

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

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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., et al.		
Midwest Independent Transmission System Operator, Inc.	)	Docket Nos. EL02-111-120, <i>et al.</i>
PJM Interconnection, L.L.C., et al.		
Ameren Services Company, et al.	)	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)

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**NOTICE OF INTERVENTION AND COMMENTS OF  
THE ORGANIZATION OF MISO STATES, INC.**

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Pursuant to Rule 214(a)(2) of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.214(a)(2), the Organization of MISO States (“OMS”) files its Notice of Intervention in the above-captioned proceedings.

Service of all pleadings, documents, and communications in this matter should be made on the following:

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Executive Director  
Organization of MISO States  
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Pursuant to Rule 211 of the Commission’s Rules of Practice and Procedure, 18 CFR 385.21, the OMS respectfully submits the following comments for the Commission’s consideration in these dockets.

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 those two dockets. The Commission issued Notice on August 9, 2007, in 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. To the extent necessary, the OMS hereby requests leave to file its comments late in those dockets. The Commission did not issue Notice of either of the informational filings in Docket No. ER06-18-000. To the extent necessary, the OMS hereby requests leave to file its comments in those dockets, despite the absence of Commission Notice.

## **I. Summary of the Filings**

### **A. Midwest ISO/Certain Midwest ISO TOs' Filing (Docket No. ER07-1233-000)**

On August 1, 2007, 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 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").

The Midwest ISO/Certain Midwest ISO TOs take 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.<sup>1</sup> 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

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<sup>1</sup> Midwest ISO/Certain Midwest ISO TOs Filing at 2.

those facilities and thus is consistent with cost causation principles, and avoids inappropriate cost shifts.<sup>2</sup>

The Midwest ISO/Certain Midwest ISO TOs also address how employing license plate rates for existing transmission facilities and the Regional Expansion Criteria and Benefits (“RECB”) methodologies for new transmission facilities relate to one another and together produce overall transmission rates that are just and reasonable.<sup>3</sup> The Midwest ISO/Certain Midwest ISO TOs propose to retain the RECB methodologies for new transmission facilities while continuing to analyze and look at enhancements for RECB or any successor methodologies.<sup>4</sup>

#### **B. MSATs/Wolverine Filing (Docket No. ER07-1261-000)**

On August 1, 2007, the Midwest Stand-Alone Transmission Companies (“MSATs”) and Wolverine Power Supply Cooperative, Inc. (“Wolverine”) (collectively, “MSATs/Wolverine”) submitted a filing proposing revisions to the Midwest ISO Tariff (“TEMT”) to implement a superseding transmission rate design as of February 1, 2008. Specifically, MSATs/Wolverine propose to increase the 20% regional postage stamp cost allocation component of the RECB methodology to 100% and to eliminate the formulaic eligibility criteria for new transmission projects rated at 500 kV or above in favor of the qualitative eligibility criteria in Appendix B of the Midwest ISO Transmission Owners Agreement<sup>5</sup> so that all such projects that are included in the Midwest Transmission Expansion Plan would automatically receive region-wide postage

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<sup>2</sup> Midwest ISO/Certain Midwest ISO TOs Filing at 2.

<sup>3</sup> Midwest ISO/Certain Midwest ISO TOs Filing at 2.

<sup>4</sup> Affidavit of Clair Moeller, Exhibit 7 at 5.

<sup>5</sup> Transmission Owners Agreement, Appendix B (Sheet Nos. 103-116)

stamp cost allocation treatment.<sup>6</sup> MSATs/Wolverine does not propose to change the current license plate rate methodology for existing transmission facilities costs.<sup>7</sup>

**C. Midwest ISO/Certain Midwest ISO Transmission Owners/PJM/Certain PJM Transmission Owners (Docket Nos. ER05-6-100, *et al.*, EL04-135-103, EL02-111-120, *et al.*, and EL03-212-116, *et al.*)**

On August 1, 2007, 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 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 Nos. ER05-6-000 (“November 2004 Order”).<sup>8</sup> 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 the IRPD, 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 maintains the elimination of both rate pancaking and transaction-based pricing for transmission services sourcing in one RTO and sinking in the other.<sup>9</sup>

The IRPD Applicants propose that the costs of new “cross-border” transmission facilities (i.e., jointly planned facilities built entirely or partially in one RTO but providing benefits in the other RTO) be allocated between the Midwest ISO and PJM as finally determined in Docket No.

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<sup>6</sup> MSATs/Wolverine Filing at 58.

<sup>7</sup> MSATs/Wolverine Filing at 46.

<sup>8</sup> *Midwest Independent Transmission System Operator, Inc., et al.*, 109 FERC ¶ 61,168 (2004), *clarified*, 109 FERC ¶ 61,243 (2004).

<sup>9</sup> IRPD Filing at 9-10.

ER05-6-000, *et al.*<sup>10</sup> The IRPD Applicants state that a filing has already been submitted to the Commission in that docket with respect to cross-border reliability projects and will be made with respect to cross-border economic projects.<sup>11</sup> The IRPD proposal would not disturb those processes.

On or around August 22, 2007, American Electric Power Service Corporation (“AEP”), International Transmission Company (“ITC”) and Michigan Electric Transmission Company, LLC (“METC”) (collectively, “ITC/METC”), and others filed protests of the IRPD filing.

#### **D. Midwest ISO/Supporting Midwest ISO TOs and Indianapolis Power and Light Informational Filings (Docket No. ER06-18-000)**

##### **i. Midwest ISO/Supporting Midwest ISO TOs**

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 Conditionally Accepting Tariff Revisions<sup>12</sup> and the March 15, 2007 Order on Rehearing.<sup>13</sup> In those Commission Orders, the Midwest ISO and Midwest ISO transmission owners were required to file annual reports, beginning August 1, 2007, to assist the Commission, OMS and stakeholders to evaluate the post-transition period pricing and cost recovery paradigm within the Midwest ISO Region and to assess the effectiveness of the RECB methodology. In particular, in the RECB II Order, the Commission directed the Midwest ISO and the Midwest ISO transmission owning members to include in the August 2007 report "a discussion of how the cost allocation

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<sup>10</sup> IRPD Filing at 9.

<sup>11</sup> IRPD Filing at 9.

<sup>12</sup> *Midwest Independent Transmission System Operator, Inc.*, 118 FERC ¶ 61,209 (2007) (“RECB II Order”).

<sup>13</sup> *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,241 (2006) (“November 29 Order”), *Order on Rehearing* 118 FERC ¶ 61,208 (“March 15 Order on Rehearing”).

methodology for Baseline Reliability Projects that was approved in the February 3 Order<sup>14</sup> and the November 29 Order along with the cost allocation methodology for Regionally Beneficial Projects approved [in the RECB II Order] relate to the methodology that the Midwest ISO is planning to submit for allocating the costs of existing projects" in the post-transition period.<sup>15</sup> In order to gauge the effectiveness of the RECB methodology, the Commission also directed the Midwest ISO and its transmission owning members to revisit the twenty percent (20%) postage-stamp cost allocation when they review the rate design for existing transmission facilities.<sup>16</sup>

The Midwest ISO concurs with the position of the majority of the Midwest ISO transmission owning members that continuation of license plate rate treatment for existing transmission facilities is appropriate.<sup>17</sup> Further, the Midwest ISO believes that license plate treatment of the costs of existing facilities is in no way incompatible with the separate RECB I and RECB II cost allocation and recovery principles applicable to new transmission expansions as provided for under Attachment FF to the Midwest ISO TEMT.<sup>18</sup> The Midwest ISO concludes that "License plate treatment for existing facilities should continue in the Midwest ISO and with the cost allocation for new facilities provided for under RECB I and RECB II produces overall transmission rates that are just and reasonable."<sup>19</sup>

## **ii. Indianapolis Power and Light**

On August 1, 2007, Indianapolis Power and Light ("IPL") submitted an informational filing as a Midwest ISO transmission owner in compliance with the Commission's March 15,

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<sup>14</sup> *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106 (2006) (February 3 Order).

<sup>15</sup> RECB II Order at 35.

<sup>16</sup> November 29 Order at P 66.

<sup>17</sup> Midwest ISO/Supporting Midwest ISO TOs Filing at 5.

