

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
And Nora Mead Brownell.

Alliance Companies

Docket No. EL02-65-000

Ameren Services Company  
On behalf of:

Union Electric Company  
Central Illinois Public Service Company

American Electric Power Service Corporation  
On behalf of:

Appalachian Power Company  
Columbus Southern Power Company  
Indiana Michigan Power Company  
Kentucky Power Company  
Kingsport Power Company  
Ohio Power Company  
Wheeling Power Company

Dayton Power and Light Company

Exelon Corporation  
On behalf of:

Commonwealth Edison Company  
Commonwealth Edison Company  
of Indiana, Inc.

FirstEnergy Corporation  
On behalf of:

American Transmission Systems, Inc.  
Cleveland Electric Illuminating Power Company  
Ohio Edison Company

Docket Nos. EL02-65-000  
and RT01-88-016

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Pennsylvania Power Company  
Toledo Edison Company

Illinois Power Company

Northern Indiana Public Service Company

and

National Grid USA

Alliance Companies

Docket No. RT01-88-016

Ameren Services Company  
On behalf of:

Union Electric Company  
Central Illinois Public Service Company

American Electric Power Service Corporation  
On behalf of:

Appalachian Power Company  
Columbus Southern Power Company  
Indiana Michigan Power Company  
Kentucky Power Company  
Kingsport Power Company  
Ohio Power Company  
Wheeling Power Company

Consumers Energy Company and  
Michigan Electric Transmission Company

Dayton Power and Light Company

Exelon Corporation

On behalf of:

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FirstEnergy Corporation  
On behalf of:

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Ohio Edison Company  
Pennsylvania Power Company  
Toledo Edison Company

Illinois Power Company

Northern Indiana Public Service Company

Virginia Electric and Power Company

## ORDER ON PETITION FOR DECLARATORY ORDER

(Issued April 25, 2002)

This order addresses a request by the Alliance Companies and National Grid USA (National Grid) (collectively, Petitioners)<sup>1</sup> that the Commission find that certain proposed

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<sup>1</sup>Petitioners note that Virginia Electric and Power Company and Consumers Energy (and its subsidiary Michigan Electric Transmission Company) did not join in this filing even though they are part of the Alliance Companies. Petitioners also note that American Electric Power Company (AEP), in connection with its merger with Central and South West Corporation, committed to join RTO(s) for both its East and West Systems, and that AEP views this filing as a means for it to complete the implementation of this commitment since the Commission's action will allow AEP to promptly make an informed choice as between participation in an Independent Transmission Company

(continued...)

policy resolutions provide an appropriate basis for the participation of Alliance in the Midwest ISO.<sup>2</sup> The order benefits customers as it provides certainty and direction to Petitioners and furthers the Commission's goal of successful Regional Transmission Organization (RTO) development and operation.

Today's order establishes an efficient and effective framework for hybrid RTO formation. This framework successfully captures the benefits associated with large, regional RTOs and simultaneously captures the significant benefits associated with the ITC business model. Under the hybrid RTO model approved today ITCs will have the opportunity to profitably own and manage their independent transmission businesses through a combination of efficiency enhancements; operational, service and contractual innovations; and, in general, exploiting their significant experience and insights into the efficient utilization and expansion of the nation's transmission infrastructure.

We have long recognized that the ITC business model can bring significant benefits to the industry. Their for-profit nature with a focus on the transmission business is ideally suited to bring about: (1) improved asset management including increased investment, (2) improved access to capital markets given a more focused business model than vertically-integrated utilities, (3) development of innovative services, and (4) additional independence from market participants. For example, under the hybrid RTO model approved today an ITC may file revenue requirements and incentive rate mechanisms under section 205 after collaboration with the RTO, thus ensuring rate recovery including risk-based return on investment. ITCs may control outages and provide input (e.g., near-term facility ratings) into the calculation of available transmission capability, thus allowing the ITC to earn risk-based rewards for efficient performance.

The decisions we are making today regarding the division of responsibilities between ITCs and RTOs are not set in stone. As we and the industry gain operating experience under this hybrid RTO model, these divisions of responsibility may evolve and additional opportunities may develop for ITCs. We advise the Alliance Companies to

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<sup>1</sup>(...continued)  
(ITC) under the Midwest ISO or PJM.

<sup>2</sup>See Appendix C for a map of the two organizations. We note that while we have granted the Midwest ISO status as an RTO, the Midwest ISO has not changed its legal name. Thus, we will use "Midwest ISO" in this order.

review today's TRANSLink order for a more comprehensive discussion of issues related to delegating of RTO functions because that order addresses some delegation of RTO functions issues raised by Alliance.

Importantly, the guidance provided herein regarding the rate design and delegation of functions is intended, however, to be applicable to Petitioners regardless of whether they join PJM, Midwest ISO or another RTO.<sup>3</sup> We also clarify that, if any of the Illinois Companies (Illinois Power Company, Commonwealth Edison Company, or Ameren Corporation) join an RTO other than the Midwest ISO, that company would not be entitled to a refund of the relevant portion of the \$60 million withdrawal fee under the Illinois Power Settlement.<sup>4</sup>

This order now marks the seventh significant order regarding Petitioners' RTO plans and, with the guidance provided below, we expect that this order will be one of the last to address Petitioners' RTO plans. By filing dated March 6, 2002, Petitioners requested expedited action and styled this request as their final attempt to find a way to accommodate Alliance as a viable transmission business under the Midwest ISO umbrella. We have accommodated Petitioner's request for expedited action and now expect prompt compliance with our December 20, 2001, order requiring Petitioners to explore joining an RTO. See Alliance Companies, et al., 97 FERC ¶ 61,327 at 62,529-531 (2001) (Alliance VI Order).

As discussed below, we will grant, in part, and deny, in part, the Petition, and will require Petitioners to file a compliance filing within 30 days of the date of this order. This compliance filing must detail which RTO Petitioners plan to join and whether such participation will be collective or individual.<sup>5</sup> Should Petitioners decide to join the

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<sup>3</sup>See Appendix D for a summary of the decisions made in this order regarding the delegation of functions between the two organizations.

<sup>4</sup>See Illinois Power Company, 95 FERC ¶ 61,183, reh'g denied, 96 FERC ¶ 61,026 (2001).

<sup>5</sup>We remind Petitioners that various Alliance Companies have made commitments in Commission-related merger proceedings to join an RTO. These companies are as follows: AEP, Exelon Corporation, FirstEnergy Corporation, Illinois Power Company, and Virginia Electric and Power Company. See American Electric Power Company, et al., 90 FERC ¶ 61,242 (2000); Commonwealth Edison Company, et al., 91 FERC ¶

(continued...)

Midwest ISO, they are required in the compliance filing to detail their plans for the timing of such filing under Appendix I of the Midwest ISO Agreement taking into consideration our guidance herein and in the companion TRANSLink order.

## I. Background

On December 20, 2001, the Commission, in deciding whether to grant the Midwest ISO status as an RTO, noted that both the Midwest ISO and the Alliance Companies have spent considerable money and resources in developing and attempting to reconcile their competing proposals. The Commission concluded that the Midwest ISO's RTO proposal more fully complied with the vision and requirements of Order No. 2000,<sup>6</sup> in particular the requirement that an RTO be of sufficient scope. Therefore, the Commission granted the Midwest ISO RTO status, and stated that the Midwest ISO should serve as the foundation upon which a Midwest RTO should be built. Moreover, we stated that we were confident that the Alliance Companies' desire to be a viable transmission business could be accommodated under the Midwest ISO umbrella. See Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,326 at 62,500-01 (2001).

On December 20, 2001, the Commission also concluded that the Alliance Companies, which had filed for approval as a separate RTO, lacked sufficient scope to exist as a stand-alone RTO. Among other things, the Commission noted that the earlier findings on the adequacy of the Alliance RTO's scope<sup>7</sup> relied in part on the implementation of the Inter-RTO Cooperation Agreement (IRCA), which was intended to provide the basis for a seamless market in the territories served by the Midwest ISO and the Alliance RTO. The Commission noted that the expectation that the IRCA would provide the necessary coordination and agreement did not materialize into a concrete

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<sup>5</sup>(...continued)

61,036 (2000); Ohio Edison Company, et al., 94 FERC ¶ 61,291 (2001); Illinova Corporation, et al., 89 FERC ¶ 61,163 (1999); and Dominion Resources, Inc., et al., 89 FERC ¶ 61,162 (1999).

<sup>6</sup>Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), order on reh'g, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), aff'd sub nom. Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00-1174, et al. (D.C. Cir. 2001).

<sup>7</sup>See Alliance Companies, et al., 96 FERC ¶ 61,052 at 61,135 (2001).

plan. For example, the Commission found that the Alliance RTO and the Midwest ISO would use different methods to calculate available transmission capability (ATC) and total transmission capability (TTC); did not have the detailed operating protocols and procedures needed to accomplish one-stop shopping; did not operate under the authority of a single security coordinator; and would not have a common energy imbalance market. However, the Commission directed the Alliance Companies to explore how their business plan, including National Grid, could be accommodated within the Midwest ISO, e.g., via Appendix I. The Commission also directed the Alliance Companies to file a statement of their plans to join an RTO, including the timeframe, within 60 days of the date of that order. See Alliance VI Order, 97 FERC at 62,529-531.

Subsequently, on February 19, 2002, in Docket No. RT01-88-016, et al., the Alliance Companies filed a report on the status of negotiations to accommodate the Alliance business plan under an RTO umbrella. The Alliance Companies stated that, although the Commission directed the Alliance Companies to submit this report, National Grid, which would serve as the independent managing member of the Alliance GridCo,<sup>8</sup> actively participated in all of the negotiations described in the report and joined in the report. In this report the Alliance Companies and National Grid stated that they were continuing their discussions with the Midwest ISO and PJM and intended to supplement this report no later than March 5, 2002.

On March 5, 2002, the Alliance Companies filed a second report on the status of negotiations. In this report, the Alliance Companies and National Grid stated that

because it appears that further negotiations with the Midwest ISO will not be productive absent further guidance from the Commission, the Alliance Companies and National Grid request that the Commission act on a petition for declaratory order which they plan to file.

Separately, on March 5, 2002, in Docket No. RT01-88-000, et al., Consumers Energy Company and Michigan Electric Transmission Company filed a motion requesting that the Commission approve their alternative for integration of the Alliance organization into the Midwest ISO.

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<sup>8</sup> Alliance Companies state that the Alliance GridCo refers to the Alliance Transmission Company LLC that will be formed, with National Grid as managing member, provided that the Alliance Business model can be successfully accommodated within an RTO.

The above status reports and alternative proposal are now moot and are dismissed since these filings have been superseded by the Petition for Declaratory Order, which will be discussed below.

## II. Petition for Declaratory Order

On March 6, 2002, the Petitioners<sup>9</sup> filed a petition for a declaratory order, requesting that the Commission find that the proposed policy resolutions contained in the petition provide an appropriate basis for the participation of Alliance GridCo in the Midwest RTO. Petitioners ask that the Commission grant the petition expeditiously so that Alliance GridCo can complete system testing, conduct market participant training, and integrate its systems with the Midwest ISO with the goal of becoming operational by October 1, 2002.

Specifically, Petitioners assert that if Alliance GridCo is to participate within the Midwest ISO, the Commission should make the following findings: (1) the functional and operational relationship between the Midwest ISO and Alliance GridCo as set forth in the Affidavit of Nick Winser forms a reasonable basis for the participation of Alliance GridCo within the Midwest ISO; (2) Alliance GridCo should be permitted to use its own systems for the timely and cost-efficient start of operations; (3) prices for services purchased by Alliance GridCo from the Midwest ISO should be priced at the Midwest ISO's reasonably-incurred incremental costs, subject to verification and audit; (4) the transition period rate design and revenue distribution methodology described in the Affidavit of Stephen Henderson should be adopted for the Midwest ISO and Alliance GridCo; and (5) the Midwest ISO should refund \$60 million, plus interest, to the Illinois Companies.

## III. Notice of Filing and Comments

Notice of Petitioners' filing was published in the Federal Register, 67 Fed. Reg. 12,984 (2002), with comments, protests, and interventions due on or before March 28, 2002. The entities described in Appendices A and B filed in response.

## IV. Discussion

### A. Preliminary Matters

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<sup>9</sup>See supra note 1.

The notices of intervention of the state commissions and the timely, unopposed motions to intervene serve to make the intervenors listed in Appendix A parties to this proceeding. See C.F.R. § 385.214 (2001). Given the early stage of this proceeding and the absence of undue delay or prejudice, we find good cause to grant the untimely, unopposed interventions by certain parties.

Various commentors filed answers to various protests and answers. Although the Commission's Rules of Practice and Procedure do not generally permit answers to protests and answers to answers (see 18 C.F.R. § 385.213(a)(2) (2001)), given the complex nature of this proceeding and because the answers aid in clarifying certain issues, we will accept the various answers.

