

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Midwest Independent Transmission
System, Inc.

Docket No. ER05-1435-000

ORDER ACCEPTING TARIFF FILING

(Issued October 26, 2005)

1. In this order, the Commission accepts Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) filing of signature pages to the Midwest ISO Agreement,¹ thereby facilitating GridAmerica Companies² becoming transmission owners under the Agreement.³ The Commission also directs GridAmerica Companies to submit, for informational purposes, signature pages to the Appendix I Supplemental Agreement.⁴

Background and Filing

2. On October 1, 2003, ATSI and NIPSCO, and on May 1, 2003, AmerenUE and Ameren CIPS (collectively, GridAmerica Companies) transferred functional control of their transmission facilities to the Midwest ISO through their participation in GridAmerica LLC (GridAmerica), an independent transmission company (ITC). In April 2005, GridAmerica Companies indicated that it would withdraw from

¹ The Agreement of Transmission Facility Owners to Organize the Midwest Independent Transmission System Operator, Inc. (Midwest ISO Agreement).

² The GridAmerica Companies are: Ameren Services Company (Ameren), American Transmission Systems, Inc. (ATSI), and Northern Indiana Public Service Company (NIPSCO).

³ Midwest ISO Agreement, Article I, section 1(I) defines "owner" as a utility which owns, operates, or controls transmission facilities and is a signatory to the Midwest ISO Agreement.

⁴ On December 20, 2001, the Commission, in Docket No. ER01-3000-000, *et al.*, approved the Appendix I Supplemental Agreement. *See International Transmission Company*, 97 FERC ¶ 61,328 (2001) (Supplemental Agreement Order).

GridAmerica, pursuant to section 2.3 of the Appendix I Agreement. GridAmerica Companies stated that it would instead participate in the Midwest ISO and be subject to the Midwest ISO Agreement, as set forth in section 2 of the Appendix I ITC Agreement.

3. Section 2 of the Supplemental Agreement⁵ by and among the Midwest ISO, GridAmerica, GridAmerica Companies and the Midwest ISO Transmission Owners,⁶ provides that if any of the GridAmerica Companies withdraws from GridAmerica and requests membership with the Midwest ISO, GridAmerica Companies would become a party to the Midwest ISO Agreement. Section 2.3 of the Appendix I ITC Agreement provides that GridAmerica Companies, upon withdrawal of their facilities from GridAmerica, would automatically become members of the Midwest ISO for a term ending no earlier than five (5) years from the “control date.”⁷

4. In the instant filing, on September 1, 2005, Midwest ISO submitted signature pages to the Midwest ISO Agreement executed by Ameren, ATSI and NIPSCO, respectively. The executed signatory pages will allow GridAmerica Companies to become owners under the Midwest ISO Agreement as of October 1, 2003, in the case

⁵ The July 10, 2003 Supplemental Agreement by and among the Midwest ISO, GridAmerica, GridAmerica Companies and the Midwest ISO Transmission Owners.

⁶ For purposes of the Supplemental Agreement, the “Midwest ISO Transmission Owners” are: Central Illinois Light Co. d/b/a AmerenCILCO; Aquila Inc. d/b/a Aquila Networks (f/k/a Utilicorp United Inc.); Cinergy Services, Inc. (for Cincinnati Gas & Electric Co., PSI Energy, Inc., and Union Light Heat & Power Co.); City Water, Light & Power (Springfield, IL); Hoosier Energy Rural Electric Cooperative, Inc.; Indiana Municipal Power Agency; Indianapolis Power & Light Company; LG&E Energy Corp. (for Louisville Gas & Electric Co. and Kentucky Utilities Co.); Lincoln Electric System; Michigan Electric Transmission Company, LLC; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northwestern Wisconsin Electric Company; Otter Tail Corporation d/b/a 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 Associate, Inc.

⁷ “Control date” refers to the date when GridAmerica Companies transferred functional control of their transmission system to GridAmerica, and hence, to Midwest ISO. The control date for ATSI and NIPSCO is October 1, 2003, and May 1, 2004 for Ameren.

of ATSI and NIPSCO, and as of May 1, 2004, in the case of Ameren.⁸ Midwest ISO requests an effective date of November 1, 2005 for the signature pages to the Midwest ISO Agreement.

