

**AGREEMENT OF  
TRANSMISSION FACILITIES OWNERS TO ORGANIZE  
THE  
MIDWEST INDEPENDENT TRANSMISSION SYSTEM  
OPERATOR, INC., A DELAWARE NON-STOCK CORPORATION**

**AS ACCEPTED VERSION  
BY THE FEDERAL ENERGY REGULATORY  
COMMISSION**

**As of August 11, 2006**

**Exhibit B**

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**Article One**

THIS AGREEMENT, including all appendices attached hereto (hereinafter "Agreement"), is entered into by the undersigned owners of electric transmission facilities for the purpose of organizing the Midwest Independent Transmission System Operator, Inc., a Delaware non-stock corporation (hereinafter "Midwest ISO").

**ARTICLE ONE**

**DEFINITIONS**

**I. In General.**

Unless the context otherwise specifies or requires, the following terms used in this Agreement, or in any appendix to this Agreement, shall have the respective meanings set forth below. Additional terms are defined for convenience of reference in other provisions of this Agreement. When used in this Agreement, or in any appendix to this Agreement, such additional terms shall have the respective meanings set forth in such other provisions of this Agreement.

**A. Agency Agreement.** The agreement appended hereto as Appendix G which allows Non-transferred Transmission Facilities to be offered for transmission service under the Transmission Tariff.

**B. Effective Date.** The effective date as to any signatory to this Agreement is the date this Agreement is signed by the signatory, except as to Governmental Entities, as to whom this Agreement will become effective only upon fulfillment of the conditions specified in Article Seven, Paragraph C of this Agreement.

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**C. FERC.** The Federal Energy Regulatory Commission, or any successor agency.

**D. Funds Trust Agreement.** The Funds Trust Agreement among JPMorgan Chase Bank, N.A., Midwest Independent Transmission System Operator, Inc., and the Beneficiaries, as may be amended from time to time, under which agreement a trust is established and maintained for the receipt and distribution of revenues resulting from the provision of transmission services under the Transmission Tariff.

**E. Good Utility Practice.** Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather to be a range of acceptable practices, methods, or acts generally accepted in the region.

**F. He, Him, or His.** Includes "she," "her", or "hers", respectively.

**G. Member.** A person or business entity which is (i) an Eligible Customer, as defined in the Transmission Tariff, or (ii) an Owner, as defined herein, and which pays to the Midwest ISO, the non-refundable membership fees as required herein. Such person or entity shall be a Member during the period covered by the applicable membership fees unless earlier terminated pursuant to this Agreement.

**H. Non-owner Member.** A Member which is not an Owner.

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**I. Non-transferred Transmission Facilities.** The booked transmission facilities not identified in Appendix H to this Agreement which are the subject of the Agency Agreement.

**J. Owner.** A utility or other entity which owns, operates, or controls facilities for the transmission of electricity in interstate commerce (as determined by the Midwest ISO by applying the seven-factor (7-factor) test of the FERC set forth in FERC Order No. 888, 61 Fed. Reg. 21,540, 21,620 (1996), or any successor test adopted by the FERC) and which is a signatory to this Agreement. A public utility holding company system shall be treated as a single Owner for purposes of this Agreement. Each Owner shall pay the applicable membership fees and become a Member. Any termination of a utility's or entity's status as an Owner shall be determined pursuant to this Agreement.

**K. Transfer Date.** The date established pursuant to Article Two, Section X, Paragraph B of this Agreement.

**L. Transmission Tariff.** The transmission tariff on file with the FERC under which the Midwest ISO will offer transmission service, or any successor tariff.

**M. Transmission System.** The transmission facilities of the Owners which are committed to the operation of the Midwest ISO by this Agreement. These facilities shall include (i) all networked transmission facilities above 100 kilovolts (hereinafter "kV"); and (ii) all networked transformers where the two (2) highest voltages qualify under the voltage criteria of item (i) above. The facilities may also include other facilities

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that the Midwest ISO directs the Owner(s) to assign to it subject to the procedures set forth in Appendix B to this Agreement. The facilities comprising the Transmission System are identified in Appendix H to this Agreement. Appendix H shall be amended from time to time to reflect the addition of facilities to, or removal of facilities from, the Transmission System.

**N. User.** A Transmission Customer under the Transmission Tariff or an entity that is a party to a transaction under the Transmission Tariff.



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**ARTICLE TWO**

**ORGANIZATION AND GOVERNANCE OF THE MIDWEST ISO**

**I. Character Of The Organization.**

**A. Organization of Non-stock, Not-for-profit Corporation.**

1. This Agreement sets forth the terms and conditions pursuant to which the Midwest ISO shall be governed and, to the extent provided herein, pursuant to which it shall be operated.

