

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Joint Application)
of Entergy Arkansas, Inc., Mid South)
TransCo LLC, Transmission Company)
Arkansas, LLC and ITC Midsouth LLC)
for Approval of Transfer of Assets and)
Certificate of Convenience and Necessity,)
and Merger and, in connection therewith,)
Certain Other Related Transactions)

File No. EO-2013-0396

JOINT APPLICANTS' INITIAL BRIEF

COME NOW Joint Applicants pursuant to the Commission's Procedural Order of April 18, 2013, and submit their Initial Brief.¹

1. Does the Commission have jurisdiction over this matter?

Joint Applicants' Stated Position - The transmission facilities at issue in this proceeding are solely used for interstate services regulated by FERC. Joint Applicants understand that the Commission nonetheless contemplates jurisdiction pursuant to Sections 393.170 and 393.190. Under such circumstances, Joint Applicants request approval of the Transaction out of an abundance of caution as indicated in the Joint Application.

¹ Joint Applicants continue to object to the purported list of issues submitted by intervenors. The intervenors do not set out questions presented for decision as required by 4 CSR 240-2.080(19). Instead, they state various arguments they are making with regard to the issue presented for decision which is clearly and concisely stated by Joint Applicants as issue 2 in compliance with the rule. Joint Applicants' Initial Brief addresses the issues and intervenors' arguments.

Argument

The transmission facilities that are the subject of this proceeding are solely used for interstate service regulated by the FERC. On June 20, 2013 the FERC issued pertinent orders in four separate proceedings regarding these interstate transmission facilities.

First, in Docket Nos. EC12-145-000 and EL12-107-000, the FERC approved the proposed transfer of the interstate transmission facilities in Missouri in the context of approving the overall multistate Transaction.² The FERC expressly found the Transaction to be “consistent with the public interest.” (143 FERC ¶¶61,256, at para. 4). The FERC found that “the Proposed Transaction will not have an adverse effect on competition, rates, or regulation ... [and] will not result in cross-subsidization.” (Id. para. 46). In making its decision, the FERC indicated that it “reached these findings based on the impacts of the merger on wholesale markets” and that state and local agencies with jurisdiction “will be able to address the impacts of the merger on retail markets.” (Id. note 88).

The FERC specifically relied on the applicants’ commitments: (1) not to recover any acquisition premium or goodwill in rates, (2) to hold customers harmless from transaction costs that exceed demonstrated transaction-related savings for five years, and (3) to honor grandfathered agreements for transmission service. (Id. para. 63).

² The decision was unanimous except that two of the five commissioners would have imposed rate mitigation. (Id. at partial dissent). These commissioners expressed the same limited dissent with regard to the second order discussed herein.

In considering rate impacts, the FERC concluded that it was appropriate to evaluate the Transaction on its own merits, separately from consideration of the integration of the transmission facilities into MISO, and further held that the benefits of the Transaction offset the rate increases that will result for some customers. (Id. para. 119). The FERC found that the increase in ROE “is a consequence of Entergy’s integration into MISO rather than the Proposed Transaction”, that the Entergy Operating Companies “would, under Commission precedent, be entitled to the MISO [12.38%] ROE as part of their formula rates,” and that “likewise, since ITC Holdings will also become a MISO Transmission Owner with respect to the Entergy transmission facilities if the Proposed Transaction closes, the new ITC Operating Companies would also be entitled to the 12.38 percent MISO ROE as part of their formula rates.” (Id. para. 120-121).

The FERC held that the proposed “pricing zones construct” and “any unauthorized parallel/loop flows that may or may not result from Entergy’s integration into MISO are also not due to the Proposed Transaction.” (Id. para. 122).

The FERC found that ITC “proposed depreciation rates will not have an adverse effect on rates.” (Id. para. 123).

The FERC concluded that the interstate rate effects of ITC’s proposed “use of an actual capital structure targeting 60 percent equity and 40 percent debt”, including offsetting credit quality savings, “are offset by the benefits of independent transmission company ownership over the Entergy transmission facilities.” In reaching this conclusion, the FERC identified numerous specific benefits of independent transmission ownership, including:

- more rapid and precise response to market signals indicating needed transmission investment, due to singular and unbiased focus on transmission;
- ITC's track record in prior transmission system acquisitions of completing capital projects targeted at remediating underinvestment and thereby improving reliability, providing non-discriminatory access to transmission, promoting competition in electric energy markets, and facilitating interconnection of new generation and load;
- ITC's track record of rapidly and efficiently improving transmission systems, thereby reducing sustained outages;
- ITC's greater financial strength for transmission investment;
- ITC's strong credit ratings resulting in critical access to debt capital markets at lower costs and therefore lower rates; and
- ITC's robust transmission planning and related communications among stakeholders.

The FERC found that the benefits of independent ownership by ITC "are benefits that are not attributable to Entergy's integration into MISO." Further, it found that "Applicants have not only demonstrated that the Proposed Transaction will result in benefits that offset the increase in gross revenue requirement due to the proposed capital structure, but that the Proposed Transaction will yield many different types of benefits." (Id. para, 124-131).

Based on the foregoing, the FERC declined to impose any hold harmless requirements. (Id. para. 140).

Finally, the FERC held that neither state nor federal regulation will be impaired by the Proposed Transaction. It found that the rates, terms and conditions of service for

wholesale customers will continue to be regulated at the federal level, and that its disposition of the Application will not interfere with the exercise of state commission jurisdiction. (Id. para. 143).

Second, in its June 20, 2013 decision, in Docket Nos. ER12-2681-000, ER13-948-000, and ER13-782-000, the FERC accepted the use of the MISO ROE of 12.38% for both the Entergy Operating Companies and the new ITC operating companies, found the proposed capital structure of 60% equity and 40% debt for the new ITC operating companies to be just and reasonable, accepted the proposed use of a forward-looking rate for the new ITC operating companies, accepted the proposed formula rate protocols for use upon MISO integration subject to modification, and accepted the proposed transmission pricing zones for use upon integration into MISO. (143 FERC ¶61,257, at para. 60, 78, 89, 99, and 122).

The FERC declined to require ITC and/or Entergy to hold parties harmless from potential parallel and loop flows, because RTOs have developed joint operating agreements with mechanisms and related procedures to address such matters. It encouraged parties to continue to work together to resolve such issues, indicated its continuing interest in the status of negotiations, and directed MISO to report on the status of negotiations on or before November 1, 2013. It also noted MISO's obligation to comply with NERC's Reliability Standards. (Id. para. 147-153).

The FERC accepted the proposed agreement under which ITC as an independent transmission company would assume certain rights and responsibilities that would otherwise belong to MISO, subject to MISO's ongoing authority and supervision. (Id. para. 164).

It also accepted ITC's commitment to honor all existing transmission agreements, noting that notices of succession would have to be filed and parties could present any concerns to it at that time. (Id. para. 177).