### B. Petitioners' Proposals

As a preliminary matter, we note that the findings we make below regarding Petitioners' proposals should not be viewed as limited to Petitioners' specific request to join the Midwest ISO. Petitioners should consider our findings as guidance with respect to their participation in any RTO they plan to join as a group or individually as separate ITC's.

#### (1) The Delegation of Functions Between Alliance GridCo and the Midwest RTO

##### Overview of the Delegation Proposal

Petitioners argue that an RTO should have two principal functions. First, it should design, develop, and operate the wholesale markets. Second, it should provide super-regional oversight of security and planning, and provide the means of reserving transmission capacity across the super-region. Petitioners state that they have included an agreement entitled "Operating Responsibility and Authority of the Midwest RTO and Alliance GridCo" (Exhibit B) between the Petitioners and the Midwest ISO that Petitioners recommend form the basis for the operational and functional relationship between the Midwest RTO and Alliance GridCo.<sup>10</sup> Petitioners assert that the recommended delegation of functions and operational relationship preserve the Midwest RTO's plenary authority and oversight responsibility, and also allows Alliance GridCo to manage and control the Alliance transmission facilities to assure their optimal use and to

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<sup>10</sup>Petitioners state that this Agreement was included in their February 19, 2002 status report filed in Docket No. RT01-88-016, et al.

maintain and protect their value. Petitioners claim that the delegation of functions recommended by Petitioners is very similar to the delegation of functions contained in the Memorandum of Understanding between TRANSLink and the Midwest ISO. Petitioners also claim that the delegation of functions resolves the key issues identified by the Commission in the Alliance VI Order relating to the inadequacy of the IRCA with respect to the calculation of available transmission capability (ATC) and total transmission capability (TTC), one-stop shopping, and a single security coordinator.

Petitioners explain that under Exhibit B the Midwest RTO will determine available flowgate capacity (AFC) and ATC values for the entire RTO region (including the Alliance area) and Alliance GridCo will provide the Midwest RTO with inputs for the AFC and ATC calculations including Alliance area system parameters, TTC, transmission reliability margin (TRM), and capacity benefit margin (CBM) values for the Alliance area. Petitioners also state that under Exhibit B one-stop shopping will be provided to customers seeking transmission service over any transmission facilities within the Midwest RTO region, including the Alliance area. Petitioners state that Alliance GridCo will administer transmission service reservations that involve the Alliance area using the single OASIS interface maintained by the Midwest RTO, and Alliance GridCo will be responsible for the administration of the OASIS node for the Alliance area. Finally, Petitioners note that while the Midwest RTO is the reliability authority for the entire Midwest RTO region, including the Alliance area, Alliance GridCo under the oversight of the Midwest RTO will have responsibility for managing security within the Alliance area. However, Petitioners state that as the regional reliability authority the Midwest RTO will be able at any time to intercede and direct appropriate action if it determines that conditions within the Alliance area are impacting on security outside of the Alliance area.

Below we will discuss specific aspects of the delegation proposal including relevant comments from the parties. Our rulings on the delegation of functions issues are based in our belief that for effective RTO operations, the RTO must have the overall authority and ultimate responsibility for the region. However, we believe that it is appropriate and, in fact, necessary that some functions with predominantly local characteristics be delegated to the ITC so long as the RTO has oversight authority in the event that local actions have a regional impact. We find that this is critical to successful RTO development and especially important given the characteristics of the interstate transmission grid. It has become increasingly evident in recent years that seemingly local issues often can and do impact the larger grid, and that is why we believe that centralized

RTO oversight is needed. We also remain concerned that vesting control into sub-regional entities may create seams which could easily lead to re-balkanization.<sup>11</sup>

At the onset, we note that two principles guide our determinations regarding the delegation of functions between the Midwest ISO and Alliance GridCo. First, consistent with our ruling in a companion order issued today, in the long term Alliance GridCo will be permitted to perform only those same functions which we authorize in the TRANSLink proceeding.<sup>12</sup> Second, we are guided by the premise that any delegation of functions to an ITC must be consistent with and further the Commission's goals in the SMD proceeding.<sup>13</sup>

1. Tariff Administration and Design and OASIS and TTC/ATC Proposal

Like TRANSLink, Alliance GridCo wishes to administer and control its own tariff. A significant difference, however, between the proposals is the type of transactions covered under the tariffs. Petitioners wish to control, under a separate tariff, transactions that not only occur solely within the Alliance footprint but also transactions which require transmission into or out of Alliance.<sup>14</sup> Moreover, under this tariff, Petitioners propose that they either have sole responsibility, or coordinate responsibility with the Midwest

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<sup>11</sup>We recognize that as the Midwest ISO and ITCs gain experience, they should, from time to time, reassess the assignment of the functions and reevaluate whether some that have been delegated to a local level need to be performed at a regional level and vice versa. Likewise, after the Commission's Electricity and Market Design and Structure (SMD) initiative is implemented, the assignment of functions may need to be reassessed. Finally, this order is subject to the final requirements in the Commission's SMD initiative.

<sup>12</sup>See Docket Nos. EC01-156-000 and ER01-3154-000. While Petitioners claim that their delegation proposal is "fundamentally" similar to TRANSLink's "and that any differences are belittled by the similarities" (Petition at 7) we disagree and as discussed below point out significant areas in which Petitioners proposal goes far beyond that requested in TRANSLink.

<sup>13</sup>See supra note 12.

<sup>14</sup>Petition, Winsor Affidavit Exh. C at 8.

ISO, for a number of significant areas such as ATC inputs,<sup>15</sup> operation of OASIS nodes, control of facilities studies, processing of interconnection requests, losses, scheduling, billing and settlements and certain ancillary services.<sup>16</sup> Finally, Petitioners propose that they have the sole responsibility for interacting with customers taking service under their tariff and that such interacting will include query resolution, dispute resolution, communications and training.<sup>17</sup>

### Intervenors' Comments

Numerous intervenors protest the proposed delegation with respect to tariff administration and design. Many of these intervenors contend that administering a separate tariff continues the concept of two RTOs in the Midwest.<sup>18</sup> Midwest ISO argues that the fundamental flaw is that the proposal fails to recognize that:

[t]he area within the footprint of the RTO is the region, and the RTO itself should have complete authority over transmission transactions from border to border. Functions may be delegated to the ITC, and an RTO should cooperate as much as possible in allowing an ITC to maximize profits through efficient

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<sup>15</sup>Alliance GridCo proposes to use its existing ATC systems to provide ATC and AFC values for the Alliance area in accordance with protocols on an interim basis. In the long term, Petitioners propose that while the Midwest ISO will calculate AFC and ATC values, Alliance GridCo will provide certain inputs as well as TTC, TRM and CBM values for its footprint in accordance with certain operating protocols. Winser Affidavit at 6 and Exh. B "Operating Responsibility and Authority of the Midwest RTO and Alliance Gridco," Sec. 4.6.

<sup>16</sup>See generally Winser Affidavit, Exhibit B at 4-9 and National Grid's February 5, 2002 Letter to the Commission.

<sup>17</sup>Id.

<sup>18</sup>Midwest State Commissions at 9, Mirant Companies at 2, Detroit Edison at 1, and Wisconsin Commission at 3.

operation, but the RTO is not a partner in a 'super-region;' it is the region itself.<sup>19</sup>

Numerous intervenors oppose the types of transactions Petitioners wish to control under the tariff and are also concerned that the proposal will allow Alliance GridCo too much control without meaningful RTO oversight.<sup>20</sup> Lastly, many intervenors oppose the proposal to vest Alliance GridCo with control over specific tariff terms and conditions.<sup>21</sup> Midwest ISO states that it is willing to consider using the Alliance GridCo's systems to calculate AFC as an interim measure but expects that its systems will be able to accommodate this calculation by October 1, 2002.

### Commission Determination

Petitioners' proposal for tariff administration is consistent with the TRANSLink proposal insofar as both want to administer a tariff for certain types of transactions, but Petitioners' proposal is vastly broader than TRANSLink regarding the types of transactions covered since it is not limited to transactions solely within the Alliance GridCo's footprint.

Consistent with the TRANSLink order, we will not allow Petitioners to maintain their own tariff. It is important for the RTO to operate under a single tariff with only necessary variations from zone to zone. Multiple tariffs unnecessarily undermine the unity of the RTO region. It is an important Order No. 2000 goal that transmission

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<sup>19</sup>Midwest ISO at 22.

<sup>20</sup>PSE&G Companies at 11, Midwest State Commissions at 10, Midwest ISO at 15, Coalition at 3, Detroit Edison at 12, and Virginia Commission at 6.

<sup>21</sup>See generally Midwest ISO Transmission Owners at 16 and Michigan Public Power at 8 (for ATC calculation the Midwest ISO must have final authority), Midwest ISO at 24-26, Reliant Resources at 5 (RTO must have sole responsibility for OASIS and tariff administration), PJM at 7, 22-24, and Mirant Companies at 22, 28-29 (ITC should not have functional control over decisions such as ATC and needs to be a single OASIS node); Detroit Edison at 20-21 (RTO should have authority over ancillary services and control over OASIS, TTC and ATC); and Coalition of Municipal and Cooperative Users, et al., at 6-8 (RTO needs authority for tariff administration, OASIS, tagging, and scheduling and calculation of ATC inputs).

customers can access a single source for all transmission service within a region. Appendix I as approved by the Commission provides for a single Midwest ISO tariff. Allowing sub-regional tariffs in the Midwest ISO works against the goals of one-stop-shopping and tariff clarity without an offsetting benefit. Moreover, separate tariffs would exacerbate the problem of seams, which was a fundamental concern that the Alliance VI Order sought to correct.

However, we will allow Petitioners to maintain a separate schedule within the Midwest ISO tariff to facilitate different rates and a different rate design.

We do not intend at this time to address the specific provisions contained in Petitioners' rate schedule. We note that the tariff proposed by Petitioners contains numerous differences from the Midwest ISO tariff. In designing a separate schedule to be included in the Midwest ISO tariff, Petitioners must minimize such differences its schedules compared to the corresponding sections of the Midwest ISO tariff. Part of the reason for insisting on a single tariff for an RTO region is to maintain the maximum uniformity possible. The filing by Petitioners of its dedicated schedule must justify differences with the Midwest ISO tariff and explain how regional uniformity is not harmed. Again, we are trying to provide to the transmission customer maximum ease of use of the regional transmission network and a pricing structure that makes sense and can be reconciled with transmission rates and rate design for the region as a whole.

With regard to section 205 filing rights, our policy has continued to evolve since Order No. 2000 which introduced the concept of hybrid RTOs. Under Order Nos. 2000 and 2000-A, we stated that the RTO was to have exclusive filing rights over the facilities it operated while the individual transmission owners would have section 205 filing rights to establish their revenue requirements for their facilities used by the RTO. We also indicated that we would look at other proposals so long as they continued to ensure independence and protected the levels of revenue needed to be collected from the facilities.<sup>22</sup>

Under Appendix I to the Midwest ISO Agreement, accepted by the Commission two months after Order No. 2000 was issued, an ITC has the unilateral right (without prior Midwest ISO approval) to file under section 205 for proposals for rate or rate structure changes, including incentive rates, involving base transmission charges for

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<sup>22</sup>See Order No. 2000-A at 31,369-71.

service to load within the ITC.<sup>23</sup> In accepting Appendix I for filing, we noted that certain decisions regarding whether certain responsibilities should be assigned to an Appendix I ITC will depend in part on various protocols that will be developed later to create the ITC.<sup>24</sup>

In RTO West,<sup>25</sup> we permitted the ITC, Transconnect, to unilaterally file under section 205 incentive rates as part of its revenue requirement so long as Transconnect consulted with RTO West prior to filing. In the event of a dispute, the RTO West position would govern.<sup>26</sup> We permitted such a unilateral filing based upon our belief that the independence of the ITC would ensure that any proposal would not unduly discriminate among particular market participants. We cautioned, however, that independence would not necessarily protect against the incentive potentially favoring certain wires over non-wires solutions and indicated that each proposal would be evaluated on a case-by-case basis.<sup>27</sup>

At this time, we will permit Petitioners to unilaterally file rate structure and incentive rate proposals as part of a revenue requirement request, after consultation with the Midwest ISO. Under this approach, the ITC would have unfettered rights to file its revenue requirement and/or incentive rates within its footprint, *i.e.*, only for transactions that source and sink within its footprint. We are requiring consultation with the Midwest ISO to ensure that the Midwest ISO has adequate opportunity to review the filing and to inform this Commission as to whether it results in adverse impacts (either physically or financially) outside of the Petitioners footprint.

Currently, under Appendix I, there is no need for any prior consultation in order for the ITC to file under section 205. However, we are mindful of that even seemingly

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<sup>23</sup>Appendix I § 3. See *Commonwealth Edison Co., et al.*, 90 FERC ¶ 61,192 (2000).