2. The Midwest ISO is to be organized as a non-stock, not-for-profit corporation, pursuant to Title 8, Chapter 1 of the laws of the State of Delaware. The Midwest ISO is not to be organized for profit and shall be operated exclusively for the promotion of social welfare, in furtherance of the public policy reflected in the Order of the FERC approving this Agreement and FERC Order No. 888. The Midwest ISO intends to file an application with the Department of the Treasury, Internal Revenue Service, for recognition of exemption from federal taxation pursuant to Section 501 of the Internal Revenue Code of 1986, as amended, or a successor provision (hereinafter "Internal Revenue Code").

3. No part of the net earnings, if any, of the Midwest ISO shall inure to the benefit of any Midwest ISO Member, Director, Officer, employee, or any other interested private person. The Midwest ISO is authorized and empowered to pay reasonable compensation for services actually rendered and to make payments or

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distributions in furtherance of the purposes and objectives set forth in this Agreement, the attachments hereto, and the Transmission Tariff. No substantial part of the activities of the Midwest ISO shall be carrying on propaganda or otherwise attempting to influence legislation. The Midwest ISO shall not participate in or intervene in any political campaign on behalf of any candidate for public office.

4. Notwithstanding any other provision of this Agreement, if the Internal Revenue Service determines that the Midwest ISO qualifies as a tax-exempt, not-for-profit corporation, the Midwest ISO shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under the Internal Revenue Code, or successor provisions in any subsequent federal tax laws, or such other provision or successor provisions under which the Internal Revenue Service may recognize that the Midwest ISO is exempt from taxation. If the Midwest ISO does not qualify for such tax exemption, the Midwest ISO shall, consistent with its other obligations under this Agreement, minimize its federal and state tax obligations.

**B. Declaration.** By agreeing to and executing this Agreement, the Owners declare that (i) the Transmission System committed to the operation and control of the Midwest ISO, (ii) the Non-transferred Transmission Facilities, and (iii) all revenues from the provision of transmission service provided by the Midwest ISO shall be managed, administered, received, and collected, in the manner and subject to the terms and conditions set forth in this Agreement, any amendments to this Agreement, and the Funds Trust Agreement.

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**C. Appendices.** This Agreement shall include all appendices, and, in the event of a conflict between this Agreement and any appendix, the appendix shall prevail as the intent of the signatories. All appendices to this Agreement are incorporated into this Agreement and expressly made a part hereof. In the event of a conflict between this Agreement, including any appendices, and the Transmission Tariff, the Transmission Tariff shall prevail as the intent of the signatories.

**D. Purpose of Authorization.** The authorization granted by the Owners to the Midwest ISO, subject to the terms of this Agreement, shall be sufficient to commit the operation and control of the Transmission System to the Midwest ISO for the following three purposes: (i) providing non-discriminatory open access transmission service over the Transmission System to transmission customers, including the Owners, who may lawfully request such service pursuant to a single tariff filed with the FERC; (ii) receiving funds associated with transmission services from transmission customers solely as agent for the Owners or their designee(s) and distributing such funds to the Owners or their designee(s) in accordance with this Agreement, Appendix C to this Agreement, and the Funds Trust Agreement; and (iii) being responsible for regional system security, in accordance with the provisions of this Agreement. Such authorization shall be effective on the Transfer Date. With regard to the Non-transferred Transmission Facilities, the Midwest ISO shall have such authority as is provided for in the Agency Agreement attached hereto as Appendix G. During the Transition Period, as defined in Appendix C to this Agreement, the Owners reserve for

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themselves the right to use their own transmission facilities to the extent required to transmit electric power and energy to their customers being served under bundled rates comparable to firm service under the Transmission Tariff.

**E. Title to Remain with Owners.** Legal and equitable title to the respective properties comprising the Transmission System, including all land and land rights, and to all transmission facilities which they may hereafter build or acquire, in accordance with Appendix B to this Agreement, shall remain with each respective Owner (unless the Owner transfers title to another entity), and is not changed by this Agreement. The respective Owners shall retain all rights incident to such legal and equitable title, including, but not limited to, the right, subject to applicable federal or state regulatory approvals, to build, acquire, sell, dispose of, use as security, convey any part of their property, or use such property for purposes other than providing transmission services (such as the use of such property for telecommunications purposes), provided that the exercise of any such rights shall not impair the reliability of the Transmission System.

