

Exhibit No.:
Issues: Contractual
Relationships between
AmerenUE,
GridAmerica, and the
Midwest ISO
Witness: Daniel J. Godar
Sponsoring Party: Union Electric Company
Type of Exhibit: Direct Testimony
Case No.: EO-2003-0271
Date Testimony Prepared: February 24, 2003

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EO-2003-0271

DIRECT TESTIMONY

OF

DANIEL J. GODAR

ON

BEHALF OF

**UNION ELECTRIC COMPANY
d/b/a AmerenUE**

**St. Louis, Missouri
February 24, 2003**

In re: Application of Union Electric Company)
for Authority to participate in the Midwest) Case No. EO-2003-0271
ISO through a contractual relationship)
With GridAmerica)

STATE OF MISSOURI)
) ss
CITY OF ST. LOUIS)

1. My name is Daniel J. Godar. I work in St. Louis, Missouri, and I am a partner in Armstrong Teasdale, LLP.
2. Attached hereto and made a part hereof for all purposes is my Direct Testimony on behalf of Union Electric Company d/b/a AmerenUE consisting of 20 pages and Schedules 1 through 4, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

Daniel J. Godar

Subscribed and sworn to before me this 24th day of February, 2003.

Notary Public

DAWN M. NULL
Notary Public - Notary Seal
STATE OF MISSOURI
Jefferson County
My Commission Expires: Dec. 7, 2004

DIRECT TESTIMONY

OF

DANIEL J. GODAR

CASE NO. EO-2003-0271

Q. Please state your name and business address.

A. My name is Daniel J. Godar. My business address is One Metropolitan Square, Suite 2600, St. Louis, Missouri 63102.

Q. Please describe your educational background.

A. I received my accounting degree from the University of Missouri - Columbia in 1977 and my law degree from the University of Missouri-Columbia in 1980.

Q. By whom are you employed and in what capacity?

A. I am a partner in the St. Louis offices of Armstrong Teasdale LLP where I practice primarily in the business and transactional areas.

Q. How long have you been employed by Armstrong Teasdale LLP?

A. I have been employed at Armstrong Teasdale since 1980.

Q. What is the purpose of your Direct Testimony in this proceeding?

A. The purpose of my testimony is to describe the legal relationship among

Midwest Independent Transmission System Operator, Inc. ("Midwest ISO"), GridAmerica

LLC ("GridAmerica") and the transmission owners identified in the transaction documents as

participants in GridAmerica ("Transmission Owners"). The Transmission Owners are

Ameren Services Company, as agent for Union Electric Company d/b/a AmerenUE, and

Central Illinois Public Service Company d/b/a Ameren CIPS, American Transmission

Systems, Incorporated ("ATSI") and Northern Indiana Public Service Company

1 (“NIPSCO”). Three agreements govern the arrangement between GridAmerica and the
2 Transmission Owners (collectively, the “GridAmerica Agreements”). They are: (1) the
3 Amended and Restated Master Agreement among (a) GridAmerica, (b) GridAmerica
4 Holdings, Inc. (“Managing Member”), a wholly-owned subsidiary of National Grid USA
5 (“National Grid”), which will serve as the Initial Member of GridAmerica, (c) National Grid
6 and (d) the Transmission Owners (“Master Agreement”), (2) the Amended and Restated
7 Limited Liability Agreement of GridAmerica (the “LLC Agreement”); and (3) the Amended
8 and Restated Operation Agreement by and among the Transmission Owners and
9 GridAmerica (the “Operation Agreement”). The Amended and Restated Appendix I ITC
10 Agreement between Midwest ISO and GridAmerica (“ITC Agreement”) governs the
11 arrangement between GridAmerica and the Midwest ISO. I will not be testifying with regard
12 to the regulatory implications of these documents.