<sup>24</sup>*Id.* at 61,621.

<sup>25</sup>*Avista Corp., et al.*, 95 FERC ¶ 61,114 at 61,338-39 (2001), *reh'g denied*, 96 FERC ¶ 61,058 at 61,177 (2001) (RTO West).

<sup>26</sup>*Id.* at 61,177 (2001).

<sup>27</sup>*Id.*

local issues, such as generator location or isolated transmission bottlenecks, can and do impact the larger grid.

Finally, we expressly take note of the Commission's on-going rulemaking initiative in Docket No. RM02-12-000 addressing SMD. Certain aspects of our decisions herein will ultimately be subject to the outcome of that rulemaking process (e.g., development of a single market design for dealing with congestion management).

We reject Petitioners' proposal to control transactions that require transmission drive into or out of the Alliance area. Because a source or sink in these transactions resides outside the Alliance area, these transactions are properly controlled by the Midwest ISO.

With respect to the Midwest ISO's interim proposal to use the Alliance GridCo systems, as discussed below, we will require that criteria for evaluating the potential use of Alliance GridCo systems: (1) be determined by the Midwest ISO; (2) meet requirements in Order No. 2000; (3) be informed by the division of responsibilities, within a hybrid RTO as discussed in this order<sup>28</sup>; and (4) provide the most cost-effective and secure service.

Consistent with TRANSLink, we will reject Petitioners' proposal to control a node on the Midwest ISO's OASIS site. Midwest ISO may offer a site page to Alliance GridCo service with information provided by the Midwest ISO. We note that format and procedures between the Midwest ISO and Alliance GridCo should be as uniform as possible.

On a long-term basis, we will allow the proposed procedure for ATC and AFC calculations, except that the Midwest ISO must provide the inputs for CBM and TRM. We understand that Alliance GridCo is more familiar with the facilities involved; thus, it is in a better position over the near term to determine facility ratings and capabilities. However, we note that these inputs must be adjusted for scheduled transmission, CBM, and TRM by the Midwest ISO in order to calculate ATC. This procedure should provide for a consistent ATC across the region and should minimize the possibility of inconsistent results or any unduly discriminatory behavior.

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<sup>28</sup>Also see the TRANSLink order for a more complete discussion of the delegation of functions.

Furthermore, on an interim basis, we will allow the proposed procedure for calculating ATC and AFC subject to Petitioner's systems meeting criteria as developed and determined by the Midwest ISO. Guidance on developing this criteria is discussed later in this order. We expect that in any such interim solution, Alliance GridCo would use Midwest ISO protocols and satisfy audits conducted by the Midwest ISO. We also expect that the Midwest ISO would ensure consistency with its processes.

## 2. Operation Authority, Short-term Reliability and Interregional Coordination

### Proposal

As noted above, Petitioners propose to control, under a separate tariff, transactions that source and sink within Alliance as well as transactions that require transmission drive into and/or out of Alliance. Petitioners also propose that Alliance GridCo be responsible for security coordination within its area and that the Midwest ISO may only intervene "if it determines that conditions within the Alliance area are impacting on security outside of the Alliance area."<sup>29</sup> Interregional coordination is appropriate, Petitioners suggest, where necessary to ensure transmission security and reliability on a regional basis.<sup>30</sup> To discharge this responsibility for security coordination, Petitioners propose that Alliance GridCo "[m]ay use actions that include (but are not limited to) utilizing short term transmission equipment ratings, dispatching generation, curtailments, and seek [sic] to unload transmission facilities in the Alliance area in accordance with the Operating Protocols."<sup>31</sup> Addressing parallel path flows, Petitioners indicate that they will share this responsibility with the Midwest ISO and implement the policy developed by the Midwest ISO.<sup>32</sup> Finally, Petitioners propose that they have the primary responsibility for tagging and scheduling as well as approval or disapproval of maintenance outages for generation

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<sup>29</sup>Winser Affidavit, Exh. B at 4.

<sup>30</sup>Winser Affidavit, Exh. A, National Grid's February 5, 2002 Letter to Commission.

<sup>31</sup>Id.

<sup>32</sup>Winser Affidavit, Exh. A, Response of National Grid to the FERC Technical Conference on the Division of Responsibilities Between an RTO and an ITC. (National Grid's Reconciliation).

facilities and for all transmission facilities (subject to the Midwest ISO oversight for “Critical Transmission Facilities”) for the Alliance area.<sup>33</sup>

### Intervenors' Comments

Numerous intervenors oppose Alliance GridCo's proposal claiming that Alliance GridCo is requesting control over operational authority and short term reliability. Additionally, various intervenors argue that vesting control of these functions by Alliance GridCo could lead to the creation of differing objectives between the two entities. For example, Coalition argues that these proposals, including acting as a security coordinator and having approval of maintenance outages, “[i]nvite placement of subregional objectives and the Alliance Companies’ desired revenues above the regional needs and efficiencies.”<sup>34</sup> Midwest ISO Transmission Owners assert that in the area of Security Coordination, the proposal differs from TRANSLink and is inconsistent with Appendix I which vests such function with the Midwest ISO and, in any event, ignores the fact that the RTO must have the sole responsibility for security coordination.<sup>35</sup> Michigan Public Power argues that the security coordination proposal would lead to duplication of functions between the two entities.<sup>36</sup> Detroit Edison claims that management of parallel path flows essentially entails controlling the redispatch of generation, which should rest solely with the RTO.<sup>37</sup>

### Commission Determination

Alliance GridCo proposes to maintain physical control over its facilities in the Midwest ISO such that Alliance GridCo controls transactions that require transmission into, out of and within Alliance. It also proposes to take applications for transmission service, under its tariff, on its node of the Midwest ISO OASIS site and to tag and

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<sup>33</sup>Winser Affidavit, Exh. B at 7.

<sup>34</sup>Coalition of Municipal and Cooperative Users, et al. at 14.

<sup>35</sup>Midwest ISO Transmission Owners at 15. See also Reliant at 5, Mirant at 28, Ohio Commission at 11, Detroit Edison at 19 and Midwest ISO at 17.

<sup>36</sup>Michigan Agencies at 8-10.

<sup>37</sup>Detroit Edison at 19-20.

schedule service.<sup>38</sup> Alliance GridCo proposes to assume from the Midwest ISO the responsibility to coordinate maintenance for non-critical facilities in its area (coordination of maintenance for critical transmission is subject to approval by the Midwest ISO). Alliance GridCo proposes to assume from the Midwest ISO the responsibility to coordinate generator maintenance for generators within the Alliance area and to inform the Midwest ISO of those maintenance activities for generators in its area.

We believe that it can be beneficial to the region for the RTO to delegate certain operational functions to an ITC for service and facilities under its footprint. However, we provide this caveat. Some of the operational control allowed at this time is permitted because it is consistent with today's markets in the Midwest ISO and with Day One congestion management.<sup>39</sup> With SMD and the implementation of Day Two congestion management, some of these operational elements may have to be modified. We expect that Alliance GridCo would implement any necessary modifications to its grid operations to support the Midwest ISO's locational marginal pricing and other aspects of SMD on a unified, region-wide market basis.

We find that Petitioners' proposal to tag and schedule transactions that require transmission into and/or out of the Alliance area is unacceptable since these transactions fall under the Midwest ISO's authority. Transactions whose sources and sinks reside in the Alliance area may be tagged and scheduled by Alliance GridCo. We note that the Midwest ISO recognizes that "Alliance may have a legitimate proprietary interest in scheduling transactions that source and sink solely within its transmission system."<sup>40</sup> However, we find that the Midwest ISO must determine whether the specifics of the coordination between it and Alliance GridCo ensure that the Midwest ISO will be able to monitor the full impacts of the transactions scheduled by Alliance GridCo on the Midwest ISO region.

We find that Petitioner's proposal to control generation and transmission outages within their region, subject to the Midwest ISO oversight for certain critical transmission facilities, is a rational example of the type of coordination between the ITC and RTO that

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<sup>38</sup>See Appendix D for our decisions in this order on issues related to OASIS, tariff administration, and congestion management.

<sup>39</sup>See supra note 42.

<sup>40</sup>Midwest ISO Protest at 23.

is needed. Under Petitioners' proposal, the ITC has day-to-day control over what is for the most part a local issue, but this control must be subservient to the Midwest ISO's oversight for transmission facilities that have regional impacts. Additionally, Alliance GridCo must coordinate approved maintenance schedules for generation and non-critical transmission with the Midwest ISO so that the Midwest ISO can fulfill its reliability and security functions.

We find that Petitioners' proposals regarding security coordination, interregional coordination and short-term reliability represent another significant departure from the TRANSLink proposal. We believe that it is unacceptable to have more than one security coordinator (or as defined by NERC, Reliability Authority) for each RTO since security coordination is simply too critical a function to vest in more than one entity. Aside from obvious operational concerns, we believe that having multiple security coordinators could easily lead to additional seams issues. We agree with Michigan Agencies that the practical effect of this proposal would lead to a separation of duties and duplicative functions and cause segmentation of regions within the RTO.<sup>41</sup> Additionally, this function requires having a global perspective of the entire RTO region in order to best choose from a variety of options (which could be outside of the Alliance area) in order to address reliability concerns. Although we find that Alliance GridCo can perform certain security-related functions within their region because Alliance GridCo will be in the best position to identify and resolve issues locally, we will not allow the Midwest ISO's security authority to be limited in the way Petitioners' propose.

With respect to the responsibility for management of parallel path flow issues, we will accept Petitioners' proposal to share this responsibility with the Midwest ISO only when such flows lead to an emergency situation; however, action by Alliance during an emergency must adhere to the Midwest ISO's authority, that may take the form of protocols. We note that Detroit Edison's concerns regarding redispatch should be addressed by the Midwest ISO since Alliance GridCo acknowledges that it will implement a parallel path flow policy developed by the Midwest ISO.

### 3. Congestion Management

#### Proposal

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<sup>41</sup>Michigan Agencies at 9.

Petitioners do not propose to adopt the Midwest ISO's Day One plan<sup>42</sup> for congestion management; however, Petitioners propose that the Midwest ISO will determine the congestion management pricing methodology and calculate these prices for the region.

Alliance GridCo proposes to be vested with the responsibility for managing congestion within the Alliance area, with the objective of ensuring the most efficient allocation between new investment and operational costs. Petitioners propose that Midwest ISO and Alliance GridCo develop protocols detailing when the Midwest ISO and Alliance GridCo congestion management mechanisms operate, that such protocols be filed with the Commission and that these protocols must be accepted or approved by this Commission before Alliance GridCo's mechanisms may operate. Petitioners suggest that Alliance GridCo's congestion management plan not operate in instances where its operation causes material adverse effects upon the Midwest ISO's transmission system outside of the Alliance area or upon the users of that system.<sup>43</sup>

As part of congestion management, Petitioners propose that Alliance GridCo can specify redispatch to enable transmission capacity on the system to be increased or maintained.<sup>44</sup>

### Intervenors' Comments

Midwest ISO recommends that its Day One congestion management plan be the starting point for discussion with Alliance GridCo and states that TRANSLink stipulated that the Midwest ISO Day One plan would be used throughout the region.<sup>45</sup> Several

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<sup>42</sup>See Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,326 at 62,511-12 (2001) (Midwest RTO Order), for a discussion of the Midwest ISO's congestion management including its Day One plan.

<sup>43</sup>Winser Affidavit, Exh. B at 5.

<sup>44</sup>Winser Affidavit, Exh. A, National Grid's February 5, 2002 Letter to Commission.

<sup>45</sup>Midwest ISO at 26.

intervenors argue that one organization should manage congestion for the entire region.<sup>46</sup> PJM asserts that because transmission, generation, and demand response solutions are competing solutions, no single provider of a congestion solution should choose which competing solution wins.<sup>47</sup> Detroit Edison argues that by controlling redispatch, the transco may have the ability to control critical flowgates to advantage transactions flowing over the transco's assets, and to disadvantage other transactions.<sup>48</sup>

### Commission Determination

Petitioners' proposal does not yet fully describe how congestion management will be coordinated between Alliance GridCo and the Midwest ISO. Midwest ISO's Day One plan should serve as the starting point for discussions regarding initial congestion management.<sup>49</sup>

Energy markets operated by an RTO must be uniform across an entire region. In addition to being a requirement of an efficient and effective energy market, uniformity promotes seamless transmission service and one-stop shopping. For these reasons, we see little opportunity for ITCs to segment a region with alternative congestion management systems. Moreover, a locational marginal pricing (LMP) market needs to be not only uniform, but also operated as a single market.<sup>50</sup> Therefore, we will not allow ITCs to operate separate congestion management systems within an RTO.