**F. Bylaws.** The Bylaws of the Midwest ISO shall at all times be consistent with this Agreement and any amendments thereto. Appendix F to this Agreement shall be the initial Bylaws of the Midwest ISO.

**II. Name, Location, And Start-up Functions.**

**A. Name.** The name of the corporation is the Midwest Independent Transmission System Operator, Inc., in which name it may make and execute contracts

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and all kinds of instruments, acquire and convey real or personal property, sue and be sued, and conduct business, all as provided by applicable law and pursuant to the terms and conditions of this Agreement.

**B. Principal Office.** The principal office of the Midwest ISO shall be determined by the initial Board of Directors.

**C. Place of Business.** The Board may establish such branch offices or places of business as it shall determine to be in the best interests of the Midwest ISO consistent with the provisions of Article Three, Section IV, Paragraph F of this Agreement.

**D. Start-up.** The Owners may select and employ a person or an entity (or persons or entities) to perform such administrative and start-up functions as in the Owners' judgment may be necessary or desirable until the Board is elected. Such person or entity shall serve in such capacity until the election of the initial Board, and, during such service, shall exercise the authority and perform the duties of the Board and the President.

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**III. Board Of Directors.**

**A. In General.**

1. Initial Board of Directors. There shall be a Board of Directors of the Midwest ISO (hereinafter sometimes referred to as "Board"), consisting of seven (7) persons plus the President. The initial Board shall be elected by the Members at their initial meeting as specified in Article Two, Section V, Paragraph B of this Agreement from a slate of candidates presented to them by an independent executive search firm chosen by a majority vote of the signatories to this Agreement, with each signatory having one vote. Such firm shall select such candidates consistent with the qualification requirements set forth in Subparagraph 2 of this Paragraph A. The slate shall include at least two (2) candidates with the appropriate type of qualifications for each Board position. Each Member shall be entitled to cast a single vote for each of the seven (7) positions on the Board from among the candidates for each position. The candidates with the most votes shall fill the Director positions for which they were nominated. In the event of a tie among the candidates for a Board position, one (1) of the candidates shall be selected by a drawing. Two (2) Directors shall hold office for one (1) year; two (2) Directors shall hold office for two (2) years; and the final three (3) Directors shall hold office for three (3) years; and, in each foregoing case, until their respective successors are duly elected and qualified, or until their earlier resignation or removal. At the first meeting of the initial Board, the Directors shall determine each of their respective terms hereunder by a drawing.

2. Qualifications. A Director shall not be, and shall not have  
been at any time

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within two (2) years prior to or subsequent to election to the Board, a director, officer, or employee of a Member, User, or an affiliate of a Member or User. At all times while serving on the Board, and for two (2) years thereafter, a Director shall have no material business relationship or other affiliation with any Member or User or an affiliate of a Member or User. A Director's participation in a pension plan of a Member or User or an affiliate thereof shall not be deemed to be a material business relationship as long as such pension plan is a defined benefit pension plan that does not involve ownership of the securities of the company sponsoring such plan. Similarly, a Director's ownership of securities in a Member or User or affiliate thereof shall not be deemed to be a material business relationship if such securities are held through a mutual fund, retirement fund, blind trust (as defined in Appendix A, Section II.E.6) or similar arrangement where the Director has no discretion to manage the assets in such an account. Of the seven (7) Directors, four (4) shall have expertise and experience in corporate leadership at the senior management or board of directors level, or in the professional disciplines of finance, accounting, engineering, or utility laws and regulation. Of the other three (3) Directors, one (1) shall have expertise and experience in the operation of electric transmission systems, one (1) shall have expertise and experience in the planning of electric transmission systems, and one (1) shall have expertise and experience in commercial markets and trading and associated risk management.

3. Succeeding Boards of Directors. After the election of the initial Board as provided above, succeeding Directors shall be elected to terms of three (3) years, except for any Director elected to fill a vacancy in the remainder of the

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term. Before the term of a Director expires, a nominating committee consisting of three Board Members whose terms are not expiring appointed by the Board and two members of the Advisory Committee selected by the Advisory Committee shall select an executive search firm to provide at least two (2) candidates to the nominating committee for each open Director position. Members may submit the names of candidates directly to the nominating committee. The Nominating Committee shall then provide at least two (2) candidates to the Board for each open position. The candidates for a specific Director position shall have the same type of qualifications as the Director being replaced, as set forth in Subparagraph 2 of this Paragraph A. At least thirty (30) days prior to the meeting of the Members at which the Directors will be elected, the Board shall distribute to the Members a slate of candidates consisting of one (1) candidate for each Director position to be filled. The Board shall also provide the Members with information on the qualifications and experience of the candidate to fill the Director seat for which each candidate is proposed. A candidate receiving a majority of the votes cast by the Members shall be elected. Should the Members fail to elect a candidate from the slate proposed by the Board, the Board shall prepare a new slate using the procedures set forth above for consideration by the Members at a meeting of the Members to be called no later than seventy-five (75) days after such election. Each Director shall serve until his successor shall have been duly elected and qualified, or until his earlier resignation or removal. Vacancies on the Board caused by a Director leaving office before the expiration



