

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

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American Electric Power Service Corporation	)	Docket No. EL07-101-000
	)	
v.	)	
	)	
Midwest Independent Transmission System Operator, Inc., and PJM Interconnection, L.L.C.	)	
	)	
Midwest Independent Transmission System Operator, Inc.	)	Docket No. ER05-6-100
	)	
Midwest Independent Transmission System Operator, Inc., PJM Interconnection, L.L.C., <u>et al.</u>	)	Docket No. EL04-135-003
	)	
Midwest Independent Transmission System Operator, Inc., PJM Interconnection, L.L.C., <u>et al.</u>	)	Docket No. EL02-111-120
	)	
Ameren Services Company, <u>et al.</u>	)	Docket No. EL03-212-116

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

**I. Introduction**

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 CFR 385.211, the Organization of MISO States (“OMS”) hereby respectfully submits the following comments in the above-captioned dockets for the Commission’s consideration.

**II. Summary of AEP’s Complaint**

On September 17, 2007, American Electric Power Service Corporation, on behalf of certain operating companies of the American Electric Power System (collectively “AEP”),

submitted a Complaint challenging the rate designs underlying the open access transmission tariffs (“OATTs”) of PJM Interconnection, L.L.C. (“PJM”) and the Midwest Independent Transmission System Operator, Inc. (“Midwest ISO” or “MISO”). AEP alleges that the rate designs in the PJM and Midwest ISO OATTs are unjust, unreasonable, and unduly discriminatory and must be revised.<sup>1</sup> AEP proposes a replacement rate design that would share the costs of all existing and new “backbone” extra-high voltage (“EHV”) transmission facilities<sup>2</sup> across the combined PJM/Midwest ISO Super Region.<sup>3</sup> AEP proposes that the costs of existing and new transmission facilities under 345 kV be allocated using the zonal license plate rate approach; *i.e.*, to the customers of the zone with which the facilities are built or located.<sup>4</sup>

AEP requests that the Commission initiate hearing procedures to allow for the development of a record that will support a just and reasonable and not unduly discriminatory transmission rate design for the Super Region.<sup>5</sup> AEP requests that the Commission establish a refund-effective date of October 1, 2007 for any rate changes.<sup>6</sup> AEP suggests February 1, 2008, as a second-best alternative refund effective date because that date would track the Commission’s November 2004 Order, which set February 1, 2008 as the date for a reevaluated transmission rate design to take effect for transactions between PJM and Midwest ISO.<sup>7</sup>

AEP requests that its Complaint in the instant docket be consolidated with the ongoing proceedings in Docket Nos. ER05-6-100, *et al.*, which, according to AEP, raise issues similar in

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<sup>1</sup> AEP Complaint at 48.

<sup>2</sup> AEP defines EHV facilities as facilities at voltage levels of 345 kV and above.

<sup>3</sup> AEP Complaint at 4.

<sup>4</sup> AEP Complaint at 10.

<sup>5</sup> AEP Complaint at 4.

<sup>6</sup> AEP Complaint at 48.

<sup>7</sup> AEP Complaint at 49.

law and fact.<sup>8</sup> In Docket Nos. ER05-6-100, *et al.*, the Commission is considering an August 1, 2007 filing by PJM, the Midwest ISO, and certain PJM and Midwest ISO transmission owners (the “August 1 Filing”). The August 1 Filing was a response to the Commission’s November 2004 Order that directed PJM and the Midwest ISO to formally reevaluate their cost allocation and rate design policies as applied to transmission facilities and to make a filing by August 1, 2007, proposing a transmission rate design to take effect February 1, 2008. The August 1 Filing describes what the filing parties in that case call the Independent RTO Pricing Design (“IRPD”).<sup>9</sup> AEP argues that it would be inefficient to litigate in a separate docket, when the Commission already has an ongoing proceeding in which the PJM and Midwest ISO transmission rate designs and transmission cost allocation methods are at issue.<sup>10</sup> AEP states that the consolidation of its Complaint with the proceedings in Docket Nos. ER05-6-100, *et al.*, will not delay or disrupt the Commission’s action on the August 1 Filing.<sup>11</sup>