Third, in the order issued on June 20, 2013, in Docket No. ER12-2693-000, the FERC accepted notice of cancellation of transmission portions of Entergy's interstate tariff, effective upon closing of the Transaction with ITC. (143 FERC ¶61,259).

Fourth, in the order issued on June 20, 2013, in Docket No. ER12-2682-000, the FERC conditionally accepted MISO's proposed new tariff provisions for provision of transmission services on the facilities during the time after the Entergy-ITC Transaction closes and before integration of the generation and load within Entergy's footprint into MISO's energy and operating reserves markets, subject to certain further compliance requirements. (143 FERC ¶61,258).

By these four orders, the FERC approved the spin off and merger of Entergy's interstate transmission system with that owned by ITC, and facilitated the integration of the transmission system into MISO. As indicated above, in approving the ITC-Entergy Transaction, the FERC indicated that it "reached these findings based on the impacts of the merger on wholesale markets" and that state and local agencies with jurisdiction "will be able to address the impacts of the merger on retail markets." (143 FERC ¶61,256, note 88).

Missouri is unique in this regard, relative to the other states in the Entergy footprint, as EAI does not have retail customers in the state. (Riley Direct, p. 7-9 (Ex 1)). Its facilities in Missouri are used for wholesale transmission service under FERC jurisdiction, and it also has certain distribution facilities that are used to provide retail

service in Arkansas which EAI will retain. (Id.). Nonetheless, Joint Applicants recognize the Commission's prior orders in this proceeding and elsewhere show that it contemplates jurisdiction pursuant to Sections 393.170 and 393.190 RSMo.

Accordingly, in addition to the approvals that have been obtained from the FERC regarding these interstate facilities, Joint Applicants continue to seek approval from this Commission as indicated in their Joint Application, as to both the transfer of the facilities³ and the corresponding changes in certifications.⁴

2. Should the Commission find and conclude that the proposed transfer of EAI's transmission facilities in Missouri to ITC, including all the steps of the Transaction described in the Joint Application, is not detrimental to the public interest in Missouri?

Joint Applicants' Stated Position - Yes. EAI only has about 100 miles of interstate transmission facilities in Missouri, and it only serves wholesale customers in the state. The Commission should approve the transfer of those transmission facilities to ITC as not being detrimental to the public interest in Missouri.

³ In the Joint Application, because EAI does not hold itself out as providing electric service to the general public in Missouri and has no retail customers in Missouri, Joint Applicants indicated that the ITC Transaction does not appear to fall within those transactions contemplated by Section 393.190.1, RSMo. Out of an abundance of caution and without waiving any assertion that the Commission lacks jurisdiction or that the FERC has preemptive jurisdiction over such matters, EAI and ITC sought the relief requested in the Joint Application. (Joint Application at 3.) Particularly regarding Section 393.190, given that the statute voids a transaction that is not approved in advance when such approval is required, the clarity of a Commission order on the question of jurisdiction is important to Joint Applicants.

⁴ Joint Applicants do not dispute aspects of the Commission's jurisdiction under Chapter 393 RSMo and section 215(i) of the Federal Power Act (16 USC 824o(i)) over facility siting, quality of service and reliability, including any applicable ongoing reporting requirements, subject to any limitations of the mandatory reliability standards adopted by NERC and approved by FERC, or tariffs approved by FERC.

ITC is an independent transmission company with a demonstrated capability to operate transmission systems at a high level of quality of service. It has a singular focus on transmission which has been proven to improve transmission performance, safety and reliability. It has the financial strength to meet the escalating capital expenditures which will be required by the challenges and opportunities associated with increasing regulatory requirements and modernization of the US electric grid. It will comply with FERC ratemaking procedures to establish interstate transmission rates that will support such improvements. It will bring a regional view to transmission planning that will benefit all stakeholders, including in connection with the separately proposed integration of the assets into MISO with its Day 2 Market.

ITC's existing personnel and the approximately 750 Entergy Operating Company/Entergy Services, Inc. personnel who will join ITC as a result of the Transaction will assure that the proposed Transaction will be accomplished seamlessly without any interruption of service.

ITC's testimony demonstrates that the Transaction involves substantial benefits and is not detrimental to the public interest in Missouri. Allegations by other parties regarding purported detriments are without merit and are irrelevant. Intervenors' pre-filed testimony does not relate to the Missouri aspects of the Transaction, but rather to federal tariffs, to EAI's or other Entergy Operating Companies' separate applications to integrate their transmission systems into

MISO, or to the proposed transfer of EAI's transmission facilities in Arkansas to ITC.

Argument

This proceeding concerns the proposed transfer of 87.34 miles of transmission lines and four related substations located in Missouri, in conjunction with a multistate/interstate transaction between ITC and Entergy.⁵ (Riley Direct, p. 7 (Ex 1); Riley, Tr. 64, Exhibits 5 and 6HC). There is also a new Steele substation being added pursuant to the Commission's prior authorization in File No. EA-2012-0321. (Riley Tr. 76-77, 111).

While these facilities are of course an important part of the transmission system in terms of serving specific customers (Riley Tr. 80-81), in terms of overall perspective they represent a very limited portion of the total of 15,413 miles of transmission lines and over 1,400 substations spanning five states that are being transferred to ITC (Riley Direct, p. 4; Riley Tr. 64-65).

When the Commission examines a proposed transfer of assets pursuant to Section 392.190, it must approve the transaction unless it determines the transaction will be detrimental to the public interest. See State ex rel. AG Processing Inc. v. PSC, 120 SW3d 723, 735 (Mo. 2003). Although the intervenors seem at times to contend that the Commission can only consider quantifiable benefits and costs in making such a

⁵ This proceeding does not concern EAI's separate application regarding its plan to transfer functional control of the same transmission assets to MISO, which the Commission is examining in File No. EA-2013-0431. EAI intends to pursue that plan regardless of the outcome of this proceeding. (Riley Direct, p. 9-11, Surrebuttal, p. 8-9).

determination, it is clear that under the law the Commission must consider the totality of the evidence. Id. at 737.

Joint Applicants present compelling evidence that the benefits of the Transaction substantially outweigh any and all detriments, not according to a simplistic math equation, but rather based on a qualitative and quantitative analysis of the real impacts of the Transaction. ITC is a known and proven organization that already successfully operates transmission systems in many states, including on very limited basis in northern Missouri. The FERC has approved the Transaction, expressly finding it to be in the public interest after examining the same evidence and arguments that are presented in this proceeding. (See Issue 1 above). Joint Applicants seek prompt approval from the Missouri PSC so that ITC can bring the benefits of independent transmission ownership to the Entergy region, including Missouri.

Joint Applicants present testimony from seven witnesses, who are not only very experienced and knowledgeable, but also include the highest officers of the parent company of ITC Midsouth, who have the authority and responsibility to deliver the benefits of the Transaction that they describe to the public.