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of his term shall be filled by vote of the Board, which shall choose a candidate having the same type of qualifications as his predecessor from a list prepared by the nominating committee in consultation with an executive search firm chosen by the nominating committee. A Director selected to fill such a vacancy shall serve out the term of his predecessor.

4. Chairman of the Board. The Board shall select from among its members a Chairman of the Board. The Chairman shall serve in such capacity at the pleasure of the Board until the first meeting of the Board following the next succeeding annual meeting of the Members, or until his successor shall have been elected and have qualified. The Chairman of the Board shall, unless otherwise determined by the Board, preside over all meetings of the Board and Members, and shall sign, with the Secretary, certificates of membership, the issuance of which shall have been authorized by the Board. The Chairman shall perform all duties incident to the office of Chairman of the Board and such other duties as from time to time may be assigned to him by the Board.

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5. Vice Chairman. The Board shall select from among its members a Vice Chairman of the Board. The Vice Chairman shall serve in such capacity at the pleasure of the Board until its first meeting following the next succeeding annual meeting of the Members, or until his successor shall have been elected and have qualified. In the absence of the Chairman of the Board, or in the event of his inability or refusal to act, the Vice Chairman shall perform the duties of the Chairman of the Board, and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the Chairman of the Board. The Vice Chairman shall also perform such other duties as from time to time may be assigned to him by the Board.

6. Resignation of Directors. Any Director may resign his office by submitting a signed notice of resignation, delivered or mailed to the principal office of the Midwest ISO. Such notice of resignation shall indicate the effective date of the resignation. If it does not indicate an effective date, the resignation shall take effect upon receipt of the notice at the principal office of the Midwest ISO.

7. Removal of Directors.

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a. Removal by Members. The Members may remove a Director by a vote of a majority of the Members. Removal proceedings may only be initiated by a petition signed by not less than twenty percent (20%) of all Members. The petition shall state the specific grounds for removal. A copy of the petition shall be provided to the FERC and to each appropriate state regulatory authority. A Director sought to be removed shall be given fifteen (15) days to respond in writing to any charges set forth in the petition. The petition shall specify either that the removal vote shall be taken at the next regular meeting of the Members or at a special meeting of the Members at a designated date, place, and time.

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**B. Duties and Powers.**

1. General. The management of all the property, business, and affairs of the Midwest ISO shall be vested in the Board. The Board may exercise all of the powers of the non-stock corporation and do all lawful acts and things (including the adoption of such rules and regulations for the conduct of its meetings, the exercise of its powers, and the management of the Midwest ISO) as it may deem proper and consistent with applicable law, this Agreement, the Transmission Tariff, the articles of incorporation, and the Bylaws of the Midwest ISO, provided that authority for such actions is not reserved to the Members or Owners. Except as provided in Article Two, Section IX, Paragraphs B and C of this Agreement, the enumeration of specific duties and powers in this Agreement shall not be construed in any way as a limitation on the general powers intended to be conferred on the Board.

2. Bylaws and regulations. The Board shall have the obligation to adopt such bylaws, regulations, policies, and practices as are not inconsistent with this Agreement and the Transmission Tariff that it deems necessary or desirable for the conduct of the business of the Midwest ISO and for the governance of itself, the President, and all agents, employees, and representatives of the Midwest ISO, without undue discrimination.

3. Board oversight. The Board shall have responsibility to oversee the President's performance of the obligations of the Midwest ISO specified in Article Three of

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this Agreement. The performance of such obligations shall be carried out and executed by the President with oversight as appropriate by the Board. The Board shall establish general policies to be followed by the President and employees of the Midwest ISO in the conduct of their duties.

4. Standards of Conduct. The Directors shall comply with the Standards of Conduct set forth in Appendix A to this Agreement.

5. Collections and payments. The Board shall have the obligation to assure that the President accounts for all transactions on the Transmission System and other activities of the Midwest ISO; submits bills for such transactions; pays the expenses of operation of the Midwest ISO; collects monies for transmission service from customers solely as agent for Owners or their designee(s) in accordance with the Transmission Tariff; and distributes monies to the Owners or their designee(s) in accordance with this Agreement, any associated agreements referred to in this Agreement, the Funds Trust Agreement, and the Transmission Tariff.

