

128 FERC ¶ 61,047  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Midwest Independent Transmission System  
Operator, Inc.,

Docket No. ER09-1252-000

MidAmerican Energy Company

ORDER CONDITIONALLY ACCEPTING PROPOSED TARIFF REVISIONS

(Issued July 16, 2009)

1. On June 1, 2009, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and MidAmerican Energy Company (MidAmerican) (collectively, Applicants) jointly filed proposed revisions to Schedules 7, 8, 9, and 26, along with Attachment O of the Midwest ISO Open Access Transmission, Energy, and Operating Reserve Markets Tariff (ASM Tariff).<sup>2</sup> The revisions were filed to include MidAmerican in the ASM Tariff as a pricing zone in connection with its proposed integration with the Midwest ISO. In this order, we conditionally accept the joint filing, effective September 1, 2009, as requested, subject to a compliance filing.

**I. Introduction**

2. MidAmerican is the largest utility in Iowa and provides electric and natural gas service to retail customers located in the States of Iowa, Illinois, South Dakota and Nebraska. MidAmerican is the principal subsidiary of MHC Inc. MHC Inc. is the direct wholly owned subsidiary of MidAmerican Funding LLC, whose sole member is MidAmerican Energy Holdings Company (MEHC). MEHC is a consolidated subsidiary of Berkshire Hathaway Inc.

3. MidAmerican has announced its intent to join Midwest ISO as a Transmission Owner and plans to integrate its facilities into Midwest ISO on September 1, 2009. In

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<sup>1</sup> 16 U.S.C. § 824e (2006).

<sup>2</sup> FERC Electric Tariff, Fourth Revised Volume No. 1.

connection with its planned membership, Midwest ISO and MidAmerican jointly or individually have made several filings with the Commission that are necessary to integrate MidAmerican with Midwest ISO. First, on May 15, 2009, MidAmerican submitted a filing, in Docket No. ER96-719-025, proposing revisions to its market-based rate tariff to remove restrictions on sales within the MidAmerican balancing authority area and permit market-based sales of capacity, energy and ancillary services throughout the Midwest ISO region upon MidAmerican's integration with Midwest ISO.<sup>3</sup> Then, on June 1, 2009, MidAmerican and Midwest ISO jointly or individually made five simultaneous filings proposing revisions to Midwest ISO's ASM Tariff.

4. In Docket No. ER09-1246-000, Midwest ISO made a filing to amend the ASM Tariff to address the allocation of Partial-Year FTRs in connection with the integration of new transmission-owning members. In Docket No. ER09-1248-000, Midwest ISO and MidAmerican made a joint filing to amend the ASM Tariff to include MidAmerican's local transmission planning process as Attachment FF-MidAmerican. In Docket No. ER09-1253-000, Midwest ISO and MidAmerican made a joint filing to amend the ASM Tariff to address the treatment of various GFAs. In Docket No. ER09-1260-000, MidAmerican made a filing proposing several revisions to MidAmerican's OATT to terminate duplicative or irrelevant provisions. The filings in Docket Nos. ER09-1246-000, ER09-1248-000, and ER09-1253-000 will be addressed in orders being issued concurrently with this order.<sup>4</sup> The filing in Docket No. ER09-1260-000 is being accepted for filing under a delegated letter order issued today as well.

5. In Docket No. ER09-1252-000, Midwest ISO and MidAmerican made a joint filing with respect to Attachment O (Rate Formulae) and Schedules 7, 8, 9, and 26 of the ASM Tariff in order to include MidAmerican in the ASM Tariff as a pricing zone in connection with its proposed integration with Midwest ISO. This filing is addressed in this order.

## **II. Background**

6. The proposed revisions to the ASM Tariff address transmission rate issues associated with MidAmerican's integration with the Midwest ISO. Applicants propose certain revisions to the ASM Tariff to incorporate MidAmerican as a pricing zone. Applicants filed revisions to: Schedule 7 (Long-Term Firm and Short-Term Firm Point-

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<sup>3</sup> MidAmerican made its filing in conjunction with filings made by its affiliates in Docket Nos. ER97-2801-026 (PacifiCorp) and ER99-2156-018 (Cordova Energy Company LLC). These filings are being addressed separately in a concurrently issued order. *See MidAmerican Energy Company, et al.*, 128 FERC ¶ 61,048 (2009).