#### 4. Ancillary Services and Energy Imbalance Markets

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<sup>46</sup>Coalition of Municipal and Cooperative Users, et al., at 14, Detroit Edison at 16, Illinois Industrial Energy Consumers, et al., at 6, Midwest ISO at 26, Mirant at 25, PSE&G Companies at 8, and the Virginia Commission at 7.

<sup>47</sup>PJM at 13.

<sup>48</sup>Detroit Edison at 16.

<sup>49</sup>Midwest ISO must approve the use of any Alliance GridCo system that is used in the interim to provide initial congestion management. As stated in this order, after a reasonable transition period, there must be one system that provides congestion management for the Midwest ISO.

<sup>50</sup>Cf. "Working Paper on Standardized Transmission Service and Wholesale Electric Market Design, (Docket No. RM01-12-000, March 15, 2002).

### Proposal

Petitioners propose that Alliance GridCo specify and pay for those ancillary services required to deliver a secure, reliable transmission system and that the procurement and commitment of ancillary services is not considered a core function linked directly to the management of transmission assets (except for reactive and voltage control services, which impact directly upon transmission capacity).<sup>51</sup>

Regarding energy imbalance markets, Petitioners suggest in National Grid's Reconciliation that functional responsibilities in the operation of energy imbalance markets may be shared between the ITC and the RTO. However, energy imbalances are not addressed in Exhibit B.

### Intervenors' Comments

Detroit Edison and PJM contend that the RTO should administer ancillary services markets. PJM contends that the same organization must be responsible for both security-constrained dispatch of the transmission system and operation of the energy and ancillary services markets to include ensuring that the services are obtained for the system. Detroit Edison contends that energy balancing is critical to the functioning of the wholesale electricity market.<sup>52</sup>

### Commission Determination

We note that Petitioners' filing is vague regarding operating energy imbalance markets. We find that Alliance GridCo needs to provide System Control, Voltage Control, and Regulation Services (ancillary services 1, 2, and 3), and we refer the parties to the discussion regarding operation of energy imbalance markets and ancillary service markets in the companion TRANSLink order.

#### 5. Planning and Expansion

### Proposal

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<sup>51</sup>Winser Affidavit, Exh. A, National Grid's February 5, 2002 Letter to the Commission.

<sup>52</sup>Detroit Edison at 17, 20 and PJM at 21.

Petitioners propose that Alliance GridCo develop its construction plan for transmission facilities in the Alliance area subject to providing a copy of the plan to the Midwest ISO as soon as the plan is available and to coordinating implementation of the plan to the maximum extent practicable. Section 4.9a of Exhibit B states that where the Midwest ISO determines that the plan would have a material impact on regional facilities outside of the Alliance area, the Alliance GridCo plan shall not be implemented until the Midwest ISO has had a reasonable time to review the Alliance GridCo plan and any disputes are resolved. Section 4.9b of Exhibit B states that if the Midwest ISO disagrees with any part of the Alliance GridCo plan, the disagreement will be resolved through dispute resolution, but the balance of the plan not in disagreement may be implemented by Alliance GridCo. Section 4.9c of Exhibit B states that nothing in this agreement in principle is intended to change the responsibility of the Midwest RTO to develop a plan for the Region, with "Region" defined as including the Alliance area.

#### Intervenors' Comments

Midwest ISO supports the Petitioners' "bottom up" approach and notes that the proposal here is consistent with the protocol agreed upon between the Midwest ISO and TRANSLink.<sup>53</sup> Other parties, however, protest that Alliance GridCo's transmission plan must be subject to RTO review and approval.<sup>54</sup> PJM and Mirant state that because transmission solutions compete with generation and load solutions, the RTO should manage the planning process. Mirant states that in the Midwest RTO Order,<sup>55</sup> the Commission's response to a protest by Calpine suggested that there should be a single transmission planning and expansion function using the Midwest ISO's existing rules and

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<sup>53</sup>Midwest ISO at 21.

<sup>54</sup>Coalition of Municipal and Cooperative Users, et al., at 15, Duke, et al., at 9, Mirant at 25-27 (arguing that Alliance GridCo will have an incentive to manage the system to favor its assets and that there should be a single set of planning and generator interconnect protocols), PJM at 25 (arguing that the RTO also should be permitted to direct all transmission owners, including ITCs, to construct transmission that is necessary for the reliability of the system) and PSE&G Companies at 8.

<sup>55</sup>97 FERC at 62,520.

protocols as its foundation. Others state that the Midwest ISO should manage or have final oversight of transmission planning by transcos.<sup>56</sup>

### Commission Determination

Petitioners propose that Alliance GridCo be responsible for planning and expansion of its own system and that the Midwest ISO be responsible for coordinating Alliance GridCo's regional transmission plan. However, we believe that the Midwest ISO, as the RTO, should have the responsibility to ensure that planning and expansion is coordinated across the entire RTO.

Under Alliance GridCo's proposal, if the Midwest ISO believes that an Alliance GridCo planned facility will have a material impact on facilities outside of Alliance GridCo, but which are located within the Midwest ISO, it will have a reasonable amount of time to review the plan but any disagreement will be resolved through dispute resolution.<sup>57</sup> Consistent with the companion TRANSLink order, we believe that the RTO, not an outside arbitrator, must have the ultimate authority regarding planning an expansion for its region.

Also consistent with the companion TRANSLink order, we believe that a clear, detailed, and joint approach to planning and expansion is acceptable as long as the Midwest ISO retains responsibility for ensuring that planning and expansion is coordinated across the entire RTO. Therefore, in addition to developing a joint planning protocol with a clear decisional process, Alliance GridCo and the Midwest ISO must ensure that the Midwest ISO is the final decisionmaker on planning and expansion that may materially affect facilities outside of Alliance but located within the Midwest ISO.<sup>58</sup>

We interpret Section 4.9c of Exhibit B to mean that the Midwest ISO, in accordance with its responsibilities under Order No. 2000 to develop a regional plan for the entire Midwest ISO, may, for example, direct necessary transmission expansions by Alliance GridCo. If this interpretation is incorrect, Alliance GridCo should clarify the

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<sup>56</sup>Illinois Industrial Energy Consumers, et al., at 11-12 and PJM at 25.

<sup>57</sup>Winser Affidavit, Exh. B at 8.

<sup>58</sup>Please see the TRANSLINK order on this subject for further guidance in developing a stakeholder process.

meaning of this language and explain how any alternative meaning meets the requirements in Order No. 2000.

In response to Mirant, we note that, in the Midwest RTO Order, we stated that Calpine's protest was rendered moot by the Commission's concurrent order directing Alliance Companies to explore membership in the Midwest ISO. In this order we are now providing further guidance by stating that the parties must develop a coordinated approach to transmission planning to include a joint planning protocol detailing each organization's responsibilities. Therefore, this joint planning protocol should address Calpine's concerns with regard to "one stop" shopping. The direction above is consistent with our ruling in the TRANSLink order.

#### 6. Market Monitoring

##### Proposal

Petitioners propose that Alliance GridCo may impose and collect penalties approved by the Commission so long as any such penalty does not cause an entity to be subjected to a penalty by both the Midwest ISO and Alliance GridCo for the same violation or event.<sup>59</sup>

##### Intervenors' Comments

Mirant argues that because Alliance GridCo should not be administering its own tariff OATT, and all market operations should be vested with the Midwest RTO, it is not clear what penalties would be appropriate for Alliance GridCo to collect. Mirant also says that this function is too vague to be approved.<sup>60</sup>

##### Commission Determination

We find that Petitioners have not supported their proposal to impose and collect penalties over and above those collected by the Midwest ISO. Additionally, Alliance GridCo has not demonstrated how it will ensure that parties are charged only once for a

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<sup>59</sup>Winser Affidavit, Exh B at p. 9.

<sup>60</sup>Mirant at 30.

single violation or event. Thus, we will reject this aspect of their proposal without prejudice to a future proposal that is fully-supported, just and reasonable.

## 7. Losses

### Proposal

Under Petitioners' proposal Alliance GridCo shall possess the unilateral right to file at the Commission, without approval by the Midwest ISO, a mechanism for determining responsibility for energy losses within the Alliance area, provided that this mechanism does not affect the losses received by transmission owners and generators in areas within the Midwest ISO that are outside the Alliance area.<sup>61</sup>

### Intervenors' Comments

Midwest ISO states that TRANSLink has agreed to adopt the Midwest ISO loss process. It further contends that, if Alliance will not agree to use the Midwest ISO loss process, there should be an agreement between the Midwest ISO and Alliance GridCo that losses caused by parallel flows will be provided using the loss calculation process of the system experiencing the parallel path flows. Midwest ISO states that while this outcome will result in two loss processes being used, it will address the undesirable situation where the Midwest ISO and Alliance GridCo operate in isolation from each other and do not compensate the other for losses caused by their respective parallel flows.

### Commission Determination

As a long-term process, there should be a single method and a single system used to determine losses for the Midwest ISO region so as to preclude to the potential for creating seams between Alliance and other regions in the Midwest ISO.

On an interim basis, however, we will allow the proposed procedure for calculating losses subject to Petitioner's systems meeting criteria as developed and determined by the Midwest ISO. Guidance on developing these criteria is discussed below. We expect that in any such interim solution, Alliance GridCo would use Midwest ISO protocols and satisfy any and all audits conducted by the Midwest ISO. We also expect that, the Midwest ISO would ensure consistency with its processes as determined

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<sup>61</sup>Winser Affidavit, Exh. B, page 5.

by the Midwest ISO and ensure that each organization compensates the other for losses caused by their respective parallel path flows.<sup>62</sup>

(2) Use of Alliance GridCo Systems for Timely and Cost-Effective Start of Operations

Proposal

Petitioners ask that the Commission find that Alliance GridCo be permitted to use its own systems for the timely and cost-effective start of operations.<sup>63</sup> In this regard, Petitioners state that they have computer and software systems immediately available to Alliance GridCo for providing necessary transmission service functions on Day 1 of operations (estimated to occur in October 2002) and for integrating the Alliance Companies' systems. Petitioners state that the systems include the basic infrastructure necessary for providing regional transmission service including OASIS, tagging/scheduling, applications for calculating ATC with a flowgate methodology, a losses calculator, billing and settlement systems and "back office" systems. They state that the systems already developed and in place will enable the nine Alliance Companies to be fully integrated so that Alliance GridCo will be able to interact with the Midwest ISO as a single ITC. Petitioners add that, without Alliance GridCo's systems, the Midwest ISO would have to start from the beginning to develop its own computer and software systems to integrate the Alliance Companies and Alliance GridCo. Petitioners argue that this would unnecessarily duplicate and delay the integration of Alliance GridCo, and the provision of nondiscriminatory transmission service across the Alliance area would be more expensive and delayed substantially.

Petitioners assert that, if the Commission grants their request to use their own systems, Alliance GridCo is expected to become operational by October 2002, but without Alliance GridCo's systems, integration of Alliance GridCo into the Midwest RTO

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<sup>62</sup>Midwest ISO must approve the use of any Alliance GridCo system that is used in the interim to calculate losses. As stated in this order, after a reasonable transition period, there must be one system that calculates losses in the Midwest ISO.

<sup>63</sup>Petitioners state that they envision that the Midwest ISO and Alliance GridCo will work together to develop optimal and economic solutions for common systems where such systems are appropriate, and that they will file a report on the status of this work with the Commission within six months of Alliance GridCo becoming operational.

would delay operations for Alliance GridCo until at least October 2003 with resulting opportunity costs to the market.

### Intervenors' Comments

Midwest ISO states that any Commission guidance on the use of Alliance GridCo systems and processes versus Midwest ISO systems and processes must recognize that the Midwest ISO applications are currently running, while the Alliance applications are not. However, the Midwest ISO also states that it does not object to using Alliance GridCo's AFC systems and processes (to calculate ATC with a flowgate methodology) on a temporary basis until such time as the Midwest ISO's systems and processes can accommodate all Alliance control areas. Midwest ISO also states that it has no objection to Alliance's use of its own systems for certain delegated functions provided that those systems are compatible with systems used by the RTO.<sup>64</sup> Others protest that using different computer and software systems could hamper the development of a seamless Midwest market or should otherwise not be allowed.<sup>65</sup>

### Commission Determination

While we believe that using certain Alliance GridCo systems may hasten RTO operations in the Midwest, we believe that the Midwest ISO, in consultation with Alliance GridCo, should decide which systems to use. In addition to requiring a report of Alliance's intentions to join an RTO and a filing by the Midwest ISO to revise its rates,

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<sup>64</sup>Midwest ISO at 16-20. Midwest ISO states that it is using a real-time monitoring tool that allows it to track post-contingent flows on all flowgates in its region, and that with its current-day and next-day security reviews, the Midwest ISO has been allowed to assume the role of Reliability Authority for its members in ECAR and MAIN as of December 15, 2001. Additionally, the Midwest ISO asserts that most of its tariff applications have been running since the first of December.

