asks the Commission to require the Midwest ISO to correct this alleged error by removing GFA No. 99 from Attachment P.

2. The Midwest ISO’s Answer

71. The Midwest ISO states that it agrees to amend Attachment P to remove GFA No. 99 as requested by Wisconsin.

3. Commission Ruling

72. Wisconsin Electric and the Midwest ISO agree that the Midwest ISO erred by including GFA No. 99 in Attachment P. Also, the September 16 Order finds that GFA No. 99 should be excluded from Attachment P.¹⁶ Therefore, the Commission will direct the Midwest ISO to remove GFA No. 99 in Attachment P in accordance with Wisconsin Electric's request.

K. Great River's Comments

73. Great River comments that the GFAs listed on Attachment P as Contract Nos. 451-464 were not originally part of Attachment P or the GFA proceedings held in Docket No. ER04-691-000, *et al.*, due to the time of Great River's membership and integration into the Midwest ISO. As a result, information concerning the GFA treatment for each of these contracts has yet to be confirmed by the Commission.

74. Great River requests that the Midwest ISO revise the "Comments" section to GFA No. 12 to read "Parties entered into a Letter of Intent to convert service under the contract to the Midwest ISO tariff service no later than March 1, 2005."

75. Great River requests that the Midwest ISO revise the "Contract Party" section to GFA No. 292 to remove Minnesota Power from the Contract Party section.

76. Great River requests that the Midwest ISO revise the "Contract Party" section to GFA Nos. 306, 325, 350 and 375 to reference "Great River Energy (formerly Cooperative Power Association)."

77. Great River requests that the Midwest ISO revise the "Contract Party" section to GFA No. 323 to read "Great River Energy (formerly Northern Minnesota Power Association, Rural Cooperative Power Association and United Power Association) and Northern States Power Company." In addition, Great River requests that the "Comments" section to GFA No. 323 be revised to read "Duplicate of GFA No. 390."

78. Great River requests that the Midwest ISO revise the "Contract Party" section to GFA Nos. 367 and 370 to reference "Great River Energy (formerly United Power Association)."

¹⁶ See *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 at P 218 (2004).

79. Great River requests that the Midwest ISO revise the “Contract Party” section to GFA No. 376 to reference “Great River Energy (formerly United Power Association). In addition, Great River requests that the “Comments” section be revised to read “Converting service under the contract to the Midwest ISO tariff service no later than March 1, 2005.”

80. Great River requests that the Midwest ISO revise the “Contract Party” section to GFA No. 390 to read “Great River Energy (formerly Northern Minnesota Power Association, Rural Cooperative Power Association and United Power Association) and Otter Tail Power Company.” In addition, Great River requests that the “Comments” section be revised to read “Duplicate of GFA No. 323.”

81. Great River requests that the Midwest ISO revise the “Contract Party” section to GFA Nos. 452, 453, 457, 459-461, 463 and 464 to remove all references to Cooperative Power Association and United Power Association. In addition, Great River request that the date listed for GFA No. 453 be replaced with September 6, 1997 and the date mistakenly listed under the “Rate Schedule No.” section under the same GFA should be deleted.

82. Great River argues that these requests accurately reflect the circumstances of each agreement referenced.

2. The Midwest ISO’s Answer

83. The Midwest ISO states, with respect to Great River’s request that the GFA treatment section for GFA Nos. 451, 460, and 461 reflect carved-out treatment, and for GFA Nos. 452-459 and 462-464 the section reflect “operation of Midwest ISO Energy Markets unaffected.” As Great River requested in its Motion to add GFAs filed with the Commission on November 22, 2004, the Midwest ISO will appropriately amend Attachment P based on the Commission’s ruling on that motion.

84. With respect to GFA Nos. 12, 292, 306, 323, 325, 350, 367, 370, 375 376, 390, 452, 453, 457, 459-461, 463 and 464, the Midwest ISO agrees with all of the various changes pointed out by Great River.

3. Commission Ruling

85. For the reasons set forth in the Midwest ISO order being issued contemporaneously in Docket No. ER04-691-001, *et al.*, the Commission will grant Great River’s motion to add GFA Nos. 451, 460 and 461 to its Attachment P. The Commission will also allow Great River to treat these GFAs as carved out since Great

River has elected to be carved out of the Midwest ISO Energy Market. The Commission will direct the Midwest ISO to add “carve out” to the “GFA Treatment” section to GFA Nos. 451, 460 and 461.

86. With respect to GFA Nos. 452-459 and 462-464, Great River alleges that these GFAs do not affect the Midwest ISO Energy Market. In addition, Great River alleges that it has provided the Midwest ISO with these GFAs for review to determine if “Operation of the Midwest ISO Energy Market unaffected” should be added to the “GFA Treatment” section to these GFAs. Based on the facts before the Commission, the Commission is unable to determine if the requested information should be added to the “GFA Treatment” section of these GFAs; therefore the Commission directs that the Midwest ISO and Great River confer with each other to resolve whether or not the requested information should be added and, if applicable, make revisions accordingly.

87. With respect to GFA Nos. 452, 453, 457, 459-461, 463 and 464, the Midwest ISO has agreed to remove all references to Cooperative Power Association and United Power Association from the Contract listing. Since the parties have resolved this matter with regard to the context of the errors, the Commission will direct the Midwest ISO to revise GFA Nos. 452, 453, 457, 459-461, 463 and 464 in accordance with Great River’s request.

88. The Midwest ISO further agrees with all of the other various errors pointed out by Great River. Since the parties have resolved this matter with regard to the context of the errors, the Commission will direct the Midwest ISO to revise GFA Nos. 12, 292, 306, 323, 325, 350, 367, 370, 375, 376 and 390 in Attachment P in accordance with Great River’s request.

L. LG&E’s Comments

89. LG&E states that the Midwest ISO incorrectly listed East Kentucky Power Cooperative as a counterparty to GFA No. 216 when it should have been listed as Ohio Valley Electric Corporation. LG&E further states that the Midwest ISO did not list GFA No. 224 in Attachment P. LG&E notes that GFA No. 224 is the same as GFA No. 216, but covers the Kentucky Utilities portion of the service and was converted to TEMT service.

2. The Midwest ISO’s Answer

90. The Midwest ISO states that it agrees to revise Attachment P to indicate that Ohio Valley Electric Corporation is the contract party for GFA No. 216.

91. The Midwest ISO agrees to list GFA No. 224 in Attachment P, as requested by LG&E.

3. Commission Ruling

92. The Midwest ISO agrees with the various errors pointed out by LG&E. Since the parties have resolved this matter with regard to the context of the errors, the Commission will direct the Midwest ISO to revise GFA No. 216 and to add GFA No. 224 to Attachment P, in accordance with LG&E's request.

The Commission orders:

(A) The Midwest ISO's compliance filing is hereby conditionally accepted for filing as discussed in the body of this order.

(B) The Midwest ISO is directed to make a compliance filing within 60 days of the issuance of this order, reflecting the changes required herein.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.