<sup>4</sup> *See Midwest Indep. Transmission Sys. Operator, Inc., et al.*, 128 FERC ¶ 61,046 (2009).

to-Point Transmission Service); Schedule 8 (Non-Firm Point-to-Point Transmission Service); Schedule 9 (Network Integration Transmission Service); Schedule 26 (Network Upgrade Charge From Transmission Expansion Plan); and Attachment O (Rate Formulae) of the ASM Tariff.

7. Applicants state that they are proposing a new Attachment O – MidAmerican Energy Company (Attachment O – MidAmerican) which is exclusive to MidAmerican and reflects a direct application of Midwest ISO’s generic Attachment O formula rate, including a rate of return on common equity component of 12.38 percent which was authorized for use by all Midwest ISO Transmission Owners in Docket No. ER02-485-000.<sup>5</sup>

8. In addition, Applicants propose to continue a crediting mechanism for certain MidAmerican network customers that own certain transmission facilities (or portions thereof) that are integrated with the transmission facilities that MidAmerican transfers to Midwest ISO’s functional control. Specifically, section 30.9 of the ASM Tariff lists three requirements for customer-owned facility credits: (1) the customer must be a network customer; (2) the customer must demonstrate that the facility meets the applicable integration test; and (3) transmission owners are not permitted to claim section 30.9 credits for facilities already included in Midwest ISO’s rate for transmission service in order to avoid double billing and provide transparency. Applicants state that the crediting procedure is just and reasonable, continues an existing FERC-approved practice, is consistent with the ASM Tariff, ensures that network customers that have transmission facilities integrated with MidAmerican’s transmission system can continue to receive consideration for their transmission investments following integration, and is also consistent with the Commission’s guidance regarding jointly-owned facilities.

9. Midwest ISO and MidAmerican request waiver of section 35.13(d) of the Commission’s regulations to the extent necessary to permit the transition to use of the Attachment O formula rate. Applicants state that adopting the return on equity authorized by the Commission for Midwest ISO Transmission Owners<sup>6</sup> does not constitute a rate change. Applicants also request any waiver of the Commission’s notice requirement to permit an effective date of September 1, 2009.

### **III. Notice of Filing and Responsive Pleadings**

10. Notice of Applicants’ filing was published in the *Federal Register*, 74 Fed. Reg. 31,020 (2009), with interventions and protests due on or before June 22, 2009.

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<sup>5</sup> See *Midwest Indep. Trans. Sys. Operator, Inc.*, 99 FERC ¶ 63,011 (2002); 100 FERC ¶ 61,292, at P 30 (2002).

<sup>6</sup> See *id.*

The Commission issued a notice on June 22, 2009, granting an extension of the comment period until June 29, 2009.

11. Timely motions to intervene were filed by American Municipal Power-Ohio, Resale Power Group of Iowa, Alliant Energy Corporate Services, Inc., Exelon Corporation, Consumers Energy Company (Consumers), Corn Belt Power Cooperative (Corn Belt), and Ameren Services Company, Inc. A motion to intervene and comments were filed by The Midwest ISO Transmission Owners (Midwest ISO TOs).<sup>7</sup> A notice of intervention and request for extension of time to file comments was filed by the Illinois Commerce Commission (ICC), followed by timely-filed comments. A timely motion to intervene, protest, and request for relief was filed by the Midwest Municipal Transmission Group (MMTG)<sup>8</sup> and the Municipal Energy Agency of Nebraska (MEAN)<sup>9</sup> (collectively, Midwest Municipals). MidAmerican filed an answer in opposition to the request for extension of time. MidAmerican also filed an answer in response to Midwest Municipals' protest. Midwest ISO filed an answer in response to Midwest ISO TOs' comments and Midwest Municipals' protest. Midwest Municipals filed an answer in response to MidAmerican's answer and Midwest ISO's answer.

