

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

International Transmission Company)	Docket No. ER07-1141-000
d/b/a ITC<i>Transmission</i>, Michigan Electric)	
Transmission Company, LLC and the)	
Midwest Independent Transmission System)	
Operator, Inc.)	

**NOTICE OF INTERVENTION
AND COMMENTS OF
THE MICHIGAN PUBLIC SERVICE COMMISSION**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.214 (2006) and the Combined Notice of Filings issued by the Commission on July 18, 2007, the Michigan Public Service Commission (“MPSC” or “Michigan”) hereby submits its notice of intervention and comments on the July 10, 2007 filing of International Transmission Company d/b/a ITC*Transmission* (ITC), Michigan Electric Transmission Company, LLC (“METC”) and the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”)(collectively, “Applicants”) to modify the allocation of Network Upgrades necessary to interconnect new generators to the ITC and METC transmission systems. The MPSC generally supports the Applicants’ filing but believes that certain modifications are necessary to ensure the tariff provisions appropriately balance the need for just and reasonable rates with the goal of encouraging cost-effective transmission upgrades and new generation in the Midwest ISO’s Open Access Transmission and Energy Markets Tariff (EMT). The MPSC states as follows:

I. DESCRIPTION OF THE FILING

On July 10, 2007, ITC, METC, and the Midwest ISO requested FERC approval to modify the Midwest ISO's EMT with the addition of Attachment FF Section III.A.2.d.3.¹ The proposed Attachment FF Section III.A.2.d.3 governs the assignment of costs of Network Upgrades required for new or upgraded interconnections to the ITC and METC transmission systems. ITC and METC assert that the proposed filing will not have an effect on rates outside the METC and ITC zones and request that Attachment FF Section III.A.2.d.3 become effective one day after filing, July 11, 2007.

The Applicants explain that under the Midwest ISO's Attachment FF of the EMT, Interconnection Customers and Transmission Owners equally share costs of Network Upgrades. The filing also states that the 50/50 split applies if the output of the generator is committed by a contract of at least one year to serve Midwest ISO Network Customers, or the generator has been designated as a Network Resource at the time of Commercial Operation. But this split does not apply if the Generation Interconnection Project is determined to be a Baseline Reliability Project or an advancement of a Baseline Reliability Project.

In contrast, in this instant filing, the Applicants propose to add Section III.A.2.d.3 to Attachment FF and request that FERC approve their proposal to reimburse Interconnection Customers for 100 percent of the cost of Network Upgrades required to interconnect a Generating Facility to the ITC or METC transmission systems. Applicants state that their proposal implements the FERC-approved policy of Order No. 2003 on cost responsibility for Network Upgrades. In addition, they explain that the incremental cost of reimbursement for these Network Upgrades, beyond the cost of reimbursement that otherwise would be shared

¹ On July 11, 2007, American Transmission Company, LLC filed in Docket No. ER07-1144-000 a similar, but not identical, proposal to govern the assignment of costs of Network Upgrades required for new or upgraded generation interconnections to the ATC transmission system.

regionally or subregionally under Attachment FF, would be recovered from the ITC and METC Pricing Zones under ITC's and METC's Attachment O formula rates. Consequently, ITC and METC state that full reimbursement of generators under this proposal will not impose increased transmission costs on other Midwest ISO transmission pricing zones. The filing specifies that reimbursement with interest will occur within 90 days following the date the Generating Facility achieves Commercial Operation.

ITC and METC recognize that their proposal will impose additional costs in the METC and ITC rate zones but emphasize that the additional costs are necessary to encourage generation construction in Michigan. Furthermore, they suggest that their proposed policy would "level the playing field" between generation constructed by incumbent utilities, which can recover the costs not reimbursed for such facilities from retail customers, and independent generators, which have to absorb any costs not reimbursed.

To qualify for the proposed treatment, according to ITC and METC, proposed Section III.A.2.d.3 would apply to all Generator Interconnection Projects for which ITC or METC will be a signatory to the Interconnection Agreements under the terms of Attachments R or X of the EMT executed after the filing of the application and those otherwise compliant with Attachment FF eligibility requirements. They further state that the new policy would apply to existing Interconnection Customers that require Network Upgrades to accommodate increased plant capacity and to any new Interconnection Customers.

ITC and METC claim that the Midwest ISO's Attachment FF is more costly for generators seeking to interconnect because of tax consequences. They explain that for any Network Upgrades paid for by an Interconnection Customer or that are built by an Interconnection Customer and transferred to ITC or METC and for which ITC or METC is not

obligated to repay the Interconnection Customer 100% of the costs, the Interconnection Customer must pay a “tax gross up” to cover the income tax liability that ITC or METC would incur on the amount not reimbursed. According to the Applicants, this is currently more than 25% of the costs of the Network Upgrades not reimbursed. However, they state that under the new proposal, the tax gross up on the cost of network upgrades is avoided because ITC and METC will reimburse generators 100% of the cost of interconnection-related Network Upgrades.