6. Employ staff. The Board shall have the power to employ staff, auditors, counsel, and other personnel as necessary to carry out the business of the Midwest ISO and may delegate to the President all or part of such authority to employ such staff, auditors, counsel, and other personnel.

7. Board Committees. The Board may appoint such internal committees of the Board (hereinafter "Board Committees") as are necessary and

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appropriate for the conduct of the business of the Midwest ISO, provided that final responsibility for any action recommended by any such committee remains with the Board.

**C. Meetings of the Board.**

1. Meetings. Regular meetings of the Board shall be held at least quarterly, and other meetings shall be held from time to time on the call of the President, Chairman, or a majority of the Board. A Director may participate in a meeting personally or by electronic means. Written notice of the date, location, and time of each meeting of the Board must be provided by first-class mail or by telefacsimile to each Director no later than seven (7) calendar days prior to the date of the meeting. Participation in a meeting by a Director is a waiver of any objection that the Director may make to any failure to give adequate notice under this provision. Any action required or permitted to be taken at any meeting of the Board, or of any Board Committee, may be taken without a meeting if all Directors or Board Committee members, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or Board Committee. Consistent with this Agreement, the Board shall have all procedural authority provided and options available under Title 8 of the Delaware Corporation Law, section 141.

2. Voting. Five (5) Directors shall constitute a quorum of the Board. Except as provided in Article Two, Section VIII, Paragraph C, Subparagraph 5 of this

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Agreement, the affirmative vote of a majority of the Directors present at a meeting is required to constitute any act or decision rendered by the Board.

3. Accounting. At each quarterly meeting of the Board, or such other time as the Board directs, the Board shall require the President to submit for Board approval a full statement of the conditions of the Midwest ISO, and all business transacted by it, and, when the statement is approved, shall cause a copy of it to be sent to each Member.

4. Minutes and reports. The Board shall cause to be kept by the Secretary, elected by it, a record of all meetings of the Board, Members, and Board Committees. Insofar as non-Members of the Midwest ISO are concerned, these records shall be conclusive for the Board of the facts and activities stated and recorded therein.

### **D. Compensation of Directors; Reimbursement of Expenses**

1. Director compensation. Directors shall receive from the Midwest ISO such compensation, regular or special, as is set pursuant to this provision. The independent executive search firm chosen to select a slate of candidates for election for Director positions shall set Director compensation following such election, subject to approval of the Members. If two-thirds (2/3) or more of the Members vote to reject the search firm's recommended compensation, then the recommended compensation shall be rejected. In establishing the compensation for the initial Board, if there are not yet Members, then a vote of two-thirds (2/3) or more of the signatories to this Agreement shall



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be required to reject the search firm's recommended compensation. If the recommended compensation is rejected, then the search firm shall be requested to submit another recommendation or another search firm may be hired for such purpose.

2. Expenses. Directors, and their successors and assigns, shall have the right to reimbursement by the Midwest ISO for all of their actual expenses reasonably incurred or accrued in the performance of their duties as Directors of the Midwest ISO.

**IV. Officers Of The Midwest ISO.**

**A. Titles.** The Officers of the Midwest ISO shall be the President, one or more Vice Presidents (in the discretion of the Board), and a Secretary.

**B. Election and Term of Office.** The Officers of the Midwest ISO shall be elected from time to time by the Board. Each Officer shall hold office at the pleasure of the Board.

**C. Removal of Officers by Directors.** Any Officer may be removed by the Board whenever, in the Board's judgment, the best interests of the Midwest ISO will be served thereby.

**D. President.** The President shall serve on the Board of the Midwest ISO. The President may vote on any matter presented at a Board meeting except when the President's vote would create a tied Board vote. In that circumstance, the President shall be barred from voting. The President also may not vote on the selection of, or continued employment of, the President or on the President's compensation. The President shall be

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included in the determination of a quorum of the Board for any meeting of the Board and in the determination of a majority vote of the Board for any purpose. The duties of the President are as follows:

1. Right of President to manage. The right of the President to exercise functional control over the operation of the Transmission System, insofar as is necessary to carry out the rights, duties, and obligations of the Midwest ISO as set forth in this Agreement, shall be absolute, unconditional, and free from the control and management of the Owners, who shall have only the rights specifically set forth in this Agreement. The President shall have the authority to act for the Midwest ISO before any and all applicable federal or state regulatory authorities to carry out the business of the Midwest ISO.