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<sup>7</sup> For the purpose of this filing, the Midwest ISO Transmission Owners include: Ameren Services Company, for Union Electric Company, Central Illinois Public Service Company, Central Illinois Light Co., and Illinois Power Company; American Transmission Company LLC; American Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp.; City of Columbia Water and Light Department (Columbia, MO); City Water, Light & Power (Springfield, IL); Duke Energy Business Services, LLC 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; Indianapolis Power & Light Company; International Transmission Company; ITC Midwest LLC, Michigan Electric Transmission Company, LLC; 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; Southern Minnesota Municipal Power Agency; Wabash Valley Power Association, Inc.; and Wolverine Power Supply Cooperative, Inc.

<sup>8</sup> MMTG includes the Iowa Association of Municipal Utilities, Central Minnesota Municipal Power Agency, Minnesota Municipal Utilities Association and its member cities.

<sup>9</sup> MEAN is a municipal power supply agency headquartered in Lincoln, Nebraska, and serves cities both within and outside of Iowa.

#### **IV. Discussion**

##### **A. Procedural Matters**

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept MidAmerican's answer, Midwest ISO's answer, nor Midwest Municipals' answer and will, therefore, reject them.

##### **B. Substantive Matters**

###### **1. Section 30.9 Credits - General Procedures**

###### **a. Proposal and Comments**

14. Applicants' proposed Attachment O – MidAmerican includes a section entitled “MidAmerican Network Customers Section 30.9 Credits Calculation Procedure” (Credits Calculation Procedure) which provides that each network customer that owns integrated transmission facilities in the MidAmerican pricing zone is eligible to receive revenue credits under section 30.9 of the ASM Tariff.<sup>10</sup>

15. Midwest ISO TOs state that they do not object to the filing, but seek clarification with regard to statements made in Attachment O – MidAmerican. First, in section 2 of the Credits Calculation Procedure, Midwest ISO TOs find the following statement unclear:

To the extent that Attachment O information submitted by the [network] customers can be verified to audited financial information and/or the EIA Form 412, the Midwest ISO will review the Attachment Os submitted by the [network] customer using the same procedures applied to Attachment O data submitted by Transmission Owners.

16. Midwest ISO TOs argue that this statement can be interpreted to mean that Midwest ISO may review the Attachment O data submitted by the network customer only if the data is verifiable. Midwest ISO TOs request that the Commission require Applicants to clarify that Midwest ISO will review all Attachment O data submitted by

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<sup>10</sup> See Original Sheet No. 2758Z.03, FERC Electric Tariff, Fourth Revised Volume No. 1.

the network customers. Midwest ISO TOs further request clarification that network customers must submit the same types of financial information as is currently submitted to Midwest ISO by the Midwest ISO Transmission Owners.

17. Finally, Midwest ISO TOs request clarification of the following statement in section 3 of the Credits Calculation Procedure: “The Midwest ISO will distribute to MidAmerican the revenues owed to the MidAmerican pricing zone under the Midwest ISO’s revenue collection and distribution guidelines.” Midwest ISO TOs seek clarification that Applicants are referring to Appendix C of the Transmission Owners Agreement<sup>11</sup> where the guidelines for distribution of transmission revenues are stated.

**b. Commission Determination**

18. We agree with Midwest ISO TOs that network customers should be required to submit the same type of financial information as is currently submitted to Midwest ISO by the Midwest ISO Transmission Owners. We also agree that Midwest ISO must review all Attachment O data submitted by network customers. Therefore, we direct Applicants to submit a compliance filing, within 30 days of the date of this order, to amend the Credits Calculation Procedure to provide that network customers are required to submit the same type of financial information as is submitted to Midwest ISO by the Midwest ISO Transmission Owners and that Midwest ISO must review all Attachment O data submitted by network customers.

19. With regard to the proposed section 3 of the Credits Calculation Procedure, we find that, while the proposed language does not specifically reference the location of the guidelines governing Midwest ISO’s revenue collection and distribution, we recognize here that Midwest ISO’s revenue collection and distribution guidelines must distribute revenues in accordance with Appendix C of the Transmission Owners Agreement, which can only be modified by unanimous agreement of the Transmission Owners; thus, no revision to the tariff is necessary.

**2. Section 30.9 Credits - Rate of Return**

**a. Proposal and Comments**

20. Section 2 of the Credits Calculation Procedure states that the “revenue requirements shall be based on a rate of return equal to the network customer’s previous year’s actual cost of debt.”