II. NOTICE OF INTERVENTION

The MPSC is an agency of the State of Michigan, created by 1939 Pub. Acts 3, Mich. Comp. Laws Ann. § 460.1 *et seq.* As the Michigan regulatory agency having jurisdiction and authority to control and regulate rates, charges, and conditions of service for the retail sale of electricity in the State, the MPSC is a “state commission” as defined in 16 U.S.C. § 796(15) and 18 C.F.R. § 1.101(k) (2006). Accordingly, the MPSC hereby provides its notice of intervention pursuant to 18 C.F.R. § 385.214(a)(2) (2006).

Copies of all pleadings and correspondence in the proceeding should be addressed to:

Michael A. Cox
 Attorney General
 David A. Voges (P25143)
 Patricia S. Barone (P29560)
 Dept. of Attorney General
 Public Service Division
 6545 Mercantile Way, Suite 15
 Lansing, MI 48911
 (517) 241-6680 (phone)
 (517) 241-6678 (fax)
vogesd@michigan.gov
baronep@michigan.gov

David D’Alessandro
 Kelly A. Daly
 M. Denyse Zosa
 Stinson Morrison Hecker LLP
 1150 18th Street, N.W.
 Suite 800
 Washington, DC 20036-3816
 (202) 785-9100 (phone)
 (202) 785-9163 (fax)
ddalessandro@stinso.com
kdaly@stinson.com
dzosa@stinson.com

III. COMMENTS

A. **The MPSC Generally Supports The ITC/METC Filing As A Way To Promote New Generation, Including Renewable Resources; Streamline The Queue Process; And Achieve Other Benefits.**

The MPSC supports the objective of establishing a generator interconnection policy that encourages the construction of new generation, particularly generation powered by renewable resources. As pointed out by ITC and METC, the 21st Century Energy Plan, submitted in early 2007 to Michigan's Governor Granholm by former MPSC Chairman J. Peter Lark, identified the need for new baseload capacity in the state and recommended a 10 percent renewable portfolio standard to promote renewable energy. Moreover, several Michigan utilities, including investor-owned utilities, electric cooperatives, and municipally-owned utilities, have instituted "green pricing" programs or other renewable energy programs. And there are numerous bills pending in the Michigan Legislature to institute a state renewable portfolio standard.

There is a considerable amount of wind and other generation capacity seeking to interconnect in Michigan through the Midwest ISO generation interconnection queue process. The MPSC is concerned, however, that the current interconnection policies, including the requirement that generators pay at least 50 percent of the Network Upgrade costs, can serve as a barrier to the development of renewable resources. In the past, numerous entities have withdrawn from the queue after the Network Upgrade costs were calculated.

As in other areas around the country, renewable developers are seeking to interconnect resources in relatively remote areas in Michigan, which usually lack the needed transmission infrastructure to accommodate the available wind resources. The Network Upgrade costs may be cost-prohibitive to renewable developers in part because of the relatively small size of proposed developments and/or low capacity factors, which result in wind generators having to recover their costs over fewer megawatt-hours per year compared to typical baseload power plants.

While these Network Upgrade costs may be significant for certain developers of new generation, these costs have generally been a small fraction of the costs of other transmission upgrades (not related to generation interconnections) being made and planned by transmission owners in Michigan based on a preliminary review of available data.

The MPSC believes that reimbursing generators for 100 percent of the Network Upgrade costs would provide a direct economic incentive to encourage the timely development of new generation. Moreover, this policy may address some issues faced by the Midwest ISO, transmission owners, and generation developers related to the interconnection queue process. MISO staff has claimed that the current queue process creates an incentive for entities to enter the queue, await studies that identify required Network Upgrade costs, and then withdraw with the hope that the upgrades will eventually be funded by either the next generator in the queue or the local utility. According to Midwest ISO staff, assigning cost responsibility to the first generator that “triggers” the Network Upgrades has stalled progress on the interconnection queue due to the repeated processing of interconnection requests.²

The instant filing and ATC’s filing in Docket No. ER07-1144 would result in different rules governing the allocation of cost responsibility for generation interconnections in Michigan and portions of Wisconsin, as compared to the rest of the Midwest ISO. That is, 100 percent of the Network Upgrade costs to interconnect new or increased generating capacity to the ATC and ITC/METC transmission systems would be rolled into transmission rates, and generators interconnecting in the rest of the Midwest ISO footprint would pay at least 50 percent of these costs. While recognizing the benefits of a uniform generator interconnection policy across all regions of the Midwest ISO, including ITC and METC, the MPSC believes that it is in the public

² See Midwest ISO White Paper dated June 29, 2007: Proposal to Remove Barriers To Efficient Transmission Investment, at page 2 (Draft).

interest to allow stand-alone transmission companies to take the lead in this matter. And as explained in the Applicants' filing, the 100 percent reimbursement policy would avoid generators having to pay a potential tax gross up on the Network Upgrade costs and thereby reduce the overall costs of interconnections.