Witness Joseph Welch, President and CEO of ITC Holdings

First, ITC Midsouth presents the direct testimony of Joseph Welch, the President and CEO of its parent, ITC Holdings Corp. (Exhibit 7). Mr. Welch testifies that “ITC is the nation’s first, largest and only publicly-traded independent transmission company.” (Welch Direct, p. 1). Its business is “owning, planning, constructing, operating, maintaining, and investing in electric transmission infrastructure.” (Welch Direct, p. 19).

ITC and its team of employees have a singular focus on excellence. (Welch Direct, p. 20).

Mr. Welch summarizes ITC's history:

- ITC began independent operations through its subsidiary now known as *ITC Transmission* in Southeast Michigan with the approval of FERC in 2003,
- ITC became publicly traded on the NYSE in 2005,
- ITC expanded into the western part of Michigan's lower peninsula in 2006 by acquiring METC,
- ITC established ITC Grid Development LLC also in 2006 to pursue regional transmission projects in new areas (which have subsequently occurred in Kansas and Oklahoma),
- ITC acquired the transmission assets of Interstate Power and Light in Iowa, Minnesota, Illinois, and (albeit very limited) northern Missouri in 2007 through new subsidiary ITC Midwest, and
- ITC formed Green Power Express LLC to develop regional transmission in the Upper Midwest for transport of renewable energy to load centers further east (Welch Direct, p. 20-21).

ITC and its subsidiaries currently operate approximately 15,000 transmission line miles in seven states and two RTOs (MISO and SPP), serving a system peak load of over 26,000 MW. (Welch Direct, p. 21-22). ITC is also committed to community involvement beyond its transmission operations and will bring that sense of corporate citizenship to Missouri. (Welch Direct, p. 43-45).

Mr. Welch discusses the evolution that remains underway in the electric utility industry, with a focus on the growing importance of the electric transmission grid as “the strong backbone of our system for delivering power to customers.” (Welch Direct, p. 11). He states:

a well-planned, highly interconnected, high-voltage electric transmission system is needed to provide the backbone of our system for getting energy to customers. Thus, our approach to transmission must be modernized to more efficiently and reliably meet current and future energy needs.

(Welch Direct, p. 12). He testifies that important developments have occurred, including the implementation of open-access transmission service,⁶ the growth of RTOs, and the issuance of FERC Order No. 1000⁷ last year to promote optimization of regional planning, cost allocation, and interregional efficiencies. (Welch Direct, p. 13, 16-17).

However, as Mr. Welch emphasizes, while the foregoing developments have been steps in the right direction, “standing alone, [they] will not achieve the evolved model for transmission that is needed to tackle our nation’s future energy challenges.”

(Welch Direct, p. 13). The most critical aspect remains solid ownership of the transmission system. As Mr. Welch states:

Even with open access rules and RTO membership, the transmission owners (as the owners of the assets) drive the development, maintenance, and management of their transmission systems. Ownership of transmission must be structured to best support the grid as the regional backbone of our electric delivery system. Specifically, transmission must be owned by an entity that is solely focused on transmission and independent of ownership in generation. With such independence, the transmission owner can be purely dedicated to the grid for the benefit of all transmission customers (without needing to weigh transmission

⁶ See FERC Order Nos. 888 (75 FERC ¶ 61,080) and 2000 (89 FERC ¶ 61,285).

⁷ 136 FERC ¶ 61,051.

issues against its other lines of business), while taking an appropriately regional view of the grid in addressing transmission issues.

(Welch Direct, p. 13-14). Thus, consistent with the views of the Federal Trade Commission,⁸ and the FERC (see Issue 1 above) the structural separation achieved by the independent transmission company model is a critical aspect of transmission ownership, that enables an unbiased view of the needs of the grid and best aligns incentives for building needed transmission. (Welch Direct, p. 14-15).

ITC is the industry leader in the development of the transmission grid that is essential for economic growth. ITC is financially strong and capable, with a proven track record, strong credit, lower cost of capital and access to it. As a result of its independence, ITC is “uniquely positioned to lead the evolution of the electric transmission system to form the true backbone grid.” (Welch Direct, p. 15). Mr. Welch states:

Unlike vertically-integrated utilities, ITC is totally independent of energy buyers and sellers. Unlike RTOs, we own and operate our transmission systems. Thus we can see the needs of the transmission grid in a fully independent and regional manner, which is necessary to unlock the full benefits of building a true backbone grid. We enjoy a unique perspective regarding the challenges to, and opportunities provided by, a transmission grid planned and developed by a fully independent transmission company with a regional view.

(Welch Direct, p. 15). ITC’s independence has enabled it to take action across utility and RTO boundaries to address inefficiencies in the grid, make needed repairs and upgrades, and connect lower-cost generation to the market. (Welch Direct, p. 16).

⁸ Comment of the Federal Trade Commission, Standards of Conduct for Transmission Providers, Docket No. RM07-1-00, May 7, 2008, fn. 17.

Mr. Welch, like ITC witness Cameron Bready, provides an overview of the Transaction. Their testimony details the various steps involved in this Reverse Morris Trust Transaction, or spin-merge, that allows for the benefit of a Transaction that is tax-free and preserves ITC's independence. (Welch Direct, p. 7-8, 29-30, Bready Direct, p. 7-14). Mr. Welch explains that:

the Transaction serves the public interest and should be approved. With this Transaction, ownership of the transmission business of each Entergy Operating Company will move to ITC – a fully independent transmission company. As a result, wholesale and retail customers and other stakeholders in the mid-South region will benefit from ITC's superior business model for owning and operating transmission systems. In my view, the Transaction is critical to developing a robust, highly interconnected electric grid that will efficiently and effectively meet this region's future electrical energy needs, and to further integrating the Entergy Operating Companies' transmission systems into the national energy grid that is being developed. This opportunity for customers should not be lost.

(Welch Direct, p. 8). The Transaction is a “transformational step, which will benefit customers in Missouri by bringing ITC's independent transmission company approach to the region”, thereby “most effectively, efficiently, and reliably serving customers' electric needs.” (Welch Direct, p. 17).

Mr. Welch itemizes the key categories of benefits of the Transaction for customers, as follows:

- 1) ITC's independence from all buyers and sellers of electric energy, results in pure and total dedication to being a good steward of the electric transmission grid;
- 2) ITC's singular focus on electric transmission drives a dedication to transmission service, operational excellence, and expertise in transmission;

3) enhancement of the benefits of RTO wholesale energy markets, through ITC's regional view, improvement of the transmission grid, and its structural separation from users of the transmission grid; and

4) ownership of the transmission business by a financially strong and capable entity, whose resources are fully dedicated to the capability and performance of the transmission system.

(Welch Direct, p. 17-18). He sums up the benefits, testifying: "it is better for ITC to own and operate the transmission system." (Welch Direct, p. 17).

Mr. Welch then proceeds to explain all of these benefits in greater detail.