<sup>18</sup> Midwest ISO/Supporting Midwest ISO TOs Filing at 5.

<sup>19</sup> Midwest ISO August 1 Filing at 6.

2007 Order Conditionally Accepting Tariff Revisions and the March 15, 2007 Order on Rehearing. IPL is not a signatory to the Midwest ISO/Supporting Midwest ISO TOs' filing described above.

IPL agrees with the position of the Midwest ISO/Supporting Midwest ISO TOs that the continuation of license plate rates for existing facilities is appropriate and will address cost-shifting issues.<sup>20</sup> IPL also agrees with the Midwest ISO/Supporting Midwest ISO TOs that the use of license plate rates for existing facilities is not inconsistent with the RECB I and RECB II methodologies.<sup>21</sup> While IPL believes that the use of the RECB I and RECB II cost allocation methodologies results in inequitable cost allocations, IPL nevertheless believes that the problems with RECB I and RECB II have nothing to do with the use of license plate rates for existing facilities.<sup>22</sup> IPL suggests that license plate rates should be considered for new facility additions as well as existing facilities.<sup>23</sup> IPL states that it receives no benefit from the proposed new transmission projects in the Midwest ISO and should not be assessed costs of those projects.<sup>24</sup> IPL recommends that the Commission re-open the RECB I and RECB II process to allow for a reconsideration of consumer protection measures that can be adopted to avoid the unintended consequences of unjust and unreasonable cost allocations.<sup>25</sup>

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<sup>20</sup> IPL Filing at 5.

<sup>21</sup> IPL Filing at 5.

<sup>22</sup> IPL Filing at 5.

<sup>23</sup> IPL Filing at 5.

<sup>24</sup> IPL Filing at 6.

<sup>25</sup> IPL Filing at 6.

## II. Position and Recommendation of the OMS

### A. Position and Recommendation of the OMS on the Midwest ISO/Certain Midwest ISO TOs' filing

The OMS generally supports the position taken in the Midwest ISO/Certain Midwest ISO TOs' filing and recommends retention of the license plate rate design approach for existing transmission facilities at this time.<sup>26,27,28</sup> However, the OMS recommends re-examination of the continued appropriateness of intra-MISO license plate rates prior to the expiration of a new transition period of three or four years.<sup>29</sup> Such a transition period would provide time needed to further develop methods for quantifying and measuring cross-zonal benefits of existing transmission facilities.

The OMS also generally supports the Midwest ISO/Certain Midwest ISO TOs' rationale for retaining the current RECB methodology for new transmission facilities while continuing to analyze and look at enhancements for the RECB methodology. The OMS expects the Midwest

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<sup>26</sup> The choice here is between two imperfect tariff filings: the majority TO's position which continues license plate pricing and RECB, and the MSATs/Wolverine proposal which proposes a change in RECB postage stamping but with a project exclusion problem unresolved. These proposals present a Hobson's choice to the Public Service Commission of Wisconsin (PSCW) when, as the Commission is aware, Wisconsin is litigating the RECB exclusion issue elsewhere. With this background, Wisconsin's joining of these OMS comments should not be taken as a waiver of any of the PSCW's rights, arguments, claims, or defenses in that litigation. In the situation at hand, the PSCW prefers and supports an appropriate application of a postage stamp cost allocation of the costs for new and existing facilities within the Midwest ISO region more than its support of these OMS comments may indicate. The PSCW continues to believe that the 80% - 20% cost allocation approved by the Commission in the RECB orders should be thoroughly reexamined.

<sup>27</sup> The Illinois Commerce Commission did not support the adoption of the 20% Midwest ISO-wide postage stamp cost allocation component in the RECB II proceeding and does not support it now. A separate statement has been attached to these OMS Comments to explain our position on this issue.

<sup>28</sup> Kentucky does not support the proposal of the Midwest ISO/Certain Midwest ISO TOs to maintain license plate rate design for existing transmission facilities. Kentucky continues to support a beneficiary pays rate design, which would necessarily include a component for assigning costs for the use of existing bulk power transmission facilities to those who benefit from them. Kentucky does support OMS's recommendation for further examination of the continued reasonableness of using the zonal license plate rate methodology across the Midwest ISO and PJM.

<sup>29</sup> The Missouri Public Service Commission, the Indiana Utilities Regulatory Commission, and the Indiana Office of Utility Consumer Counselor do not support a transition period that would involve another evaluation of the allocation of the costs of existing transmission facilities. These facilities were built and funded to deliver power from the utilities' generation to their loads, and allocating the costs of these facilities to those ratepayers for whom the facilities were built satisfies the basic cost causation principle.

ISO to devote serious and substantial attention and resources to the requirements in the TEMT to “continue to evaluate and explore” any “additional transmission infrastructure drivers to ensure that projects which are effective in facilitating market efficiency” are “supported and pursued.”<sup>30</sup> The OMS also expects the Midwest ISO to give serious attention to the reports that it is required to provide on RECB implementation and improvement including the annual report detailing the steps taken in its planning process to develop a portfolio of projects that spread benefits throughout each Midwest ISO sub-region.<sup>31</sup>

### **B. Position and Recommendation of the OMS on the MSATs/Wolverine proposal**

The OMS does not support much of the MSATs/Wolverine proposal.<sup>32,33</sup> However, the OMS supports the part of MSATs/Wolverine’s proposal regarding rate design treatment for existing transmission facilities.

MSATs/Wolverine have not shown that the RECB methodology for new transmission facilities is unjust and unreasonable. Nor have MSATs/Wolverine demonstrated that their proposal to allocate new transmission project cost on a region-wide postage stamp basis would be just and reasonable. Even if MSATs/Wolverine had demonstrated their proposal for allocation of new transmission facility costs to be just and reasonable, they have not shown it to be superior to the RECB approach. Finally, MSATs/Wolverine have not shown why the regular,

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<sup>30</sup> MISO TEMT, Attachment FF Section II.B.2.

<sup>31</sup> RECB II Order at P 76.

<sup>32</sup> North Dakota and Wisconsin note that the following MSATs/Wolverine discussion uses a rhetorical style and tone that is stronger than these states would use to make many of the same points. These states under appropriate circumstances could support more of an application of a postage stamp cost allocation of the costs for new and existing facilities within the Midwest ISO region than their support of these OMS comments may indicate. These states urge the Commission to order the Midwest ISO Transmission Owners to work with the OMS and other Midwest ISO stakeholders to investigate and develop analytical methods which are supported by both economic theory and transmission system engineering which could be used to allocate transmission costs across multiple pricing zones or across the entire Midwest ISO region for new and existing transmission facilities.

<sup>33</sup> The Michigan PSC intends to file separate comments which specifically address the MSATs/Wolverine filing.

Commission-imposed RECB re-evaluation process is an inadequate forum to pursue on-going RECB improvements.

**C. Position and recommendation of the OMS on the IRPD proposal, AEP's protest of that proposal and ITC/METC's protest of that proposal**

The OMS supports the PJM/Midwest ISO IRPD proposal for transmission pricing between the RTOs and urges the Commission to accept it. However, AEP's comments raise some thought-provoking issues. OMS recommends that the Commission adopt a new transition period of three or four years before the end of which the Commission would require a new re-examination of the continued reasonableness of using the zonal license plate rate methodology across the Midwest ISO and PJM.<sup>34</sup> The OMS recommends that the Commission direct the RTOs and their stakeholders to work during the new transition period to develop and fine-tune benefits metrics for existing, as well as new, transmission facilities.

The OMS recommends that the Commission reject ITC/METC's protest of the IRPD filing. The OMS disagrees with ITC/METC's assessment of the IRPD filing as deficient. The OMS takes no position at this time on ITC/METC's "end-state" vision of a "single uniform rate design and cost allocation methodology applicable to all EHV transmission facilities constructed in the combined Midwest ISO/PJM footprint."<sup>35</sup> The OMS supports the regular continued re-evaluation of the effectiveness of whatever cost allocation policy is developed for new cross-border transmission facilities, but takes no position on intra-PJM cost allocation policy for new transmission facilities. With respect to existing transmission facilities, the OMS supports a re-

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<sup>34</sup> It is unclear to the Indiana Utility Regulatory Commission (IURC) if the OMS intends the re-examination to apply to existing and/or new facilities. As previously noted in footnote 29, the IURC does not support a transition period that would involve another evaluation of the allocation of the costs of existing transmission facilities. In addition, the IURC does not support a re-examination of the allocation of the costs of facilities built or under construction during the OMS proposed transition period. However, the IURC would support a re-examination for new facilities that have not yet been constructed.