B. The Commission Should Require Additional Safeguards to Ensure Just and Reasonable Rates

For any such policy to be just and reasonable, however, the MPSC believes it must: 1) balance the need for reasonable rates with the goal of encouraging both cost-effective transmission system upgrades and new generation; 2) ensure some economic discipline in the siting of new generation and efficient planning of both generation and transmission infrastructure; and 3) ensure that ratepayers funding generator interconnections receive benefits commensurate with the resulting cost responsibility. The MPSC believes that the instant filing, along with the companion filing by ATC in Docket No. ER07-1144-000, raise several concerns related to these objectives that must be addressed before either filing can be determined to be just and reasonable.

The MPSC suggests that modifications to both filings are warranted and should result in a uniform policy for cost allocations in the Upper and Lower Peninsulas in Michigan where ATC, ITC, and METC operate. The MPSC's specific concerns in this docket are addressed below and relate to the need for a reasonable cap on 100 percent reimbursement and more stringent eligibility requirements. The MPSC recommends that the Commission either order a technical conference to explore solutions to these issues or assign this docket to a settlement judge with a deferred hearing date.

1. **The Commission Should Require That the Rules Governing the Allocation of the Costs of Network Upgrades Be Consistent for ATC and ITC.**

The instant filing, when compared to the companion filing by ATC in Docket No. ER07-1144-000, presents issues relating to inconsistent standards and eligibility criteria. There are several key features of the ITC and ATC filings that are different. First, in terms of eligibility criteria, the ITC reimbursement formula would apply only to generators that serve as Network Resources within the Midwest ISO or that have a minimum one-year contract to sell power to Midwest ISO Network Customers. The ATC reimbursement proposal, like the ITC proposal, would apply only to generators that serve Network Resources, but unlike ITC, the ATC proposal would also apply to generators with ten-year contracts to serve any customer. Second, the ITC filing has no limit on the amount of Network Upgrade costs that would be eligible for 100 percent reimbursement, whereas the ATC proposal limits 100 percent reimbursement to a cap of \$400/kW, adjusted annually by a utility price index, with costs above the cap allocated 50/50 between the generator and ATC customers. Third, under the ITC proposal 50 percent of the costs of the Network Upgrades would be allocated based on the existing Midwest ISO RECB I cost sharing provisions, and the other 50 percent (currently paid by the generator under the existing Midwest ISO RECB I) would be rolled-in to local rates in Michigan and paid by ITC or METC customers. In contrast, under ATC's proposal, all of the costs would be paid by ATC's customers and there would be no RECB I cost sharing for eligible interconnections to the ATC system.

The different standards and eligibility criteria raise concern and are discussed further in Parts 2 and 3 below.

2. **The Commission Should Require ITC and METC to Include a Cap on 100 Percent Reimbursement That Reasonably Balances the Need to Encourage New Generation and the Need to Protect Ratepayers From Funding Generation Interconnections At Any Cost**

The MPSC supports encouragement of new generation from renewable energy resources. Policies implementing such an objective, however, must be balanced to protect ratepayers from paying 100 percent of Network Upgrades for new generation that is inefficiently located and the resulting excessive costs being passed through the transmission owner's formula rates with incentive rate treatment. A cap on the amount of Network Upgrade costs eligible for 100 percent reimbursement, along the lines of that proposed by ATC in its generation interconnection docket, is essential to achieving such balance. A cap will provide generators with an incentive to avoid inefficient generator interconnection locations and to consider and minimize Network Upgrade costs.

However, as discussed further in the MPSC's intervention and comments in the ATC docket, the MPSC believes that ATC has failed to support the initial \$400/kW cap as reasonable. The MPSC is not in a position to propose a specific cap amount at this time and recommends that FERC set this issue for a deferred hearing or technical conference so that parties can obtain more information and formulate positions. This may also provide an opportunity for parties to explore other types and amounts of caps and their implications (e.g., a cap based on the "higher of" \$XXX million or \$XXX/kW).