AEP argues that it has built the most extensive transmission network in the Eastern Interconnection – a system that AEP claims provides service and benefits to consumers throughout the PJM/Midwest ISO Super Region.<sup>12</sup> AEP claims that its transmission system is located at the center of PJM and the Midwest ISO and integrates the two RTOs and supports their electric power markets.<sup>13</sup> AEP also claims that its existing transmission system facilitates the major new EHV projects that are planned for the Super Region.<sup>14</sup> AEP states that, despite these circumstances, the current PJM and Midwest ISO transmission rate designs “allocate the

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<sup>8</sup> AEP Complaint at 53-54.

<sup>9</sup> OMS submitted Comments on the IRPD filing on September 17, 2007.

<sup>10</sup> AEP Complaint at 54.

<sup>11</sup> AEP Complaint at 54.

<sup>12</sup> AEP Complaint at 2.

<sup>13</sup> AEP Complaint at 2.

<sup>14</sup> AEP Complaint at 4.

costs of AEP's existing EHV system exclusively to transmission customers within the AEP footprint."<sup>15</sup> AEP asserts that the current PJM and Midwest ISO transmission rate designs and cost allocation methods do not fairly allocate the costs of owning, operating, and maintaining AEP's EHV transmission system among the beneficiaries of that system.<sup>16</sup> AEP states that it is unjust and unreasonable to allow PJM and Midwest ISO customers to continue to use and benefit from the existing AEP EHV system without sharing in the costs of that system.<sup>17</sup> AEP recommends that the Commission acknowledge these core principles and direct the Super Region's participants, with the assistance of a Settlement Judge, to (once and for all) forge a regional consensus on the permanent rate design for which the Commission has been searching for more than half a decade.<sup>18</sup>

### **III. Summary of the OMS's Position and Recommendation in the Post Transition Transmission Pricing Proceeding**

In its Comments submitted September 17, 2007, in Docket Nos. ER07-1233-000, ER07-1261-000, and ER05-6-100, *et al.* ("OMS PTTP Comments"), the OMS provided its advice and recommendations regarding transmission rate design issues similar to, or identical to, those raised by AEP in its Complaint in the instant docket. In those Comments, the OMS generally supported retention of the license plate rate design approach for existing transmission facilities within the Midwest ISO. The OMS also generally supported the stated rationale for retaining the current RECB methodology for new transmission facilities constructed in the Midwest ISO

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<sup>15</sup> AEP Complaint at 3.

<sup>16</sup> AEP Complaint at 3.

<sup>17</sup> AEP Complaint at 4.

<sup>18</sup> AEP Complaint at 5.

region while urging the Midwest ISO and its stakeholders to continue to analyze and look at enhancements for the RECB methodology.<sup>19</sup>

In its PTTTP Comments, the OMS also expressed support for the PJM/Midwest ISO IRPD proposal for transmission pricing between the RTOs and urged the Commission to accept it.<sup>20</sup> The PJM/Midwest ISO IRPD proposal would maintain the elimination of both rate pancaking and transaction-based pricing for transmission services sourcing in one RTO and sinking in the other.<sup>21</sup> Under the IRPD, network and firm point-to-point transmission customers would continue to pay the applicable zonal license plate charge in their sink zone regardless of whether their designated resources are located in their RTO or in the other RTO.

With respect to new “cross-border” transmission facilities (i.e., jointly planned facilities built entirely or partially in one RTO but providing benefits in the other RTO), the IRPD proposal would allocate the costs of such new facilities between the Midwest ISO and PJM in whatever way is finally determined in Docket No. ER05-6-000, *et al.*<sup>22</sup> The OMS noted 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>23</sup>

#### **IV. Position and Recommendation of the OMS on AEP’s Complaint**

The OMS urges the Commission to dismiss the AEP Complaint.