<sup>35</sup> ITC/METC Protest at 9.

examination of the continued reasonableness of inter-RTO license plate rate design prior to the expiration of a new Commission-imposed transition period. The OMS disagrees with ITC/METC's position that "further evidentiary hearings will demonstrate that the existing license plate rate design is no longer just, reasonable, and not unduly discriminatory."<sup>36</sup>

**D. Position and recommendation of the OMS on the Midwest ISO/Supporting Midwest ISO TOs and Indianapolis Power and Light informational filings**

With respect to the informational filings of the Midwest ISO/Supporting Midwest ISO TOs and Indianapolis Power and Light, the OMS agrees with the Supporting Midwest ISO TOs that it is simply too early to assess the effectiveness, justness, or reasonableness of the RECB 20% regional postage stamp cost allocation component.<sup>37</sup> The OMS agrees with the informational report filers regarding zonal license plate rates for existing facilities and the compatibility between that method and the RECB cost allocation method for new facilities. The OMS does not support IPL's suggestion that license plate rate design should be implemented for new facility additions as well as existing facilities.

**III. Discussion**

**A. Discussion of the Midwest ISO/Certain Midwest ISO TOs proposal**

**i. The Midwest ISO/Certain Midwest ISO TOs provide reasonable support for their proposal.**

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

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<sup>36</sup> ITC/METC Protest at 8. The OMS also notes the apparent contradiction in ITC/METC's statement and the position taken by ITC/METC in the MSATs/Wolverine filing which states, "The Petitioners do not propose to change the license plate rate structure applicable to existing transmission facilities within the Midwest ISO that pre-date RECB." (MSATs/Wolverine Filing at 46).

<sup>37</sup> The Illinois Commerce Commission did not support the adoption of the 20% Midwest ISO-wide postage stamp cost allocation component in the RECB II proceeding and does not support it now. A separate statement has been attached to these OMS Comments to explain our position on this issue.

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 testified that the rationale for this position is:

- Existing facilities were planned to serve local needs. They were not planned for regional purposes. The topography of the present system would be different if the system would have been planned on a regional basis.
- 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 MISO and its stakeholders should focus on the reliability improvements and energy price reductions of future transmission expansion. 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.<sup>38</sup>

**a. The Midwest ISO system is not tightly interconnected.**

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.<sup>39</sup> 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.

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<sup>38</sup> Affidavit of John Procario, Exhibit 2 at 14-15.

<sup>39</sup> Affidavit of John Procario, Exhibit 1 at 12-13.

Similarly, the outage of the International Transmission Company ("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 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.<sup>40</sup> From this analysis of inter-connectedness, Mr. Procaro concluded that, for the present system in the Midwest ISO "existing facilities do not have substantial region-wide impact."<sup>41</sup>

**b. Changing the license plate pricing approach would result in significant cost shifting.**

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.<sup>42</sup> Mr. Procaro 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%,

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<sup>40</sup> Affidavit of John Procaro, Exhibit 4.

<sup>41</sup> Affidavit of John Procaro, Exhibit 1 at 13.

<sup>42</sup> Affidavit of Alan C. Heintz, Exhibits 5 and 6 .

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%.<sup>43</sup>

**c. Upsetting the RECB approach at this time would not be helpful.**

Mr. Procario also testified regarding the consideration of new facilities in the post transition transmission pricing design review. He states,

A major concern was the ramifications of initiating another effort to evaluate the pricing and cost allocation of new facilities on the heels of an identical effort which resulted in RECB I and II. A significant amount of time and effort was expended to deal with new facilities in the RECB effort by the TOs, MISO, and stakeholders. The TOs felt that another attempt to review outside the Commission established RECB reporting process and possibly change the MISO pricing design would not be helpful to transmission users attempting to predict transmission costs, and transmission owners attempting to estimate revenues and predict the need for retail rate cases.<sup>44</sup>

**ii. The Midwest ISO/Certain Midwest ISO TOs proposal is acceptable, but intense focus on improving cost allocation should continue and license plate rates should again be reviewed before the end of a new transition period.**<sup>45</sup>

The OMS' position is that the Midwest ISO/Certain Midwest ISO TOs have provided reasonable support for their proposal. The OMS concurs that license plate pricing for existing transmission facilities within the Midwest ISO footprint should be continued and that the RECB approach for treatment of new facilities should not be modified in the instant proceeding.

However, the OMS recommends re-examination of the continued appropriateness of license plate rates prior to the expiration of a new transition period of three or four years. The OMS recommends that the Commission adopt a new transition period of specified length and

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<sup>43</sup> Affidavit of John Procario, Exhibit 1 at 13-14.

<sup>44</sup> Affidavit of John Procario, Exhibit 2 at 10-11.

<sup>45</sup> It is unclear to the Indiana Utility Regulatory Commission (IURC) if the OMS intends the re-examination to apply to existing and/or new facilities. As previously noted in footnote 29, the IURC does not support a transition period that would involve another evaluation of the allocation of the costs of existing transmission facilities. In addition, the IURC does not support a re-examination of the allocation of the costs of facilities built or under construction during the OMS proposed transition period. However, the IURC would support a re-examination for new facilities that have not yet been constructed.

direct both PJM, the Midwest ISO and their stakeholders to continue to investigate and analyze methods of measuring cross-zonal benefits of existing transmission facilities.

Furthermore, with respect to the RECB cost allocation policy, the OMS expects the Midwest ISO to devote serious and substantial attention and resources to the requirements in the TEMT to “continue to evaluate and explore” any “additional transmission infrastructure drivers to ensure that projects which are effective in facilitating market efficiency” are “supported and pursued.”<sup>46</sup> The OMS also expects the Midwest ISO to give serious attention to the reports that it is required to provide on RECB implementation and improvement including the annual report detailing the steps taken in its planning process to develop a portfolio of projects that spread benefits throughout each Midwest ISO sub-region.<sup>47</sup>

**B. The Commission Should Not Adopt the MSATs/Wolverine Proposal for New Facilities.**

**i. MSATs/Wolverine’s position on existing facilities is the same as that of the Midwest ISO/Certain Midwest ISO TOs.**

The MSATs/Wolverine filing makes clear that they do not propose any change to the zonal license plate rate structure applicable to existing transmission facilities that pre-date RECB.<sup>48</sup> MSATs/Wolverine correctly point out that “changing the rate structure applicable to existing transmission facilities logically would do little to incentivize investment in new EHV regional backbone transmission facilities.”<sup>49</sup>

**ii. MSATs/Wolverine’s position on new facilities would have major negative effects and implications if implemented.**

The difference between the MSATs/Wolverine position and the Midwest ISO/Certain

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<sup>46</sup> MISO TEMT, Attachment FF Section II.B.2.

<sup>47</sup> RECB II Order at P 76.

<sup>48</sup> MSATs/Wolverine filing at 5.

<sup>49</sup> MSATs/Wolverine filing at 47-48.

Midwest ISO TO position lies in the RECB treatment of new transmission facilities. The MSATs/Wolverine filing makes clear that they are proposing only two changes to the rate treatment of new transmission facilities currently covered by RECB policy. 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 pursuant to the qualitative criteria in Appendix B of the Midwest ISO Transmission Owners Agreement<sup>50</sup> would automatically receive region-wide postage stamp cost allocation treatment.

MSATs/Wolverine assert that their proposed changes are “narrowly focused” and aimed at mitigating an alleged “disincentive to invest in regional EHV transmission infrastructure.”<sup>51</sup> MSATs/Wolverine claim that they are “not proposing to eliminate the basic structure of RECB.”<sup>52</sup> Nevertheless, adoption and implementation of the MSATs/Wolverine proposal would have major negative effects and implications as explained below.