<sup>65</sup>Coalition of Municipal and Cooperative Users, et al., at 20, Detroit Edison at 23 (that Alliance GridCo must use systems that are only involved with running a wires business), Duke, et al., at 9, Illinois Industrial Energy Consumers, et al., at 10, Midwest ISO Transmission Owners at 15 (setting up a system which relies on coordination of ATC calculations instead of a single calculation creates a greater prospect of inaccurate ATC postings), Mirant at 29, PSE&G Companies at 9, Reliant at 5, and the Virginia Commission at 7-8.

we will require that the Midwest ISO, in consultation with Alliance GridCo, file a report within 60 days from the date of this order identifying those Alliance GridCo systems which will be employed if Alliance GridCo joins the Midwest ISO. This report should describe the system's function, who will operate the system, the period of operations, and how the system will be used. Also to the extent that dual systems are used, we expect this situation is temporary and we will require that the parties specify in this report an end date at which time one system will be used. We provide below guidance for the Midwest ISO in determining the use of Alliance GridCo's systems.

Criteria for evaluating the potential use of Alliance GridCo's systems must: (1) be determined by the Midwest ISO; (2) meet the requirements in Order No. 2000; (3) be informed by the division of responsibilities in the hybrid RTO as discussed in this order; and (4) provide the most cost-effective and secure service. Midwest ISO may require, for example, that data be based on its formulas and criteria (e.g., for facility ratings) in order to ensure that the Midwest ISO provides reliable service. Midwest ISO may require that data be available on a timely basis and in a format in order to provide timely, accurate and reliable service to market participants. Midwest ISO may establish criteria for integrating systems into its architecture to ensure operational control of transactions that are into and out of the Alliance GridCo region.

Thus, we intend that the Midwest ISO make maximum use of Alliance GridCo's systems that were incurred in good faith so long as the use of those systems conforms with the guidance above. We also expect that, notwithstanding a reasonable transition period to be determined by the Midwest ISO in consultation with Alliance GridCo, one set of systems ultimately will be used for the operation of the Midwest ISO.

We recognize that Alliance GridCo participants may have incurred start-up costs to develop systems that will not be used by the Midwest ISO to provide service to Alliance GridCo or other Midwest ISO entities or by Alliance GridCo to provide service to customers in its footprint. Therefore, we clarify that we intend to allow recovery of all costs prudently incurred by any Alliance GridCo participant to establish an RTO once it is a member of an RTO. We will address the verification of such costs when their recovery is sought.

### (3) Proposal on Rate Design and Revenue Distribution Methodology

Petitioners assert that the Commission has consistently recognized the "entitlement" of transmission owners to recover, through transitional surcharges, lost revenues associated with their membership in RTOs. They state that, in its early orders on

Alliance, the Commission approved the use of transitional surcharges designed to compensate the transmission owners for the revenues associated with service through and out of their individual systems that are lost due to the elimination of rate pancaking. They also note that the Commission has approved similar pricing concepts for other proposed RTOs, including PJM. Petitioners add that the Commission recently approved a transition period rate design and revenue distribution methodology for the Midwest ISO that is designed to recover the Midwest ISO transmission owners' lost revenues during a six-year transition period.<sup>66</sup> However, they assert that, when applied to the combined Midwest-Alliance region, this methodology would result in significant revenue transfers from Alliance transmission owners to the Midwest ISO transmission owners and would unjustly enrich the latter.

Petitioners assert that, in order for Alliance transmission owners to be fairly compensated for participating in the Midwest ISO during a transition period, the Commission should find that rate and revenue distribution methodologies consistent with those recommended by Dr. Henderson, in an affidavit attached to their Petition, be adopted. Petitioners' proposed rate and revenue distribution methodologies are nearly identical to that which has been previously proposed for Alliance and adopted for use between the Midwest ISO and Alliance under the Illinois Power Settlement. Petitioners propose that their rate and revenue distribution methodologies remain in place through December 31, 2004.

Petitioners' proposed rate design is based on a single non-pancaked rate using a license plate approach that would apportion responsibility for lost revenues to load within the Midwest ISO and to customers wheeling out of or through the Midwest ISO on the basis of the benefit that those customers will receive as a result of eliminating pancaking. The license plate rate for delivery to load within each license plate pricing zone would include two surcharges to recover lost revenues: a Zonal Transition Adjustment (ZTA) and a Super-regional Rate Adjustment (SRA).

The ZTA is based on the lost revenues due to the elimination of rate pancaking within each group of transmission owners (Alliance and non-Alliance). The ZTA reflects the historical transmission charges that the transmission owner within a particular license plate pricing zone paid to other transmission owners within the group of transmission owners (Alliance or non-Alliance) to serve load within its zone, and is designed to collect

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<sup>66</sup>Midwest Independent Transmission System Operator, Inc., 98 FERC ¶ 61,076 (2002).

additional revenue from each zone in proportion to the benefits that the transmission owner within the zone will realize when it no longer has to pay pancaked rates for transmission purchased from other transmission owners within the group to serve load within its zone.

The SRA is based on lost revenues due to the elimination of rate pancaking between the two groups of transmission owners (Alliance and non-Alliance). The SRA is calculated in a manner comparable to the ZTA and is designed to collect additional revenue from each zone in proportion to the benefits that the transmission owner within the zone will realize when it no longer has to pay pancaked rates for transmission purchased from transmission owners in the other group to serve load within its zone.

For transmission through and out of the Midwest ISO, Petitioners would apply a Regional Through-and-Out Rate (RTOR). The RTOR is based on the aggregate lost revenues of all the transmission owners in the Midwest ISO due to the elimination of rate pancaking, less the lost revenues recovered through the ZTA and SRA.

Petitioners note that their proposal modifies the rate design under the Illinois Power Settlement in a few significant respects. First, the Illinois Power Settlement provided that the Midwest ISO and Alliance would each have its own through-and-out rates that would apply to transactions into, through, or out of the 'super-region' consisting of the two organizations (i.e., the Illinois Power Settlement only eliminated pancaking between the two organizations for transactions sourcing and sinking within the super-region). In contrast, Petitioners propose a single RTOR applicable to transactions through and out of the expanded Midwest ISO, thereby eliminating pancaking on all transactions into, through, or out of the super-region.

Second, the Illinois Power Settlement limited the benefits of the super-region (i.e., the elimination of pancaking for transactions with source and sink within the super-region) only to the systems of transmission owners that signed an agreement to join either the Midwest ISO or Alliance by February 28, 2001. Petitioners would extend the benefits of the super-region to all systems under the expanded Midwest ISO, thereby eliminating pancaking on all transactions within the combined Midwest ISO/Alliance footprint.

Third, Petitioners explain that combining the two organizations requires an adjustment to the revenue distribution methodology in order to maintain the principle of revenue neutrality. Currently, revenues from the Midwest ISO RTOR are distributed to transmission owners based on shares of transmission plant, power flows, and lost

revenues. In contrast, the revenues from the Alliance RTOR would have been distributed within the Alliance group on the basis of lost revenues. Petitioners propose to distribute RTOR revenues through a two-part process: (1) RTOR revenues would first be distributed between each group of transmission owners (Alliance and non-Alliance) in proportion to each group's aggregate lost revenues; and (2) these revenues would then be distributed within each group in accordance with that group's own revenue distribution protocol. This revenue distribution methodology would remain in effect only through the transition period, ending December 31, 2004, and, Petitioners maintain, would ensure that each group of transmission owners remains revenue neutral from the elimination of rate-pancaking.

According to Petitioners, their proposal recovers lost revenues during the transition period according to relative amounts of de-pancaking benefits received by through-and-out transmission service customers and load within each license plate pricing zone, and distributes those revenues between the two groups of transmission owners in a manner consistent with the concept of revenue neutrality. Petitioners state that, while Alliance Companies intend to use a ZTA, their proposal does not address whether the non-Alliance transmission owners of the Midwest ISO would institute such a charge. Rather, Petitioners maintain, that is a matter that would be appropriately decided among the non-Alliance transmission owners. However, Petitioners would include the SRA element in all zonal rates. Petitioners state that because the SRA revenues are transferred between the Alliance and non-Alliance groups, equity considerations require that the SRA be used by both the Alliance and non-Alliance groups, or by neither. Regardless of whether the non-Alliance members institute the ZTA, Petitioners propose that the RTOR be developed by subtracting both ZTA and SRA revenues for the non-Alliance group, along with ZTA and SRA revenues for the Alliance group, from the aggregate lost revenues. Without this adjustment, according to Petitioners, the lost revenues associated with de-pancaking benefits to load within the Midwest ISO would become an added responsibility of through and out transmission service customers. This, Petitioners maintain, would constitute a shift in responsibility for lost revenues from internal load to exporting generators that would be inconsistent with the underlying benefit concept and would unnecessarily increase the RTOR, thereby foreclosing otherwise efficient trades between regions.

Petitioners submit that the purpose of the transition period is to provide a mechanism for phasing in new transmission rates that reflect the restructured topography under an emerging RTO and that the Commission has recognized that immediate adoption of new RTO rates, without any transitional considerations, would create hardships and provide substantial disincentives for transmission owners to join RTOs in

the first place. Petitioners maintain that their proposal effectively mitigates potentially large cost-shifting. In addition, Petitioners note that their proposal is largely based on the transition period rate design agreed to by Alliance Companies and the Midwest ISO transmission owners in the Illinois Power Settlement, which has been approved by the Commission as being reasonable. As such, they submit, it forms a settled and reasonable basis for the development of transmission rates during the transition period.

### Intervenors' Comments

Intervenors protest various aspects of Petitioners' rate proposal. These protests will be discussed in greater detail below.

### Commission Determination

Intervenors generally oppose Petitioners' transitional rate proposal. Midwest ISO Transmission Owners maintain that the Midwest ISO's existing rate design is consistent with the Commission's policies: license plate rates, an average cost through and out rate, and a lost revenue surcharge on the through and out rate that produces an overall through and out rate that is within the range of the license plate rates. They also submit that the revenue distribution methodology is typical by giving substantial weight to transmission investment and load flows.

Midwest ISO Transmission Owners argue that the existence of retail rate freezes raises concerns about the ability to recover costs incurred through the Petitioners' transition surcharges. The amounts are not insignificant, they maintain, as the SRA results in a net outflow of approximately \$40 million/year to Alliance Companies. In addition, Midwest ISO Transmission Owners argue that Petitioners do not consider that the Midwest ISO lost revenue surcharge, a component of its through and out rate, is in effect through January 31, 2008, three years longer than Petitioners' proposed transition period. According to Midwest ISO Transmission Owners' calculations, the Midwest ISO's existing RTOR and revenue distribution methodology will produce greater revenues for Alliance Companies on a present value basis than Alliance Companies' proposed SRA and RTOR methodology.

While the Midwest ISO's existing rate design and revenue distribution methodology have been previously accepted as reasonable, we are confronted at this juncture with impediments that this existing rate design creates for additional participation in the Midwest ISO. Therefore, as discussed below, we are open to a request (e.g., through a complaint) by any of the Petitioners, filed with their application to

join the Midwest ISO, or thereafter, to revisit the Midwest ISO's existing rate design in order to evaluate whether it is still consistent with our RTO initiatives given its potential to cause abrupt cost shifts.

The Commission has consistently approved the use of license plate rates for regional transmission service as a transitional mechanism to avoid abrupt cost shifts that would serve as an impediment to RTO formation.<sup>67</sup> Such license plate rates have typically reflected the embedded cost of transmission per unit of load and pricing zones that reflect the service areas of individual transmission owners or groups of transmission owners. We recognize, however, that some adjustment to such conventional license plate rates is necessary to prevent cost shifts as compared to pre-existing pancaked rates. At the same time, the elimination of rate pancaking is a central goal of our RTO initiative because of the injurious effect of pancaked rates on efficient and competitive regional markets for generation.<sup>68</sup>

In the Alliance III Order, we conditionally approved a license plate rate methodology, like that proposed by Petitioners, that took into account cost responsibility and revenue flows under the prior system of pancaked rates, while at the same time establishing a single non-pancaked charge for use of the grid.<sup>69</sup> We believe that this methodology represents an improvement upon the license plate rate concept because, by recovering revenues from each zone proportionate to the benefit that each zone receives from the elimination of rate pancaking, it better controls cost-shifting and, thus, better eliminates ratemaking disincentives to RTO participation, while avoiding the injurious effects on efficient use of the grid associated with rate pancaking.

We find that Petitioners have raised valid concerns regarding potential cost shifts due to the Midwest ISO's existing rate design and revenue distribution methodology, cost shifts that serve as an impediment to their membership in Midwest ISO. We also find that Petitioners' proposed transitional rate methodology, by controlling cost shifts for a short transition period through December 31, 2004, provides a reasonable basis for addressing

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<sup>67</sup>See Order No. 2000 at 31,176.