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<sup>11</sup> Rate Schedule No. 1, Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation (Transmission Owners Agreement).

21. Midwest Municipals aver that the proposed language denies equity returns on customer facilities and is illegal and unjustified. Midwest Municipals state that, although this language could be interpreted to mean only that Section 30.9 credits will reflect MMTG, MEAN, and others' actual cost of debt to the extent that customer-owned transmission is debt financed, it could also be interpreted to mean that MMTG and MEAN's transmission equity will be ignored and excluded from their transmission costs. Midwest Municipals further argue that this new language represents a major change from language in the currently applicable MidAmerican OATT and the ASM Tariff. Thus, Midwest Municipals seek rejection of the restrictive proposed tariff language that could be interpreted to preclude their seeking returns on their actual equity at the Midwest ISO-approved rate.

22. Midwest Municipals also contend that Applicants seek to otherwise restrict section 30.9 credits. Midwest Municipals point to the following paragraph contained in the transmittal letter:<sup>12</sup>

MidAmerican will distribute to the [network] customers owning transmission a portion of the revenues MidAmerican receives from the Midwest ISO. The portion of the revenues to be distributed shall be based on only those revenues attributable to transmission investment. In particular, any revenues MidAmerican receives for ancillary services, direct assignment facility charges, or other charges not associated with transmission investment shall not be included in determining the revenues to be distributed to other entities included in MidAmerican's Attachment O.

23. Midwest Municipals state that they do not know what other exclusions are intended, if any, in determining the revenues to be distributed, or how the proposed language will be implemented. Midwest Municipals state that their concern is that the language that "the revenues to be distributed shall be based on only those revenues attributable to transmission investment" combined with the language "any revenues MidAmerican received for ancillary services, direct assignment facility charges, or other charges not associated with transmission investment shall not be included in determining the revenues to be distributed to other entities included in MidAmerican's Attachment O" can easily be read to exclude third-party revenues or other revenues that should be shared among transmission owners. Midwest Municipals also state that should the language also be deemed applicable to Midwest ISO Transmission Owner revenue sharing, it would have the same disabilities of being open-ended and unclear in intent. Midwest Municipals aver that such vague language, which can be read to exclude third-party revenues or other revenues that should be shared among Transmission Owners, should not be allowed.

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<sup>12</sup> Midwest ISO and MidAmerican Transmittal Letter at page 6.

**b. Commission Determination**

24. As previously addressed in an order addressing an offer of settlement among Midwest ISO Transmission Owners with facilities in a single joint pricing zone, the Commission has established that municipals and cooperatives are entitled to earn equity returns at the same rate as other Transmission Owners.<sup>13</sup> We find that network customers receiving credits for their integrated facilities under section 30.9 of the ASM Tariff should similarly be able to earn equity returns as do Transmission Owners. We therefore require Applicants to submit a compliance filing, within 30 days of the date of this order, to amend the Credits Calculation Procedure to provide that network customers may recover equity costs.

25. The Midwest Municipals also express concern that the transmittal letter is unclear and that they do not know what other exclusions are intended, if any, in determining the revenues to be distributed, or how the proposed language will be implemented. We find that the statement in the Applicants' transmittal letter does not alter the language in section 30.9 of the Midwest ISO ASM Tariff which provides that the calculation of any credit for customer-owned transmission facilities would be addressed in either the network customer's service agreement or any other agreement between the Parties. In addition, section 4 of the proposed Credit Calculation Procedure states that MidAmerican and each network customer will enter into separate agreements to govern the pass-through and distribution of revenues. Such agreements will need to be filed with the Commission under section 205 of the FPA. Thus this issue is not properly before the Commission here.

