

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 Operator Inc.	Docket Nos.	ER06-187-000 ER06-187-001
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ORDER CONDITIONALLY ACCEPTING INTERCONNECTION AGREEMENT

(Issued April 7, 2006)

1. On November 10, 2005, as amended on February 7, 2006, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed an executed Large Generator Interconnection Agreement (Interconnection Agreement) among the Midwest ISO, Valley View Transmission, LLC (Valley View or Interconnection Customer), and Great River Energy (Great River or Transmission Owner). In this order, we accept the Interconnection Agreement, to become effective October 28, 2005, subject to conditions, as discussed below.

I. Background

2. On September 12, 2005, as amended September 15 and 16 and December 15, 2005, the Midwest ISO filed, in Docket Nos. ER05-1475-000, ER05-1475-001, ER05-1475-002, and ER05-1475-003, proposed revisions to its Open Access Transmission and Energy Markets Tariff (TEMT), Attachment X, which contains the Midwest ISO's Large Generator Interconnection Procedures (LGIP) and *pro forma* Large Generator Interconnection Agreement (LGIA). The Midwest ISO proposed a September 13, 2005 effective date for those proposed revisions. The Commission conditionally accepted those proposed revisions to the Midwest ISO's *pro forma* LGIA to take effect November 16, 2005.¹

3. The Interconnection Agreement is based on the version of Midwest ISO's LGIP and *pro forma* LGIA that was pending in Docket No. ER05-1475-000, *et al.*, on the date that the Interconnection Agreement was executed, October 28, 2005. It governs the

¹ *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,134 (2006).

interconnection of a generator consisting of six wind turbines with a total net output of less than 10 MW to the transmission system. The Interconnection Customer owns and operates a collection system, a substation and other common equipment that provides outlet, transformation and transmission to facilitate the interconnection of the generator to the transmission system.

4. The Midwest ISO proposes certain provisions that do not conform with the version of its *pro forma* LGIA that was pending in Docket No. ER05-1475-000, *et al.* when this Interconnection Agreement was executed. These non-conforming provisions include changes to certain language to “bridge” the transition from the Midwest ISO’s pre-Order No. 2003 and its post-Order No. 2003² processing of interconnection requests. They reflect the fact that processing of the Interconnection Customer’s interconnection request began under the Midwest ISO’s pre-Order No. 2003 interconnection procedures. The Midwest ISO also proposes non-conforming provisions that the Midwest ISO states reflect the operational requirements and unique characteristics of the interconnection. Specifically, the Midwest ISO proposes: (1) non-conforming provisions necessary to reflect the fact that the Interconnection Customer that owns and operates a collection system, but does not own the interconnecting generator; and (2) a number of non-conforming provisions necessary to reflect the fact that the Interconnection Agreement governs the interconnection of a small generating facility and that Valley View elected that the facility be studied under the Midwest ISO’s LGIP, and to execute the Midwest ISO’s *pro forma* LGIA in order to secure Network Resource Interconnection Service. Finally, the Midwest ISO proposes non-conforming provisions that it states were negotiated by the Interconnection Customer and Transmission Owner.

5. The Midwest ISO requests waiver of the Commission’s 60-day prior notice requirement so that the proposed Interconnection Agreement may become effective on October 28, 2005.

II. Notice of Filing And Responsive Pleadings

6. Notice of the Midwest ISO’s November 10, 2005, filing was published in the *Federal Register*, 70 Fed. Reg. 71,124 (2005), with interventions and protests due on or before December 1, 2005. On November 23, 2005, Great River filed a timely motion to intervene without raising any issues. Notice of the Midwest ISO’s February 7, 2006

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh’g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh’g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh’g*, Order No. 2003-C, 70 Fed. Reg. 37,661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005).

amendment was published in the *Federal Register*, 71 Fed. Reg. 9,536 (2006), with interventions and protests due on or before February 28, 2006. None was filed.

III. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), Great River's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Analysis

8. In Order No. 2003, the Commission required Transmission Providers (such as the Midwest ISO) to file *pro forma* interconnection documents and to offer their customers interconnection service consistent with these documents. The use of *pro forma* documents ensures that Interconnection Customers receive non-discriminatory service and that all Interconnection Customers are treated on a consistent and fair basis. Using *pro forma* documents also streamlines the interconnection process by eliminating the need for an Interconnection Customer to negotiate each individual agreement. This reduces transaction costs and reduces the need to file interconnection agreements with the Commission to be evaluated on a case-by-case basis.³

9. At the same time, the Commission recognized in Order No. 2003 that there would be a small number of extraordinary interconnections where reliability concerns, novel legal issues or other unique factors would call for non-conforming agreements.⁴ The Commission made clear that the filing party must clearly identify the portions of the interconnection agreement that differ from its *pro forma* agreement and explain why unique circumstances of the interconnection require a non-conforming interconnection agreement.⁵ The Commission analyzes such non-conforming filings, which we do not expect to be common, to ensure that operational or other reasons necessitate the non-

³ See Order No. 2003 at P 10 ("it has become apparent that the case-by-case approach is an inadequate and inefficient means to address interconnection issues").