13 **Q. AmerenUE’s Application before the Commission indicated that the**
14 **FERC conditionally accepted the original versions of the above-referenced agreements,**
15 **but had requested certain changes be made and the revised documents filed with the**
16 **FERC as part of the compliance filings. What is the status of those filings?**

17 A. On February 18, 2003, the parties to the agreements made the required
18 compliance filings and filed revised versions of each of the four agreements discussed above
19 with the FERC. Copies of the revised agreements, as filed with the FERC, are attached to
20 my testimony as Schedules 1, 2, 3 and 4, respectively.

21 **Q. Before going into a more detailed description of the ITC Agreement and**
22 **the GridAmerica Agreements, please give an overview of the Transmission Owners’**
23 **participation in the Midwest ISO through these agreements.**

A. The ITC Agreement and GridAmerica Agreements describe a single transaction with two primary elements. First, the ITC Agreement provides for the integration of three major transmission systems (AmerenUE/AmerenCIPS, ATSI and NIPSCO) into the Midwest ISO. Second, the Grid America Agreements build a framework for the establishment and operation of GridAmerica under the Midwest ISO while retaining GridAmerica's status as a non-market participant. The LLC Agreement sets forth the governance and financing of GridAmerica, including the rights and obligations of its Managing Member. The Master Agreement sets forth the steps that must be completed to reach the transmission service date (the date when actual functional control of the three transmission systems is transferred to GridAmerica) as well as the rights and obligations of the parties concerning the possible future divestiture of transmission facilities to GridAmerica. The Operation Agreement contains the terms and conditions on which GridAmerica will manage transmission facilities which will continue to be owned by the Transmission Owners.

Q. Please describe the GridAmerica Agreements in more detail.

GridAmerica Agreements

The GridAmerica Agreements consist of the LLC Agreement, Operation Agreement, and Master Agreement. They establish the framework for the creation and operation of GridAmerica as an ITC within the Midwest ISO, and the rights and duties among GridAmerica and the Transmission Owners.

1 **A. The LLC Agreement**

2 The LLC Agreement sets forth the rights and obligations of the Managing Member of
3 GridAmerica, the terms and conditions on which membership units in GridAmerica are to be
4 obtained, and the governance and financing of GridAmerica.

5 1. *GridAmerica LLC*

6 GridAmerica has been formed as a Delaware limited liability company. The LLC
7 Agreement permits GridAmerica: (a) to own transmission facilities and serve as an
8 Independent Transmission Company (“ITC”) in accordance with the rules and regulations of
9 the FERC and the ITC Agreement; (b) to operate transmission facilities owned by
10 GridAmerica (if any) and to exercise functional control over the transmission facilities of the
11 Transmission Owners in accordance with the Operation Agreement; and (c) to provide
12 transmission and transmission-related services pursuant to the ITC Agreement in a non-
13 discriminatory manner. GridAmerica may also acquire the non-transmission assets and
14 employ the personnel necessary to accomplish its purposes.

15 The Managing Member will become the initial member and will serve as the
16 managing member of GridAmerica with authority to direct the business of GridAmerica,
17 subject to the Delineation of Functions contained in the ITC Agreement which is based upon
18 the delineation prescribed by FERC in In re: Alliance Companies, No. EL02-65-000, 99
19 FERC ¶ 61,105 (2002), with additional guidance contained in In re: Translink, No. EC01-
20 156-000, 99 FERC ¶ 61,106 (2002). The Managing Member will cause GridAmerica to
21 perform functions allocated to it under the ITC Agreement in accordance with Good Utility
22 Practice (as that term is defined by the Midwest ISO), to comply with its obligations under
23 the GridAmerica Agreements and applicable laws and regulations, to make up to

1 \$500,000,000 in capital contributions in accordance with Article IV of the LLC Agreement
2 and to use commercially reasonable efforts to fulfill its other obligations under the LLC
3 Agreement. The Managing Member will also have a fiduciary duty of loyalty and care to
4 members and GridAmerica, and will not be permitted to discriminate in favor of transmission
5 facilities owned by GridAmerica. In meeting these duties, the Managing Member may not
6 consider the present or future interests of the members or any affiliate of members other than
7 the GridAmerica transmission business.