**3. Attachment O Template**

**a. Comments**

26. Midwest Municipals also indicate a problem with the treatment of operation and maintenance expenses booked to transmission expense in the proposed Attachment O-MidAmerican template. According to Midwest Municipals, the problem with the Attachment O formulation is that allocation factor "TE" is multiplied by the total company amount of transmission operation and maintenance expenses before deducting Load-Serving Entity (LSE) expenses included in transmission operation and maintenance expense accounts and expenses booked to Account No. 565, Transmission by Others. Midwest Municipals aver that instead, allocation factor "TE" should be multiplied by the net amount of transmission operation and maintenance expenses after deducting the LSE expenses included in transmission operation and maintenance accounts and expenses booked to Account No. 565. According to Midwest Municipals, this error would cause

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<sup>13</sup> *Midwest Indep. Trans. Sys. Operator, Inc.*, 106 FERC ¶ 61,219 (2004), *order on reh'g*, 112 FERC ¶ 61,351 (2005).



the transmission owner's annual transmission revenue requirement to be misstated. Midwest Municipals believe that the proposed Attachment O-MidAmerican template intended to exclude transmission paid to others from reimbursement through Midwest ISO rates, but that amount should be deducted before being multiplied by factor "TE." Midwest Municipals maintain that this error will cause other allocations to change as a result and must be corrected.

**b. Commission Determination**

27. We agree that the application of the transmission expense allocator to total transmission expenses, and prior to the removal of transmission operation and maintenance expenses booked to Account No. 565, is in error and would produce understated transmission operation and maintenance expenses that would be included in the annual transmission revenue requirement. This understatement of operation and maintenance expenses and by extension the annual transmission revenue requirement would affect MidAmerican and any transmission-owning customer seeking to recover expenses for their investment in the MidAmerican pricing zone. While this error is embodied in the existing generic Attachment O rate formula template, we will require correction of this error in the Attachment O-MidAmerican template, because MidAmerican proposes to apply this formula to calculate network customer credits under section 30.9 of the ASM Tariff. Because such network customers will largely be transmission-dependent utilities who own limited transmission facilities but incur significant expenses for transmission by others, this error would unduly disadvantage such entities in calculation of their annual transmission revenue requirement. In this regard, we take note of the example provided by Midwest Municipals, where expenses in Account No. 565, "Transmission By Others," represent seventy-five (75) percent of the total operations and maintenance expense, and the error results in negative transmission operation and maintenance expenses being allocated to the transmission revenue requirement. We believe this example could be indicative of the actual impact this error could have on smaller utilities that are largely transmission dependent. Accordingly, we will require Applicants to correct this error in the Attachment O-MidAmerican template in a compliance filing to be submitted within 30 days of the date of this order.

**4. Service Fee**

**a. Proposal and Comments**

28. Section 4 of the proposed Credits Calculation Procedure states that MidAmerican shall charge each network customer owning transmission a monthly fee for billing, accounting and data management services.

29. Midwest Municipals state that while they do not object to paying MidAmerican reasonable charges for services it provides, the costs in question are ill defined, and the only limit on the charges is that the "charge for such services shall not be such that on an

annual basis the charge will not exceed the revenues to be distributed.” The protesters assert that Applicants have not provided justification that their proposed service fee is reasonable and cost-based.

**b. Commission Determination**

30. It appears that the intent of this language is that recovery of such costs is not included under Attachment O but would be included under the separate agreement to govern the pass-through and distribution of revenues to be entered into between MidAmerican and each network customer owning integrated transmission facilities. We find that the language pertaining to recovery of billing, accounting and data management services is insufficient to serve as a formula rate. We will therefore require Applicants to submit a compliance filing, within 30 days of the date of this order, to add language providing that any service fees will be included in the separate agreements that govern pass-through and distribution of revenues and filed under section 205 of the FPA along with appropriate support for the charges.

**5. Insufficient Support for Initial Rate and Lack of Update Protocols**

**a. Comments**

31. The ICC maintains that the filing does not contain sufficient supporting detail for parties to assess the justness and reasonableness of the initial rate that would result from the proposed formula rate; nor does the filing include a rate formula update protocol setting forth a timeline and procedures allowing customers and other interested stakeholders to review and evaluate the variable inputs into the formula in subsequent years. Accordingly, the ICC recommends that the Commission direct MidAmerican to (1) populate its proposed formula template with the initial period’s data; (2) develop a comprehensive rate update protocol; and (3) file those documents with the Commission for review and approval.

**b. Commission Determination**

32. In MidAmerican’s answer in opposition to request for extension of time filed on June 22, 2009, it noted that its use of Attachment O will indeed be governed by appropriate rate update protocols, i.e., the same rate update protocols that exist in the Midwest ISO ASM Tariff and which will be applicable to MidAmerican’s transmission rates. We find that these update protocols are sufficient and that the ICC has not provided information to suggest that they are not.