Notice of Filing and Responsive Pleadings

5. Notice of the Midwest ISO's filing was published in the *Federal Register*, 70 Fed. Reg. 54,735 (2005), with interventions and protests due on or before September 22, 2005. International Transmission Company (International Transmission) filed a motion to intervene and comments. In response, GridAmerica Companies filed an out-of-time intervention and answer to International Transmission's comments.

6. While International Transmission does not object to GridAmerica Companies participating as owners in the Midwest ISO, International Transmission, however, contends that GridAmerica Companies must satisfy the additional requirement of the Supplemental Agreement to the Appendix I Agreement executed between International Transmission, Midwest ISO, and the Midwest ISO Transmission Owners. Specifically, International Transmission argues that GridAmerica Companies must sign the Appendix I Supplemental Agreement in order to satisfy the requisite conditions for being granted ownership status in the Midwest ISO pursuant to section 3.5. Section 3.5 states:

The parties agree that any person or entity seeking to join Midwest ISO as an Owner shall, as a condition to being granted such Owner status, be required to sign this Agreement and to be bound by all of its terms and conditions.

International Transmission therefore requests that the Commission direct GridAmerica Companies to sign the Appendix I Supplemental Agreement prior to November 1, 2005, if they have not already done so.

⁸ This filing was submitted contemporaneously with Docket No. ER05-1436-000. In that docket, American Transmission system, Inc. filed a Notice of Cancellation, giving notice that effective midnight October 31, 2005, GridAmerica will cease operations of the transmissions facilities owned by GridAmerica Companies operating in the Midwest ISO footprint and that Midwest ISO would assume functional control.

7. In their answer, GridAmerica Companies contend that although International Transmission, to the best of its knowledge, has never asserted this requirement previously,⁹ they will, however, execute the Appendix I Supplemental Agreement prior to November 1, 2005. Additionally, GridAmerica Companies request that the signature pages to the Appendix I Supplemental Agreement be effective November 1, 2005 to facilitate GridAmerica Companies becoming owners under the Midwest ISO.

Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motion to intervene serve to make International Transmission a party to this proceeding. Given the early stage of this proceeding, the absence of any undue prejudice or delay, and its interest in this proceeding, we grant GridAmerica Companies' untimely, unopposed motion to intervene.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 384.213(a)(2) (2004), prohibits an answer to protests unless otherwise ordered by the decisional authority. We will accept GridAmerica's answer because it has provided information that assisted us in our decision-making process.

B. Commission Conclusion

10. We will accept the signature pages to the Midwest ISO Agreement, subject to GridAmerica Companies executing the Appendix I Supplemental Agreement prior to November 1, 2005, in order for Midwest ISO to assume functional control over the transmission facilities owned by GridAmerica Companies upon GridAmerica's termination of operations at midnight October 31, 2005.

11. We note that International Transmission has previously sought that all Midwest ISO Owners be signatories to the Appendix I Supplemental Agreement, contrary to GridAmerica's assertion, and the Commission concurred that it is "reasonable [to] require potential Midwest ISO owners to sign the Supplemental Agreement committing the applicant to be bound by all terms of the agreement."¹⁰ Given GridAmerica Companies' commitment to execute the Appendix I Supplemental Agreement with Midwest ISO, we find that International Transmission's concerns have thus been addressed.

⁹ GridAmerica Companies Answer at 2.

¹⁰ See Supplemental Agreement Order at 19-20.

The Commission orders:

(A) The Midwest ISO's filing of signature pages to the Midwest ISO Agreement is hereby accepted, to become effective November 1, 2005, as discussed in the body of this order.

(B) Midwest ISO is hereby directed to file, for informational purposes, signature pages for GridAmerica Companies to the Appendix I Supplemental Agreement under docket numbers ER05-1435-000 and ER01-3000-000 within fifteen (15) days from the date of the this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.