

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Midwest Independent Transmission System
Operator, Inc. and
Ameren Services Company

Docket No. ER07-106-000

ORDER ACCEPTING PROPOSED TARIFF CHANGES

(Issued December 22, 2006)

1. On October 31, 2006, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and Ameren Services Company (Ameren) on behalf of its public utility operating companies¹ (collectively, Applicants) filed proposed changes to Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT) to restructure the Ameren license plate pricing zones under the TEMT in order to reflect a configuration of the control areas operated by the Ameren Companies. Applicants also propose what they describe as other minor changes to the TEMT to reflect the fact that CIPS, UE, and certain other Midwest ISO transmission owners are no longer participating in the Midwest ISO through a contractual relationship with GridAmerica LLC (GridAmerica) and to make other non-substantive changes.² In this order, we accept Applicants' proposed changes.

¹ For purposes of this filing, Ameren's public utility operating companies include Central Illinois Light Company (CILCO), Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), and Union Electric Company (UE) (collectively, the Ameren Companies).

² Regarding the other non-substantive changes, Applicants propose to revise Schedule 26 to reflect the fact that the former Michigan Electric Transmission Company, LLC, pricing zone is now a joint pricing zone designated as the Michigan Joint Zone. In addition, they propose to delete certain provisions relating to a rate settlement between AmerenUE and the Missouri Joint Municipal Electric Utility Commission because they are no longer applicable.

Background

2. Currently, rates under the TEMT reflect a license plate rate design during an initial transition period that ends on January 31, 2008, six years after Midwest ISO commenced providing transmission service over the facilities under its control. During this transition period:

The Midwest ISO shall employ a Zonal pricing structure for both Network Transmission Service and Point-to-Point Transmission Service associated with load physically located within a Midwest ISO Zone. Payment of the Zonal rate allows the customer to obtain transmission service over the facilities covered by the Transmission Tariff without paying additional base transmission charges. The Zones only may be changed to reflect the effectuation of a merger (or consolidation and reorganization), to add a new Owner that operates a control area in existence on or before the date of the initial filing with the FERC to establish the Midwest ISO, or to reflect the withdrawal from the Midwest ISO of an Owner or Owners.³

3. As noted above, the Ameren Companies that are transmission-owning members of Midwest ISO are CILCO, CIPS, IP, and UE. As currently configured, UE and CIPS operate a joint control area and constitute a joint license plate pricing zone, and CILCO and IP each operate separate control areas and constitute separate license plate pricing zones.

The Instant Filing

4. The Ameren public utility operating companies propose to reconfigure license plate pricing zones to reflect a change in the configuration of the control areas they operate. Specifically, that state that, effective January 1, 2007, they plan to reconfigure their control areas from the current three control areas to two control areas, organized on the basis of the states in which the facilities are located. Specifically, CILCO, CIPS, and IP (together, Ameren Illinois Utilities) will operate one control area in Illinois, and UE

³ The Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation (Midwest ISO TO Agreement), Midwest ISO, First Revised FERC Rate Schedule No. 1, First Revised Sheet No. 120.

will operate a second control area in Missouri. Applicants propose to change their license plate pricing zone boundaries, resulting in two license plate pricing zones, one reflecting the UE control area in Missouri and one reflecting the Ameren Illinois Utilities' control area in Illinois.⁴ Applicants request that the proposed changes to their license plate pricing zones and other proposed non-substantive changes become effective on January 1, 2007.

5. In support, Applicants argue that this pricing zone configuration is consistent with the general practice of organizing pricing zones on a control area basis under the Midwest ISO's TEMT, will help Ameren's subsidiaries to implement the control area reconfiguration plan, and will better align the Ameren pricing zones with the states in which the companies are located.

Notice of Filing and Responsive Pleadings

6. Notice of Applicants' filing was published in the *Federal Register*,⁵ with interventions and protests due on or before November 21, 2006. On November 21, 2006, the Illinois Commerce Commission (Illinois Commission) filed a notice of intervention, raising no substantive issues. On November 21, 2006, Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, the CEG Companies) filed a motion to intervene, raising no substantive issues.