He substantiates ITC's independence by providing the Commission with a copy of its Policy on Independence, that applies to ITC's Board, management, employees, contractors, and consultants (Welch Exhibit JLW-1), and by explaining how market participants⁹ cannot own more than 5% of ITC's stock. By being 100% about transmission, in contrast to 10% for a typical utility, ITC has an undiminished and total "dedication to being an open-access transmission provider for the benefit of all customers of the grid." ITC can "pro-actively identify and pursue transmission projects purely based on the needs of the transmission system, have more opportunity for customer and stakeholder engagement, and (due to our regional focus) can take a broader view of the transmission system's needs." (Welch Direct, p. 23-29).

The company's annual goals confirm ITC's singular focus on transmission, which results in reliability, maintenance, compliance, safety, efficiency, investment, improvement, and strong storm response. ITC has a "strong track record of improving

⁹ See 18 CFR 35.34(b)(2) for definition of market participant.

the performance of every transmission system it owns.” Mr. Welch provides statistics that evidence the priority the company places on safety. Upon closing, ITC’s skilled work force will grow even stronger with the addition of hundreds of Entergy employees. And more benefits will be derived from the economies of scale and efficiencies of ITC’s operations. (Welch Direct, p. 30-35, 57-58).

Mr. Welch provides specific examples of how ITC has acted (and continues to act) quickly to improve acquired systems. ITC has invested over 3 billion dollars in transmission from 2003 to 2012, which constitutes 60% of all investments in MISO. ITC’s projects address system needs identified in an open and transparent planning process, that involves regulators and stakeholders and thereby eliminates any risk of overbuilding as well as the risks that attend failure to make such needed improvements. These practices will continue after acquisition of the EAI and Entergy Operating Company transmission assets, with ITC not only continuing to pursue the \$500 million annual capital investment needs identified by the Entergy Operating Companies but also identifying other system needs. Beyond investment in transmission, ITC also has strong commitment to community and disaster recovery efforts. (Welch Direct, p. 36-45, 54).

ITC achieves more robust results as a MISO member than retail utilities,¹⁰ having the ability to take a broader approach and achieve projects that cross boundaries, such as the Green Power Express project, which touches two RTO regions, non-RTO regions, seven states, and twenty utility service territories, in addition to ITC’s footprint.

¹⁰ ITC witness Collins provides a real world example of how much more ITC has done with the IPL system after acquisition, notwithstanding IPL having been a member of MISO. (Collins Direct, p. 11-12).

ITC plays a key role in “ensuring that all generation has equal access to the energy market.” As a result, ITC enhances the benefits of wholesale markets such as the MISO Day 2 Market, reducing the delivered cost of energy by eliminating congestion, increasing reliability, and increasing access to generation. ITC brings more to the table as a MISO member because of its independence, singular focus, regional view, and financial strength. As Mr. Welch states: “ITC’s broader regional approach to transmission planning and independent business model result in more robust project proposals to meet a variety of customer and public policy needs.” (Welch Direct, p. 45-48, 53-54).

ITC’s independence and singular focus allow it to achieve a stronger credit quality, attract capital at lower cost, and dedicate all of its resources to transmission. Entergy’s transmission customers will benefit from ITC’s lower borrowing rates and greater investment, by realizing a stronger and more reliable system. (Welch Direct, p. 49-50).

ITC and EAI will be able to accomplish the transition smoothly, and ITC will become even stronger by adding approximately 750 Entergy Operating Company / Entergy Services, Inc. employees and taking a best practices approach to the merger of systems. Further, ITC’s experience will ensure a smooth transition into MISO membership. (Welch Direct, p. 54-56).

Mr. Welch concludes that ITC’s business model is optimal and that the Transaction “presents an opportunity for us to grow, and bring the value of our independent transmission company approach and practices to a new region.” He explains that ITC’s MISO experience makes it the perfect Transaction partner for EAI.

He confirms that the time is right for the Transaction, because ITC can meet the critical needs of the regional grid. He encourages the Missouri Commission to seize that opportunity by promptly approving the Transaction. (Welch Direct, p. 50-53, 58-66).

Witness Jon Jipping, Executive Vice President and COO of ITC Holdings

Jon Jipping, the Executive Vice President and COO of ITC Holdings, oversees operations, planning, engineering, information systems, supply chain, facilities, and security. (Jipping Direct, Ex. 9, p. 1-2, Surrebuttal Ex 11). Mr. Jipping describes the current ITC transmission system in more detail. (Jipping Direct, p. 8-12). Like Mr. Welch, he discusses ITC's independence and singular focus on transmission. (Jipping Direct, p. 12-14). He then shows how ITC delivers reliability benefits to customers, by focusing on performance improvement, proactive, preventative maintenance, and planning. (Jipping Direct, p. 14-15).

Mr. Jipping shows how ITC builds the projects that it plans. "Gross investments in property, plant and equipment increased from \$41 million in 2003 to \$632.9 million in 2011. Planned gross investment in property, plant and equipment for 2012 is \$730 to \$830 million." (Jipping Direct, p. 15, Exhibit JEJ-2).

Mr. Jipping provides examples of new projects and the advanced technology that ITC is adding to the system, like computerized transformer monitoring and synchrophasers for rapid data collection and analysis. He highlights the Spearville to Axtell project in Kansas and southern Nebraska which is promoting economic

development and meeting publicly identified needs at a cost of \$148 million. He also describes the Hugo to Valiant project in Oklahoma. (Jipping Direct, p. 15-20).

Mr. Jipping describes ITC's commitment to safety which places it at the top of the industry. It ranks in the top ten percent for having a low company-wide recordable incident rate and for having a low lost work day incident rate. (Jipping Direct, p. 21-24). ITC's robust maintenance program focuses on proactive preventative work. The company strives for top performance and resulting reliability. Mr. Jipping provides details of equipment replacement programs. He also reviews ITC's comprehensive vegetation management program. (Jipping Direct, p. 25-34).

ITC achieves exceptional operational performance while keeping costs in line with its peers. (Jipping Direct, p. 35-36).

Mr. Jipping testifies to ITC's high performance in terms of reliability, providing study results that demonstrate that success. It has consistently improved the systems that it has acquired. As a result, the systems that it has owned for the longest time are among the best-performing systems, and its more recent acquisitions are steadily improving. (Jipping Direct, p. 37-43).

When ITC's reliability is compared to the industry median, it demonstrates savings of \$150 million per year for end users using the DOE Interruption Cost Estimator. (Jipping Direct, p. 43-45).

ITC is committed to achieving full compliance with NERC reliability standards. Mr. Jipping candidly discusses the details of ITC's compliance program, covering both successes and areas where improvement is still underway. This program has the core

attributes of auditability, accountability, manageability, sustainability, and traceability. (Jipping Direct, p. 45-50).

Mr. Jipping provides examples of ITC's proven ability to restore service promptly after storms. (Jipping Direct, p. 50-56). He discusses ITC's procurement program, with competitive bidding procedures, and explains how it will result in lower costs in the new region after acquisition. (Jipping Direct, p. 56-62). He discusses ITC's commitment to open communications with all stakeholders and its promotion of customer service and economic development. (Jipping Direct, p. 62-65).

