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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Midwest Independent Transmission System Operator, Inc.	:	Docket No. ER07-1233-000
Midwest Stand-Alone Transmission Companies	:	Docket No. ER07-1261-000
Midwest Independent Transmission System Operator, Inc.	:	Docket Nos. ER05-6-100, <i>et al.</i>
Midwest Independent Transmission System Operator, Inc.	:	Docket No. EL04-135-103
PJM Interconnection, L.L.C., <i>et al.</i>	:	Docket Nos. EL02-111-120, <i>et al.</i>
Midwest Independent Transmission PJM Interconnection, L.L.C., <i>et al.</i> Ameren Services Company, <i>et al.</i>	:	Docket Nos. EL03-212-116, <i>et al.</i>
Informational Compliance Filing of the Midwest Independent Transmission System Operator, Inc. and Supporting Midwest ISO Transmission Owners	:	Docket No. ER06-18-000
Informational Compliance Filing of Indianapolis Power and Light Company	:	Docket No. ER06-18-000 (not consolidated)

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. 385.21, the Public Utilities Commission of Ohio ("PUCO" or "Ohio" or "Ohio Commission") respectfully

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submits the following comments in the above-captioned dockets for the Commission's consideration.

The August 1, 2007 filings in the above-captioned dockets all address, in one manner or another, the post transition transmission pricing issue. The Commission issued Notice on August 7, 2007, in Docket No. ER07-1233-000, and August 17, 2007, in Docket No. ER07-1261-000, setting September 17, 2007, as the deadline for comments in both of those two dockets. The Commission next issued Notice on August 9, 2007, in a second set of dockets, ER05-6-100, *et al.*, EL04-135-103, EL02-111-120, *et al.*, and EL03-212-116, *et al.*, setting August 22, 2007, as the deadline for comments in all of those dockets. PUCO Chairman Alan R. Schriber filed a letter in the second set of dockets on August 22, 2007. The PUCO hereby requests leave to file the instant comments in the entire list of dockets captioned above, supplementing and amplifying Chairman Schriber's letter in Docket Nos. ER05-6-100, *et al.*, EL04-135-103, EL01-111-120, *et al.*, and EL03-212-116, *et al.* While we acknowledge that the Commission did not issue Notice of either of the informational filings in Docket No. ER06-18-000 in this list, the PUCO hereby also requests leave to file the instant comments in those dockets as well. Filing comments repeatedly in multiple dockets may seem unusual and redundant, but we find this measure necessary to bring the Commission's attention to bear on the interrelationships of all these dockets and the resulting confusion that conflicting opinions and orders have caused. To allow this confusion to continue to mount will only increase the marked uncertainty that has been perpetuated in the wholesale market, to the detriment of market participants, potential investors, and last, but not least, the ratepayers.

I. Summary of the Filings

The Midwest Independent Transmission System Operator (“Midwest ISO” or “MISO”) and certain Midwest ISO Transmission Owners (collectively, “Midwest ISO/Certain Midwest ISO TOs”) submitted a filing (Docket No. ER07-1233-000) in support of continuing zonal (or license plate) transmission rates for existing facilities in the Midwest ISO footprint under the Midwest ISO Open Access Transmission and Energy Markets Tariff (Midwest ISO Tariff), taking the position that the use of license plate rates will continue to be a just and reasonable approach to recover the cost of existing transmission facilities after the six-year transition period ends on January 31, 2008. The Midwest ISO/Certain Midwest ISO TOs state that use of license plate rates for existing facilities most closely preserves the intent of transmission owners in planning, constructing, and using those facilities and thus is consistent with cost causation principles, and avoids inappropriate cost shifts.

On August 1, 2007, the Midwest Stand-Alone Transmission Companies (MSATs) and Wolverine Power Supply Cooperative, Inc. (Wolverine) (collectively, “MSATs/Wolverine”) submitted a filing (Docket No. ER07-1261-000) proposing revisions to the Midwest ISO Tariff (TEMT). Their proposed rate design would increase the 20% regional postage stamp cost allocation component of the Regional Expansion Criteria and Benefits (RECB) methodology to 100% and would eliminate the cost sharing eligibility criteria for new transmission projects rated at 500 kV or above. The resulting outcome is that all projects that are included in the Midwest Transmission Expansion Plan would automatically receive region-wide postage stamp cost allocation treatment.