<sup>68</sup>See Order No. 2000 at 31,174-75.

<sup>69</sup>Alliance Companies, et al., 94 FERC ¶ 61,070 at 61,311-12 (2001) (Alliance III Order).

these concerns.<sup>70</sup> In doing so, however, we stress that we view the use of license plate rates as transitional; while acceptable to control abrupt cost shifts during a transition period of limited duration, license plate rates are not an end but only a step towards an end - - a single, system-wide average rate which reflects the regional nature of the service provided.<sup>71</sup>

We find the Midwest ISO Transmission Owners' present value comparison of revenues to be misguided. Concerns regarding cost shifts are more relevant to the immediate future, during which regulatory lag and rate freezes can serve to trap costs. Therefore, it is understandable that Alliance Companies would give greater weight to the transition period extending through December 31, 2004, than the remaining three years of the Midwest ISO transition period extending beyond December 31, 2004. Furthermore, we find unpersuasive Midwest ISO Transmission Owners' concerns about recovery of the Petitioners' transitional surcharges due to the existence of retail rate freezes. Because the surcharges are designed to reflect the historical costs of each transmission owner for transmission service purchased to serve its native load, we find that they do not represent new costs.

Consistent with our findings in the Alliance III Order, while we find that the method used to address cost shifts and lost revenues is reasonable, we must still evaluate the resulting rates and any disparities among them to ensure that they are reasonable. Because of changes in the membership of the Midwest ISO and Alliance, as well as the elimination of pancaking between Alliance and the Midwest ISO that had continued under the Illinois Power Settlement, the lost revenue adders that were previously filed in compliance with the Alliance III Order and the Commission's order approving the Illinois Power Settlement will need to be updated.<sup>72</sup> If Petitioners' proposed rate design is

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<sup>70</sup>We also believe that transitional use of Alliance's rate methodology should provide greater incentives for companies to join and begin operating under the Midwest ISO as soon as possible.

<sup>71</sup>If any of the Petitioners decide to join the Midwest ISO, they may file, at the time they file to join the Midwest ISO or thereafter, a complaint against the Midwest ISO's rate design and revenue distribution methodology that seeks changes in that rate design and revenue distribution methodology.

<sup>72</sup>See March 5, 2002 Petition, Exhibit JSH-1 at p. 11, lines 6-8.

adopted as a result of, for example, a complaint<sup>73</sup> or otherwise, revised rates will need to be filed, and at that time, we will evaluate the resulting rates to ensure that they are reasonable.

Intervenors state that the rate methodology agreed upon under the Illinois Power Settlement was premised on two RTOs, not one. Because the Commission, in the Alliance VI Order, found that one RTO is appropriate for the Midwest, they argue, the premise of the settlement and the rate design under it no longer exists.<sup>74</sup> Midwest State Commissions argue that the rate methodology agreed upon in the Illinois Power Settlement was not designed for a much broader Midwest ISO footprint, which today includes many more transmission owners than those that negotiated the settlement. Midwest State Commissions also maintain that Alliance Companies' SRA and RTOR calculations are based on stale data that are no longer representative of revenues that could potentially be lost due to the elimination of rate pancaking. Detroit Edison maintains that Alliance Companies' request to reinstate the ZTA/SRA methodology must be subject to a fresh review through a Section 205 filing.

In this order, we are evaluating the proposal on its own merits, not on the basis of any rights or obligations under the Illinois Power Settlement. Moreover, as noted above, on its own merits, we find that it is consistent with our policies on transmission pricing for RTOs. Finally, as we explain above, we agree that the ZTA, SRA, and RTOR rates that have been filed previously are stale and must be updated. If Petitioners' proposed rate design is adopted as a result of, for example, a complaint<sup>75</sup> or otherwise, revised rates will need to be filed, and intervenors will have an opportunity to comment on the derivation of the surcharges at that time.

Coalition of Municipal and Cooperative Users, et al., argue that Alliance Companies should not be allowed to unilaterally impose an overall rate design on the Midwest ISO and that the transition rate issues should be pursued through normal Midwest ISO processes before being considered by the Commission. Detroit Edison similarly faults the proposed transition rate design for not having been vetted through the Midwest ISO stakeholder process.

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<sup>73</sup>See supra note 72.

<sup>74</sup>See Detroit Edison at 25-26, Midwest ISO Transmission Owners at 10, Midwest State Commissions at 9.

<sup>75</sup>See supra note 72.

While we generally expect transmission pricing proposals impacting the entire RTO region to be subject to the RTO stakeholder process, at this time, given the circumstances that bring this proceeding to us and the status of negotiations among the parties, we believe that prompt and decisive action needs to be taken by the Commission. Therefore, we will not defer action pending further utilization of the stakeholder process.

Intervenors also argue that the SRA/ZTA and RTOR are unreasonable in concept. LG&E/KU argues that the SRA/ZTA methodology perpetuates existing market inequities, and is, therefore, unreasonable. Williams argues that the ZTA amounts to a tariff on competitive power that would otherwise be imported into the service territory of the transmission owners. Midwest ISO Transmission Owners state that the SRA is unreasonable because it imposes costs on customers regardless of whether the customer is using Alliance Companies' transmission system. In addition, Midwest ISO Transmission Owners argue, the SRA will not be tied to any particular transaction or transmission path, in contrast to the Midwest ISO approach where the lost revenue surcharge will be assessed on specific transactions involving particular transmission paths that may be reassigned to recoup part of the charge.

As we explain above, we find the Petitioners' proposal to be reasonable because it should prevent abrupt cost shifts for a short transition period. We believe that the SRA/ZTA and RTOR control unreasonable cost shifts that would otherwise occur as a result of the use of license plate rates and, therefore, represent a refinement of the license plate rate concept. As such, the Petitioners' proposal serves to remove disincentives to RTO participation, thereby expediting the eventual elimination of the market inequities that LG&E/KU decries. Because the ZTA/SRA is designed to result in a single non-pancaked access charge no matter where the transaction originates, we disagree with Williams' allegation that it will impede trade. We also reject Midwest ISO Transmission Owners' suggestion that the ZTA/SRA should only apply to transactions that use other transmission owners' transmission systems, as that would essentially resurrect rate pancaking with its deleterious effect on efficient and competitive regional markets.<sup>76</sup> In addition, we disagree with Midwest ISO Transmission Owners that their lost revenue adder is superior because it is tied to service that can be reassigned. The fact that point-to-

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<sup>76</sup>See PJM Interconnection, L.L.C. and Allegheny Power, 96 FERC ¶ 61,060 at 61,222 (2001), reh'g pending (rejecting suggestions that the appropriate place to recover all of the PJM West transition costs is on transactions coming across the existing Allegheny/PJM boundary, finding that it would essentially restore pancaked rates, and, thus, violate one of the fundamental tenets of Order No. 2000).

point service can be reassigned does not justify shifting costs from network customers to point-to-point customers.<sup>77</sup>

Ormet argues that the Petitioners' proposal is unreasonable because it would allow Alliance Companies to collect their current level of revenues without regard to whether such revenues exceed costs. Similarly, the Wisconsin Commission argues that Alliance Companies should be required to show that they will under-earn on their transmission investments in order to justify the transition rate and revenue distribution proposal. It argues that return on investment, not lost revenues, should be the basis for revenue distribution and rates. Ormet argues that a full hearing should be held to evaluate the impact of the proposal in the context of establishing just, reasonable, and not unduly discriminatory rates applicable to the Midwest ISO. It submits that piecemeal consideration of rate components is likely to lead to rates that are neither just nor reasonable.

We will not establish a blanket requirement that transmission owners file an updated cost-of-service analysis in order to justify their transitional surcharges since this would create an unnecessary impediment to RTO participation. However, if a customer believes that a transmission owners' existing rates are no longer just and reasonable, it can file a complaint under Section 206 of the Federal Power Act, 16 U.S.C. § 824e (1994). We also deny Ormet's request that we defer action since we find that the Petitioners' proposal is sufficiently developed to warrant our consideration.

Intervenors also caution that the derivation of the SRA and ZTA is prone to debate and delay.<sup>78</sup> Detroit Edison argues that this is attributable, in part, to the fact that Alliance Companies have not undergone reclassification of their transmission facilities and the fact that reliance on test-year transactions produces anomalous results. Michigan Agencies argue that the ZTA/SRA surcharges are unreasonable because they are based on the transmission owners historical off-system purchases. Because Michigan Agencies did not historically import power, they argue, this results in a cost-shift to them.

These concerns relate to the implementation of Petitioners' pricing proposal. We believe that such concerns are more appropriately addressed, to the extent that they

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<sup>77</sup>We note however that the SMD process proposes a new network access service.

<sup>78</sup>See Detroit Edison at 26, LG&E/KU at 4, Midwest ISO Transmission Owners at 8-10.

remain, after actual rates are filed. We encourage the Midwest ISO and the Alliance and non-Alliance transmission owners to address these concerns as they prepare to file the transitional rates, and we encourage them to utilize the Midwest ISO stakeholder process to the greatest extent practical, in order to resolve or at least narrow disputes over the implementation of the rates, before the rates are filed.

Duke, et al., and PSE&G Companies state that the current Midwest ISO RTOR is too high, making certain transactions more costly than they were before the development of the Midwest ISO. Duke, et al., and PSE&G Companies, therefore, request that the Petitioners proposal for derivation of the RTOR be adopted if it results in a lower rate than is produced by the current Midwest ISO RTOR methodology, or, at least, that the Midwest ISO be ordered to investigate whether Petitioners' proposal would address concerns that the Midwest ISO RTOR is currently too high.

As we state above, we will evaluate the resulting RTOR when actual rates are filed, and Duke, et al., and PSE&G Companies' may renew their concerns at that time.

(4) Charges for Services Purchased by Alliance GridCo from Midwest ISO Proposal

Petitioners state that Alliance GridCo will have its own systems capable of performing all of the services it will need as an ITC and that Alliance GridCo will only purchase services from the Midwest ISO that correspond to the oversight and functional responsibilities that the Midwest ISO will have as the RTO. Petitioners state that the services that Alliance GridCo will purchase from the Midwest ISO include market monitoring, ATC calculation, security coordination, coordinated regional planning, and hosting of an Alliance interface with the Midwest ISO OASIS. However, Petitioners note that, since the Midwest ISO and Alliance GridCo will operate in a tiered, decentralized fashion, Alliance GridCo will not require 100 percent of each service that the Midwest ISO will provide to individual transmission owners.

Petitioners claim that there are two approaches to pricing RTO services received by Alliance GridCo from the Midwest ISO. The first approach, they submit, is to require the Midwest ISO to unbundle its services and identify a fair allocation of costs to the services to be purchased by Alliance GridCo, subject to verification and audit. However, according to Petitioners, the Midwest ISO has indicated that it will not further unbundle its services because it does not want to permit other ITCs to elect services from such an unbundled menu of services. Therefore, Petitioners submit that, as an alternative approach to further unbundling of Midwest ISO's services, the Midwest ISO should be

limited to recovering from Alliance GridCo only Midwest ISO's reasonable incremental costs of providing RTO services to Alliance GridCo. Petitioners submit that this approach should not create precedent for other ITCs because the history of Alliance GridCo is unique in that it is the only ITC in the Midwest that has incurred costs to develop its own RTO systems in reliance upon the Commission's orders, guidance and encouragement.

Petitioners maintain that it is consistent with principles of cost causation and the avoidance of cost shifts and cross-subsidies that the Midwest ISO should not be allowed to include historical embedded costs for its systems in the price that it charges to Alliance GridCo for services. Petitioners argue that allocating historical costs to Alliance GridCo would result in a significant shift in costs from existing customers of the Midwest ISO to customers of Alliance GridCo and would result in Alliance GridCo's customers subsidizing existing Midwest ISO customers. Petitioners note that Alliance Companies have incurred, or are committed to incur, approximately \$90 million in start-up costs in forming the Alliance RTO, and the Midwest ISO has incurred approximately \$160 million in pre-operating costs. Petitioners assert that it would be inequitable to require Alliance Companies, who relied in good faith on the Commission's prior orders to incur obligations for the Alliance RTO start-up costs, to be forced to subsidize existing Midwest ISO customers by having Midwest ISO's historical embedded costs allocated to them. They submit that their request is consistent with the Commission's findings concerning the formation of PJM West, where the Commission found that it would be inappropriate to require existing PJM members to share in the start-up costs incurred by Allegheny in joining PJM.

Petitioners also claim that they should not be penalized for being cost efficient. They state that National Grid estimates that the administrative costs to be included in the Alliance GridCo OATT for ongoing operating expenses plus the recovery of start-up costs will be approximately \$65 million per year, while the Midwest ISO estimates approximately \$80 million per year to operate its currently existing transmission system, which Petitioners state is comparable to the Alliance GridCo transmission system.