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<sup>19</sup> The OMS noted that the RECB methodology has only been in place for a short period of time and took the position that it is simply too early to assess the continued effectiveness, justness, or reasonableness of the RECB cost allocation methodology. Some OMS States submitted different positions on this issue, particularly with respect to RECB’s 20% region-wide cost sharing component. For example, the Illinois Commerce Commission does not support the 20% region-wide cost sharing component of RECB II. Wisconsin does not hereby waive any of its rights, claims and arguments regarding the propriety of costs recovered by RECB, the subject of pending litigation in the United States Court of Appeals for the D.C.Circuit.

<sup>20</sup> OMS PTTTP Comments, at 11. The OMS did acknowledge that AEP’s comments on the IRPD filing did “raise some thought-provoking issues.” AEP has reiterated, elaborated on, and extended some of those issues in its Complaint in the instant docket.

<sup>21</sup> IRPD Filing at 9-10.

<sup>22</sup> IRPD Filing at 9.

<sup>23</sup> IRPD Filing at 9.

Commission acceptance of AEP's position and recommendation in the instant Complaint docket would upset and undo each of the transmission rate design aspects that the OMS supported in its recent PTTP Comments. First, the beneficiaries-based and cost causation-based RECB rate design for newly constructed transmission facilities within the Midwest ISO would be replaced with an approach that would share the costs of all new Midwest ISO transmission facilities of 345 kV and greater across the PJM/Midwest ISO Super Region on a load ratio share basis. Second, the costs of all new PJM transmission facilities of 345 kV and greater, regardless of whether or not they are determined to provide cross-border benefits, would be shared across the PJM/Midwest ISO Super Region on a load ratio share basis. Third, rather than retaining the zonal license plate rate approach for recovering the costs of all existing transmission facilities in the Midwest ISO region, the AEP proposal would retain that approach only for existing facilities under 345 kV and would share the costs of all existing Midwest ISO and PJM transmission facilities of 345 kV and greater across the PJM/Midwest ISO Super Region on a load ratio share basis.

While AEP raises some salient issues in its Complaint filing, as it did in its Comments on the PTTP filings, the best response to those points is the one previously recommended by the OMS in its PTTP Comments. Specifically, the OMS recommended 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>24, 25</sup> The OMS recommended that the

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<sup>24</sup> OMS PTTP Comments at 11.

<sup>25</sup> The Indiana Utilities Regulatory Commission does 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. In addition, the IURC does

Commission direct the RTOs and their stakeholders to work during the new transition period to develop and fine-tune metrics to quantify and measure benefits of existing, as well as new, transmission facilities. Similarly, the OMS expressed support for the regular, continued re-evaluation of the effectiveness of whatever cost allocation policy is developed for new cross-border transmission facilities.<sup>26</sup> Commission adoption of these recommendations would be responsive to the points raised in AEP's Comments in the PTTP docket and to AEP's Complaint in the instant docket.

## V. Discussion

### A. AEP's Complaint Does Not Identify Specific Beneficiaries or Quantify the Extent of Their Benefits.

AEP's Complaint fails, among other reasons, because AEP does not adequately support its assertions regarding the specific beneficiaries of AEP's transmission system. For example, AEP states that the AEP system "provides service and benefits to consumers throughout the combined region."<sup>27</sup> AEP makes a number of assertions that "transmission customers throughout PJM and the Midwest ISO benefit from AEP's strong EHV transmission system."<sup>28</sup> AEP states that its proposal "is just and reasonable because it ensures that the costs of facilities that support the integration of the Super Region are allocated to those who use, benefit from and depend on those facilities."<sup>29</sup> AEP states that its extra high voltage EHV transmission facilities "serve as the platform for the electricity markets that have developed in the region and thus

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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>26</sup> OMS PTTP Comments at 11.

<sup>27</sup> AEP Complaint at 2, underlining added.

<sup>28</sup> AEP Complaint at 24-32, underlining added.