The Midwest ISO, Certain Midwest ISO Transmission Owners, PJM Interconnection, L.L.C., (PJM), and Certain PJM Transmission Owners (collectively, “IRPD Applicants”) submitted a filing (Docket Nos. ER05-6-100, *et al.*, EL04-135-103, EL02-111-120, *et al.*, and EL03-212-116, *et al.*) in support of a methodology for transmission pricing between PJM and the Midwest ISO that they refer to as “Independent RTO Pricing Design” (IRPD). The filing was submitted in accordance with Paragraph 62 of the Commission’s November 18, 2004 Order in Docket No. ER05-6-000 (November 2004 Order)¹. The IRPD does not propose a new border rate to replace the regional through and out rates (RTORs) that were previously eliminated by the Commission. Under this proposal, network and firm point-to-point transmission customers would continue to pay the applicable zonal charge in their sink zone whether their designated resources are located in their RTO or in the other RTO. The IRPD also maintains the elimination of rate pancaking and transaction-based pricing for transmission services sourcing in one RTO and sinking in the other.

In August, 2007, American Electric Power Service Corporation (AEP), International Transmission Company (ITC), Michigan Electric Transmission Company, LLC (METC) (collectively, “ITC/METC”), PUCO Chairman Schriber, and others filed protests of the IRPD filing.

On August 1, 2007, the Midwest ISO/Supporting Midwest ISO TOs submitted an informational filing in compliance with the Commission’s March 15, 2007 Order Condi-

¹ *Midwest Independent Transmission System Operator, Inc., et al.*, 109 FERC ¶ 61,168 (2004), clarified, 109 FERC ¶ 61,243 (2004).

tionally Accepting Tariff Revisions² and the March 15, 2007 Order on Rehearing.³ In those Commission Orders, the Midwest ISO and Midwest ISO transmission owners were required to file annual reports, beginning August 1, 2007, to assist in evaluating the post-transition period pricing and cost recovery paradigm within the Midwest ISO Region and to assess the effectiveness of the RECB methodology.

II. Position and Recommendation of the PUCO

The PUCO believes that bulk power transmission projects can provide a benefit to more than just the local pricing zone(s) in which the transmission owner is located and who is assigned the responsibility to build the facility. Therefore, the costs of bulk power transmission projects should be recovered from transmission users that *benefit* from those projects. This is especially true for regionally beneficial projects. PUCO believes this supports the just and reasonable standard followed by the Commission and used by state commissions for retail rate cost recovery determination.

The PUCO does not support the postage stamp proposal *per se*. The PUCO is a strong advocate for costs being allocated only to those pricing zones who are shown to benefit from a project and that no pricing zone that is not shown to receive a benefit from the project should be required to pay for that project. It is the PUCO's position that the cost of each project should be allocated only to those who benefit.

² *Midwest Independent Transmission System Operator, Inc.*, 118 FERC ¶ 61,209 (2007) (RECB II Order).

³ *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,241 (2006) (November 29 Order), *Order on Reh'g* 118 FERC ¶ 61,208 (March 15 Order on Rehearing).

In response to the August 1, 2007 filings, Ohio would like to restate the concerns the Ohio Commission continues to have with the RTO unjust and unreasonable rate designs for the recovery of transmission investment. The reasonableness of the rate design(s) in the multitude of cases cited above should not be judged in a vacuum, but rather in the context of the regulatory initiatives leading up to this point, including prior and interrelated Commission Orders and initiatives. Our discernment of the Commission's policy intentions was expanded usage of the existing grid as well as open transmission service to enable more regional transactions and more efficient use of generation resources to create viable markets.

The majority of the TOs in PJM and MISO support maintaining the current rate designs within each RTO. For existing transmission facilities, the rate design is a zonal license plate design. For new transmission projects, the rate design varies between the two RTOs, however, each includes a component of the postage stamp allocation methodology.

The Ohio Commission supports rate designs that allocate transmission costs to those who are benefiting from and utilizing the transmission facilities at issue. License plate rate design fails to assign costs to users of the facilities outside of the TO's zone, while postage stamp designs assign costs to all TOs located in an RTO regardless of their use of the facilities. The Ohio Commission strongly believes not taking into consideration use and benefits results in unjust and unreasonable rates.

The Ohio Commission has filed many comments in regard to rate design issues and has consistently advocated for regional rate designs that allocate costs of existing and

new facilities to those that benefit and utilize those facilities. Most recently, this Commission filed for rehearing in Docket No. EL05-121-000, requesting the Commission reconsider its decisions regarding the implementation of license plate rates for existing facilities and postage stamp rates for facilities 500kV and above. We believe that this treatment between existing and new facilities results in unfair rates to Ohio ratepayers. Ohio's customers are required to pay the full tab for existing facilities, many of which are High Voltage backbone transmission facilities, that are clearly providing benefits beyond the borders of Ohio, while at the same time Ohio's customers are now required to pay for new facilities in other zones that may or may not provide any benefits to Ohio's ratepayers. In essence, Ohio's ratepayers are being penalized for its companies having sufficient transmission facilities already in place, while companies in other states, that are now strengthening their infrastructure, get to spread their costs to Ohio's customers. To avoid this disparate treatment, existing facility costs should be allocated under the same methodology as new facility costs and neither should be allocated utilizing postage stamp rate designs. In the Commission's Opinion No. 494 a *beneficiary pays* approach was promoted for new transmission facilities that are below 500 kV. The Ohio Commission urges the Commission to consider the use of a similar beneficiary pays approach for all transmission facilities and not just for those operating below 500kV.