8 2. *Classes of Membership Units and Voting Rights*

9 Until transmission assets or other capital are contributed (i.e. until title to the
10 transmission assets, as opposed to mere functional control, is actually transferred) to
11 GridAmerica, the Managing Member will be the only member of the LLC. The
12 Transmission Owners, including AmerenUE, will not have any ownership interest in
13 GridAmerica. The Managing Member will hold Class A units which will have voting rights
14 on those matters required to be presented to the members for action or consideration. Only
15 non-market participants are permitted to hold Class A units.

16 A market participant that becomes a member of the LLC will hold Class B units. For
17 example, a Transmission Owner that divests transmission facilities to the GridAmerica but
18 remains a market participant will receive Class B units. Class B units are entitled to vote
19 only on limited matters that affect the fundamental nature of GridAmerica. These matters
20 include mergers or other business combination transactions involving GridAmerica; the sale,
21 lease or transfer of all or substantially all of the assets of GridAmerica; the dissolution or
22 liquidation of GridAmerica; and approval of any action by the Managing Member that is not
23 otherwise permitted under the GridAmerica Agreements. These voting rights are similar to

1 the traditional rights of limited partners. The rights protect the value of the partner's
2 investment, but do not include a voice in the day-to-day operation or management of
3 GridAmerica. Class A units and Class B units will share in profits and losses of
4 GridAmerica in accordance with their percentage interest in GridAmerica.

5 The Managing Member may issue units to admit new members to GridAmerica if a
6 new member contributes transmission facilities, cash or other property.

7 *3. Term and Removal of the Managing Member*

8 The Managing Member will serve for an initial term of five years, which may be
9 extended for successive two-year periods unless notice of termination is given by the
10 Managing Member or a majority of the holders of Class A units six months prior to the end
11 of the initial term or any additional term. However, the Managing Member may be removed
12 any time the FERC determines in a final order that the Managing Member is a market
13 participant, or for "Cause." "Cause" is defined as gross negligence or willful misconduct, or
14 failure to perform certain obligations under the GridAmerica Agreements.

15 The parties deliberately chose a high standard to provide for continuity of
16 management except under egregious circumstances. Removal of the Managing Member for
17 Cause must be approved by a super-majority of Transmission Owners, which is two-thirds of
18 the Transmission Owners before any transmission facilities have been divested to
19 GridAmerica. After transmission facilities have been contributed to GridAmerica, a super-
20 majority is two-thirds of the combined net transmission plant value subject to GridAmerica's
21 control within the ITC, including any transmission plant owned by GridAmerica. The
22 Managing Member has the right to contest any removal for Cause and submit the dispute to

1 binding arbitration. No removal of the Managing Member shall be effective unless and until
2 approved by the FERC.

3 The two reasons for removing the Managing Member were specified to (1) ensure
4 that the management of GridAmerica continues to be disinterested in the market effects of its
5 decisions, and (2) operate the ITC with the appropriate level of care.

6 If the Managing Member is removed for failure to maintain non-market participant
7 status or for Cause, a replacement managing member will be chosen by a super-majority of
8 Transmission Owners.

9 *4. Compensation of the Managing Member*

10 The Managing Member is entitled to receive an annual management fee of \$3.5
11 million for each of the first three years of the 5-year initial term and \$2.5 million for each
12 year in the remaining initial term and any additional terms. Each Transmission Owner's
13 share of the management fee is based upon the proportion that its net transmission plant
14 under GridAmerica's control bears to the total net transmission plant under GridAmerica's
15 control. Beginning with the sixth year and annually thereafter, the management fee is
16 adjusted to reflect changes in inflation.