3. **The Commission Should Modify the Generator Eligibility Requirements to Qualify For 100 Percent Reimbursement to Ensure That Ratepayers Funding Generation Interconnections Receive Benefits Commensurate With the Resulting Cost Responsibility.**

As discussed above, an Interconnection Customer can qualify for 50/50 cost sharing under the Midwest ISO Attachment FF if the generator is a Designated Network Resource at the

time of Commercial Operation or, in the alternative, has a minimum of a one-year contract to serve a network customer in the Midwest ISO. ITC and METC propose to continue to use these criteria to determine eligibility for the 100 percent reimbursement. Under ATC's proposal, a generator could still use the network resource designation, or would need to have a ten-year purchased power contract.

The MPSC questions whether the Applicants' proposed eligibility requirements provide adequate protection for ratepayers who would be paying all or the large majority of Network Upgrade costs. Under the ITC and METC proposal, a generator could export its power outside the Midwest ISO or use it in any other manner after the expiration of an initial one-year contract. While ATC proposes a longer contract term, its ten-year contract requirement is not limited to serving Midwest ISO network customers.

The MPSC believes that the eligibility requirements in both ATC's and ITC's filings need to be modified for consistency and to ensure that ratepayers—to which these interconnection costs are being shifted—receive benefits in terms of the use of the power and energy delivered, system reliability, resource diversity, etc. One option may be to make 100 percent reimbursement eligibility available only to generators designated as network resources under the Midwest ISO EMT for a minimum term such as ten years. The MPSC believes that this issue should also be set for a technical conference or deferred hearing (with settlement judge) to ensure that the eligibility requirements are just and reasonable.

C. Conforming Changes May Be Needed Because of the Midwest ISO's pending "Open Season" Generator Interconnection Proposal

The Midwest ISO is soliciting stakeholder input on an "open season" proposal for generator interconnection that goes beyond the allocation of costs related to discrete

interconnection requests.³ A late Fall Commission filing is anticipated. Specifically, the Midwest ISO is seeking to create a new category of transmission—regionally planned generation interconnection—that is currently defined by a draft as:

a network upgrade consisting of one or more transmission facilities that are needed to interconnect large concentrations of location-constrained resources [e.g., wind], and that are sized to accommodate anticipated interconnections that will be using the upgrades based on current queued requests, long-term portfolio standard requirements, and assessment of other drivers of future capacity needs.

It has not been determined whether and how the Midwest ISO's proposal, or portions thereof, would apply to ITC/METC and ATC if these transmission owners' filings are approved in this docket and Docket ER07-1144, respectively. While the details of the Midwest ISO's proposal are still being discussed, the planning and financing provisions could directly impact ATC's and ITC/METC's proposals. Different elements of these various proposals could be superior to those in any one proposal. The MPSC believes it is important to ensure that the Midwest ISO tariff provisions governing generator interconnections, including those applicable to ATC, ITC, and METC, are cohesive and appropriate. At this time, the MPSC is not proposing any changes in this respect to the Applicants' filing but requests that the Commission place parties on notice that provisions of the instant filing may be subject to reconsideration and modification in response to changes to the interconnection policy implemented by the Midwest ISO. The MPSC reserves its rights to raise issues relating to the impact of such Midwest ISO policy upon ATC and ITC's interconnection policy, in this docket, Docket No. ER07-1144, or in any future proceeding, depending on the outcome of the Midwest ISO stakeholders' examination of the Midwest ISO generator interconnection procedures and its queue process.

³ See June 29, 2007 Draft White Paper at http://www.midwestiso.org/publish/Document/4c0ece_1133f7bab9f_-7de90a48324a?rev=1.

IV. CONCLUSION

As set forth more fully above, the MPSC hereby provides its notice of intervention in this proceeding and respectfully requests that the Commission approve the subject proposal filed by the ITC, METC and the Midwest ISO with modifications addressing the issues specified above and subject to outcome of any technical conference or hearing.

Respectfully submitted,

THE MICHIGAN PUBLIC SERVICE COMMISSION

MICHAEL A. COX
Attorney General

David A. Voges (P25143)
Patricia S. Barone (P29560)
Assistant Attorneys General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911
Telephone: (517) 241-6680
Fax: (517) 241-6678

/s/ David D'Alessandro

David D'Alessandro
Kelly A. Daly
M. Denyse Zosa
Special Assistant Attorneys General
Stinson Morrison Hecker LLP
1150 18th Street, N.W., Suite 800
Washington, DC 20036-3816
Telephone: (202) 785-9100
Fax: (202) 785-9163

Dated July 31, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document electronically upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 31st day of July, 2007.

/s/ M. Denyse Zosa