**iii. MSATs/Wolverine fail to support their position that all EHV transmission projects provide broadly distributed benefits.**

MSATs/Wolverine repeatedly claim that: (1) the benefits of EHV transmission projects “are widely dispersed”<sup>53</sup>; (2) regional benefits are conferred by EHV transmission projects<sup>54</sup>; (3) “the need for a conservative test to identify and quantify regional benefits is less pronounced with respect to higher voltage projects than with respect to lower voltage projects”<sup>55</sup>; (4) “it is

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<sup>50</sup> Transmission Owners Agreement, Appendix B (Sheet Nos. 103-116)

<sup>51</sup> MSATs/Wolverine filing at 3.

<sup>52</sup> MSATs/Wolverine filing at 3 and Direct Testimony of Dale A. Landgren, Exhibit No. MW-1 at 25.

<sup>53</sup> MSATs/Wolverine filing at 50.

<sup>54</sup> MSATs/Wolverine filing at 59.

<sup>55</sup> MSATs/Wolverine filing at 63.

virtually certain that, over time, projects rated 500 kV and above will perform regional functions”<sup>56</sup>; (5) “benefits provided by 500 kV and above transmission facilities are ‘sufficiently broad that they support a postage stamp allocation’”<sup>57</sup>; (6) MISO’s region-wide allocation of Schedule 10, 16, and 17 market costs “weighs in favor of a broad regional allocation of costs associated with the EHV transmission facilities needed to make regional operations possible in the future”<sup>58</sup>; (7) “the costs of EHV transmission facilities are not allocated in a manner that reflects the wide distribution of benefits provided by such transmission facilities”<sup>59</sup>; (8) “[t]he proposal merely recognizes that 500 kV and above projects are regional in nature”<sup>60</sup>; and (9) “[s]uch testimony [Mr. Terhune’s] suggests that it is reasonable to allocate 100% of the costs of EHV facilities on a regional basis.”<sup>61</sup> However, these claims are unsupported. Given the breadth of the claims, the Commission should expect quantitative analysis of the distribution of benefits of new transmission facilities. Stating a thing – even repeatedly stating it – does not necessarily make it so. MSATs/Wolverine have not provided compelling evidence that regional benefits are routinely conferred by EHV transmission projects – whether defined as 345 kV and above or 500 kV and above, or whether proposed or new. Nor have MSATs/Wolverine provided any evidence that such regional benefits, if they exist, are reasonably proportionally distributed with respect to zonal load so as to support the region-wide load ratio share postage stamp cost allocation approach proposed by MSATs/Wolverine. The OMS notes that MSATs/Wolverine concede that “the benefits provided by individual EHV transmission projects are unlikely to be

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<sup>56</sup> MSATs/Wolverine filing at 63.

<sup>57</sup> MSATs/Wolverine filing at 63 citing Opinion No. 494 at PP 66, 76.

<sup>58</sup> Direct Testimony of Dale A. Landgren, Exhibit No. MW-1 at 15.

<sup>59</sup> Direct Testimony of Dale A. Landgren, Exhibit No. MW-1 at 19.

<sup>60</sup> Direct Testimony of Dale A. Landgren, Exhibit No. MW-1 at 34.

<sup>61</sup> Direct Testimony of Dale A. Landgren, Exhibit No. MW-1 at 39.

evenly dispersed throughout the Midwest ISO depending on how those benefits are defined and when those benefits are quantified.”<sup>62</sup>

**iv. MSATs/Wolverine proposal for a unquantifiable “holistic” approach to transmission planning and cost allocation, rather than a formulaic approach should be rejected.**

MSATs/Wolverine acknowledge that the Commission favors formulaic methodologies for evaluating project benefits and beneficiaries and that the Commission has specifically cited the Midwest ISO’s RECB weighted gain-no loss (“WGNL”) formula as a positive example of such a methodology.<sup>63</sup> Nevertheless, MSATs/Wolverine argue that their proposal to dispense with the RECB WGNL cost allocation methodology for projects of 345 kV and above would be a better approach.<sup>64</sup> MSATs/Wolverine argue that the existing RECB methodology “is highly complex and heavily dependent upon the modeling assumptions made by the Midwest ISO when projecting production cost and load LMP benefits associated with proposed projects.”<sup>65</sup>

MSATs/Wolverine even label efforts to “specifically evaluate regional benefits” as “hurdles” standing in the way of transmission projects becoming eligible for regional cost allocation.<sup>66</sup>

In response to these arguments, the OMS concedes that the RECB methodology is complex and dependent upon the modeling assumptions. However, the RECB methodology makes a concerted attempt to measure project benefits and determine likely beneficiaries. That process is not a hurdle, but rather, a necessary prerequisite to achieving equitable cost allocation. In contrast, the MSATs/Wolverine proposal would arbitrarily allocate transmission project costs on a load ratio share basis with no analytical analysis and merely on the assertion of broadly

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<sup>62</sup> MSATs/Wolverine filing at 53.

<sup>63</sup> MSATs/Wolverine filing at 66.

<sup>64</sup> MSATs/Wolverine filing at 66.

<sup>65</sup> MSATs/Wolverine filing at 66.

<sup>66</sup> MSATs/Wolverine filing at 62.

dispersed benefits. The OMS suggests that a methodology such as RECB that has been designed to actually try to measure transmission project benefits and identify beneficiaries (as well as the distribution of those benefits), while not perfect, is much more likely to achieve that goal than an arbitrary voltage cut-off decision method such as that proposed by MSATs/Wolverine.

To borrow from Winston Churchill’s famous “democracy quote,” perhaps the formulaic RECB methodology is the worst benefits/beneficiaries identification methodology, except for all the others. And, like democracy, the RECB methodology will be subjected to regular ongoing re-assessment and will be modified as necessary in its evolution to a more perfect process. Indeed, the Midwest ISO is required by its tariff to “continue to evaluate and explore” any “additional transmission infrastructure drivers to ensure that projects which are effective in facilitating market efficiency” are “supported and pursued.”<sup>67</sup> Furthermore, the Midwest ISO has committed in testimony to that ongoing evaluation stating, “[W]e continue to analyze and look at enhancements for RECB or any successor methodologies.”<sup>68</sup> Accordingly, the MSATs/Wolverine criticism that RECB does not take into consideration “a large universe of factors”<sup>69</sup> is off the mark.

**v. MSATs/Wolverine’s assertion of RECB bias was not supported and contradicts the conclusion of the Midwest ISO and all other Midwest ISO transmission owners.**

MSATs/Wolverine argue that the RECB methodology “may actually institutionalize [a] disincentive to invest in regional EHV transmission infrastructure.”<sup>70</sup> MSATs/Wolverine argue that, “although the applicability of the RECB methodology is limited to cost allocation issues, its implementation is nevertheless undermining the ability to effectively evaluate the costs and

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<sup>67</sup> MISO TEMT, Attachment FF Section II.B.2.

<sup>68</sup> Affidavit of Clair Moeller, Exhibit 7 at 5 in Docket No. ER07-1233-000.

<sup>69</sup> MSATs/Wolverine filing at 64.

<sup>70</sup> MSATs/Wolverine filing at 3.

benefits of proposed transmission projects.”<sup>71</sup> MSATs/Wolverine assert that this alleged “undermining” problem stems from: (1) RECB’s distinction between economic and reliability benefits by classifying projects as either Baseline Reliability Projects or Regionally Beneficial Projects;<sup>72</sup> (2) the alleged failure of the RECB metrics to measure all of the economic benefits associated with transmission projects;<sup>73</sup> and (3) the RECB benefit-to-cost thresholds are allegedly unattainable in the vast majority of instances.<sup>74</sup> MSATs/Wolverine conclude that “the RECB methodology favors small, incremental expansions designed to address local needs, but does not provide a sufficient platform to evaluate the benefits of larger, backbone EHV transmission projects on a comprehensive, forward looking basis.”<sup>75</sup> MSATs/Wolverine’s assertion that the RECB method biases outcomes in favor of small, incremental transmission expansion projects does not have theoretical support as demonstrated below. Neither did MSATs/Wolverine provide actual practical support for the assertion that would outweigh the statements of the Midwest ISO/Supporting Midwest ISO TOs in Docket No. ER06-18-000 that, “With regard to whether the cost allocation percentages accepted by the Commission are appropriate and effective for Regionally Beneficial Projects or Baseline Reliability Projects, the Supporting Midwest ISO Transmission Owners submit that, as of the date of this *first* of the required annual reports, it simply is too early to assess their effectiveness.”<sup>76</sup> Accordingly, MSATs/Wolverine’s “biasing” argument should not be accepted.