<sup>29</sup> AEP Complaint at 39, underlining added.

benefit market participants throughout the Super Region.<sup>30</sup> Similarly, AEP's witness J. Craig Baker states,

The Commission's refusal to implement a fair allocation of the cost of existing regional backbone facilities, coupled with its earlier elimination of T&O rates within the combined MISO-PJM region, would unfairly and unjustly allocate to the owners of the backbone facilities and their customers the entirety of the cost of these facilities even though the facilities undoubtedly are used by and benefit third parties.<sup>31</sup>

Despite these assertions as to benefits and beneficiaries (AEP alternatively identifies the category of beneficiaries as customers, consumers, or market participants), AEP does not once specifically identify any particular beneficiaries, or quantify the extent of the benefits allegedly received by each likely beneficiary. AEP asserts that "the benefits derived by PJM and MISO customers who use the AEP EHV transmission system should be recognized in the design of transmission rates, even if the benefits are deemed to be 'general.'"<sup>32</sup> AEP witness Mr. Baker directly admits that "AEP did not attempt to show the extent to which each specific customer within the region used and benefited from backbone facilities."<sup>33</sup> Indeed, Mr. Baker claims that providing such a quantification or measurement of the asserted benefits that beneficiaries receive would be "futile."<sup>34</sup> Mr. Baker states that, "[w]hile we do not attempt to show that every 345 kV and above facility in the region will equally benefit every load in PJM and MISO, we have shown that the benefits of these facilities are 'sufficiently broad' to support an allocation of costs among customers throughout the Super Region."<sup>35</sup>

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<sup>30</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 4, underlining added.

<sup>31</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 38, underlining added.

<sup>32</sup> AEP Complaint at 35.

<sup>33</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 20.

<sup>34</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 20.

<sup>35</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 21.

AEP cites the Commission's Opinion No. 494 as support for its assertion that an indication of generalized benefits is sufficient to support the regionalization of transmission facilities costs.<sup>36</sup> AEP cites the following Commission statement in Opinion No. 494 regarding the costs of new centrally planned PJM transmission facilities of 500 kV and above:

In adopting a postage stamp allocation for new facilities at 500 kV and above, we do not suggest that every 500 kV project will benefit every load in PJM in equal measure. Nor are we required to find that every customer will benefit equally from every project. Rather, we need to find and we do find only that the benefits of such facilities are, as described above, sufficiently broad that they support a postage stamp allocation.<sup>37</sup>

However, this Commission statement from Opinion 494 is currently pending rehearing.<sup>38</sup>

Furthermore, as AEP itself points out, Opinion No. 494 is internally inconsistent on the issue of the sufficiency of a showing of "generalized benefits."<sup>39</sup> Assertions of generalized benefits are not a sufficient basis upon which to allocate or re-allocate billions of dollars worth of transmission facilities costs.

AEP's witness, Mr. Baker testifies that, "A properly designed regional rate should distribute transmission costs commensurate with the benefits of participating in a broad regional market."<sup>40</sup> The OMS would go further to assert that a proper regional rate design would allocate the costs of new transmission facilities in direct proportion to the demonstrated, quantified benefits expected to be received by identified beneficiaries. In any event, AEP has not made either demonstration in its Complaint. Mr. Baker states that, under AEP's proposal, cost responsibility for transmission facilities is "assigned to those who use or benefit from such

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<sup>36</sup> AEP Complaint at 34.

<sup>37</sup> *PJM Interconnection L.L.C.*, Opinion No. 494, 119 FERC ¶ 61,063 at P 81 (2007) ("Opinion No. 494") (requests for rehearing pending).

<sup>38</sup> See *e.g.*, Request for Rehearing of the Illinois Commerce Commission.

<sup>39</sup> AEP Complaint at 34, footnote 53.

<sup>40</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 34.

facilities, regardless of whether those users or beneficiaries are located inside or outside the transmission owner's footprint."<sup>41</sup> However, as the prior discussion of "generalized benefits" demonstrates, AEP's proposal does not identify specific beneficiaries or quantify the extent to which they are alleged to benefit and it does not specifically assign costs to those who benefit, but rather, arbitrarily allocates costs to all zones in the PJM/Midwest ISO Super Region on a load ratio share basis. The OMS suggests that the consumers of Montana or South Dakota would find it surprising to be charged the costs of new or existing transmission facilities in Maryland and Delaware – and vice versa.