17 The Managing Member may receive incentive payments in accordance with
18 arrangements that may be agreed to between GridAmerica and the Transmission Owners.
19 The incentive arrangements proposed by the Managing Member must be without regard to
20 "any benefit or detriment to other businesses and activities of the Transmission Owners,
21 including their electric generation businesses and activities, which may result from
22 implementation of such proposals." At this point, no incentive arrangements have been
23 developed. However, under the GridAmerica Agreements, the Transmission Owners will

1 receive 75% of the financial benefits created by GridAmerica's successful implementation of
2 an incentive plan, with GridAmerica to retain 25%.

3 **B. Master Agreement**

4 The Master Agreement sets forth, among other things, the conditions to the
5 occurrence of the commencement of service by GridAmerica (the "Transmission Service
6 Date"), and the parties' rights and obligations with respect to a possible future divestiture of
7 transmission facilities to GridAmerica. A divestiture would only occur if an individual
8 Transmission Owner desires to divest, and it would be subject to all required regulatory
9 approvals.

10 *1. Conditions Precedent to the Transmission Service Date*

11 The Transmission Service Date will not occur unless and until:

12 (1) each party certifies to the other parties that it has obtained all required
13 regulatory approvals (state and federal) and other approvals and consents and the FERC has
14 issued a final order no longer subject to appeal which approves the GridAmerica
15 arrangements on terms acceptable to it;

16 (2) the Transmission Owners and the Midwest ISO certify that all applicable legal
17 requirements, system readiness and systems integration necessary for (1) the transfer of
18 functional control over their transmission facilities to GridAmerica and (2) readiness of the
19 Midwest ISO to assume its responsibilities under the ITC Agreement have occurred;

20 (3) the Midwest ISO has made a one-time payment (not to exceed \$36.2 million):
21 (i) to the Transmission Owners, in amounts equal to the amounts they paid and the costs they
22 incurred in the development of the Alliance RTO and (ii) to GridAmerica and the

1 Transmission Owners equal to their respective costs in achieving the Transmission Service
2 Date;

3 (4) the Midwest ISO refunds to Ameren the payment made under the Illinois
4 Power settlement.

5 If the Transmission Service Date does not occur by June 30, 2003, any party can
6 withdraw on 30-day written notice to the other parties.

7 2. *Resignation of the Managing Member*

8 The Managing Member is not permitted to resign prior to the end of the initial term or
9 any subsequent additional term except under the limited circumstances enumerated in
10 Section 2.2(c) of the Master Agreement, which include resignation upon loss of non-market
11 participant status. National Grid, as the parent of the Managing Member, generally
12 covenants to maintain and cause the Managing Member to maintain non-market participant
13 status, and, if non-market participant status is lost due to a change in law or FERC policy or
14 the actions of others, National Grid will take commercially reasonable steps to regain non-
15 market participant status. However, if no commercially reasonable actions are effective, the
16 Managing Member may resign.

17 If National Grid will no longer qualify for non-market participant status as the result
18 of an acquisition outside the Midwest ISO, National Grid must propose mitigation measures.
19 If the FERC does not accept the mitigation measures, the Managing Member must pay the
20 Transmission Owners a resignation fee of \$7 million if the resignation occurs in the first year
21 after the Transmission Service Date, \$5.25 million if the resignation occurs in the second
22 year, and \$3.5 million if the resignation occurs after the third year.

1 3. *Capital Contributions By National Grid or its Affiliates*

2 National Grid is required to cause the Managing Member to provide \$50,000 in
3 exchange for units in GridAmerica upon the approval of the GridAmerica Agreements by the
4 FERC. Thereafter, if the Managing Member determines additional funds are needed for
5 working capital or to fund capital expenditures for assets to benefit the coordination,
6 management and operation of the GridAmerica system as a whole, National Grid will cause
7 the Managing Member or other National Grid affiliates to purchase units in GridAmerica.