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<sup>71</sup> MSATs/Wolverine filing at 37.

<sup>72</sup> MSATs/Wolverine filing at 37.

<sup>73</sup> MSATs/Wolverine filing at 39.

<sup>74</sup> MSATs/Wolverine filing at 40.

<sup>75</sup> MSATs/Wolverine filing at 41.

<sup>76</sup> Midwest ISO/Supporting Midwest ISO TOs’ filing at 8.

**vi. MSATs/Wolverine criticism that the RECB approach makes facility siting more difficult is misplaced.**

MSATs/Wolverine argue that the RECB methodology may institutionalize disincentive to site regional EHV transmission facilities. For example, MSATs/Wolverine's witness, Mr. Dale A. Landgren 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. To the extent that the RECB methodology does not accurately reflect the full benefit of proposed projects, and does not appropriately align the allocation of costs with those benefits, it adversely affects the way siting authorities, regulators, and stakeholders perceive the need for proposed projects. Thus, the principal concern is not so much that costs will be allocated to the wrong cost-payers (although that is clearly a concern), but that the allocation of costs to the wrong cost-payers and the criteria for doing so will hinder the ability to invest in beneficial EHV transmission projects.<sup>77</sup>

The OMS agrees with MSATs/Wolverine that 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. The OMS agrees with MSATs/Wolverine that to the extent that a cost allocation methodology does not accurately reflect the true benefit of proposed projects, and does not appropriately align the allocation of costs with those benefits, it may affect the way siting authorities, regulators, and stakeholders perceive the need for proposed projects. The OMS shares MSATs/Wolverine's concern that costs not be allocated to the wrong cost-payers, and that the allocation of costs to the wrong cost-payers can hinder investment in beneficial EHV transmission projects. However, unlike MSATs/Wolverine, the OMS believes that the RECB cost allocation methodology is less likely to lead to such negative outcomes than would the

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<sup>77</sup> Direct Testimony of Dale A. Landgren, Exhibit No. MW-1 at 20.

MSATs/Wolverine proposal. Indeed, the RECB method arbitrarily allocates only 20% of project costs on a region-wide postage stamp basis, whereas the MSATs/Wolverine proposal would allocate 100% of project costs on such arbitrary basis. Rather than making the siting process easier, such increased region-wide cost allocation could create practically unlimited opponents to siting new transmission facilities. Indeed, any person that is allocated costs for transmission projects that provide no offsetting benefits would be a potential opponent of siting the transmission facility.

**vii. MSATs/Wolverine’s argument that the RECB method is based on an analysis of local costs and benefits is wrong.**

MSATs/Wolverine argue that the RECB process evaluates project costs and benefits “on a purely or principally local basis” and that the RECB method is “based on an analysis of local costs and benefits.”<sup>78</sup> MSATs/Wolverine further argue that the RECB methodology is flawed because it allocates 80% of new transmission project costs “on a primarily local basis.”<sup>79</sup> However, these statements are inaccurate and incomplete. The RECB methodology allocates 80% of new project costs to zones or sub-regions based upon regional cost causation and benefits metrics using the LODF method for reliability projects and a weighted measure of production cost savings and load LMP savings for economic projects. The results of the application of these metrics may in some cases be that 80% of new transmission project costs are allocated on a primarily local basis. Such an outcome does not represent a flaw in the method, but rather shows its strength, as it constitutes the actual result of the regional cost causation/beneficiaries analysis.

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

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<sup>78</sup> MSATs/Wolverine filing at 49.

<sup>79</sup> MSATs/Wolverine filing at 49.

and expansion.”<sup>80</sup> 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.

**viii. MSATs/Wolverine’s argument that the RECB cost allocation is based on a “snap-shot” is wrong.**

MSATs/Wolverine assert that the RECB method is inferior because it “is based on a snapshot of costs and benefits that exist at any particular time.”<sup>81</sup> However, that snapshot assertion is simply not true. For example, the production cost savings and LMP savings metrics developed in RECB II are assessed over a ten-to-fifteen year forward-looking timeframe. While the analysis is conducted on a one-time basis, it is not based on a snapshot, but, rather, a comprehensive analysis of costs and benefits over a long forward time horizon.

**ix. MSATs/Wolverine’s description of the Midwest ISO system as “fully integrated” is contradicted by the evidence.**

MSATs/Wolverine assert that “it is reasonable to view the Midwest ISO as a single system for the purposes of ratemaking.”<sup>82</sup> MSATs/Wolverine assert that the Commission “has traditionally favored rolled-in pricing for transmission facilities” where the facilities are fully integrated into the transmission system.<sup>83</sup> MSATs/Wolverine conclude that such a principle supports the 100% postage stamp rate methodology that they propose.<sup>84</sup> However, MSATs/Wolverine fail to acknowledge the geographical and electrical expansiveness of the Midwest ISO region and do not acknowledge the weak interconnectedness of the Midwest ISO transmission system as testified to, for example, by Mr. Procario in Docket No. ER07-1233-

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<sup>80</sup> MSATs/Wolverine filing at 49.

<sup>81</sup> MSATs/Wolverine filing at 51.

<sup>82</sup> MSATs/Wolverine filing at 54.

<sup>83</sup> MSATs/Wolverine filing at 53.

<sup>84</sup> MSATs/Wolverine filing at 54.

000.<sup>85</sup> The system realities across the Midwest ISO region do not support rolled-in rate treatment.

**x. MSATs/Wolverine’s argument about the consistency of their proposal with the Commission’s Opinion No. 494 is unconvincing and premature.**

MSATs/Wolverine argue that their postage stamp rate proposal is consistent with the Commission’s Opinion No. 494 concerning PJM and promotes consistency with PJM.<sup>86</sup> With respect to Opinion No. 494, the OMS points out that that decision is currently pending rehearing and that the Commission has issued an Order granting rehearing for the limited purpose of further consideration.<sup>87</sup> Furthermore, the postage stamp rate treatment adopted by the Commission in Opinion No. 494 is to apply to new PJM centrally-planned transmission facilities of 500 kV and above. MSATs/Wolverine’s postage stamp rate proposal, on the other hand, would apply to any new transmission project of 345 kV and above that is in the Midwest ISO’s transmission expansion plan, regardless of the way that it got included in that plan. Despite MSATs/Wolverine’s argument about transmission facility functionality in the Midwest ISO vs. PJM to the contrary,<sup>88</sup> the postage stamp policy of Opinion No. 494 and MSATs/Wolverine’s postage stamp proposal are not consistent.<sup>89</sup>

**xi. MSATs/Wolverine’s argument about the benefits derived by consumers in exporting states from new transmission facilities is wrong.**

MSATs/Wolverine state that, “The integration of new generation resources (or the better integration of existing resources) will provide states that are net importers with greater access to lower-cost energy sources, and states that are net exporters with the ability to maximize the

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<sup>85</sup> Affidavit of John Procario, Exhibit 2 at 14-15.

<sup>86</sup> MSATs/Wolverine filing at 54-56.

<sup>87</sup> See, June 15, 2007 Order Granting Rehearing for Further Consideration in Docket No. EL05-121-003.

<sup>88</sup> MSATs/Wolverine filing at 55.

<sup>89</sup> The OMS notes, as an example, that Commonwealth Edison Company (a Midwestern utility that is part of PJM), like most of the companies in the Midwest ISO, currently has no 500 kV facilities on its system.

return on the sale of excess output.”<sup>90</sup> The part of this argument about exporting states fails to acknowledge the reality that, in some retail restructured states that are net exporters and where generators are largely owned outside the regulated utility structure (e.g., Illinois), there is no mechanism to ensure that the customers who are forced to pay for socialized transmission costs in their regulated transmission rates also receive the benefits (if any) earned by generators whose off-system sales capability may be increased by the addition of new transmission infrastructure projects. Under these circumstances, the load that would be forced to pay the socialized costs of new transmission facilities would not necessarily receive the benefits, if any, and may suffer additional energy costs as LMPs in the exporting zone rise as a result of increased exporting opportunities by generators in the exporting zone. Under such circumstances, implementation of the MSATs/Wolverine proposal would be unduly discriminatory.