**B. The Remedy for Inefficient and Unfair Transmission Cost Socialization is Not Increased and Expanded Transmission Cost Socialization.**

AEP describes the error of transmission cost socialization in its own Complaint filing that advocates transmission cost socialization. AEP states that the Commission's decision in Opinion No. 494 to socialize the costs of new 500 kV and above facilities in PJM means that AEP Zone customers will be paying approximately \$90 million per year for transmission projects authorized by PJM in its 2006 and 2007 planning processes, even though AEP zone loads do not require these facilities and they will not directly benefit AEP Zone customers.<sup>42</sup> AEP states that such a rate design "penalizes" AEP Zone customers particularly because, at the same time, AEP customers will also be paying for all of the costs of AEP's existing 345, 500, and 765 kV facilities, including the new Jacksons Ferry – Wyoming 765 kV line, which increases transfer capability into eastern PJM but was completed too early to qualify for treatment as a "new" facility under the allocation adopted in Opinion No. 494.<sup>43</sup>

In describing the Commission's Opinion No. 494, AEP's witness Mr. Baker states,

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<sup>41</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 40-41.

<sup>42</sup> AEP Complaint at 32.

<sup>43</sup> AEP Complaint at 32.

In addition, under the Commission's ruling in the April 19 Order, customers in the AEP East zone will bear a load ratio share of about 17% of the cost of new backbone facilities built in PJM (including AEP). While the western part of the PJM transmission grid is already well-developed, the eastern part is underdeveloped and congested. In fact, at least four major 500 kV and higher voltage transmission projects are planned to be added to reduce congestion and lower the delivered price of power in eastern PJM. Under PJM's prior beneficiary-pays method, no costs of those projects would have been allocated to the AEP East zone, but the new policy contained in the Commission's April Order means that AEP customers will pay 17% of the costs of those projects while they are being built and after they go into service. By the time they are completed, AEP customers will likely be paying \$90 million per year for them. That amounts to another increase of almost 20% in the present rate that already went up 50% because of T&O revenue elimination. Again, it is unfair for AEP and its customers to be allocated a significant share of these new backbone facilities (with no benefits to AEP's zonal load customers) and at the same time be required to bear all the cost of the existing backbone facilities that permit the new projects to go forward.<sup>44</sup>

Similarly, in describing the effects of the Commission's Opinion No. 494, AEP witness Mr. Dennis W. Bethel describes the unfair results of arbitrary transmission cost allocation with clarity as follows:

In fact, the Commission's decision to socialize new 500 kV and higher voltage facilities in PJM adds insult to injury. Already, customers in the AEP Zone are paying about \$1 million per year for a new 500 kV line being built by Allegheny and Dominion, the TrAIL project (502 JCT to Loudoun, via Mt. Storm and Meadow Brook). The TrAIL project is estimated to cost approximately \$850 million by the time it is completed, which is projected to be in mid-2011. PJM determined in the 2006 PJM Regional Transmission Expansion Plan ("RTEP") that AEP Zone customers are not responsible for the system loadings that require construction of the TrAIL project (or any of its costs), but by the time the TrAIL project is completed, under the existing rate structure, customers in the AEP Zone are expected to be paying about \$30 million a year for the project. But, that is just the tip of the iceberg. Allegheny will also be building the Prexy – 502 JCT line, a \$120 million project, which, like TrAIL, was approved in the 2006 RTEP, and found to be needed to address problems that are in no way related to service for AEP Zone customers. The 2007 RTEP includes two more east PJM projects that will be socialized, and are expected to cost \$2.7 billion. All together, assuming annual costs of about \$540 million (20% of installed cost), AEP Zone customers will be charged approximately \$90 million per year (17% load share) for these

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<sup>44</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 37-38.