The Commission now has an opportunity to revisit the equitable assignment of transmission costs to those benefiting and utilizing transmission facilities and eliminate the unjust rates resulting from license plate and postage stamp rate designs. Ohio urges the Commission to take advantage of this opportunity.

The Ohio Commission supported the elimination of through and out rates; however, the Ohio Commission's support was based on the understanding that the through and out rates would be replaced by regional rate designs that properly aligned the costs with the beneficiaries and not the rate designs the Commission has allowed to be implemented to date.

The Ohio Commission recognizes the need for investment in the transmission infrastructure; however, this will not be accomplished by the use of unjust and unreasonable rate designs for recovery of that transmission investment. As a result, the PUCO urges the Commission to take advantage of this opportunity to address the regional rate designs within and between the RTOs and order the implementation of rate design methodologies that better assign the costs of these facilities to those that are benefiting from these facilities.

Following are the General Principles of Rate Design the Ohio commission has utilized and finds appropriate when considering any long-term rate design proposals:

- Rate schedules should provide the utility the opportunity to recover an authorized revenue amount.
- Rate schedules should be *equitable (cost-causation-based and benefits-based)*.
- Rate schedules should provide for customer understanding and continuity of rates.
- Rates schedules should *minimize customer impact and undue cost shifts*.
- *Rate schedules should recognize the use and the benefits of the transmission system, both local and regional.*

The Commission approved the Going Forward Principles in Docket No. EL02-111. These principles state, “*An important factor in determining whether these standards have been met in any long-term transmission pricing structure is the degree to which cost responsibility for facilities is assigned to those who use or benefit from such facilities, regardless of whether those users or beneficiaries are located inside or outside the transmission owners’ footprint.*”⁴ In its 1994 Transmission Policy Statement, the Commission stated that greater pricing flexibility is appropriate “in light of the significant competitive changes occurring in the wholesale generation markets, and in light of our expanded wheeling authority under the Energy Policy Act of 1992 (EPAAct).” The Commission noted those recent events underscored “the importance of ensuring that our transmission pricing policies promote economic efficiency, fairly compensate utilities for providing transmission services, reflect a reasonable allocation of transmission costs among transmission users, and maintain reliability of the transmission grid.”⁵ In that same Policy Statement the Commission recognized that the industry is evolving rapidly “in response to changes in institutions, competitive pressure, and technological innovations.” *The Commission specifically pointed to flow-based pricing structures as innovations to be encouraged:*

For example, various forms of flow-based pricing structures are beginning to be considered in conjunction with electronic

⁴ *Midwest Independent Transmission System Operator, Inc.*, 106 FERC ¶ 61262 (2004) (Order Accepting Agreement Establishing Going-Forward Principles and Procedures, and Extending Dates at n. 10) (March 19, 2004).

⁵ Inquiry Concerning the Commission’s Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act; Policy Statement, FERC Stats and Reg., ¶ 31,005 at 31,136 (1994) (Transmission Pricing Policy Statement).

transmission information systems. We seek to encourage this process and will in the future entertain non-discriminatory tariff innovations to accommodate new pricing proposals.⁶

The Commission should analyze and judge the rates based on historically used and accepted general principles of rate design rather than based solely on economic outcomes and popularity contests.

III. Discussion

Mr. John Procario, on behalf of the Certain Midwest ISO TOs, provided an Affidavit and several exhibits supporting the Midwest ISO/Certain Midwest ISO TOs' proposal to continue license plate pricing for existing transmission facilities within the Midwest ISO footprint and supporting the Midwest ISO/Certain Midwest ISO TOs' proposal for not modifying the RECB approach for new facilities in the instant proceeding. Mr. Procario's rationale is:

- Existing facilities were planned to serve local needs. They were not planned for regional purposes.
- Cost shifts would result and may encourage high transmission cost utilities to join MISO and encourage those utilities that already believe that MISO provides marginal benefits to attempt to leave MISO.
- The focus on the cost allocation of existing facilities diverts stakeholder resources from initiatives related to future RTO benefits.
- Retaining license plate rates is supported by a large majority of the TOs.⁷

⁶ Transmission Pricing Policy Statement at 31,734

⁷ Affidavit of John Procario at Ex. 2 at 14-15.