**xii. MSATs/Wolverine understate the rate impact of their proposal.**

MSATs/Wolverine downplay the discriminatory effect of their 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 account for only a small percentage of the total delivered cost of energy, approximately 7%.”<sup>91</sup> However, an unjust, unreasonable, and unduly discriminatory cost allocation is unjust, unreasonable, and unduly discriminatory regardless of its magnitude. Besides, despite the MSATs/Wolverine assertion, transmission cost allocations will run into the hundreds of millions to billions of dollars. For example, between May 21, 2007 and the date of this filing, PJM has allocated over \$640 million in costs of new East Coast 500 kV and above transmission projects to the Commonwealth Edison Company

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<sup>90</sup> MSATs/Wolverine filing at 32.

<sup>91</sup> MSATs/Wolverine filing at 69.

("ComEd") zone in Illinois. Although PJM's own analyses shows that customers in the ComEd zone (which is situated on the western-most fringes of the PJM region) neither caused those costs to be incurred nor benefit from them, ComEd customers are, nevertheless, expected to shoulder a PJM-wide load ratio share proportion (16.11%) of those new eastern PJM transmission project costs. Adoption of the MSATs/Wolverine proposal would result in the same kind of unjust, unreasonable, and unduly discriminatory outcome within the Midwest ISO.

### **C. Discussion of the Midwest ISO/Certain Midwest ISO TOs/PJM/Certain PJM TOs' IRPD Proposal**

#### **i. The IRPD Proposal is Reasonable**

The IRPD proposal 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 proponents propose that the costs of new "cross-border" transmission facilities (i.e., jointly planned facilities built entirely or partially in one RTO but providing benefits in the other RTO) be allocated between the Midwest ISO and PJM as finally determined in Docket No. ER05-6-000, *et al.*<sup>92</sup> The IRPD proponents state that a filing has already been submitted to the

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<sup>92</sup> IRPD Filing at 9.

Commission with respect to cross-border reliability projects and one will be made with respect to cross-border economic projects.<sup>93</sup> The IRPD proposal would not disturb those processes.

The IRPD proponents argue that their proposal is straightforward in concept and in practice.<sup>94</sup> They also assert that the proposal would achieve the Commission's principal objectives for pricing transactions across the PJM-Midwest ISO border in that IRPD: (1) would prevent rate pancaking; (2) is not transaction-based; (3) levels the playing field between remote and local suppliers; (4) avoids cost shifts,<sup>95</sup> (5) respects the transmission owners' rate change filing rights; (6) recognizes the pendency of other relevant dockets and avoids prejudging those pending proceedings; (7) represents a broad consensus among affected parties; and (8) provides a measure of regulatory certainty and reduces litigation.<sup>96</sup>

The OMS finds the IRPD proposal to be a reasonable approach to the issue of transmission pricing for transmission transactions between the Midwest ISO and PJM markets. We urge the Commission to accept the IRPD proposal.

**ii. The AEP protest raises some thought-provoking issues.**

On August 22, 2007, the American Electric Power Service Corporation (AEP") filed a Motion to Intervene and Protest the IRPD filing.<sup>97</sup> AEP argues that "a new regional rate is needed to fairly allocate the costs of existing regional transmission facilities to those who benefit from them."<sup>98</sup> AEP argues that the Midwest ISO companies make substantial use of and benefit

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<sup>93</sup> IRPD Filing at 9.

<sup>94</sup> IRPD Filing at 9.

<sup>95</sup> In the IRPD Filing at 3, the IRPD Applicants correctly recognize that no gains in efficiency would result from shifting the recovery of sunk costs between the RTOs.

<sup>96</sup> IRPD Filing at 9-11.

<sup>97</sup> On August 22, 2007, Buckeye Power also submitted a Protest taking a similar position to that of AEP.

<sup>98</sup> AEP Filing at 5-6.

from AEP's and certain other PJM companies' high voltage transmission facilities, but would not pay for such use under the IRPD proposal.<sup>99</sup>

Among other things, AEP argues that the cost shift analysis submitted by the IRPD proponents fails to start from the correct base point. AEP states that the Commission's previous elimination of through and out rates caused AEP's in-zone transmission rates to increase by more than fifty percent.<sup>100</sup> AEP states 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.<sup>101</sup> 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."<sup>102</sup>

AEP urges the Commission to reject the IRPD filing and to "initiate a Section 206 investigation to develop a record from which the Commission could establish a new just and reasonable rate design for the Super Region."<sup>103</sup> AEP states that, in the event that the Commission does not on its own motion initiate an investigation, AEP is preparing a separate complaint to be filed that will address the justness and reasonableness of the current transmission rate designs within PJM and the Midwest ISO.<sup>104</sup>

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<sup>99</sup> AEP Filing at 6.

<sup>100</sup> AEP Filing at 19.

<sup>101</sup> AEP Filing at 20.

<sup>102</sup> AEP Filing at 20.

<sup>103</sup> AEP Filing at 6 and 28.

<sup>104</sup> AEP Filing at 6.

OMS shares AEP's position that transmission cost allocation policy should "fairly allocate the costs of existing regional transmission facilities to those who benefit from them."<sup>105</sup> However, OMS does not believe the current state of the art for measuring and quantifying benefits as applied to existing transmission facilities is sufficiently developed to warrant a switch from using zonal license plate rate design at this time. OMS urges the Commission to adopt a new transition period of three or four years before the end of which the Commission would require a new re-examination of the continued reasonableness of using the zonal license plate rate methodology across the Midwest ISO and PJM.<sup>106</sup> The OMS recommends that the Commission direct the RTOs and their stakeholders to work during the new transition period to develop and fine-tune benefits metrics for existing, as well as new, transmission facilities.

**iii. The Commission should reject ITC/METC's Protest.**

On August 22, 2007, International Transmission Company ("ITC") and Michigan Electric Transmission Company, LLC ("METC") (collectively, "ITC/METC") submitted a protest of the IRPD filing. ITC/METC recommend that the Commission find the IRPD filing to be deficient.<sup>107</sup> ITC/METC recommend that the Commission initiate a Section 206 proceeding to develop a sufficient evidentiary record.<sup>108</sup> ITC/METC recommend that the focus of such a proceeding should be to determine whether the existing license plate rate design for transactions between the Midwest ISO and PJM continues to be just, reasonable, and not unduly

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<sup>105</sup> AEP Filing at 5-6.

<sup>106</sup> It is unclear to the Indiana Utility Regulatory Commission (IURC) if the OMS intends the re-examination to apply to existing and/or new facilities. As previously noted in footnote 29, the IURC does not support a transition period that would involve another evaluation of the allocation of the costs of existing transmission facilities. In addition, the IURC does not support a re-examination of the allocation of the costs of facilities built or under construction during the OMS proposed transition period. However, the IURC would support a re-examination for new facilities that have not yet been constructed.

<sup>107</sup> ITC/METC Filing at 1.

<sup>108</sup> ITC/METC Filing at 8.

discriminatory based on the regional cost allocation principles adopted by the Commission in Order No. 890.<sup>109</sup> ITC/METC believe that the desired “end-state” should be

...a single uniform rate design and cost allocation methodology applicable to all EHV transmission facilities in the combined Midwest ISO/PJM footprint. This single, uniform rate design and cost allocation methodology should be based on the template and principles established by the Commission in Opinion No. 494.<sup>110</sup>

The OMS disagrees that the IRPD filing is deficient. The OMS takes no position at this time on ITC/METC’s “end-state” vision. The OMS supports the regular continued re-evaluation of the effectiveness of whatever cost allocation policy is developed for new cross-border transmission facilities, but takes no position on intra-PJM cost allocation policy for new transmission facilities. With respect to existing transmission facilities, the OMS supports a re-examination of the continued reasonableness of inter-RTO license plate rate design prior to the expiration of a new Commission-imposed transition period. The OMS disagrees with ITC/METC’s position that “further evidentiary hearings will demonstrate that the existing license plate rate design is no longer just, reasonable, and not unduly discriminatory.”<sup>111</sup>

**D. The Commission should accept the Midwest ISO/Supporting Midwest ISO TOs informational filing and dismiss Indianapolis Power and Light’s informational filing.**

The informational filings separately submitted on August 1, 2007 by the Midwest ISO/Supporting Midwest ISO TOs and Indianapolis Power and Light agree on the continuation of license plate rates for existing facilities. Further, the Midwest ISO believes that license plate treatment of the costs of existing facilities is in no way incompatible with the separate RECB I and RECB II cost allocation and recovery principles applicable to new transmission expansions

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<sup>109</sup> ITC/METC Filing at 8.