8 National Grid has also agreed to pay up to a maximum of \$10 million of start-up costs
9 for GridAmerica prior to the Transmission Service Date, subject to partial reimbursement by
10 the Transmission Owners if the Transmission Service Date does not occur and full
11 reimbursement by the Midwest ISO if the Transmission Service Date occurs. Finally, the
12 Managing Member and its affiliates may make additional capital contributions for the
13 purpose of acquiring transmission assets, with additional capital contributions not to exceed
14 the difference between \$500,000,000 and the aggregate amount of the other capital
15 contributions made by the Managing Member and its affiliates.

16 4. *Contributions by Divesting Transmission Owners ("Put Right")*

17 Transmission Owners will have an optional "put right" to contribute transmission
18 facilities to GridAmerica in exchange for units in GridAmerica having a value equal to the
19 fair market value of the divested transmission facilities. The Transmission Owners do not
20 have any obligation to exercise this right.

21 5. *Withdrawal Rights Affected by Exercise of Put Rights*

22 If the first put notice is delivered to GridAmerica before April 30, 2005, the initial
23 member may resign as Managing Member and each Transmission Owner may terminate its

1 participation under the Master Agreement and the Operation Agreement. If no put notice has
2 been received prior to March 31, 2005, the initial member may resign as Managing Member
3 and each Transmission Owner may withdraw from the GridAmerica ITC and terminate its
4 participation in the Master Agreement and the Operation Agreement by providing notice any
5 time in the month of April, 2005. Any withdrawal and termination becomes effective six
6 months after notice is provided, and each of the other parties has the right to withdraw within
7 30 days after receipt of a notice of withdrawal from another party.

8 Unless FERC approves otherwise, any such withdrawal shall not become effective
9 until the withdrawing Transmission Owner has become a member of the Midwest ISO for a
10 term ending no earlier than the fifth anniversary of the Transmission Service Date.

11 *6. Registration Rights*

12 National Grid or Transmission Owners with 30% or more of the outstanding units
13 have certain rights to demand that an Initial Public Offering (“IPO”) of GridAmerica be
14 commenced. The right to demand IPO registration may be exercised only after the third
15 anniversary of the Transmission Service Date; GridAmerica may delay the IPO to a date not
16 later than the fifth anniversary of the Transmission Service Date if advised by a nationally
17 recognized investment banking firm that such delay would contribute to a successful IPO;
18 nor is GridAmerica required to commence an IPO that will result in the offering of less than
19 \$250 million of stock. GridAmerica will notify National Grid and the Transmission Owners
20 of the IPO so they may exercise put rights in order to participate in the IPO as members of
21 GridAmerica.

1 **C. Operation Agreement**

2 The Operation Agreement sets forth the terms and conditions on which GridAmerica
3 will manage the transmission facilities owned by the Transmission Owners.

4 1. *Transfer of Functional Control*

5 On the Transmission Service Date, the Transmission Owners will transfer functional
6 control of their transmission facilities to GridAmerica, and GridAmerica cedes to the
7 Midwest ISO those functions delineated as Midwest ISO functions under the ITC Agreement
8 consistent with FERC's orders in FERC Case Nos. EL-02-65-000 and EC01-156-000, as
9 noted above. Thus, all of the functions comprising "functional control" as that term is
10 defined by the FERC, are exercised by either the Midwest ISO or GridAmerica and none of
11 the aspects of functional control remain within the hands of the Transmission Owners.

12 2. *Agency Authorizations and Revenue Distribution*

13 The Transmission Owners authorize GridAmerica to act as their agent with respect to
14 the use of non-transferred transmission facilities that must be used to provide jurisdictional
15 transmission services, and to enter into interconnection and related agreements, such as
16 network upgrade agreements involving the Transmission Owners' transferred facilities that
17 are required in connection with jurisdictional service. Revenues from transmission services
18 provided using transmission facilities managed by GridAmerica either will be paid by the
19 Midwest ISO directly to the Transmission Owners, or, if revenues are received by
20 GridAmerica, they will be distributed by GridAmerica among the Transmission Owners in
21 accordance with the instructions provided by the Transmission Owners. Revenues received
22 as a result of implementing incentive proposals by GridAmerica will be allocated in

1 accordance with Section 4.3.2 of the Operation Agreement (25% to GridAmerica and 75% to
2 the Transmission Owners, as mentioned above).