#### Intervenors' Comments

Intervenors generally oppose Petitioners' proposal that Alliance GridCo only pay for Midwest ISO's incremental costs of providing RTO services to Alliance GridCo, arguing that the proposal would result in customers in the non-Alliance areas of Midwest ISO subsidizing customers in the Alliance GridCo areas. They argue that Alliance GridCo should be allocated a proportional share of the Midwest ISO's fixed costs for the

service that it provides, on the same basis as other Midwest ISO members. Midwest ISO Transmission Owners argue that the fact that an entity joined late should not relieve it of the obligation to pay a fair allocation of fixed and variable costs of the services it receives. Midwest ISO states that it will perform the security coordination function for Alliance GridCo and that Alliance GridCo should pay the Midwest ISO's allocable embedded costs associated with that function. In contrast, the Ohio Commission supports Petitioners' proposal that Alliance GridCo pay only for Midwest ISO's incremental costs, but should not be required to pay for Midwest ISO's historical embedded costs.

Midwest ISO states that, if the Midwest ISO's costs are higher, that reflects the costs of independence and stakeholder involvement that reflect the Midwest ISO's higher mission. It submits that a significant part of its start-up costs reflects the debt it issued to become self-funding and that, from its inception, the Midwest ISO has had an independent board of directors, officers and an independent professional staff, while Alliance has not had independent boards or staffing. Midwest ISO states that it has its own building to accommodate stakeholder meetings, while Alliance relies on the facilities of its members. Midwest ISO adds that it is far from certain that Alliance GridCo's costs would ultimately be any lower than those of the Midwest ISO. It submits that Alliance GridCo is not yet operational, and all potential costs may not yet have been accounted for. Therefore, according to the Midwest ISO, comparison of start-up costs is unwarranted. Midwest ISO also attaches an excerpt of testimony of two Alliance witnesses before the Indiana Commission in which the witnesses indicate that the Alliance RTO administrative cost adder would be in the neighborhood of \$15/MWH, comparable in magnitude to the Midwest ISO's administrative cost adder.

Intervenors are split in their support of unbundling of the Midwest ISO's services. Midwest State Commissions agree that rates for the Midwest ISO's services should be unbundled but argue that the extent of necessary unbundling cannot be determined until the Commission decides the functions that will be performed by the Midwest ISO. At that juncture, they submit, the parties should be directed to use settlement procedures to negotiate a fair resolution of these cost issues, which would take into account the extent that the Midwest ISO's embedded costs relate to RTO services provided to Alliance GridCo. Michigan Agencies similarly support unbundling of the Midwest ISO's services, but argue that Alliance Companies should bear a pro rata share of the Midwest ISO's embedded costs connected with service that the Midwest ISO provides. In contrast, Duke, et al., and PSE&G Companies comment that every customer should pay the same price for the same RTO services and that customers should not be able to pick and choose the services that they wish to receive. They argue that this is consistent with the Commission's findings that the RTO provides a generic benefit to the region that it serves.

LG&E/KU states that it is unfair for the Midwest ISO to unbundle its service for ITCs but not for other transmission owners. Should the Commission direct the Midwest ISO to unbundle its services for Alliance's benefit, LG&E/KU request that it make clear that, in no event, will the Midwest ISO transmission owners bear any additional costs responsibility resulting from such unbundling.

Midwest State Commissions argue that Petitioners have not established that the Midwest ISO has expended money on start-up costs that would not benefit Alliance GridCo, and that Petitioners unjustifiably assume that Alliance GridCo's facilities can be used by the Midwest ISO. They submit that Alliance GridCo should have the burden of proving that the Midwest ISO incurred costs for facilities that won't be used to serve Alliance GridCo and that Alliance GridCo incurred costs for facilities that could be used by the Midwest ISO to provide RTO services. The result of such a process, they maintain, could form the basis for assigning embedded costs, including any credit for Alliance GridCo facilities that could be used by the Midwest ISO. Coalition of Municipal and Cooperative Users similarly submits that the Midwest ISO and Alliance need an opportunity to explore the extent to which systems already developed by Alliance GridCo may be usable by either the Midwest ISO or Alliance and that, once they know what services will be purchased from the Midwest ISO and what facilities Alliance will contribute, the scope of the pricing issue will be known. In any event, they assert, the Commission must not allow cost-responsibility concerns to drive resolution of functional responsibility issues.

To the extent that Alliance Companies' costs are determined to be stranded, the Midwest State Commissions submit that procedures need to be established to determine the fair allocation of such costs, and whether they were prudently incurred. On the latter issue, the Midwest State Commissions maintain that Alliance Companies' incurrence of substantial costs after July 12, 2001, raises questions regarding their prudence. However, they argue, these issues raise factual questions that require further development of a record. Midwest ISO Transmission Owners and the Ohio Commission also maintain that an appropriate approach for addressing Alliance Companies' concerns is for the Commission to consider requests to allow recovery of Alliance Companies' stranded costs in transmission rates covering Alliance Companies' service areas.

#### Commission Determination

We do not agree with Petitioners that Alliance is unique in incurring costs prior to participation in an RTO. We will not grant Petitioners' request that Alliance GridCo should only pay for the Midwest ISO's incremental costs of providing RTO service to

Alliance. We find that such pricing is unreasonable because it would result in customers outside the Alliance GridCo area subsidizing the Midwest ISO's provision of RTO services to Alliance GridCo. Rather, we believe that Alliance GridCo must pay for RTO services on the same basis as other Appendix I transmission owning members of the Midwest ISO. Petitioners' reliance on our rulings concerning PJM West are misplaced. In that proceeding, Allegheny did not seek to be treated any differently from other PJM participants in terms of paying its fair share of PJM's administrative costs, including embedded costs.

We note that the Midwest ISO's proposal to unbundle its administrative cost adder to accommodate Appendix I entities is at issue in an ongoing proceeding in Docket No. ER02-111-000, in which hearing procedures have been held in abeyance while parties engage in settlement negotiations before a settlement judge. We find that Alliance GridCo's payment of the Midwest ISO's administrative cost adder should be subject to the outcome of that proceeding. We note that the Petitioners here are parties to this proceeding and can participate in the ongoing proceeding.

After the Midwest ISO and Alliance GridCo decide which, if any, of Alliance GridCo's systems should be adopted to incorporate Alliance GridCo into the RTO, the Midwest ISO should evaluate the Schedule 10 adder applicable to Alliance GridCo to ensure appropriate recognition of the costs of such systems contributed by Alliance GridCo. Alliance GridCo's concerns that it receive appropriate recognition for the facilities that it contributes to the RTO can be addressed at that time.

(5) Refund of \$60 Million Withdrawal Fee to the Illinois Companies

Proposal

Petitioners assert that under the Illinois Power Settlement,<sup>79</sup> the Illinois Companies were obligated to collectively pay \$60 million to the Midwest ISO in exchange for the right to depart from the Midwest ISO and participate in the Alliance RTO. Petitioners argue that the \$60 million paid by the Illinois Companies was in effect an interest-free loan to the Midwest ISO, and that the Midwest ISO used these funds to pay the remainder

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<sup>79</sup>See supra note 4.

of its start-up program. Petitioners contend that without these funds the Midwest ISO had no financial means to become operational, and that the Midwest ISO was able to earn interest on the funds advanced by the Illinois Companies prior to using the funds on pre-operational expenses. Petitioners claim that as a result of the Alliance VI Order, the Illinois Companies were denied the opportunity to participate in the Alliance RTO, and thus there has been failure of consideration for the payment by the Illinois Companies. Consequently, Petitioners argue that, if Alliance GridCo participates within the Midwest ISO, the Commission should order the Midwest ISO to refund the \$60 million, with interest, to the Illinois Companies.

### Intervenors' Comments

Intervenors generally argue that the refund of the \$60 million withdrawal fee is tied to the responsibility for the Midwest ISO's embedded costs.<sup>80</sup> They claim that paying the withdrawal fee was required by Section II of Article V of the Midwest ISO Transmission Owners Agreement, which provides that a withdrawing member will pay its allocated share of the Midwest ISO's start-up costs, and that the \$60 million was the fair share of start-up cost attributable to the Illinois Companies. Therefore, they maintain that Petitioners' proposal to be responsible only for incremental costs is inconsistent with returning the \$60 million exit fee because the Midwest ISO would receive little, if any, reimbursement of costs incurred to serve the Illinois Companies prior to their departure from the Midwest ISO. Midwest State Commissions maintain that only after determining the Illinois Companies' responsibility for fixed costs can an equitable case be supported for refunding some or all of the \$60 million. They, therefore, recommend that resolution of this refund issue be deferred until the allocation of functions and the Illinois Companies' responsibility for the Midwest ISO's fixed costs have been established.<sup>81</sup>

Midwest ISO represents that, based solely on considerations of equity, it would refund the withdrawal fees if the Illinois Companies rejoined the Midwest ISO as members paying the full Schedule 10 charges and enter into an agreement to pay their fair share of the Midwest ISO's costs should they again depart from the Midwest ISO. However, under Petitioners' proposal to only pay the Midwest ISO's incremental costs, the Midwest ISO submits, there is no basis for return of the exit fee in either law or equity. Midwest ISO maintains that the withdrawal fee was not predicated on RTO status

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<sup>80</sup>See, e.g., Midwest State Commissions at 15-16, Midwest ISO at 33-34.

<sup>81</sup>Midwest State Commissions at 16.

for Alliance, or even migration of the Illinois Companies from the Midwest ISO to Alliance, but was based simply on the departure of the Illinois Companies from the Midwest ISO, a condition which remains fulfilled. Moreover, the Midwest ISO notes that, pursuant to the Illinois Power Settlement, a crediting mechanism already exists to properly recognize the Illinois Companies' contribution to the Midwest ISO's start-up costs as they use the Midwest ISO's OATT transmission services and incur charges reflecting the Midwest ISO's embedded fixed costs. Therefore, according to the Midwest ISO, the predicate for refunding the \$60 million has not been established and the issue of interest is not ripe. In any event, the Midwest ISO argues, it should not be required to pay interest on the refunded amount at the rate set forth in the Commission's regulations, because the Midwest ISO has only benefitted from the withdrawal funds to the extent of the commercial time value of money which is far below the Commission's refund interest rate.<sup>82</sup>

In contrast, Detroit Edison argues that, since the main purpose of the Illinois Power Settlement was the existence of two separate RTOs and this purpose was rejected by the Commission in the Alliance VI Order, the Commission should declare that the Illinois Power Settlement is null and void and direct that the withdrawal fee be refunded upon the Illinois Companies' rejoining the Midwest ISO.<sup>83</sup> Ohio Commission states that, if the Commission orders Alliance Companies to join the Midwest ISO, the Illinois Companies should be promptly reimbursed their \$60 million withdrawal fee.<sup>84</sup>

### Commission Determination

We agree with intervenors that refunding the \$60 million paid by the Illinois Companies cannot be considered separately from the responsibility of the Illinois Companies for the Midwest ISO's embedded costs. We, therefore, find that the Midwest ISO's offer, on equity considerations, to refund the \$60 million provided that the Illinois Companies commit to pay their fair share of Midwest ISO's start-up costs, is reasonable. We believe that the details of the Illinois Companies rejoining the Midwest ISO and the resulting refund should be left for further negotiation between the parties. Moreover, we clarify that the refund of the \$60 million is only relevant to the extent that the Illinois Companies opt to join the Midwest ISO, rather than some other RTO.

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<sup>82</sup>Midwest ISO at 33-35.

<sup>83</sup>Detroit Edison at 25-28, 31-32.

<sup>84</sup>Ohio Commission at 14.

The Commission orders:

(A) Petitioners' Petition is hereby granted, in part, and denied, in part, as discussed in the body of this order.

(B) Petitioners and the Midwest ISO are hereby directed to jointly file a report within 60 days from the date of this order describing which Alliance GridCo systems will be employed, as discussed in the body of this order.

(C) Alliance Companies are hereby directed to file a compliance filing within 30 days from the date of this order, detailing which RTO Petitioners plan to join and whether such participation will be collective or individual, as discussed in the body of this order.

(D) Docket No. RT01-88-016 is hereby dismissed and terminated, as discussed in the body of this order.

By the Commission. Commissioner Breathitt concurred with a  
separate statement attached.

( S E A L )

Linwood A. Watson, Jr.,  
Deputy Secretary.

## Appendix A

Listed parties have filed notices of intervention or motions to intervene in Docket No. EL02-65-000. Short-hand references to parties referred in the order are indicated in parenthesis after the name. Late interventions are indicated by an asterisk.