2006 and 2007 RTEP projects under the socialization concept approved by the Commission for 500 kV and higher facilities, even though PJM has not identified AEP Zone customers as beneficiaries.<sup>45</sup>

Finally, AEP witnesses Dr. Larry Blank and Professor Douglas Gegax state as follows:

Similarly, it is unfair that AEP customers are being asked to contribute to the cost of transmission upgrades that eliminate congestion into eastern PJM (with no benefits to AEP's zonal load customers), while the customers in eastern PJM make no contribution to the costs of AEP's existing EHV network from which they benefit.<sup>46</sup>

Mr. Baker, Mr. Bethel, Dr. Blank, and Professor Gegax are absolutely right on this. It is unfair for AEP and its customers, as well as other PJM zones and their customers, to be allocated a load ratio share of the costs of these new 500 kV and above PJM facilities, especially because PJM has demonstrated that such facilities provide the customers in AEP's zone, and customers in other western PJM zones, absolutely no benefits—not even “generalized” benefits.

Nevertheless, despite identifying transmission cost socialization that is divorced from beneficiaries analyses as a problem, AEP proposes in its Complaint more transmission cost socialization that is divorced from beneficiaries analyses. In particular, AEP would increase the current amount of cost socialization of PJM facilities to include all new facilities between 345 kV and 500 kV (the costs of new PJM facilities of 500 kV and above are already shared pursuant to Opinion No. 494) and all existing transmission facilities of 345 kV and above. In addition, AEP would increase the amount of cost socialization of Midwest ISO facilities to include all new facilities of 345 kV and above (currently, only 20% if such costs are shared within the Midwest ISO pursuant to the RECB methodology) and all existing transmission facilities of 345 kV and above. Furthermore, AEP would expand cost socialization that is divorced from beneficiaries

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<sup>45</sup> Direct Testimony of Dennis W. Bethel, Exhibit AEP-200 at 21-22.

<sup>46</sup> Direct Testimony of Dr. Larry Blank and Professor Douglas Gegax, Exhibit AEP-400 at 19.

analyses from its current limited and separate implementation within PJM and the Midwest ISO, respectively, to all load in the combined PJM/Midwest ISO Super Region.

The Commission should not adopt AEP's proposal.<sup>47</sup> The proper remedy for the inefficiency and unfairness that results from arbitrary transmission cost socialization is not increased and expanded arbitrary transmission cost socialization as proposed by AEP in its Complaint. Rather, the solution is the development and fine-tuning of benefits and beneficiaries metrics as recommended by the OMS, and allocation of costs pursuant to such beneficiaries metrics once their accuracy has been demonstrated to be reliable.

**C. In Considering the Re-Allocation of Existing, Fixed Transmission Costs, Equity – Rather than Efficiency – Arguments and Analyses Will Be More Useful to Policymakers Deciding Transmission Cost Allocation Policy.**

In their testimony, AEP witnesses Dr. Blank and Professor Gegax provide an academic discussion about the concept of “sunk costs.”<sup>48</sup> Dr. Blank and Professor Gegax argue that the costs associated with existing transmission investments should not be viewed as “eternally” sunk. Dr. Blank and Professor Gegax cite Bonbright, Danielson, and Kamershen in *Principles of Public Utility Rates* (1988, pp. 30-31) for the precept that: “The essential characteristics of a sunk investment is that the productive capital facilities are so specialized as to location or purpose that they cannot easily be converted to alternative productive uses.”<sup>49</sup> Dr. Blank and Professor Gegax state that, from an economic and ratemaking standpoint, “one could argue that the costs of facilities are truly 100% sunk *only* if they have no value outside the purpose in which

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<sup>47</sup> AEP's comments appear inconsistent. AEP's witnesses strenuously argue, and with powerful evidence, that AEP's zonal load customers will receive no benefits from the new transmission upgrade projects currently planned to be constructed in eastern PJM. (See, e.g., Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 37-38.) Nevertheless, AEP's witnesses also argue that “the grid is an integrated system that provides system-wide benefits.” (Direct Testimony of Dr. Larry Blank and Professor Douglas Gegax, Exhibit AEP-400 at 25.)

<sup>48</sup> Direct Testimony of Dr. Larry Blank and Professor Douglas Gegax, Exhibit AEP-400 at 31-36.