2. General powers. The President shall possess and exercise any and all such additional powers as are reasonably implied from the powers contained in this Agreement such as may be necessary or convenient in the conduct of any business or enterprise of the Midwest ISO. The President may (i) do and perform everything that (a) he deems necessary, suitable, or proper for the accomplishment of any of the purposes, or the attainment of any one or more of the objectives, enumerated in this Agreement, or (b) that shall at any time appear conducive to, or expedient for, the protection or benefit of the Midwest ISO, and (ii) do and perform all other acts or things that are deemed necessary or incidental to the purposes set forth in this Agreement.

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3. Acquire property. The President shall have power to purchase, or otherwise acquire through leases, such property, except for transmission facilities which shall be governed by Appendix B to this Agreement, as necessary to carry out the obligations of the Midwest ISO as specified in Article Three of this Agreement.

4. Prosecute claims. The President shall have full and exclusive power and authority to demand, sue for, claim, and receive any and all revenues and monies due the Midwest ISO.

5. Borrow. The President shall have the power to borrow money up to the level authorized by the Board for the purposes of the Midwest ISO and to give the obligations of the Midwest ISO to secure such indebtedness.

6. Contracts. The President shall have the authority and power to make all such contracts as he may deem expedient and proper in conducting the business of the Midwest ISO, except as may be limited by the Board.

7. Taxes and assessments. The President shall have the power (i) to pay all taxes or assessments of whatever kind or nature imposed upon or against the Midwest ISO in connection with the Midwest ISO property, or upon or against the Midwest ISO property, or any part of such property; (ii) to do all acts and things as may be required or permitted by any present or future law for the purpose of making the activities of the Midwest ISO exempt from taxation; and, (iii) for any of the above-stated purposes, to do all such other acts and things as may be deemed by him necessary or desirable.

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8. Depository. In accordance with policies set by the Board, and subject to any limitations set forth in this Agreement or the Funds Trust Agreement, the President shall have the power to select a depository, and to deposit any monies or securities held by the Midwest ISO in connection with the performance of its obligations under this Agreement, with any one or more banks, trust companies, or other banking institutions deemed by the President to be responsible, such monies or securities to be subject to withdrawal on notice upon demand or in such manner as the President may determine, with no responsibility upon the President for any loss that may occur by reason of the failure of the person with whom the monies or securities had been deposited properly to account for the monies or securities so deposited.

**E. Vice President.** The Vice President or, if there be more than one, the Vice President designated by the Board, shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. Each Vice President shall exercise such other powers and perform such other duties as shall be prescribed by the Board consistent with this Agreement. No Vice President shall be eligible to serve on the Board of the Midwest ISO except when performing the duties of the President as above provided.

**F. Secretary.** The Secretary shall be responsible for the following duties:

1. Keeping the minutes of the applicable meetings in one or more books provided for that purpose;

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2. Seeing that all notices are duly provided in accordance with this Agreement, policies of the Midwest ISO, and any and all other documents which provide for the governance of the Midwest ISO;

3. Maintaining custody of the records of the business of the Midwest ISO and the seal of the Midwest ISO, and affixing such seal to all certificates of membership prior to the issuance thereof and to all documents, the execution of which, on behalf of the Midwest ISO, under its seal, is duly authorized in accordance with the provisions of this Agreement;

4. Keeping a register of the names and post office addresses of all Members and Directors;

5. Signing with the Chairman of the Board certificates of membership, the issuance of which shall have been authorized by the Board;

6. Keeping on file at all times at the principal office of the Midwest ISO a complete copy of this Agreement, and all amendments thereto, together with the corporate Bylaws and any policies concerning the governance of the Midwest ISO, and, at the expense of the Midwest ISO, forwarding or otherwise making available copies of such information to each of the Members and to the public to the extent required by law; and generally performing all duties instant to the office of Secretary and such other duties that, from time to time, may be assigned to the Secretary by the Board.

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**G. Standards of Conduct.** The Officers, agents, and employees of the Midwest ISO shall comply with the Standards of Conduct set forth in Appendix A to this Agreement.

**H. Bonds of Officers.** Any Officer, employee, or agent of the Midwest ISO charged with the responsibility for the custody of any of its funds or property may be required to give bond in such sums, and with such sureties, as the Board shall determine. The Board, in its discretion, may also require any other Officer, agent, or employee of the Midwest ISO to give bond in such amount, with such surety, as it shall determine. All premiums of the aforesaid bonds shall be paid by the Midwest ISO.