### Company Name

Ad Hoc Coalition Against Seams  
Association of Business Advocating Tariff Equity (ABATE)  
Coalition of Midwest Transmission Customers and Industrial Energy User-Ohio  
Coalition of Municipal and Cooperative Users of Alliance Companies' Transmission  
Consumers Energy Company (Consumers)  
Dairyland Power Cooperative (Dairyland)  
Detroit Edison Company (Detroit Edison)  
Duke Energy North America, LLC and Public Service Electric and Gas Electric, PSEG  
Power LLC, and PSEG Energy Resources & Trade, LLC  
Edison Mission Energy, Edison Mission Marketing & Trading, Inc., and Midwest  
Generation EME, LLC  
Great River Energy (Great River)  
Illinois Industrial Energy Consumers  
Indiana and Michigan Distributors Association  
Indiana Office of Utility Consumer Counselor  
Louisville Gas & Electric Company and Kentucky Utilities Company (LG&E/KU)  
Madison Gas and Electric Company, Missouri River Energy Services, and Wisconsin  
Public Power, Inc.  
Michigan Public Power Agency and the Michigan South Central Power Agency  
(Michigan Agencies)  
MidAmerican Energy Company (MidAmerican)  
Midwest Independent System Operator, Inc. (Midwest ISO)  
Midwest ISO Transmission Owners  
Mirant Companies (Mirant)  
NRG Energy, Inc. (NRG Energy) \*  
Ohio Consumers' Counselor  
Ormet Primary Aluminum Corporation (Ormet)  
PJM Interconnection, L.L.C. (PJM)  
Public Service Electric and Gas Company, PSEG Energy Resources & Trade L.L.C., and  
PSEG Power Power LLC (PSE&G Companies)  
Public Interest Organizations

Public Service Commission of West Virginia (West Virginia Commission) \*  
Public Service Commission of Wisconsin (Wisconsin Commission)\*  
Public Utilities Commission of Ohio (Ohio Commission)  
Reliant Resources, Inc. (Reliant Resources)  
The State of Michigan, the Michigan Public Service Commission, the Illinois Commerce  
Commission, the Oklahoma Corporation Commission, the Indiana Utility Regulatory  
Commission, the Oklahoma Corporation Commission, the Public Service Commission of  
the Commonwealth of Kentucky, and the Minnesota Department of Commerce (Midwest  
State Commissions)  
TRANSLink Participants  
UBS AG  
Virginia State Corporation Commission (Virginia Commission)  
Williams Energy Marketing & Trading Company (Williams) \*  
Wisconsin Electric Power Company (WEPCO)  
Wolverine Power Supply Cooperative, Inc. (Wolverine)

## Appendix B

Listed parties have jointly filed comments and/or protests in Docket No. EL02-65-000. Short-hand references to parties referred in this order are indicated in parenthesis after the name.

Coalition of Municipal and Cooperative Users of Alliance Companies' Transmission, Wisconsin Public Power, Inc., Madison Gas and Electric Company, and Missouri River Energy Services (Coalition of Municipal and Cooperative Users, et al.)

Duke Energy North America, LLC and Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Energy Resources & Trade, LLC (Duke, et al.)

Edison Mission Energy, Edison Mission Marketing & Trading, Inc., and Midwest Generation EME, LLC (Edison, et al.)

Illinois Industrial Energy Consumers, Coalition of Midwest Transmission Customers, Industrial Energy Users-Ohio, the Association of Business Advocating Tariff Equity, Missouri Office of the Public Counsel, Indiana Office of Utility Consumer Counselor, Ohio Consumers' Counsel, and Public Interest Organizations (Illinois Industrial Energy Consumers, et al.)

Louisville Gas & Electric Company and Kentucky Utilities Company (LG&E/KU)

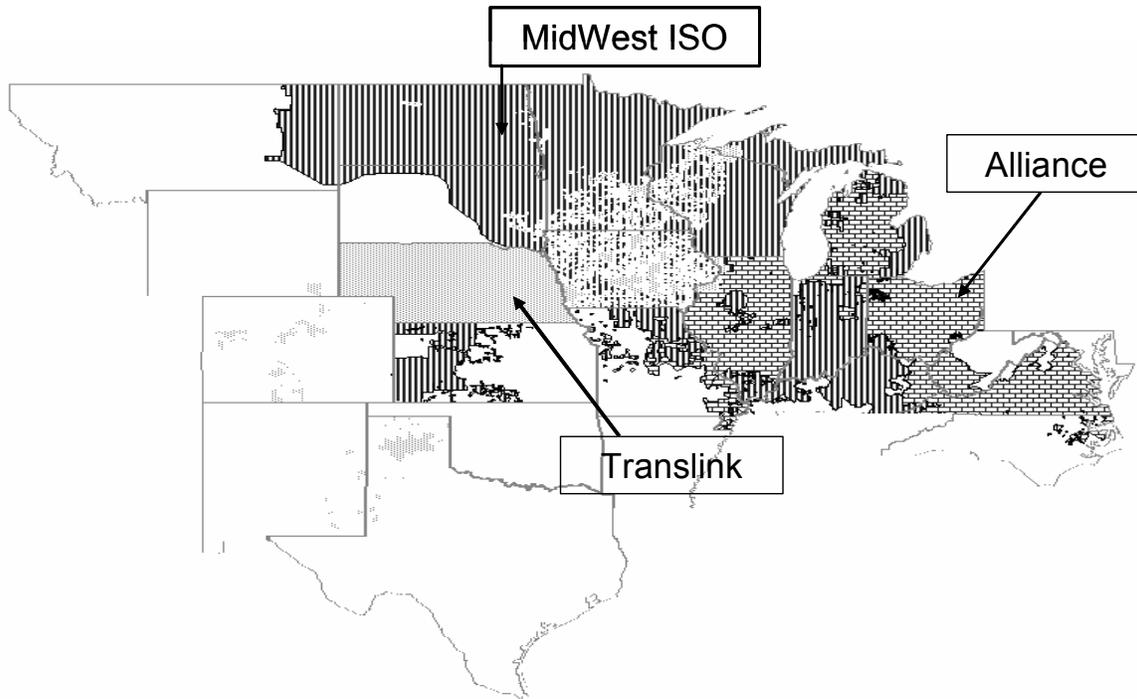
Michigan Public Power Agency and the Michigan South Central Power Agency (Michigan Agencies)

Public Service Electric and Gas Company, PSEG Energy Resources & Trade L.L.C., and PSEG Power Power LLC (PSE&G Companies)

The State of Michigan, the Michigan Public Service Commission, the Illinois Commerce Commission, the Oklahoma Corporation Commission, the Indiana Utility Regulatory Commission, the Oklahoma Corporation Commission, the Public Service Commission of the Commonwealth of Kentucky, and the Minnesota Department of Commerce (Midwest State Commissions)

Appendix C

**Midwest ISO, Translink and Alliance**



Map by OMTR, Markets Development  
Source: RDI PowerMap

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**Delegation of Functions Allowed by this Order**

<b>Responsibility</b>	<b>RTO</b>	<b>Alliance Gridco</b>
Tariff Administration	Single tariff administered by the RTO.	Unilateral filing rights under sec. 205 for revenue requirements including rate design and incentive rates within its footprint, after consultation with the RTO; separate schedules, but not separate tariff.
OASIS	Single OASIS node.	Site page for Alliance service under RTO OASIS node.
ATC/TTC - interim	RTO assures consistency with its processes.	Calculates ATC/AFC, subject to approval by RTO and consistency with RTO processes.
ATC/TTC - long-term	RTO provides inputs for CBM and TRM and calculates ATC.	Determines TTC using RTO formulas and methodologies.
Maintenance of outages	RTO approves maintenance for critical transmission facilities.	Coordinates maintenance of generators and non-critical transmission facilities in its area. Obtains approval for critical transmission facilities.
Operational Authority	Operates into, out of, and through transactions.	Schedules and physically operates transmission with source and sink inside footprint.
Reliability, Security and Coordination	Responsible for reliability for entire region.	Takes corrective action for reliability inside footprint under RTO supervision.

Parallel Path Flows	Manages parallel path flow for region.	Assists in the management of parallel path flows during emergencies.
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**Delegation of Functions Allowed by this Order (continued)**

<b>Responsibility</b>	<b>RTO</b>	<b>Alliance Gridco</b>
Congestion Management	Responsible for implementing congestion management.	No responsibilities authorized at this time.
Ancillary Services	Provider of last resort for ancillary services other than scheduling, system control and dispatch; voltage control; and regulation.	Provide ancillary services, scheduling, system control and dispatch; voltage control; and regulation service. Alliance may provide non-real time imbalance energy and ancillary services upon a showing of no harm to an RTO's ancillary service and imbalance energy markets.
Planning and Expansion	Authority for region. Directs expansions as required. Develop joint planning protocol.	Develop joint planning protocol. Responsible for planning and expansion of its own system, but where RTO has ultimate authority when there are material impacts outside of Alliance.
Market Monitoring	Monitors market for entire region.	No market monitoring duties requested. Proposal to impose and collect penalties is rejected without prejudice.
Losses - interim	RTO assures consistency with its processes.	Proposed procedure for losses, subject to approval by RTO and consistency with processes.

Losses - long-term	Single method/system.	No responsibilities authorized at this time.
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Alliance Companies

Docket No. EL02-65-000

Ameren Services Company

On behalf of:

Union Electric Company

Central Illinois Public Service Company

American Electric Power Service Corporation

On behalf of:

Appalachian Power Company

Columbus Southern Power Company

Indiana Michigan Power Company

Kentucky Power Company

Kingsport Power Company

Ohio Power Company

Wheeling Power Company

Dayton Power and Light Company

Exelon Corporation

On behalf of:

Commonwealth Edison Company

Commonwealth Edison Company  
of Indiana, Inc.

FirstEnergy Corporation

On behalf of:

American Transmission Systems, Inc.

Cleveland Electric Illuminating Power Company

Ohio Edison Company

Pennsylvania Power Company

Toledo Edison Company

Illinois Power Company

Northern Indiana Public Service Company

and

Docket Nos. EL02-65-000  
and RT01-88-016

-2-

National Grid USA

Alliance Companies

Docket No. RT01-88-016

Ameren Services Company  
On behalf of:

Union Electric Company  
Central Illinois Public Service Company

American Electric Power Service Corporation  
On behalf of:

Appalachian Power Company  
Columbus Southern Power Company  
Indiana Michigan Power Company  
Kentucky Power Company  
Kingsport Power Company  
Ohio Power Company  
Wheeling Power Company

Consumers Energy Company and  
Michigan Electric Transmission Company

Dayton Power and Light Company  
Exelon Corporation  
On behalf of:

Commonwealth Edison Company  
Commonwealth Edison Company  
of Indiana, Inc.

FirstEnergy Corporation  
On behalf of:

American Transmission Systems, Inc.  
Cleveland Electric Illuminating Power Company

Ohio Edison Company  
Pennsylvania Power Company  
Toledo Edison Company

Illinois Power Company

Northern Indiana Public Service Company

Virginia Electric and Power Company

( Issued April 25, 2002)

Breathitt, Commissioner, concurring:

In order for Alliance Companies to finalize their business decisions regarding RTO formation and their particular business model, they asked the Commission for a declaratory order. The order we are putting forth makes certain calls on the functions they propose to share with an RTO. I am pleased that we are acting on their request and I am voting in the affirmative on this order.

However, I have reservations that are sufficient enough that I feel compelled to write separately. My reasons for concurring in this order are similar to those reasons expressed in my concurrence on the TRANSLink order.<sup>1</sup> I am uneasy about whether the calls we make will allow ITC's - such as the one Alliance wishes to form - to become viable and vibrant businesses.

In addition to making calls on several issues related to delegations of functions between Alliance and an RTO, today's order directs Alliance Companies to make a compliance filing within 30 days to apprise the Commission of their intentions for joining a specific RTO, either collectively or individually. Also, the order directs Midwest ISO, in consultation with the Alliance GridCo, to file within 60 days, a report identifying those Alliance GridCo systems that will be used by Midwest ISO if Alliance joins the Midwest ISO. Additional parts of the order require continued negotiation to resolve outstanding issues (such as the disposition of the \$60 million withdrawal fee) or require collaborative efforts between the parties.

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<sup>1</sup> Issued concurrently in TRANSLink Transmission Company, L.L.C. et al. in Docket Nos. EC01-156-000 et al.

Because I recognize that there is still much work involved in both deciding the compatibility of the Midwest ISO system and the Alliance GridCo operations and in any collaborative discussions, I believe that we may need to give more time to the parties to resolve these issues. We are asking Alliance Companies to state their RTO decisions in 30 days based on incomplete information about such important issues as the recovery of their prior investment in system facilities. In this instance, in a push to find RTO homes for all of the Midwestern entities, we might be asking Alliance Companies to put the cart before the horse.

Furthermore, I note that until the Commission resolves the issues pending on rehearing in Docket Nos. RT01-88-000 et al.,<sup>2</sup> Alliance Companies are left with continuing uncertainty in their RTO plans.

For the foregoing reasons, I respectfully concur.

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Linda K. Breathitt  
Commissioner

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<sup>2</sup> 97 FERC ¶ 61,327 (2001).