3 3. *Operating Standards and Non-Discrimination*

4 GridAmerica is required to perform its obligations in accordance with Good Utility
5 Practice and to adhere to Midwest ISO and NERC reliability guidelines. GridAmerica is
6 required to perform all its obligations in a non-discriminatory manner, to make decisions
7 within its scope of authority without discriminating among the Transmission Owners and
8 without discriminating against any Transmission Owner in favor of GridAmerica or any
9 affiliate of GridAmerica that owns transmission facilities.

10 4. *Addition of New Transmission Facilities*

11 New transmission facilities may be constructed to improve the transmission
12 infrastructure within the GridAmerica footprint to meet customer needs as a result of
13 planning processes implemented in coordination with the Midwest ISO pursuant to the ITC
14 Agreement. As provided for in Section 8.3 of the ITC Agreement, GridAmerica must use
15 commercially reasonable efforts to construct transmission facilities as directed by the
16 Midwest ISO.

17 The GridAmerica ITC also may be expanded if a Transmission Owner acquires
18 facilities that are physically interconnected with existing GridAmerica transmission facilities
19 or would provide net benefits to GridAmerica, and the Transmission Owner wishes to
20 include the new facilities in GridAmerica. Finally, GridAmerica may include additional
21 Transmission Owners if GridAmerica determines in its reasonable discretion that the addition
22 results in long-term net benefits to GridAmerica and will not result in any significant

1 detriment to the transmission business of the then-existing Transmission Owners in
2 GridAmerica.

3 5. *Term and Termination; Customers Held Harmless*

4 The term of the Operation Agreement, consistent with the other GridAmerica
5 Agreements, is for five years. It may be extended for additional successive two year terms,
6 but any Transmission Owner may terminate participation at the end of the initial or any
7 additional term after giving six months prior written notice to the other parties. If, at the time
8 such notice of termination is given, the applicable provisions of the Midwest ISO
9 Transmission Owners Agreement¹ specifies a longer minimum time for notice of withdrawal,
10 unless the FERC otherwise approves, such Transmission Owner shall become a member of
11 the Midwest ISO upon the effective date of termination for a term of not less than the
12 minimum notice period for withdrawal under the Midwest ISO Transmission Owners
13 Agreement less six months.

14 The Transmission Owners have the right to withdraw from GridAmerica and to
15 terminate participation under the Operation Agreement under circumstances identical to
16 those set forth in Section 5.7 of the Master Agreement and described above. A Transmission
17 Owner also may terminate its participation in the Operation Agreement if the FERC
18 determines that GridAmerica has ceased to be an ITC or directs GridAmerica or the
19 GridAmerica transmission facilities to become subject to the control of an RTO other than
20 the Midwest ISO.

21 Under any of these termination events, transmission customers receiving service
22 under agreements executed before the notice of termination will be held harmless. They are

¹ The Midwest ISO Transmission Owners Agreement is the governing agreement between the transmission owner-members of the Midwest ISO and Midwest Independent Transmission System Operator, Inc.

1 entitled to continue to receive service on the same rates, terms and conditions that would
2 apply if there had been no termination by the applicable Transmission Owner. Customers
3 also will be unaffected if a Transmission Owner terminates during the term of a service
4 agreement due to the divestiture of transmission facilities to GridAmerica or a third person.
5 The Operation Agreement must be assigned to any successor in ownership of GridAmerica
6 transmission facilities, ensuring continuation of service in the event of a transfer of
7 ownership.

8 **Q. Please describe in more detail the ITC Agreement.**

9 **ITC Agreement**

10 The ITC Agreement is between Midwest ISO and GridAmerica. The Agreement
11 notes that Midwest ISO is a FERC-approved RTO with an open architecture that
12 accommodates various forms of ITCs and that the Transmission Owners wish to comply with
13 Order No. 2000 through the formation of an ITC within Midwest ISO.