The Ohio Commission contends that some of the transmission system, was in fact planned and built for regional purposes, such as AEP's. Portions of the existing high voltage transmission system were built to support regional wholesale markets and inter-connect utility systems to foster regional reliability.

While costs shifts can be unpopular, free-riders and subsidies are uneconomic and inefficient and unfair. Cost shifts that result from appropriately aligning transmission costs with the beneficiaries are appropriate and justified. For whom does this avoid cost shifts? If taken into complete context, the Commission's elimination of through-and-out rates together with the absence of a replacement rate has caused AEP's transmission rates, for instance, to increase by more than fifty percent. AEP's customers would likely consider that a cost shift as well. *All* cost shifts and impacts must be taken into consideration, not just selective ones.

- RTO benefits are hard to realize when customers in certain zones are required to continue to pay for systems that benefit others and, in addition, pay for transmission upgrades from which they receive no benefits. Rate design principles can not be simply abandoned.
- Since when is ratemaking a popularity contest? In addition to the TO filings made on August 1, 2007, AEP filed a separate letter in this docket. The Ohio Commission supports many statements included in this letter, and in particular, the statement on page 2 of 2, which reads:

PJM and MISO make much of the fact that the proposal that they submitted today was supported by a vast majority of transmission owners within these RTOs. AEP actively participates in all aspects of PJM's governance process, and we understand and indeed support the Commission's general deference to RTO stakeholder's preferences. In the area of setting rates, however, the Commission cannot simply defer to the will of the majority. The Federal Power Act demands that

the Commission provide for the allocation of costs in a manner that is fair and reasonable, even if that allocation is widely *unpopular* (emphasis added).

Mr. Procario testified that the present Midwest ISO system is not strongly connected electrically and that existing facilities within the Midwest ISO do not have substantial region-wide impact.⁸ To illustrate that the present Midwest ISO system is not strongly connected electrically, power flow distribution factors were calculated for the outage of fourteen major transmission lines in various locations in the Midwest ISO footprint. Mr. Procario provided an exhibit to his Affidavit that shows the outaged facility in the first column and the largest percent response on the transmission facilities of thirteen geographically dispersed transmission owners in the Midwest ISO in the other columns. The exhibit shows, for example, that the outage of the Duke-Ohio Port Union-Zimmer 345 kV line in eastern Midwest ISO results in a maximum response of less than 1% on the transmission circuits in the other twelve transmission systems. Similarly, the outage of the ITC Jewell-Lenox 345 kV circuit in Michigan results in a maximum response of less than 1% on the transmission facilities in the other twelve systems. The outage of the Otter Tail Power Company Center-Coyote 345 kV line in western Midwest ISO results in a maximum response of 42.95% in the Montana Dakota Utilities system, 29.75% in Great River Energy, and 3.19% in Minnesota Power (all in western Midwest ISO), while the response of systems in eastern Midwest ISO (Ameren, Duke Energy, FirstEnergy, and ITC/METC) is less than 1%. Also, the outage of the American Transmission Company LLC (ATC) Oak Creek-Racine 345 kV circuit in Wisconsin causes a maximum response

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Affidavit of John Procario at Ex. 1 at 12-13.

of 1.83% in the system of Northern States Power Company and Northern States Power Company (Wisconsin), subsidiaries of Xcel Energy Inc., and less than 1% response in the other eleven systems.⁹ From this analysis of inter-connectedness, Mr. Procario concluded that, for the present system in the Midwest ISO “existing facilities do not have substantial region-wide impact.”¹⁰

The Ohio Commission contends that this is precisely what the Commission needs to recognize – that these are real measures, and that region-wide impacts, can in fact, be determined. To ensure just and reasonable rate designs, utilization of these types of measures to determine beneficiaries and users of the facilities is critical.

Mr. Procario utilized the MISO Line Outage Distribution Factor (LODF) to perform his analysis. PJM is currently using a cost causation tool (beneficiary pays) called Distribution Factors (DFAX) to allocate the cost of transmission upgrades below 500kV. DFAX represents the percentage of the power flowing from a generator to a load that flows over a particular transmission facility. The DFAX model uses sources and sinks along with other assumptions to model system-wide power flows to determine what locations an entity’s flow will impact. Ohio believes the DFAX approach PJM utilizes to allocate transmission costs is an example of a beneficiary pays approach that is a step in the right direction. Some form of these methods should be applied in both MISO and PJM to represent the true cost to the users of the existing and new transmission system.

⁹ Affidavit of John Procario at Ex. 4.

¹⁰ *Id.* at Ex. 1 at 13.