Finally, Mr. Jipping reviews the ongoing hard work of the ITC and Entergy Operating Company teams to assure a seamless transition and integration of the Entergy Operating Company transmission business into ITC, reiterating the addition of approximately 750 Entergy Operating Company/Entergy Services, Inc. employees, the incorporation of best practices, and the companies' transition service agreements which are in place to assure continuity beyond closing. (Jipping Direct, p. 65-82).

Witness Thomas Vitez, Vice President of Planning, ITC Holdings

ITC witness Thomas Vitez, Vice President of Planning, elaborates upon the superior ITC planning process and its proven track record. (Ex. 12-13). He describes ITC's extensive planning organization and provides assurance that there will not be any substantial changes due to the Transaction. (Vitez Direct, p. 3-4, 32 & Ex TWV-1). ITC plans its transmission systems to:

- (1) address local, state, and regional reliability needs;
- (2) increase the economic efficiency of the overall grid; and
- (3) respond to transmission needs identified in state and regional processes.

(Vitez Direct, p. 7). It implements its plans and makes the investments required to eliminate deficiencies and reduce constraints, achieve more economic dispatch of generation, reduce energy costs, expand market access, and create a more robust and reliable grid. (Vitez Direct, p. 7).

Mr. Vitez describes the planning cycle and its focus on reliability and elimination of constraints. He discusses how ITC's processes align well with MISO's, and how both are open to stakeholders and regulators. He provides ITC's "Transmission Planning Criteria" (Vitez Direct Ex. TWV-2). Mr. Vitez describes the benefits that ITC delivers beyond what would flow from EAI's membership in MISO, including how ITC not only plans well but then makes the needed investment. Specifically, he explains how ITC undertakes a more comprehensive N-1-1 analysis to develop a system with additional flexibility to address maintenance and upgrades. All of the applicable processes assure that only prudent projects are pursued. (Vitez Direct, p. 7-33).

Mr. Vitez provides specific examples of successful ITC planning, such as the Jewell to Spokane project in southeast Michigan, which cost \$10.2 million and delivered estimated annual net benefits of over \$60 million by relieving transmission constraints. Likewise, the new Salem-Hazelton transmission line ITC is constructing in Iowa will address needs that had been identified before ITC acquired the system, and reduce

annual load and production costs by approximately \$108 million.¹¹ ITC is undertaking substantial and beneficial projects in Michigan, Iowa, Minnesota, and Wisconsin to advance regional, state and local economic development. It has interconnected over 16 new generators in the past four years, adding approximately 2,150 MW of renewable energy production capacity to the grid. (Vitez Direct, p. 21-26).

Mr. Vitez confirms that ITC intends to complete Entergy Operating Company projects that are underway, follow through on near-terms plans to ensure reliability, and look beyond to determine the future needs of the transmission system in the region. (Vitez Direct p. 29-30). ITC will:

- enhance customer reliability by improving the transmission system's ability to serve load through upgrades that increase thermal capacity and keep the system within acceptable voltage, stability and short circuit limits as well as improve storm hardening and create additional paths for generation to reach load;
- increase economic efficiency of the overall grid such as
 - reducing energy costs by removing transmission constraints that cause congestion and must-run commitments, particularly during challenging load, outage, and market conditions;
 - reducing resource adequacy and operating reserve costs by decreasing system congestion and reducing the need for isolated areas to hold additional reserves and by broadening the pool of generating capacity that is accessible to meet resource adequacy requirements;
 - reducing transmission line losses, resulting in less generation being needed to serve peak load;
 - facilitating the development of competitive wholesale energy markets by increasing access to competing generation sources;

¹¹ Witness Collins provides additional details regarding this project, which demonstrated ITC's willingness to invest capital to build projects that have an economic benefit for customers and improve reliability. (Collins Direct, p. 23-26).

- improve optionality for utilities at a time of significant uncertainty with regards to new environmental regulations potentially impacting fossil-fuel-fired generation; and
- ensure adequate transmission capacity to advance state and federal policy objectives.

(Vitez Direct, p. 33-34).

Witness Thomas Wrenbeck, Director of Regulatory Strategy, ITC Holdings

Thomas Wrenbeck, director of regulatory strategy for ITC Holdings (Ex 14-15), testifies to the benefits of ITC's stakeholder and regulator outreach and advocacy efforts, which employ regularly-scheduled face-to-face meetings and other forms of frequent communication to identify needs and address planned and unplanned outages, construction, new load growth, reliability, power quality, load and generation interconnection, and regional transmission planning. (Wrenbeck Direct, Ex. 14, p. 19-22). There will be a dedicated point of contact to address Missouri issues and concerns. (Wrenbeck Direct, p. 22). The ratemaking process at FERC is also open to stakeholders and regulators. (Wrenbeck Direct, p. 5-11). ITC will not only make proposed rates and supporting information available well in advance of annual changes, but pursuant to its "Partners in Business" process it will also conduct meetings with regulators and stakeholders to explain such matters, and respond to all questions in an open manner.

ITC uses this program successfully in its current operations.¹² (Wrenbeck Direct, p. 11-13).

Witness Cameron Bready, Executive Vice President and CFO of ITC

Holdings

Cameron Bready, Executive Vice President and CFO of ITC Holdings, is responsible for all of the financial operations of ITC. He is also responsible for identifying new opportunities for transmission development. (Bready Direct, Ex 16, p. 1, Surrebuttal Ex 17).

Mr. Bready identifies the benefits of the Transaction from a financial perspective. He discusses how ITC is able to make sustained capital investments in transmission to meet regional needs, whether planned or unplanned/emergency, because of strong cash flow, access to capital, and liquidity related to revolving credit facilities. He discusses ITC's solid credit quality, which allows financing at lower rates, and how that credit quality is expected to improve because of the transaction. Specifically, he compares ITC's ratings of A1 with Moodys and A with S&P, to EAI's ratings of A3 with Moodys and A- with S&P. Mr. Bready estimates that the resulting debt cost savings will be \$127-151 million in NPV in the entire Entergy region over the first five years, with \$20 million of that in the EAI area. (Bready Direct, p. 14-3).

¹² Witness Collins provides further confirmation of the success of ITC's stakeholder relations in the ITC Midwest area. (Collins Direct, p. 30-33).

Mr. Bready explains how ITC has been able to use its credit quality, access to capital markets, liquidity, and rate construct to make needed transmission investments. He reviews ITC's \$3.4 billion in investment in transmission from 2003-2012, which has averaged nearly 2.0 times its operating cash flow over the past five years. He describes how ITC was able to continue with its programs even during the national financial crisis. (Bready Direct, p. 26-27).

Significant investment will need to be made in the regional transmission system. As the new owner of the system, ITC's sole focus will be to meet those needs. The modest increase in rates that results from ITC's ownership (discussed further below) is more than offset by the benefits of that independent ownership. (Bready Direct, p. 36-37).