7. On November 21, 2006, the Illinois Municipal Electric Agency (IMEA)⁶ filed a motion to intervene and protest. IMEA opposes the proposed consolidation of the Illinois

⁴ Applicants state that all revenue requirements and rates for transmission service within the existing Ameren Companies' pricing zones are established pursuant to the Midwest ISO TEMT Attachment O formula rate and that this will continue to be the case after the reconfiguration of the Ameren Companies' pricing zones becomes effective. Because all revenue requirements and rates will continue to be determined under Attachment O, Applicants request any waiver of the Commission's regulations deemed necessary to allow for the use of abbreviated procedures under section 35.13(a)(iii) of the Commission's regulations, 18 C.F.R. § 35.13(a)(iii) (2006).

⁵ 71 Fed. Reg. 65,487 (2006).

⁶ IMEA is a municipal power agency comprised of forty municipal electric systems in Illinois, all of which own and operate their own electric system. IMEA obtains transmission service from the Midwest ISO, taking service as a network transmission customer under the TEMT.

pricing zones, arguing that the consolidation will result in an unsupported rate increase for Illinois customers. IMEA estimates that under the proposed reconfiguration of pricing zones, Ameren's transmission rates in Missouri (for the stand-alone UE zone) would decrease whereas Ameren's transmission rates in Illinois (for the new, combined CIPS/CILCO/IP zone) would increase.⁷ IMEA further argues that Applicants have not shown the impact of the proposed TEMT changes on ratepayers pursuant to section 35.13(c) of the Commission's regulations.⁸

8. Also, IMEA contends that the proposed merger of pricing zones is barred by the provision of Appendix C of the Midwest ISO TO Agreement that "[t]he Zones only may be changed to reflect the effectuation of a merger (or consolidation and reorganization), to add a new Owner that operates a control area in existence on or before the date of the initial filing with the FERC to establish the Midwest ISO, or to reflect the withdrawal from the Midwest ISO of an Owner or Owners." Last, IMEA argues that Applicants fail to state how the proposed changes will permit a better response to state regulators and how that better response is justified in light of the explicit provisions of the TEMT and the resulting rate impacts. IMEA requests that the Commission reject the proposed changes to the pricing zones, or, alternatively, set them for hearing.⁹

9. On November 27, 2006, ISG Hennepin Inc., d/b/a Mittal Steel USA – Hennepin (Mittal Steel) filed a motion to intervene out of time.¹⁰ Mittal Steel states that it supports IMEA's protest.¹¹

⁷ IMEA states that it has estimated the rate impact in the proposed new zones because information from the 2005 FERC Form 1s does not provide the details needed to derive load divisors and revenue credits for each of the Ameren Companies on a stand alone basis. Nevertheless, IMEA asserts that its estimates are reasonable for the purpose of the Commission's initial examination of the proposed changes.

⁸ See 18 C.F.R. § 35.13(c) (2006). We find that Applicants' filing substantially complies with the threshold filing requirements of section 35.13 of the Commission's regulations and, therefore, IMEA's request for rejection of the filing is denied.

⁹ IMEA does not oppose Applicants' proposed minor and non-substantive changes.

¹⁰ Mittal Steel owns and operates a steel manufacturing and processing operation that is served by IP.

10. On December 6, 2006, the Midwest ISO Transmission Owners¹² filed a motion to intervene out-of-time, and comments in support of Applicants' proposal. Also on December 6, 2006, Ameren, on behalf of the Ameren Companies, filed a motion for leave to answer and answer to IMEA's protest. On December 12, 2006, IMEA filed a motion to strike Ameren's answer and, if the Commission permits Ameren's answer, an alternative motion for leave to answer and answer. On December 18, 2006, Ameren filed a response.