14 Article 2 of the ITC Agreement states that the initial term of the agreement is five
15 years, and that the term shall be extended from year to year, unless either party gives the
16 other six months notice prior to the end of any renewal term or such longer period as may be
17 required by the Midwest ISO Transmission Owners Agreement. Article 2 also permits the
18 parties to withdraw from the Agreement in limited circumstances, such as the sale of
19 facilities covered by the Agreement or the withdrawal of a substantial number of Midwest
20 ISO Transmission Owners or ITCs from Midwest ISO. Finally, Article 2 sets forth the
21 financial obligations of GridAmerica should it withdraw from Midwest ISO.

22 Article 3 of the ITC Agreement describes the structure of the RTO arrangement
23 between the Transmission Owners, National Grid, GridAmerica, and Midwest ISO.

1 GridAmerica will be an ITC within Midwest ISO. To the extent that GridAmerica owns
2 facilities subject to the ITC Agreement, GridAmerica will be treated as a Transmission
3 Owner pursuant to the Midwest ISO Transmission Owners Agreement. In addition,
4 GridAmerica will represent the Transmission Owners with respect to the governance and
5 activities of Midwest ISO. The Transmission Owners will have the same rights and voting
6 authority as other Midwest ISO transmission owners who are signatories to the Midwest ISO
7 Transmission Owners Agreement. The Transmission Owners or their affiliates will be
8 permitted to participate in other Midwest ISO governance matters. Section 3.3 provides that,
9 if a particular function is not covered by Schedule 5 to the Agreement — the “Delineation of
10 Functions” between GridAmerica and Midwest ISO — that function is reserved to Midwest
11 ISO.

12 Article 4 sets forth the duties of GridAmerica and Midwest ISO with respect to
13 operation of the transmission facilities of the Transmission Owners. The ITC Agreement
14 provides that the Transmission Owners will file applications pursuant to Section 203 of the
15 FPA to transfer functional control of their transmission facilities to GridAmerica. This filing
16 is the first step in the Section 203 process. GridAmerica, for its part, cedes to Midwest ISO
17 those functions assigned to Midwest ISO in the Delineation of Functions. The Delineation of
18 Functions, included in Schedule 5 to the Agreement, is based on the FERC’s orders
19 referenced above (see 99 FERC 61,105 (2002) and 99 FERC 61,106 (2002)).

20 Article 4 states GridAmerica and Midwest ISO will assume control over the functions
21 set forth in the Delineation of Functions via a two-step process. The first step is to complete
22 the development of the systems and assets as required to integrate those systems and assets
23 into the Midwest ISO systems. The second step involves the provision of service over the

1 transmission facilities of the Transmission Owners pursuant to the Midwest ISO open access
2 transmission tariff (“OATT”).

3 Section 4.6 provides that the Transmission Owners will continue to provide ancillary
4 services under their existing OATTs and may, at their option, continue to self-provide such
5 ancillary services. That section also permits GridAmerica (to the extent permitted by FERC
6 policy and on behalf of the Transmission Owners) and the Transmission Owners to
7 participate in any competitive ancillary services markets that may be created within Midwest
8 ISO. Section 4.2 states that the Midwest ISO will become the Security Coordinator for the
9 rate zones of the Transmission Owners. Midwest ISO will also be responsible for congestion
10 management within its footprint.

11 Article 5 of the ITC Agreement governs pre-existing obligations of the Transmission
12 Owners. GridAmerica and Midwest ISO will execute an agency agreement (in substantially
13 the same form as that found in Appendix G to the Midwest ISO Transmission Owners
14 Agreement) for transmission service over distribution facilities owned and operated by the
15 Transmission Owners. GridAmerica will execute any necessary agreements for the provision
16 of such service. The Midwest ISO will have the responsibility to provide transmission
17 service to (1) customers who have previously signed agreements for open access
18 transmission service with the Transmission Owners under their respective OATTs and (2)
19 customers who have transmission service agreements that pre-date the effectiveness of the
20 OATTs of the Transmission Owners (“grandfathered agreements”).