Witness Douglas Collins, President of ITC Midwest

ITC does not ask the Commission to take its representations regarding the benefits of the Transaction simply on faith. To the contrary, ITC demonstrates through the testimony of Douglas Collins that it has delivered such benefits before, and continues to do so, in connection with its acquisition of the IPL system. He states:

I have observed ITCMW implement operations and maintenance practices that have improved reliability and enhanced storm restoration efforts. ITCMW has also carried through with its commitments to invest capital to improve reliability and reduce congestion on the transmission system formerly owned by IPL. I believe that significant benefits will accrue to the customers of the current EAI region if the Transaction is approved.

(Collins Direct, p. 8). So the evidence shows that ITC has done it before and will do it again. (Collins Direct, p. 34).

Mr. Collins is president of ITC Midwest and Vice President of ITC Holdings. He is in charge of operations of ITC Midwest, which include the limited assets in Missouri along the Iowa border. (Collins Direct, Ex 8, p. 1).

He reviews the benefits that ITC has delivered after acquiring the IPL system in 2007-08. That system consists of 6,600 miles of transmission lines and 261 substations, with a service territory of 53,400 square miles. When ITC acquired the system, it was in need of significant maintenance and investment. ITC has invested approximately \$891 million as of March 2012 to improve the system. It completed 32 major substation upgrades and expansions, rebuilt 400 miles of existing lines (typically adding capacity), and replaced three major transformers. It built 26 new substations, 26 miles of new lines, and added four major transformers. It has started construction of a 345 kV line that is expected to reduce annual load and production costs by approximately \$108 million (for a one-time cost of \$123 million). It completed 16 new generator interconnects, adding 2,200 MW of renewable energy production capacity to the grid. It is rebuilding the 34.5kV system to 69 kV standards over 12 years, rather than the 60 years projected by IPL, to improve reliability and meet customer needs, with a moderate rate impact. It continues to meet its commitments to the regulators that approved the IPL transaction. (Collins Direct, p. 6-11, 20-30).

Since acquisition of the IPL system, ITC has:

- reduced sustained outages relative to IPL's last year of operations in 2008 by 50% in 2009, 24% in 2010 (a year of record severe weather), and 58% in 2011;

- implemented proactive maintenance and vegetation management programs which during 2009-2011 corrected over 8700 safety code violations and handled vegetation issues on 108% of the system (i.e. more than a full cycle);

- achieved top decile performance in 2011 for momentary outages on 115kV and 161 kV systems;

- experienced no momentary outages on 345 kV facilities in 2011;

- achieved second quartile results for average circuit outage duration compared to peers;

- achieved excellent storm response in collaboration with other involved entities and customers as well as alliance suppliers. (Collins Direct, p. 3-7, 12-19).

Furthermore, ITC remains focused on continued improvement. Mr. Collins identifies major projects that are now underway, as follows:

- 1) upgrading 80 miles of 115 kV line to 161 kV from Cedar Rapids, Iowa to Boone, Iowa due to age and condition of the line and to satisfy the need for new transmission capacity in the area (expected completion by year-end 2012);
- 2) constructing a new 11 mile 161 kV line loop in the core of Cedar Rapids, Iowa to improve system reliability (expected completion by year-end 2012);
- 3) building 10 miles of new 161 kV transmission line north of Cedar Rapids, Iowa, to support new load in the area (expected completion in 2013);
- 4) constructing a new 80 mile 345 kV line from Salem Substation to Hazleton Substation to improve reliability in eastern Iowa and improve market efficiency by reducing transmission constraints (expected completion in mid-year 2013);

- 5) rebuilding 28 miles of 161 kV line in Minnesota (at the same voltage) due to age and condition of the existing line (expected completion by year-end 2012); and
- 6) rebuilding 50 miles of 115 kV line to 161 kV from Marshalltown, Iowa to Iowa Falls, Iowa due to age and condition of the line and to provide needed capacity for new generation in the area (expected completion by year-end 2012).

(Collins Direct, p. 21).

Finally, Mr. Collins identifies other key facts that highlight ITC's economic impact and community involvement:

- 1) ITCMW currently employs more than 80 people in the ITCMW service area in good paying jobs such as engineering. ITCMW's primary field operations and maintenance contractor employs approximately 180 field personnel across the region.
- 2) ITCMW paid \$6.8 million in property taxes in Iowa and Minnesota in 2011, and is projected to pay approximately \$7.4 million in 2012.
- 3) Due to its construction and maintenance programs, ITCMW purchases more than \$30 million in supplies and materials annually from more than 100 vendors in Iowa and Minnesota. To date, eight vendors have set up operations in the ITCMW service area – employing 258 people to serve ITCMW.

- 4) ITCMW actively participates in community activities and has donated more than \$1 million to community organizations, contributing to the quality of life in those communities.
- 5) ITCMW works with state regulatory, administrative and legislative leaders to help implement regulatory outcomes and legislation that promote improved energy reliability and efficiency.
- 6) ITCMW works with its utility customers to build positive relationships with large industrial customers interconnected to the transmission system through its stakeholder relations group.
- 7) ITCMW works closely with state and local police, municipal officials, fire and emergency preparedness personnel to establish training and communications in the event of emergencies.

(Collins Direct, p. 33-34).

Conclusion – the Transaction is beneficial to the public – failure to approve it would be detrimental

Mr. Welch sums up the benefits of the Transaction very succinctly, testifying: “it is better for ITC to own and operate the transmission system.” (Welch Direct, p. 17). He demonstrates that ITC’s business model is optimal and that the Transaction “presents an opportunity for us to grow, and bring the value of our independent transmission company approach and practices to a new region.” He explains that ITC’s

MISO experience makes it the perfect Transaction partner for EAI. He confirms that the time is right for the Transaction, because ITC can meet the critical needs of the regional grid. He encourages the Missouri Commission to seize that opportunity by promptly approving the Transaction. (Welch Direct, p. 50-53, 58-66).

Witness Bready summarizes the benefits of the Transaction in his surrebuttal testimony. He emphasizes that it would be detrimental to customers if the Transaction were not approved. He states: "The nature of the benefits stemming from the transaction reflect the fact that the ultimate outcome will be far more than simply the transfer of ownership of transmission facilities, but rather a significant strategic realignment that will better position the region to meet its energy challenges for the future." (Bready Surrebuttal p. 2).

Again, the benefits include:

[I]ndependence is an immediate, substantial and concrete benefit.

The benefits of the ITC independent transmission model may be difficult to quantify, but, as evidenced by the Direct Testimony of Joseph L. Welch, independence benefits are concrete benefits nevertheless.

Improved reliability through a properly planned transmission system is another substantial concrete benefit that ITC has delivered to its other transmission systems and will deliver in Missouri. ITC witness Jon E. Jipping discusses the value of reliability improvements on the transmission system. His testimony demonstrates how ITC's singular focus on transmission has enabled it to achieve top performance in terms of transmission availability and the tangible economic benefit to customers of realizing this high level of service quality.