The Commission's assumption that the existing system was constructed to serve the needs of individual systems is not supported by the record. AEP, the largest transmission provider in Western PJM, planned on a regional basis and built its high voltage transmission system to facilitate wholesale transactions and create substantial interconnections with other utilities to support regional reliability. The Commission's finding, in FERC Order No. 494, that AEP's high voltage lines were added "mainly to serve its own system needs" is based on a single sentence that is clearly taken out of context. The Order cites testimony describing "detailed studies . . . finding that further development in the 345 kV and above transmission system would be required to meet the needs of the AEP system by 1990."¹¹ However, the decision fails to mention that these studies were conducted in the 1960s, an era of falling rates and rapid load growth, and formed the basis for constructing a 765 kV system that was not forecasted to be needed to meet AEP's own load requirements until "twenty to thirty years into the future."¹² Other underlying reasons were important in leading AEP to commit to the early development of

¹¹ Order on Initial Decision at ¶ 50.

¹² AEP-300 at 9.

its 765 kV system including reliability, interconnections, and economics.,¹³ And, AEP has continued to add to its transmission system such that it creates regional benefits.

Today, the existing transmission system in Ohio is serving the needs of many other customers outside of Ohio. The Commission's failure to recognize this fact in rate design is unjust and unreasonable. Although FERC has promoted RTOs and open access, it should not now take a step backwards by adopting a rate design method for existing systems that departs from its direction of promoting open access of the transmission grid. to act as though there is no access will result in unjust and reasonable rates. FERC has vigorously pressured companies to seek membership in Regional Transmission Organizations and to provide open access to the transmission system. To now require those who originally built transmission that supported wholesale markets and enhanced regional reliability to pay for facilities, built in part on an economic foundation of revenues that disappeared with the elimination of the RTOR, does not represent consistent policy.¹⁴

¹³ AEP-300 at 9. During the period preceding the development of its 765 kV system, AEP was already developing transmission to meet regional requirements in excess of its own system's needs. In 1967, the Federal Power Commission found that:

The American Electric Power system has an extensive extra high voltage network interconnecting its six subsidiaries which span a six-state area from Michigan to West Virginia. At present, the system includes 1800 miles of 345-kilovolt transmission lines. A 765-kilovolt overlay network is scheduled for initial operation in 1971. American Electric Power has 53 interconnections with 21 separate utility systems. Two of these are at 500 kilovolts, ten at 345 kilovolts and 41 at 138 kilovolts. These interconnections are capable of transferring 4,500,000 kilowatts into or out of the 'system, more than half of its present peak load. Relatively few utilities in the United States have interconnections or internal networks capable of exporting or importing as much as 15 to 20 percent of peak load requirements.

Federal Power Commission, *Prevention of Power Failures: Volume I – Report of the Commission* (July 1967).

¹⁴ Such changes in revenues and cost allocation can affect utility decisions to join or continue to participate in an RTO. Order on Initial Decision at ¶ 58.

It is an accepted fact that others outside of AEP's local zone use the existing AEP high voltage transmission system. For example, FERC Commissioner Suedeen Kelly believes this. In her April 19, 2007 open Commission meeting talking points, she states that:

Basically, PJM's zonal rates leave AEP customers paying for most of its existing extra-high voltage (765 kV) transmission system even though that system really is the backbone of a much larger region and benefits many others.

Additionally, in the Commission's Order 494 at paragraph 49, FERC states that:

In making our determination for existing facilities, we do not dispute that PJM now operates the grid on an integrated basis or that some existing facilities provide benefits outside of their local zone. . . .

Mr. Alan C. Heintz testified about cost shifts that would result from a change from license plate pricing for existing facilities to various alternative pricing structures.¹⁵ Mr. Procario explains that,

The largest cost shifts are in the postage stamp design, with cost shifts ranging from a 394% increase to a 54% decrease. The shifts for the 100 kV plus highway/byway design range from a 340% increase to a 60% decrease. The shifts are generally smaller, but still significant, for the higher highway/byway voltage splits. For the 230 kV highway/byway split, the largest positive shift is 181%, and the largest negative shift is 61%. For the 345 kV highway/byway split, the largest positive shift is 137% and the largest negative shift is 15%.¹⁶

¹⁵ Affidavit of Alan C. Heintz at Exs. 5, 6 .

¹⁶ Affidavit of John Procario at Ex. 1 at 13-14.

Ohio contends that this is a candid demonstration of the subsidies and inequities that potentially exist under the current structure.