<sup>110</sup> ITC/METC Filing at 9-10.

<sup>111</sup> ITC/METC Protest at 8.

as provided for under Attachment FF to the Midwest ISO EMT.<sup>112</sup> IPL agrees with that position.<sup>113</sup>

Despite the areas of agreement, IPL and the Midwest ISO/Supporting Midwest ISO TOs come to diametrically opposed conclusions on the continued application of the RECB I and RECB II cost allocation methodologies.

The Midwest ISO takes the position that, “Cost allocation methods for new facilities were developed after long discussions with stakeholders as representative of the cause and benefits of the facilities, and at this time the Midwest ISO believes that these methods remain appropriate for these facilities.”<sup>114</sup> The Midwest ISO states that,

Given the positive experience of this last allocation of projects using the RECB I formulation for cost sharing of Baseline Reliability Projects, the Filing Parties do not have reason to propose any modifications at this time to the EMT regarding treatment of these projects.<sup>115</sup>

The Midwest ISO further states that,

With respect to Regionally Beneficial Projects that are provided for under the recent RECB II Order, the Midwest ISO has not yet identified any Regionally Beneficial Projects under an MTEP as the detailed planning scenarios that will be used to identifying projects eligible for RECB II cost treatment continue to be developed by means of stakeholder workshops, and regular discussions at the Planning Advisory Committee.<sup>116</sup>

With regard to whether the 20% / 80% RECB cost allocation split accepted by the Commission is appropriate and effective for Regionally Beneficial Projects or Baseline Reliability Projects, the Supporting Midwest ISO Transmission Owners take a slightly more nuanced position on the continued effectiveness of the cost allocation percentages. They submit

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<sup>112</sup> Midwest ISO August 1 Filing at 5.

<sup>113</sup> IPL Filing at 5.

<sup>114</sup> Midwest ISO/Supporting Midwest ISO TOs' filing at 5.

<sup>115</sup> Midwest ISO/Supporting Midwest ISO TOs' filing at 6.

<sup>116</sup> Midwest ISO/Supporting Midwest ISO TOs' filing at 6.

that, as of the date of the submission of the first of the required annual reports, “it simply is too early to assess their effectiveness” because the Midwest ISO has only just begun to implement RECB.<sup>117</sup> Nevertheless, the Supporting Midwest ISO Transmission Owners take the position that the 20% / 80% RECB cost allocation split remains just and reasonable because facts do not yet exist to demonstrate otherwise.<sup>118</sup>

IPL, on the other hand, recommends that the Commission re-open the RECB I and RECB II process to allow for a reconsideration of consumer protection measures that can be adopted to avoid the unintended consequences of unjust and unreasonable cost allocations.<sup>119</sup>

Some OMS States may submit separate positions on the Commission’s previous adoption of a 20% regional postage stamp cost allocation component in RECB I and RECB II, but the OMS agrees with the Supporting Midwest ISO Transmission Owners that it is simply too early to assess the effectiveness, justness, or reasonableness of the RECB 20% regional postage stamp cost allocation component. The OMS agrees with the informational report filers regarding zonal license plate rates for existing facilities and the compatibility between that method and the RECB cost allocation method for new facilities. OMS does not support IPL’s suggestion that license plate rate design should be implemented for new facility additions as well as existing facilities.

#### **IV. Conclusion**

Wherefore, for the reasons explained above, the OMS respectfully requests that the Commission take the actions recommended by the OMS herein.

The OMS submits these comments because a majority of the members have agreed to generally support them. The following members generally support these comments. Individual

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<sup>117</sup> Midwest ISO/Supporting Midwest ISO TOs’ filing at 8.

<sup>118</sup> Midwest ISO/Supporting Midwest ISO TOs’ filing at 9.

<sup>119</sup> IPL Filing at 6.

OMS members reserve the right to file separate comments regarding the issues discussed in these comments:

Illinois Commerce Commission  
Indiana Utility Regulatory Commission  
Iowa Utilities Board  
Michigan Public Service Commission  
Minnesota Public Utilities Commission  
Missouri Public Service Commission  
Montana Public Service Commission  
Nebraska Power Review Board  
North Dakota Public Service Commission  
Wisconsin Public Service Commission

The Manitoba Public Utilities Board did not participate in this pleading. The Kentucky Public Service Commission, the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, and the South Dakota Public Utilities Commission abstained from these comments.

The Indiana Office of Utility Consumer Counselor, the Iowa Office of Consumer Advocate, and the Minnesota Department of Commerce, as associate members of the OMS, participated in these comments and generally support these comments.

Respectfully Submitted,

William H. Smith, Jr.  
William H. Smith, Jr.  
Executive Director  
Organization of MISO States  
100 Court Avenue, Suite 218  
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Tel: 515-243-0742

Dated: September 17, 2007

#### CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.  
Dated at Des Moines, Iowa, this 17th day of September, 2007.

William H. Smith, Jr.

**Statement of the Illinois Commerce Commission  
on the Continued Unjustness and Unreasonableness of the Midwest ISO's  
RECB II 20% Region-Wide Cost Allocation Component**

**I. The Commission Should Remove the 20% Region-Wide Cost Allocation Component from the Midwest ISO's RECB II Methodology.**

The Illinois Commerce Commission (“ICC”) supports the continued use of license plate rates for existing transmission facilities at this time. The ICC also agrees with other parties that it is simply too early to judge the continued just and reasonableness of most of the components of the RECB policy for new transmission facilities. However, the ICC opposed the Midwest ISO's arbitrary RECB II 20% region-wide cost allocation component and does not support continuation of that component. Indeed, it continues to be unjust and unreasonable to base the allocation of any portion of the costs of so-called regionally beneficial transmission projects to all Midwest ISO pricing zones on a load ratio share basis, i.e., via an unsupported region-wide postage-stamp cost allocation. A more appropriate cost allocation method for prospective new transmission facilities would be based directly and measurably on cost causation and beneficiary pays principles. The ICC has made filings in the past in opposition to the 20% region-wide cost allocation component for so-called regionally beneficial projects and does so again here.<sup>1</sup> The ICC urges the Federal Energy Regulatory Commission (“Commission”) to reconsider its current position with regards to that aspect of the RECB II policy when it rules on the Midwest ISO's post transition pricing filing.