Other quantitative and qualitative concrete benefits are described by other ITC witnesses supporting the transaction application. My Direct Testimony describes the immediate quantified debt cost savings that will be realized as a result of the transaction. ITC witness Thomas Vitez describes the benefits of an independent, regional approach to transmission planning. My Direct Testimony further illustrates how this approach has resulted in substantial investment in needed transmission.

Regarding transmission service, while the transmission assets may be the same initially, future stewardship, service and development of these assets will be significantly enhanced through ITC's ownership. This will lead to not only heightened reliability, which is an economic benefit to customers, but also to a more economically efficient system that allows customers to benefit from a lower delivered cost of energy. These are concrete benefits of the independent transmission model that will flow from the transaction.

More specifically, ITC offers concentrated expertise and focus in the transmission function, allowing for enhanced performance at reduced costs, as explained in Mr. Jipping's testimony. As Mr. Jipping and ITC witness Thomas H. Wrenbeck explain, ITC will have dedicated personnel to serve customer and other stakeholder needs surrounding new and existing transmission lines.

(Bready Surrebuttal, p. 3-4).

Furthermore, as found by the FERC (see Issue 1 above), the ITC Transaction yields benefits on top of the benefits that attend EAI joining MISO (See File No. EA-2013-0431). As discussed above, Mr. Welch explains how ITC achieves more robust results as a MISO member than retail utilities,¹³ including by enhancing the benefits of wholesale markets such as the MISO Day 2 Market, reducing the delivered cost of energy by eliminating congestion, increasing reliability, and increasing access to generation. (Welch Direct, p. 45-48, 53-54). Mr. Bready summarizes this point as well in his Surrebuttal, stating that:

Regardless of whether a company is participating in an RTO or not, the burden to invest and properly maintain transmission systems to ensure high reliability of service and economic efficiency rests with the transmission owner. ITC's ownership of the Missouri assets will deliver substantial additional benefits.

¹³ ITC witness Collins provides a real world example of how much more ITC has done with the IPL system after acquisition, notwithstanding IPL having been a member of MISO. (Collins Direct, p. 11-12).

(Bready Surrebuttal, p. 5). Mr. Jipping also confirms that ITC's ownership and best practices will bring additional benefits, regarding system performance and reliability, (Jipping Surrebuttal, Ex. 11, p. 5-7).

Thus, as Mr. Bready states:

In conclusion, the substantial benefits, both quantitative and qualitative, resulting from ITC's broader, independent planning model, track record of significant investment in needed transmission, and singular focus on transmission producing top performance in transmission availability and reliability, demonstrate that this transaction is not detrimental to the public interest.

(Bready Surrebuttal, p. 4).

The evidence shows that there will be modest rate impacts from the change in ownership of the assets, in order to establish the rate structure that is an essential part of ITC's ability to invest in and deliver necessary improvements to the transmission grid. This rate impact is simply a necessary part of the overall benefits of the Transaction, and is not a detriment.

Mr. Wrenbeck and Mr. Bready explain how ITC will use the existing formula rates under Attachment O of the MISO Open Access Transmission, Energy and Operating Reserves Markets Tariff. (Wrenbeck Direct, p. 1, 4, Bready Direct, p. 31-36). As noted above, on June 20, 2013 the FERC approved this rate structure for ITC as just and reasonable.

There will be a seamless transition in rates and ratemaking after closing, with training for customers about the new process. (Wrenbeck Direct p. 13-17). Existing interconnection arrangements will be honored. (Wrenbeck Surrebuttal, p. 4-5, Riley Surrebuttal, Ex 2, p. 4-7). The FERC has confirmed these points. (See Issue 1).

ITC Arkansas, which will operate both the Arkansas and Missouri assets, will implement the formula rate on a prospective basis using a forecasted revenue requirement and projected load, to develop charges for the Arkansas pricing zone that will take effect each January 1.¹⁴ After the close of each rate year, the projected rate will then be trued-up to actual figures and any necessary rate adjustment will be reflected in rates for the ensuing year, with interest.¹⁵ Again, the entire process is open to stakeholders and regulators. (Wrenbeck Direct, p. 4-18, Bready Direct, p. 31-36). And again, the FERC has approved this rate structure.

Regarding through and out transmission service (transmission starting within and exiting the MISO territory), the ITC Transaction will have a very minor rate impact. The through and out rates are based on the average of all transmission in MISO, so any change related to differences between EAI and ITC revenue requirements will be minimal. (Wrenbeck Surrebuttal, p. 4).

Regarding point-to-point transmission service within MISO, ITC projects that there would be an 8.1% increase over projected wholesale rates in 2014, stemming from ITC ownership of the assets rather than EAI. This increase is attributable solely to the difference in ITC's weighted cost of capital, which takes into account both a 60% equity capital structure and offsetting debt cost savings. It does not result in any way from the application of the 12.38% ROE approved by the FERC, because EAI would use the same ROE as a member of MISO. (Bready Direct, p. 33-35, Surrebuttal, p. 6-10).

¹⁴ For the remainder of 2013 after closing, ITC will use EAI rates subject to true-up. (Wrenbeck Direct, p. 18).

¹⁵ There is deliberate asymmetry to the interest calculations designed to cause companies using forwarding-looking rates to forecast inputs as accurately as possible, thereby protecting customers. (Wrenbeck Direct, p. 8).

ITC's capital structure, which has been approved by the FERC, is essential to delivery of the benefits of independent transmission ownership. (Bready Direct, p. 31, 35, Surrebuttal, p. 5). As Mr. Bready explains: "The 60% equity / 40% debt capital structure supports the creation of high credit quality operating companies with steady cash flows, strong liquidity, and access to the cost-effective capital needed to make transmission investments." (Bready Surrebuttal, p. 5). This capital structure properly balances this risks faced by shareholders and the impact of rates paid by customers. (Bready Surrebuttal, p. 5-7).

However, recognizing that the benefits of the transaction will be realized over time, Joint Applicants have proposed a rate mitigation plan. As ITC witness Bready testified, as of the date of the hearing in this matter, for the Arkansas pricing zone (again which includes the Missouri facilities) the rate mitigation plan would, if accepted, apply \$85 million in credits to reduce the rate increase during the first five years by roughly 58%. (Bready Surrebuttal, p. 11-12, Tr. 172-73). Since the date of the hearing in this matter, Joint Applicants have enhanced the rate mitigation commitments made in the Arkansas PSC proceedings such that if the Transaction is approved and closes there would be rate mitigation during the first five years in the Arkansas pricing zone of \$127.5 million. Further, under the enhanced commitments, there would be further mitigation beyond the first five years absent a demonstration that the benefits of the Transaction outweigh the costs.

Beyond modest rate impacts, there is nothing in the record that is even arguably a detrimental aspect of the Transaction, and certainly none to the general public in Missouri.