The MSATs/Wolverine filing proposes two changes to the RECB treatment of new transmission facilities. Namely, MSATs/Wolverine propose to: (1) increase the 20% regional postage stamp cost allocation component of the RECB methodology to 100%; and (2) eliminate the cost sharing eligibility criteria for transmission projects rated at 500 kV or above so that *all* such projects that are included in the Midwest Transmission Expansion Plan would *automatically* receive region-wide postage stamp cost allocation treatment. While MSATs/Wolverine assert that its proposed changes are “narrowly focused” and aimed at mitigating an alleged “disincentive to invest in regional EHV transmission infrastructure,”¹⁷ adoption and implementation of the MSATs/Wolverine proposal would have major negative effects and implications. MSATs/Wolverine make claims in their filing that benefits of EHV transmission projects “are widely dispersed,”¹⁸ regional benefits are conferred by EHV transmission projects,¹⁹ “it is virtually certain that, over time, projects rated 500 kV and above will perform regional functions,”²⁰ and that it is reasonable to allocate 100% of the costs of EHV facilities on a regional basis.”²¹ However, no support for these statements in the form of quantitative numerical analyses

¹⁷ MSATs/Wolverine filing at 3.

¹⁸ *Id.* at 50.

¹⁹ *Id.* at 59.

²⁰ *Id.* at 63.

²¹ Direct Testimony of Dale A. Landgren at Ex. MW-1 at 39.

of the distribution of benefits of new transmission facilities is provided. In fact, Mr. Procario's analyses should prove otherwise in many instances. MSATs/Wolverine go so far as to label efforts to "specifically evaluate regional benefits" as "hurdles" standing in the way of transmission projects becoming eligible for regional cost allocation.²² A measure of benefits is not a hurdle, but rather, a necessary prerequisite to equitable cost allocation. The MSATs/Wolverine proposal, on the other hand, would arbitrarily allocate transmission project costs on a load ratio share basis with absolutely no analytical analysis whatsoever.

MSATs/Wolverine argue that the RECB methodology does not "provide a sufficient platform to evaluate the benefits of larger, backbone EHV transmission projects on a comprehensive, forward looking basis."²³ In doing so, we hope they are not alleging their proposal provides proper incentives. It should be noted that these entities currently are performing huge transmission build-outs because of the non-existence of construction and lack of attention to infrastructure needs in the past. They operate in the western portion of MISO, which admittedly, was not even meeting reliability requirements, and investment is required to get this part of the system up to standards. While spreading the costs over the footprint would in fact alleviate rate burdens on some, the financial burdens placed on others do not send proper price signals. Neither will it help the investment community confidence, providing further obstacles in positive rate recovery as well as siting outcomes. Ohio has advocated regional siting for two decades now, and has

²² MSATs/Wolverine filing at 62.

²³ *Id.* at 41.

taken a regional perspective in siting facilities located in Ohio. However, current RTO rate-making proposals, such as those put forth by MSATs/Wolverine, may encourage states like to Ohio to change their current perspectives on regional siting and focus on protecting Ohio customers. MSATs/Wolverine state that its proposal to increase the 20% postage stamp to 100% “will better facilitate consideration of regional benefits in the context of transmission planning and expansion.”²⁴ However, this statement is simply wrong because the MSATs/Wolverine proposal will not even make an attempt to quantify project benefits or to evaluate their regional or sub-regional distribution.

MSATs/Wolverine’s witness, Mr. Dale A. Landgren himself states,

For projects to go forward, it is critical that siting authorities, regulators, and stakeholders be provided with a clear and accurate picture of the costs and benefits of proposed projects, *and that the allocation of costs and benefits be appropriately aligned* (emphasis added).²⁵

In their proposed 100% allocation proposal, MSATs/Wolverine fail to acknowledge the geographical and electrical expansiveness of the Midwest ISO region. They also fail to respect the load that would be forced to pay the socialized costs of new transmission facilities, but would not necessarily receive the benefits. Under such circumstances, implementation of the MSATs/Wolverine proposal would be unduly discriminatory. MSATs/Wolverine downplay the discriminatory effect of their arbitrary transmission cost allocation proposal. Specifically, they argue that, “the actual impact on the delivered price of energy is likely to be small due to the fact that transmission costs

²⁴ MSATs/Wolverine filing at 49.

²⁵ Direct Testimony of Dale A. Landgren at Ex. MW-1 at 20.

account for only a small percentage of the total delivered cost of energy, approximately 7%.²⁶ This argument is irrelevant. Any unjust, unreasonable, and unduly discriminatory cost allocation is unjust, unreasonable, and unduly discriminatory, regardless of its magnitude.