**I. Compensation.** Compensation of the Officers, agents, and employees of the Midwest ISO shall be established by the Board or pursuant to the policies approved by the Board.

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**V. Members.**

**A. General Provisions.**

1. Application for membership. New Members may join the Midwest ISO upon submittal of an application in a form approved by the President (or the person designated pursuant to Article Two, Section II, Paragraph D of this Agreement), and payment of the fees set forth in Article Six of this Agreement. Action upon any application for membership shall be taken at the first meeting of the Board pursuant to Article Two, Section III, Paragraph C of this Agreement following submission of the application, except as otherwise provided in Article Two, Section II, Paragraph D of this Agreement.

2. Owner status. A new Member may join as an Owner, provided that it (i) owns, operates, or controls facilities used for the transmission of electricity in interstate commerce (as determined by the Midwest ISO by applying the seven-factor (7-factor) test set forth in FERC Order No. 888, 61 Fed. Reg. 21,540, 21,620 (1996), or any successor test adopted by the FERC or the state regulatory authority) that are physically interconnected with the facilities of an existing Owner; (ii) agrees to sign this Agreement, to be bound by all of its terms, and to make any and all payments or contributions required by this Agreement; and (iii) agrees to sign the Funds Trust Agreement, to be bound by all of its terms, and to make any and all payments or contributions required under the Funds Trust Agreement if and/or when the Member receives revenues from transmission service, and prior to the existence of any right of

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the Member to receive revenues from transmission service under the Transmission Tariff executes the Funds Trust Agreement.

Upon fulfillment of these conditions, and upon completion of any physical integration of the new Owner's facilities with the Transmission System in a fashion consistent with the President's direction, the Board shall allow the new Member to become a signatory to this Agreement. In general, an Owner must own,



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operate, or control interstate transmission facilities as detailed above; however, on a case-by-case basis, the Board may waive the requirement that such facilities be physically interconnected if allowing the Member also to become an Owner will result in significant net benefits to the Midwest ISO and its Members.

3.     Subject to Agreement. The rights of Members in the Midwest ISO shall be subject to all of the terms and conditions of this Agreement.

4.     Manage or control by Members. No Member shall have any rights to manage or control the property, affairs, or business of the Midwest ISO, or any power to control the Directors in these respects.

5.     Partition rights. No Member shall have any right to a partition of the property of the Midwest ISO during the continuance of the Midwest ISO; any partition shall be subject to all laws applicable to Delaware non-stock corporations and, in the event the Midwest ISO is exempt from taxation under any law, in accordance with all laws applicable to such exemption.

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**B. Members' Meetings; Elections.**

1. Meeting times. The Members shall hold their initial meeting at the principal office of the Midwest ISO, or other location designated by the Board, or by the person or entity selected pursuant to Article Two, Section II, Paragraph D of this Agreement, on the date designated by the Board or such person or entity, and shall hold meetings at such location on the third Monday of the same month each year thereafter, or such other day of said month as may be designated by the Board, for the purpose of electing Directors and of exercising and discharging any other powers or duties vested in them by this Agreement. Members shall hold their initial meeting on July 1, 1998, or as soon thereafter as is reasonably practical; provided, however, that the signatories to this Agreement, by majority vote (with each signatory having one vote), may extend this date if there exists significant uncertainty as to whether this Agreement will obtain necessary regulatory and tax approvals in a form satisfactory to the signatories by July 1, 1998.

2. Special meetings. After the Members' initial meeting, the Board or any twenty-five percent (25%) of the Members may call a special meeting of the Members at any time.

3. Notification. The Secretary shall provide notice to appropriate state regulatory authorities, the FERC, the members of the Board Advisory Committee (established pursuant to Section VI of this Article Two), and the public by posting on the Midwest ISO's Internet World-Wide Web Site or equivalent form of electronic posting at

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least seven (7) days prior to the meeting, of the time and place of all meetings of Members, whether regular or special.

4. Notification to Members. Notice mailed or sent by telefacsimile no later than seven (7) days prior to the date of the meeting, directed to the Member at the address as shown on the books of the Midwest ISO, shall be deemed sufficient for the provisions of this paragraph and for all other purposes, unless written notice of change of such address has been previously given to the Midwest ISO. In the case of special meetings, the Secretary shall also give notice to all Members of the general purpose of the meeting and the nature of the business to be considered at such meeting. Such a special meeting shall be limited to the business thus specified in the call, unless at least twenty-five percent (25%) of the Members consent in writing to the consideration of other matters. The Members of record eligible to participate in any meeting shall be determined as of the date notice of the meeting is provided to the Members.