33. Regarding whether MidAmerican must populate the formula template with the initial period’s data, we find that no such filing is necessary. In previous filings made by

Midwest ISO Transmission Owners, the Commission has found that formula rates using the Midwest ISO Attachment O formula template are just and reasonable.<sup>14</sup>

## 6. Request for Conference or Hearing

### a. Comments

34. Midwest Municipals request that the Commission hold a conference or hearing addressing all of the integration-related filings<sup>15</sup> to ensure that third-party rights are protected. Midwest Municipals believe that the Commission should consider all of the filings related to the integration of MidAmerican with Midwest ISO together and list in the protest all the major issues they have raised in all of the pleadings in the integration-related proceedings (even if those issues are not related to this proceeding). Midwest Municipals list five major concerns that they have raised in the various integration-related proceedings.

35. Midwest Municipals list a concern related to two preexisting Joint Investment and Ownership Agreements and a concern related to transmission planning rights under a 2005 Agreement and Memorandum with MidAmerican. Midwest Municipals raise these concerns in their protest in Docket No. ER09-1248-000. Midwest Municipals also list a concern related to the possibility that there may not be sufficient FTRs and/or Auction Revenue Rights (ARRs) to offset congestions costs. Midwest Municipals raise that concern in their protest in Docket No. ER09-1246-000. Each of these concerns is addressed in the order being issued concurrently in Docket No. ER09-1246-000, *et al.*<sup>16</sup>

36. As related to the instant filing, Midwest Municipals list a concern related to inclusion of municipally-owned facilities into Midwest ISO and compensation for these facilities without a gap in payment, and a concern related to transmission owner status. Midwest Municipals state that many municipally-owned facilities are now included in the MidAmerican grid and receive section 30.9 credits under the MidAmerican OATT. Midwest Municipals assert that, although Applicants say that these facilities may be compensated under section 30.9 of the ASM Tariff, there is no assurance that all municipal costs and facilities can be reviewed so that section 30.9 compensation in reasonable amounts begins for all municipal transmission on September 1, 2009. Midwest Municipals also state that it makes more sense to have a Midwest ISO transmission owning entity include MMTG and MEAN's facilities in the new

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<sup>14</sup> See, e.g., *International Transmission Co.*, 116 FERC ¶ 61,036 (2006).

<sup>15</sup> See *supra* P 3-5.

<sup>16</sup> See 128 FERC ¶ 61,046 (2009) *Midwest Indep. Transmission Sys. Operator, Inc.*, (2009).

MidAmerican pricing zone; to include the costs of municipal facilities in zonal transmission costs; and to share revenues among zonal transmission owners. Again, Midwest Municipals cite a lack of assurance that MMTG and MEAN can arrange to have new or existing Midwest ISO transmission owning entities approved through Midwest ISO processes and have these facilities included by September 1, 2009 (including Midwest ISO approval of municipal facilities and costs).

**b. Commission Determination**

37. In MidAmerican's June 22, 2009 response to Midwest Municipals' protest in Docket No. ER96-719-025, *et al.*, MidAmerican addresses these same two issues by stating that MidAmerican has committed (and confirmed that the Midwest ISO likewise has committed) to cooperate fully with the Midwest Municipals toward a smooth transition. MidAmerican explains that Midwest ISO representatives have confirmed that they can meet the September 1, 2009 transition date for recovery of transmission investment if the transmission owning entities seeking to continue their current crediting arrangements or to become Midwest ISO Transmission Owners provide the necessary cost data and execute the requisite agreements by June 30, 2009. MidAmerican further states that this filing included provisions for entities who will be network customers under the ASM Tariff to include in MidAmerican's Attachment O transmission rate template revenue requirements for their investments in integrated transmission facilities located in the MidAmerican pricing zone.

38. We believe these assurances should satisfy Midwest Municipals' concerns. Further, since we address Midwest Municipals' concerns in this order and the companion order in Docket No. ER09-1246-000, *et al.*, we find that a conference and hearing are not necessary.

The Commission orders:

Midwest ISO's filing is hereby conditionally accepted, effective September 1, 2009, subject to Applicants making a compliance filing within thirty (30) days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.