**II. The Midwest ISO's 20% Region-Wide Cost Allocation Is Arbitrary and Has Not Been Supported With Evidence.**

There has been little or no support provided to justify the continuation of a 20% region-wide cost allocation component for so-called regionally beneficial projects. Even the modicum

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<sup>1</sup> See ICC Statement attached to OMS Comments in Docket No. ER06-18-004 (2006).

of support that the Midwest ISO offered in its original filing was contradictory. For example, in the Transmittal Letter of the Midwest ISO's 2006 RECB II filing in Docket No. ER06-18-004 where the 20% region-wide allocation was first proposed, the Midwest ISO stated:

The region-wide postage stamp portion of project cost was set at 20%. This figure is consistent with the level of postage stamp applied to Baseline Reliability Projects of 345 kV and higher voltage in the initial RECB filing. [footnote omitted.] As described in that filing, the figure of 20% was arrived at with reliance on an analysis of the extent of the use of the Transmission System external to a designated pricing zone when the generation within that zone serves the load within that zone. These results demonstrated in rough terms that approximately 20% relative usage of the system of others by any given designated pricing zone is required for a utility to "self-serve" its load reliably. A similar analysis was presented at one of the RECB II Task Force meetings that showed that when the loads of a single zone are served by all market generators in aggregate (which is more descriptive of typical market operations and therefore more applicable to expansions that improve the efficiency of those market operations) the relative usage of the transmission system of others was at least as high as the 20% figure seen in the original evaluation for reliability purposes. These types of analyses were not intended to be applied as a definitive measure of grid benefits, but rather they serve as useful indicators of the general level of shared system usages and are reflective of an appropriate region-wide postage stamp level.<sup>2</sup>

The Midwest ISO's Mr. Webb stated in an affidavit attached to the Midwest ISO's 2006 RECB II filing that, "The proposed allocation policy generally provides for 20% of the costs of a qualified RBP to be allocated to all transmission customers within the Midwest ISO Region on a load ratio share basis."<sup>3</sup> Mr. Webb also stated that, "Load ratio allocations across the entire Midwest ISO cannot provide certainty, however, that all the customers that pay for a transmission facility will necessarily benefit from a specific Network Upgrade."<sup>4</sup> Mr. Webb argued, nevertheless, that, because of difficulty in conducting targeted analyses and predictions

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<sup>2</sup> Midwest ISO RECB II Transmittal Letter at 8.

<sup>3</sup> Webb Affidavit at 5.

<sup>4</sup> Webb Affidavit at 4.

of the distribution of beneficiaries over time, a more generalized cost allocation using a postage stamp rate process is in order.<sup>5</sup>

Notably, Mr. Webb did not attempt to argue that the analysis referred to in the Midwest ISO's RECB II Transmittal Letter concerning "the relative usage of the transmission system of others" when the loads of a single zone are modeled as being "served by all market generators in aggregate" represented some kind of proxy for identifying transmission project beneficiaries. Indeed, Mr. Webb's affidavit did not even mention the generalized analysis that was introduced in the Midwest ISO's Transmittal Letter. Similarly, the Midwest ISO did not attempt to argue that the 20% cost allocation component derives from "a definitive measure of grid benefits." Rather, the Midwest ISO's 2006 RECB II Filing urged that the analysis not be applied in such a manner. The Midwest ISO stated only that the type of analyses that it mentions might serve as "useful indicators of the general level of shared system usages." Neither the Midwest ISO's 2006 RECB II Filing, nor Mr. Webb's affidavit attempted to make a connection between a "general level of shared system usages" and the zonal distribution of beneficiaries of particular economic efficiency transmission projects. Furthermore, neither the Midwest ISO's 2006 Filing, nor Mr. Webb's affidavit attempted to draw a corollary between the reliability context in which the 20% component was included in the RECB I policy package and the economic efficiency context that the RECB II policy is intended to address.

In sum, the Midwest ISO's RECB II 20% region-wide cost allocation component was not supported by evidence and is arbitrary. No meaningful evidence has been provided in the post-transition transmission pricing filings to rebut this conclusion. The Midwest ISO's RECB II 20% region-wide cost allocation component remains unjust and unreasonable and the

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<sup>5</sup> Webb Affidavit at 4 and 6.

Commission should address that situation in its Orders on the post-transition transmission pricing filings.

**III. The Midwest ISO's 20% Region-Wide Cost Allocation Component Is Not Benefit-Based, is Arbitrary, and Would Undercut the Midwest ISO's Stated Intention to Develop Additional and More Accurate Benefits Metrics.**

When the 20% region-wide cost allocation component was being proposed, the Midwest ISO selected Adjusted Production Cost and Load LMP as “the best set of metrics that could, at the present time, be evaluated in a reasonably accurate and repeatable manner and that would measure economic benefits of the expansion.”<sup>6</sup> However, the Midwest ISO recognized that there are other additional benefits metrics that may deserve to be part of any improved protocols for regional beneficial project cost allocation.<sup>7</sup> Indeed, in Section II.B.2 of Attachment FF, the Midwest ISO committed to exploring with stakeholders, and proposing to include in the tariff, additional benefit metrics that would be effective in facilitating market efficiency and meeting regulatory policy objectives.

The Midwest ISO's commitment to explore additional measurable benefits metrics and adopt them when they become mature should be applauded and supported. The Midwest ISO's commitment in this regard is consistent with objectives and principles of allocating costs pursuant to measurable benefits. Despite the Midwest ISO's commitment to explore and adopt additional benefits metrics in the future, the Midwest ISO is currently committed to allocating only 80% of regionally beneficial project costs using benefits metrics.

On the other hand, the Midwest ISO's 20% region-wide cost allocation component for economic efficiency projects is not supported by any benefits metric. The only support provided

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<sup>6</sup> Transmittal Letter at 5.

<sup>7</sup> Webb Affidavit at 10.

by the Midwest ISO for the 20% region-wide cost allocation component is the vague notion that the distribution of beneficiaries of transmission projects may change over time. Even if an expectation about a changing distribution of beneficiaries over time is well-founded (and the Midwest ISO provided no evidence on the record by which the expectation can be judged), arbitrarily allocating transmission project costs to all Midwest ISO load is not a good solution to the problem.

Furthermore, the Midwest ISO's allocation of costs to aggregated sub-regions, rather than more granularly to pricing zones that show modeled benefits, already addresses the concern about potential future changes in the distribution of beneficiaries and the concern about difficulty in precisely identifying beneficiaries of long-lived assets. It was excessive and unreasonable for the Commission to impose an arbitrary region-wide allocation of costs on top of what may already be an arbitrary sub-regional allocation of costs just to address the single issue of possible future changes in the distribution of project beneficiaries. It is likewise unreasonable for the Commission to maintain such a policy.

In the context of economic efficiency projects, imposing a region-wide cost allocation component to account for alleged unpredictable changes in the distribution of beneficiaries over time is arbitrary. It is much more likely that the Midwest ISO will be able to identify the true distribution of beneficiaries of a particular economic efficiency transmission project (or get closer to identifying the true distribution of beneficiaries) by actually trying, prior to inclusion of the project in the regional expansion plan, to identify the distribution of benefits, rather than making an arbitrary allocation. Because transmission is a long-lived asset and the benefits of a new transmission project will flow over decades, it could well be unlikely that the Midwest ISO's modeling will perfectly identify the distribution of beneficiaries over time. However, it is

more likely that the Midwest ISO will be able to develop benefits metrics in addition to Adjusted Production Cost and Load LMP to more accurately identify the future distribution of project beneficiaries if the Midwest ISO is required to strictly tie cost allocations to benefits metrics. If the Commission continues to adopt policies that include arbitrary allocations of economic efficiency project costs, the Midwest ISO's incentive to develop more, and more accurate, benefits metrics will be undercut and diluted.

In short, the Midwest ISO is more likely to get the cost allocation right (i.e., accurately predict the level of benefits and the distribution of beneficiaries) by being required to genuinely try to get it right than would be the case if the Commission continues to allow the Midwest ISO to employ an arbitrary cost allocation policy, like the RECB II 20% region-wide cost allocation component, that is almost guaranteed to be wrong (i.e., not match assigned cost responsibility with actual project beneficiaries) and to stay wrong. While the Midwest ISO may still not get the cost allocation right, even if it is ordered by the Commission to try to get it right, the result of that effort would not necessarily be arbitrary. On the other hand, a cost allocation approach that uses an unsupported 20% cost allocation component will likely never be right and will always be arbitrary. The first approach could be found to be just and reasonable, but the second approach can not be.

#### **IV. Conclusion.**

WHEREFORE, the Midwest ISO's RECB II 20% region-wide cost allocation component: (1) has not been supported by evidence; (2) is arbitrary; (3) is not benefit-based; (4) would undercut the Midwest ISO's stated intention to develop additional and more accurate benefits metrics; and (5) is aimed at a problem—uncertainty about the future distribution of

project beneficiaries—that that Midwest ISO’s sub-regional cost allocation proposal is already aimed at addressing.

For these reasons, the ICC urges the Commission to reject the continued use by the Midwest ISO of the RECB II 20% region-wide postage stamp cost allocation component. The costs of new transmission projects should be allocated solely on the basis of quantitative benefits and beneficiaries metrics.