¹¹ Mittal Steel's pleading also states that IMEA requests that this proceeding be consolidated with several other related proceedings initiated by Ameren and its affiliates, and Mittal Steel expresses support for IMEA's request. Mittal Steel's Motion for Leave to Intervene Out of Time at 2, n.1. However, IMEA does not request consolidation of this proceeding with other proceedings, and Mittal Steel does not identify any particular related proceedings or itself move for consolidation with other proceedings. Therefore, no motion for consolidation is before us.

¹² The Midwest ISO Transmission Owners for this filing consist of: 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 Water, Light & Power (Springfield, IL); Duke Energy Shared Services, Inc. f/k/a Cinergy Services, Inc. for The Cincinnati Gas & Electric Co. d/b/a Duke Energy Ohio, Inc., PSI Energy, Inc. d/b/a Duke Energy Indiana, Inc., and The Union Light, Heat and Power Company d/b/a Duke Energy Kentucky, Inc.; Great River Energy; Hoosier Energy Rural Electric Cooperative, Inc.; 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.; Otter Tail Power Company; Southern Illinois Power Cooperative; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); and Wabash Valley Power Association, Inc.

Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹³ the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In view of the early stage of this proceeding and the absence of undue prejudice or delay, we will grant Mittal Steel's and the Midwest ISO Transmission Owners' motions to intervene out of time. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,¹⁴ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept Ameren's answer. In light of our denial of Ameren's answer, we dismiss IMEA's December 12 pleading and Ameren's December 18 response.

B. Substantive Matters

12. We disagree with IMEA's assertion that Applicants' proposed changes are barred by the Midwest ISO TO Agreement. Through the proposed changes, Applicants propose to effectuate "the merger (or consolidation and reorganization)" of CILCO and IP into the Ameren corporate family and to reflect the reorganization of the Ameren Companies' control area operations.¹⁵ Such changes are expressly permitted by the above-quoted language of the Transmission Owners Agreement. Further, IMEA's mere assertion that Ameren's transmission rates in Illinois would increase, while Ameren's transmission rates in Missouri would decrease, is not an adequate proffer of evidence warranting a trial-type evidentiary hearing.¹⁶ Moreover, a rate increase in and of itself is not unjust

¹³ 18 C.F.R. § 385.214 (2006).

¹⁴ 18 C.F.R. § 385.213(a)(2) (2006).

¹⁵ Ameren Companies' control area reorganization and consolidation reduces the number of control areas they operate from three to two. The Commission has consistently supported consolidation of control areas to reduce the number of control areas within Midwest ISO's market. *See, e.g., Midwest Independent Transmission System Operator, Inc.*, 105 FERC ¶ 61,145, at PP 42 and 50 (2003); *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163, at P 124 (2004).

¹⁶ *See, e.g., Entergy Nuclear Operations, Inc.*, 112 FERC ¶ 61,117 at P 50 & n.61 (2005) (a trial-type evidentiary hearing requires more than a mere allegation on the part of a party); *California Independent System Operator Corp.*, 107 FERC ¶ 61,150 at P 7 & n.11 (2004) (same).

and unreasonable. Here, the resulting rates, whether higher or lower than existing rates, will be determined pursuant to the Midwest ISO TEMT Attachment O formula rate, which the Commission has approved as appropriate for determining license plate zonal transmission rates under the Midwest ISO TEMT. Indeed, IMEA concedes that the cost of service and resulting rates are the product of the Commission-approved Midwest ISO TEMT Attachment O rate formula, and that Applicants' proposal does not affect that methodology.¹⁷

13. Our preliminary analysis of Applicants' filing indicates that the proposed changes to the TEMT are reasonable and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the proposed changes to the Midwest ISO TEMT for filing, without hearing or suspension, to become effective on January 1, 2007.

The Commission orders:

Applicants' proposed changes to the Midwest ISO TEMT are hereby accepted, effective January 1, 2007.

By the Commission. Commissioner Moeller not participating.

(S E A L)

Magalie R. Salas,
Secretary.

¹⁷ IMEA Protest at 5.