The individual concerns raised by intervenors have nothing to do with ITC acquiring the limited assets in Missouri. Instead, Intervenor raise matters related to EAI integrating into MISO - which has already been approved by the FERC and in Arkansas, and is under consideration in a separate proceeding here in Missouri (EA-2013-0431) - and/or ITC acquiring more comprehensive transmission assets in other states.

The rate impacts cited by Empire witness Warren regarding transmission service for the Plum Point generation plant in Arkansas do not result from the transfer of EAI assets to ITC, but rather from EAI's Arkansas assets entering MISO. (Wrenbeck Surrebuttal, Ex. 15, p. 2-3, Riley Surrebuttal, p. 4).¹⁶ Likewise, the rate impacts cited by KCPL/GMO witness Carlson regarding transmission service for the Crossroads generation plant in Mississippi do not result from the ITC transaction, but rather from other Entergy Operating Company transmission assets in Mississippi entering MISO. (Wrenbeck Surrebuttal, p. 3). These rate changes are going to occur regardless of the outcome of the Missouri proceedings, as both the FERC and the states of Arkansas and Mississippi have approved the respective Entergy Operating Company's entry into MISO and the related rate changes. (Riley Surrebuttal, p. 8-9, 11-13).

As Mr. Jipping explains, witness Locke's concerns about new power flows are also matters related to EAI's MISO membership. (Jipping Surrebuttal, p. 4). And as indicated above (see Issue 1), the FERC concluded that such matters will be resolved in the ordinary course of business between the RTOs.

¹⁶ Yet, inexplicably, Empire chose not to participate in the Arkansas hearing regarding the Transaction. See Order 13, Docket No. 12-069-U, Arkansas Public Service Commission (July 1, 2013).

At the end of the day, it is important to keep in mind this case only concerns 87 miles of transmission lines that come out of Arkansas into southern Missouri at several different locations. It is plain from the evidence that acquisition of 87 miles of plant in Missouri cannot have the impacts alleged by the intervenors. Again, the issues they raise concern a different transaction and/or transmission assets in other states. But the only way that the Missouri assets and Missouri customers get the benefits of the ITC transaction is for the 87 miles of lines to be acquired together with the Arkansas system. Otherwise the Missouri plant would be left out, and put on an island.

Missouri will benefit from ITC becoming more involved in the state. The evidence makes that clear. The evidence shows that no detriment will result from the Transaction, but rather overall the public will benefit from ITC acquiring these limited assets. Based on the evidence, and consistent with the FERC's decisions, the Commission should determine that the Transaction is not detrimental to the public interest in Missouri and approve it.

3. Should the Commission grant TC Arkansas a certificate of convenience and necessity with respect to the transmission assets located in Missouri that are to be transferred from EAI to ITC, grant TC Arkansas waivers of 4 CSR 240-3.145, 3.165, 3.175, and 3.190(1)&(3), and authorize TC Arkansas to

change its name to ITC Arkansas LLC in conjunction with completion of the Transaction?

Joint Applicants' Stated Position - Yes. Granting the certificate is a part of the proposed Transaction given EAI's existing certificate and the regulations to be waived are inapplicable to these interstate transmission facilities.

Argument

No party disputed in their position statement or opening statement the propriety of granting a certificate to TC Arkansas and authorizing it to change its name to ITC Arkansas, LLC in conjunction with completion of the Transaction. The uncontroverted evidence shows that a subsidiary of ITC Holdings, LLC is more than qualified to own and operate the transmission facilities at issue in this proceeding. Further, the requested certification is simply part of the overall Transaction and should be approved in conjunction therewith.

Regarding the requested waivers of regulations, during opening statements counsel for ITC Midsouth LLC confirmed the withdrawal of the request for waiver of 4 CSR 240-3.190(3)(E) in accordance with Staff's position (Tr. 33). Otherwise, the requested waivers are unopposed and should be granted.

Beyond these few waivers, ITC is committed to full compliance with Commission regulations. Mr. Welch, ITC Holdings CEO, and Mr. Riley, who will be joining ITC in connection with the Transaction to oversee operations of the Midsouth region, both pledged full compliance. (Tr. 113, 119). When Commissioner Jarrett asked:

Q. So I can expect the same pledge from you that this line, even as limited as it is in the big ITC picture, if we approve this transaction,

that it will be maintained properly and all our rules will be followed and you'll cooperate with our Staff if there are any issues and respond promptly to requests for information and otherwise be a good corporate citizen here in Missouri?

Mr. Welch responded:

A. Yes, we will, and there's no such thing as something too small that affects the reputation of ITC.

(Id.).

Mr. Wrenbeck further testified that ITC will be staffed to achieve compliance:

We have people assigned in ITC to be state regulatory representatives for us, and their sole function is to make sure we comply with all state regulatory requirements, help manage any case that we do in front of a state regulatory proceeding for siting, for example, and also just to be the answer person for any state commission commissioner or its staff on any issue related to transmission.

(Tr. 148).

4. Should the Commission approve a partial transfer of EAI's existing certificate, or issue a new certificate, to Entergy Arkansas LLC to operate its remaining limited distribution facilities located in Missouri?

Joint Applicants' Stated Position - Yes. Amending the certificate or granting a new certificate is a part of the proposed Transaction given EAI's existing certificate.

Argument

The Commission's jurisdiction over electric corporations is predicated on the electric corporation's dedication of its property to serve the public, generally. *State ex rel. M. O. Danciger & Company*, 205 S.W. 36, 39-40 (Mo. 1918); *State ex rel. Cirese v. Public Service Commission*, 178 S.W.2d 788, 790 (Mo. App. K.C. 1944). The uncontroverted evidence establishes that EAI does not hold out its distribution property in Missouri to serve any Missouri customers on an intrastate basis. (No Missouri customers, Exhibit 1, Riley Direct, p. 8, 1:18; no Missouri tariff, *Id.*). Thus, under Missouri law EAI is not an electric corporation subject to the jurisdiction of the Commission. Although EAI does not believe that the Commission has any jurisdiction over its distribution property, it has asked the Commission to examine its jurisdiction in this case and recognizes that the Commission may determine to issue a certificate of convenience and necessity in the name of its successor entity, Entergy Arkansas, LLC.

In its position statement, Staff suggests that no change in EAI's certification is required absent a change of entity. However, EAI is in fact changing to an LLC in the course of the Transaction and will not hold the transmission assets that are currently encompassed under EAI's existing certificate. No party disputed in their position statement or opening statement the propriety of granting a revised certificate to EAI in conjunction with completion of the Transaction. The uncontroverted evidence shows that EAI will no longer have transmission facilities in the state, but will continue to have some distribution facilities used to provide retail service in Arkansas. The requested certification change is simply part of the overall Transaction and should be granted in conjunction therewith.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the above and foregoing has been served upon counsel of record by forwarding the same by electronic mail and/or first class mail, postage prepaid, this 12th day of July, 2013.

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