Despite MSATs/Wolverine “small impact” assertion, transmission cost allocations will run into the hundreds of millions to billions of dollars. For example, in RTEP 2006, PJM has a project called the 502 Junction-Loudoun 500 kV Project. As filed, the costs of this project are the responsibility of the affected parties, based on a load deliverability driver. Under the current method, Ohio would not have been responsible for any costs, which would be expected and fair for a project that seems to have no positive reliability impacts on Ohio. During discussions in the Regional Planning Process Working Group (RPPWG) meetings with PJM and their stakeholders, three cost allocation examples were given for the Project: (1) *as filed*, this method is based on load deliverability and Ohio companies would bear no cost responsibility; (2) *flow-based method*, under which a load deliverability method was applied to the entire region, and results showed that many companies were responsible for the cost, but interestingly enough, American Electric Power, Commonwealth Edison, and Dayton Power & Light had no cost responsibility; and (3) *100% socialization*, under which 100% of the costs are allocated on a peak load ratio share across the entire region. This last method proves to be devastating to companies in the western part of the footprint that would be required to pay a disproportion-

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MSATs/Wolverine filing at 69.

ate share of all projects. American Electric Power's and Dayton Power & Light's load in the footprint represent approximately 19% of the PJM load, meaning their cost responsibility for all projects 500 kV and higher would be approximately 19%.

Under the RTEP cost numbers to date for projects 500 kV and above, DP&L, which represents a mere 2.5% of PJM's load, was assigned zero costs under a beneficiary pays approach. With this Commission Order, at the end of 5 years, they will now be allotted approximately \$7.33 million, with no benefit accruing to them, as demonstrated in the prior beneficiary pays methodology. With the inclusion of an AEP/Allegheny or other DOE designated transmission national corridor project, an additional \$13 million cost assignment could result. This end result would be a \$20 million increase in DP&L's transmission costs (please note, these are conservative estimates, as no incentive such as CWIP or other are taken into account, merely the cost in the RTEP). This company's annual transmission revenues are currently \$40 million, therefore the methodology this Commission has imposed results in a 50% increase to this company, with no demonstrated benefits, as evidenced by the flow-based methodology. AEP represents approximately 16.9% of PJM's load and under socialization will be responsible for \$67 million in additional costs, from projects listed in the current RTEP, whereby under the old method they would not have been allocated anything. AEP-OH is approximately 44% of AEP's East Zone total load; this would be a cost increase of \$30 million a year to Ohio consumers for projects above 500kV. These projects have no positive reliability impacts impact on Ohio, as evidenced by the flow-based methodology.

Moreover, these direct costs represent only a portion of the potential impact on many Ohio consumers. To the extent that RTO transmission projects permit additional low cost generation from the Ohio River valley to become available to other areas, such as the PJM zones with higher generation prices, wholesale energy and ancillary service prices in Ohio also will tend to increase. These price increases can be expected to flow through to many Ohio consumers in addition to the impacts of higher transmission costs.

To further understand the impact of these costs, it should be pointed out that Ohio's industrial sector ranks fourth in industrial energy consumption in the country, with Ohio also ranking fourth in electricity consumption.²⁷ A recent survey showed that electricity prices for large industrial customers increased 10.9% in 2006 in states which restructured their retail markets.²⁸ Industry is the bedrock of Ohio's economy, and yet Ohio has been losing industrial load and manufacturing jobs at a rapid pace, much attributable to rising energy costs. Any increase in the cost of delivering electricity to these customers has the potential to put the State's economy at risk.

The Ohio Commission finds such socialization of projects as proposed by MSATs/Wolverine to be unfair, resulting in significant rate increases. The Ohio Commission is not against cost sharing and we do believe that high voltage transmission projects can provide a benefit to more than just the local transmission operator who con-

²⁷ U.S. Department of Energy, Energy Information Administration, *State Energy Data 2001*, released 12/01/2004 at Tables r1. Energy Consumption by Sector, Ranked by State, 2001; Table R2. Energy Consumption by Source and Total Consumption per Capita, Ranked by State, 2001 at 13 – 14.

²⁸ Platts, *EnergyTrader*, "Survey shows electricity prices up 10.9% on year for large users, with higher natural gas contributing" at 1 (Tues., May 2, 2006).

structs the facility. Comments of the Ohio Commission at the technical conference of Midwest Independent Transmission System Operator, Inc., Docket No. ER06-18-000 indicated our support for regional rates, as long as they are designed such that only those customers that benefit and use the expanded bulk power system are paying. Ohio may support a regional rate across the entire RTO footprint if it could be demonstrated, for example, that congestion relief across the footprint is demonstrated or service quality is increased. We have repeatedly suggested that MISO's and PJM's footprint is too expansive for such a consideration to be assumed without a demonstration of the impacts. Therefore, we believe the only just and reasonable way to share the costs of high bulk transmission projects is to share the costs with only the transmission users that *benefit* from a project as opposed to a system-wide sharing of the costs, regardless of whether or not there are system-wide benefits.

Additionally, the Ohio Commission believes it is unfair to pay for zones that may have neglected their systems and are now playing catch-up at the expense to all. Why should the states that have provided opportunities and the customers who have already paid for the robust systems now be required to pay for transmission built primarily to benefit others?