<sup>49</sup> Direct Testimony of Dr. Larry Blank and Professor Douglas Gegax, Exhibit AEP-400 at 32.

they were originally intended and, in turn, could be retired without repercussion.”<sup>50</sup> Dr. Blank and Professor Gegax argue that existing transmission facilities have alternative uses and can serve markets other than the zone within which they are physically located and are, therefore, not sunk.<sup>51</sup>

Dr. Blank and Professor Gegax’s sunk cost argument seems to be aimed at rebutting arguments by others regarding the efficiency merits or demerits of re-allocating fixed costs. Nevertheless, while the arguments of Dr. Blank and Professor Gegax about sunk costs may be of academic interest, they are of little assistance for the practical application of making decisions about transmission cost allocation policy.

In this regard, AEP’s witness Mr. Baker hits the nail on the head when he states, “When it comes to allocating fixed costs, the goal is fairness.”<sup>52</sup> Mr. Baker states simply that, “I don’t believe that anyone can reasonably argue that the current zonal rate design for existing facilities is fair to AEP’s customers.”<sup>53</sup> Without conceding to Mr. Baker’s position about whether the current zonal rate design for existing facilities is fair or equitable to AEP’s customers, the OMS states definitively that the socialized rate design proposed by AEP in its Complaint is not fair or equitable to the customers in most, if not all, of the PJM and Midwest ISO zones. An equitable transmission cost allocation and rate design must be tied to reliable analyses of particularized benefits and the distribution of those benefits to specific transmission customers. AEP has not provided such analyses or proposed an equitable transmission cost allocation and rate design.

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<sup>50</sup> Direct Testimony of Dr. Larry Blank and Professor Douglas Gegax, Exhibit AEP-400 at 13.

<sup>51</sup> Direct Testimony of Dr. Larry Blank and Professor Douglas Gegax, Exhibit AEP-400 at 32.

<sup>52</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 41.

<sup>53</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 41.

**D. AEP's Alternative 765 kV Proposal Suffers From All of the Same Flaws as Does AEP's Primary 345 kV Proposal and Should Be Dismissed for the Same Reasons.**

As an alternative to its primary 345 kV and above voltage specification for transmission cost socialization, AEP also presents an alternative that would socialize the costs of all existing and new transmission facilities of 765 kV and above across the PJM/Midwest ISO Super Region and leave the costs of all other transmission facilities allocated to the zone in which such facilities are located.<sup>54</sup> Mr. Baker proposes the 765 kV alternative should the Commission find it would be less controversial than the 345 kV proposal.<sup>55</sup>

OMS asserts that AEP's alternative 765 kV proposal suffers from all of the same flaws as its primary 345 kV proposal and should be dismissed by the Commission for the same reasons. OMS does not find AEP's alternative 765 kV proposal to be any less controversial than its primary 345 kV proposal.

**VI. Notice of Intervention**

Pursuant to Rule 214(a)(2) of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(a)(2), the Organization of Midwest ISO States files Notice of Intervention in this proceeding. Service of pleadings, documents, and communications should be made on the following:

William H. Smith, Jr.  
Executive Director  
Organization of MISO States  
100 Court Avenue, Suite 218  
Des Moines, Iowa 50309

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<sup>54</sup> See, e.g., Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 39-40, Direct Testimony of Dennis W. Bethel, Exhibit AEP-200 at 26-27, and Direct Testimony of Bernard M. Pasternack, Exhibit AEP-300 at 22-23.

<sup>55</sup> Direct Testimony of J. Craig Baker, Exhibit AEP-100 at 40.

## VII. Conclusion.

Wherefore, for the reasons explained above, the OMS recommends that the Commission dismiss AEP's September 17, 2007 Complaint.

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 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  
Kentucky Public Service Commission  
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  
South Dakota Public Utilities Commission  
Wisconsin Public Service Commission

The Public Utilities Commission of Ohio does not concur with this pleading. The Manitoba Public Utilities Board did not participate in this pleading. The Pennsylvania Public Utility Commission concurs in the result recommended in this pleading. 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 Midwest ISO States

100 Court Avenue, Suite 218  
Des Moines, Iowa 50309  
Tel: 515-243-0742

Dated: October 16, 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 16th day of October, 2007.

William H. Smith, Jr.