⁴ Order No. 2003 at P 913-15.

⁵ Order No. 2003-B at P 140 ("each Transmission Provider submitting a non-conforming agreement for Commission approval must explain its justification for each non-conforming provision").

conforming agreement. Based on this policy, the Commission accepts the Midwest ISO's filing, subject to conditions, effective October 28, 2005.⁶

10. The Midwest ISO proposes non-conforming provisions necessary to reflect the fact that processing of the Interconnection Customer's interconnection request began under the Midwest ISO's pre-Order No. 2003 interconnection procedures.⁷ We have previously found such non-conforming provisions just and reasonable, in substantially the same circumstances, because they are necessary to reflect the transition from the Midwest ISO's pre-Order No. 2003 to its post-Order No. 2003 processing of interconnection requests.⁸ Accordingly, we will accept these proposed non-conforming provisions from the *pro forma* LGIA.

11. In addition, the Midwest ISO proposes: (1) non-conforming provisions necessary to reflect the fact that the Interconnection Customer owns and operates a collection system, but does not own the generator;⁹ and (2) non-conforming provisions it argues are necessary to reflect the fact that the Interconnection Agreement governs the interconnection of a small generating facility and that Valley View elected that the facility be studied under the Midwest ISO's LGIP, and to execute the Midwest ISO's *pro forma* LGIA in order to secure Network Resource Interconnection Service. We find these non-conforming provisions just and reasonable because they are necessary to reflect

⁶ *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61,984, *order on reh'g*, 65 FERC ¶ 61,081 (1993) (granting waiver for agreements implementing service under umbrella tariffs if the agreement is filed within 30 days after service commences).

⁷ These non-conforming provisions are in the definitions of Interconnection Facilities Study, Interconnection Facilities Study Agreement, Interconnection Feasibility Study, Interconnection Feasibility Study Agreement, Interconnection Request, Interconnection Study, Interconnection System Impact Study, and Interconnection System Impact Study Agreement, and in Article 4.1 of the Interconnection Agreement.

⁸ *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,421 at P 15 (2005).

⁹ The modifications proposed include a new defined term, "Facility," and revisions to the definitions of Generating Facility, Commercial Operation, Distribution Upgrades, Large Generating Facility, and to Article 24.4.

factors unique to this particular interconnection that the *pro forma* LGIA does not address and are consistent with our interconnection policies.¹⁰

12. The Midwest ISO also proposes substantive and non-substantive non-conforming provisions that it simply states were negotiated by the Interconnection Customer and Transmission Owner,¹¹ and has also proposed non-conforming provisions in the definition of Demonstrated Capability, without supporting these non-conforming provisions. We reject these unsupported non-conforming provisions.¹²

13. Finally, provisions of interconnection agreements have to comply with the *pro forma* LGIA that is on file with the Commission at the time the interconnection agreement is executed. Certain provisions of the Interconnection Agreement reflect proposed revisions to the Midwest ISO's *pro forma* LGIA that were pending in Docket No. ER05-1475-000, *et al.*, when the Interconnection Agreement was executed on October 28, 2005. On February 13, 2006, the Commission conditionally accepted those proposed revisions to the Midwest ISO's *pro forma* LGIA, to take effect November 16, 2005. Accordingly, the Midwest ISO is directed to file, within 30 days of the date of this order, revisions to the proposed Interconnection Agreement to conform it to the *pro forma* LGIA that was in effect on October 28, 2005, the date when the Interconnection Agreement was executed.

¹⁰ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 70 Fed. Reg. 34,190 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 at P 140 (2005) (a small generating facility wishing to obtain Network Resource Interconnection Service may obtain it by requesting interconnection under the LGIP and executing the LGIA), *order on reh'g*, Order No. 2006-A, 70 Fed. Reg. 71,760 (Nov. 30, 2005), FERC Stats. & Regs., Regulations Preambles, ¶ 31,196 (2005); *reh'g pending*.

¹¹ These non-conforming provisions include revisions to the definitions of Confidential Information, Effective Date, Energy Resource Interconnection Service, FERC, Large Generator Interconnection Agreement, Loss, Optional Interconnection Study Agreement, Point of Change of Ownership, Reasonable Effort, Tariff, and "Transmission Owner" and non-conforming provisions in Articles 2.4, 4.1.1.2, 4.1.2.1, 4.1.2.2, 4.2, 4.3, 5.1, 5.10, 5.10.1-5.10.3, 5.11, 5.14, 5.16, 5.17.7, 7.1, 7.4, 9.9.2, 10.5, 11.4.1, 11.4.2, 12.4, 13.4.1, 17.1.2, 18.1, 18.2, 18.2.1, 18.4.5, 18.4.6, 18.4.10, 20.1, 22.1.2, 22.1.10, 22.1.11 and 27.1. In addition, the definitions of "Group Studies" and Articles 5.16.2 and 5.16.3 were deleted from the LGIA.

¹² *See, e.g., PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,098 at P 14 (2005).

The Commission orders:

(A) The proposed Interconnection Agreement is hereby accepted for filing, effective October 28, 2005, subject to the conditions discussed in the body of this order.

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

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.