The IRPD proposal results in what is essentially a *status quo* proposal. The IRPD proposal would retain the current zero regional through and out rate ("RTOR") between the Midwest ISO and PJM. Network and firm point-to-point transmission customers would continue to pay the applicable zonal charge in their sink zone whether their designated resources are located in their RTO or in the other RTO. The IRPD eliminates both

rate pancaking and transaction-based pricing for transmission services sourcing in one RTO and sinking in the other. No new or replacement border rate is proposed.

The IRPD treats investment in existing transmission facilities as “sunk costs” that don’t matter. While the “path of least resistance” is a viable argument in electricity transmission issues, deferring rate design matters to a popularity contest will not result in a fair outcome when, as here, one party’s/state’s overall transmission investment and transmission service contributions are substantially greater than that made by the majority of the other transmission owners and their ratepayers.

On August 22, 2007, the AEP filed a Motion to Intervene and Protest the IRPD filing.²⁹ AEP argues that the Midwest ISO companies make substantial use of and benefit from AEP’s and certain other PJM companies’ high voltage transmission facilities, but would not pay for such use under the IRPD proposal.³⁰ AEP argues that the IRPD proponents’ cost shift analysis is misleading and incomplete in that it ignores the cost shifts already incurred as a result of the previous elimination of the RTOR.³¹ AEP argues that a complete cost shift analysis “would compare the costs resulting from a proposed regional rate design (*e.g.*, a highway-byway or postage stamp) with a load-serving entity’s license plate costs, *plus* the amounts it previously paid to use others’ systems to import power, *minus* the amount it had received from third parties for use of its system.”³²

²⁹ On August 22, 2007, Buckeye Power also submitted a Protest taking a similar position to that of AEP.

³⁰ AEP Filing at 6.

³¹ *Id.* at 20.

³² *Id.*

AEP has invested in the most extensive technologically-advanced high-voltage transmission network in the country and has provided more third-party transmission service than any other company in the country. In the PJM/MISO region in the past, AEP recovered upwards of \$175 million per year in third-party transmission charges available to defray costs to its customers. By determining that “sunk costs” don’t matter, the IRPD effectively eliminates any third-party cost responsibility for the transmission services provided, thereby leaving the entire cost of the existing AEP network to AEP’s native load and network customers. As a result, the IRPD is unjust, unreasonable, unduly discriminatory, and unduly preferential.

Instead of giving credence to the number of supporters of a particular proposal as being justification for rate design, what the Commission should be addressing is what this really indicates; there are many parties that stand to benefit from the AEP system *without paying for it* and, in addition, *receiving substantial benefits from access to lower cost generation*.

IV. Conclusion

Wherefore, for the reasons explained above, the PUCO respectfully requests that the Commission take the actions herein recommended by the PUCO. The costs of bulk transmission projects and usage should be recovered from transmission users that want or need *benefits* from a project or usage of the existing system. The Ohio Commission believes only this concept could support the just and reasonable standard set out in sec-

tion 205a of the Federal Power Act and followed by the Commission and also used by state commissions for retail rate cost recovery determination. Section 205a provides that:

All rates and charges . . . received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

It is critical to state regulatory agencies that they be in a position of justifying increases their companies are granted in state rate proceedings. Unless benefits can be demonstrated, the state commissions will be placed in a difficult position of allowing these costs. Commissioner Gaw also discussed this during the Technical Conference in Docket No. ER06-18-000 indicating that the prudence and need requirements of state regulatory agencies led a significant number of states to conclude a beneficiary test is warranted. Ohio supports the expansion of the system where needed. However, we cannot endorse a method that allows certain regions with adequate transmission systems to subsidize those regions that have fallen behind, rescuing them through the application of postage stamp rates. FERC cannot let its desire for transmission system expansion trump the underlying principles of ratemaking. The Ohio Commission strongly urges FERC to further explore and encourage flow-based modeling and pricing structures to provide for effective and efficient pricing, resulting in efficient and effective expansion investment.

The Ohio Commission participated in FERC Technical Conferences and hearings and provided numerous comments and letters. Our fears have come to fruition; Ohio is being penalized for having a significant customer base, for being in two RTOs, and

finally, for having previously invested in a highly reliable transmission system. The PUCO has stated that bulk transmission projects can provide a benefit to more than just the local transmission operator who constructs the facility. Therefore, the costs of bulk transmission projects should be recovered from transmission users that *benefit* from a project. PUCO strongly supports the just and reasonable standard followed by the Commission and used by state commissions for cost recovery determination and retail rate design. We continue to stand by these convictions.

Respectfully submitted,

/s/ Thomas W. McNamee

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Thomas W. McNamee

Thomas W. McNamee
Assistant Attorney General

Dated at Columbus, Ohio this September 13, 2007.