21 Article 6 of the ITC Agreement provides that Midwest ISO will operate an OASIS.
22 Article 6 also requires GridAmerica and the Midwest ISO to approve requests for service,
23 schedule service, and calculate ATC in conformance with the Delineation of Functions.

Article 7 governs facilities' ratings and maintenance. In general, Article 7 permits GridAmerica to provide the Midwest ISO with ratings and maintenance schedules, subject to the dispute resolution procedures found in Appendix D to the Midwest ISO Transmission Owners Agreement. Unless Midwest ISO's role as a security coordinator requires its position to prevail, GridAmerica's position will prevail pending resolution of the dispute. Similarly, Article 8 requires GridAmerica and Midwest ISO to coordinate construction and planning of the transmission system. Article 9 provides that GridAmerica will be responsible for the provision of generator interconnection service regarding interconnections to the facilities of the Transmission Owners, but that, pending FERC approval of GridAmerica's interconnection agreement and procedures, Midwest ISO's interconnection protocols shall apply. Article 10 states that, in accordance with FERC policy, Midwest ISO will conduct market monitoring over the GridAmerica system.

Article 11 of the ITC Agreement addresses rates and revenue distribution. Midwest ISO will pay either GridAmerica or the Transmission Owners any amounts due for transmission service provided over facilities controlled by GridAmerica in the same fashion as Midwest ISO pays similar revenue to other Midwest ISO transmission owners. Midwest ISO will charge the existing transmission rates for service in the rate zones of the Transmission Owners and will permit the Transmission Owners to convert formula rates for network service to stated rates or vice versa. The Agreement also requires Midwest ISO, in order to facilitate competition in wholesale markets, to discount its "Drive-Out" and "Drive-Through" rates or to make a filing pursuant to Section 205 of the FPA to reduce those rates to minimize any disincentives or barriers to sales into other RTOs. Finally, in the FERC rate case that must be filed prior to the commencement of service by GridAmerica, Midwest ISO

1 agrees to support the recovery of lost revenues by the Transmission Owners resulting from
2 the elimination of rate pancaking. Article 12 provides that any disputes will be resolved
3 using the mechanisms found in Appendix D to the Midwest ISO Transmission Owners
4 Agreement.

5 Article 13 concerns the costs that will be incurred to integrate GridAmerica into
6 Midwest ISO. The article provides that Midwest ISO will reimburse GridAmerica for all
7 such costs. In addition, in consideration of National Grid's performance of the required
8 functions set forth in the Delineation of Functions, Midwest ISO shall compensate National
9 Grid in the amount of \$9,500,000. For one year after the Transmission Service Date, the
10 Midwest ISO will pay GridAmerica \$1,500,000 for certain consulting services and will
11 provide \$1,000,000 to GridAmerica for services provided as its contractor. Functions to be
12 performed by GridAmerica as contractor to Midwest ISO shall be performed under the
13 supervision of Midwest ISO.

14 Article 14 permits GridAmerica to purchase, construct, or upgrade facilities under its
15 functional control and to add those facilities to the GridAmerica system. Article 15 requires
16 any amendments to the agreement to be made in writing, subject to FERC approval, and
17 Article 16 covers certain general responsibilities of the parties.

18 Article 17 address liability and indemnification issues. In general, Article 17
19 provides that GridAmerica and Midwest ISO shall indemnify' one another for any acts that
20 constitute gross negligence or willful misconduct. Article 17 provides a process for one
21 party to enforce these indemnification provisions.

1 Article 18 governs the treatment of confidential information shared between the
2 parties. Article 19 contains standard miscellaneous provisions found in many business
3 arrangements.

4 **Q. Does this conclude your Direct Testimony?**

5 A. Yes, it does.