5. Voting. At all meetings of Members, the Chairman, or such other person as may be designated by the Board, shall preside. Each Member shall be entitled to one vote, and Members may vote by proxy. Twenty-five percent (25%) of the Members, or their proxies, shall constitute a quorum for the purpose of any such meeting. The Board shall review from time to time the quorum requirements. Except where it is otherwise provided in this Agreement, a vote of a majority of the Members represented and voting at the meeting shall control.

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**C. Limited Liability.** All persons dealing with, or having any claim against, any Director, Officer, agent, or employee of the Midwest ISO acting on behalf of the Midwest ISO shall look only to the Midwest ISO for the payment of any debt, claim, damage, judgment, or decree of the Midwest ISO, or of any money or thing that may become due or payable in any way by the Midwest ISO, whether founded on contract or tort, and the Members shall not be personally or individually liable for any such debt, claim, damage, judgment, or decree.

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**VI. External Committees.**

**A. Advisory Committee.**

1. At all times there shall exist an Advisory Committee to the Board consisting of a total of twenty-three representatives from the following stakeholder groups chosen as follows: (i) three (3) representatives of Owners, with one (1) seat assigned to an Owner who was a member of the Mid-Continent Area Power Pool ("MAPP") as of March 1, 2000; (ii) three (3) representatives of municipal and cooperative electric utilities and transmission-dependent utilities, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000; (iii) three (3) representatives of independent power producers (hereinafter "IPPs") and exempt wholesale generators (hereinafter "EWGs"), with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (iv) three (3) representatives of power marketers and brokers, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (v) three (3) representatives of eligible end-use customers, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (vi) three (3) representatives of state regulatory authorities, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in

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the MAPP region (as it existed on March 1, 2000); (vii) two (2) representatives of public consumer groups, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (viii) two representatives of environmental and other stakeholder groups, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); and (ix) one (1) representative of Members who, being legally unable to transfer operational control to the Midwest ISO, have entered into coordination or agency agreements with the Midwest ISO ("Coordination Members"). The Board may revise or expand the stakeholder groups as circumstances and industry structures change. The Board shall be responsible for facilitating meetings of the Advisory Committee, which shall be held at least quarterly. At such quarterly meetings, the President and at least two (2) other members of the Board shall meet with the Advisory Committee. Upon request of the Advisory Committee, Board members and the President shall use their best efforts to attend other Advisory Committee meetings. The Advisory Committee shall be a forum for its members to be apprised of the Midwest ISO's activities and to provide information and advice to the Board on policy matters of concern to the Advisory Committee, or its constituent stakeholder groups, but neither the Advisory Committee nor any of its constituent groups shall exercise control over the Board or the Midwest ISO. Nothing in this Agreement shall prohibit a corporate or other entity from participating in more than one

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stakeholder group provided it meets the approved eligibility criteria. The reports of the Advisory Committee and any minority reports shall be presented by the President to the Board. The Board shall determine how and when it shall consider and respond to such reports. The President shall inform the Advisory Committee of any Board determination(s) with respect to such report.

2. Members of the Advisory Committee shall be selected in the following manner:

a. The Owners' representatives on the Advisory Committee shall be selected in accordance with Article Two, Section VI, Paragraph B of this Agreement.

b. The representatives of municipal and cooperative electric utilities and transmission-dependent utilities, IPPs and EWGs, power marketers and brokers, eligible end-use customers, and Coordination Members on the Advisory Committee shall be chosen by the Members belonging to such groups. Such Member groups shall propose to the Board their own methods of eligibility and voting. Approval by the Board of such procedures shall not be unreasonably withheld.

c. The representatives of state regulatory authorities on the Advisory Committee shall be chosen by the state public service commissions which regulate the retail electric or distribution rates of the Owners who are signatories to this Agreement.

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d. The representatives of public consumer groups and environmental and other stakeholder groups on the Advisory Committee shall be chosen by recognized consumer, environmental, and other stakeholder organizations having an interest in the activities of the Midwest ISO. The Board shall certify the organizations eligible to participate in the selection of such representatives to the Advisory Committee. Such certification shall not unreasonably be withheld. The groups so certified shall propose to the Board their own methods of eligibility and voting. Approval of such procedures shall not unreasonably be withheld.

e. Meetings of the constituent stakeholder groups represented on the Advisory Committee need not be open to the public.

**B. Owners' Committee.** An Owners' Committee shall exist throughout the period of this Agreement. The Owners' Committee shall consist of one (1) person representing each of the Owners who are signatories to this Agreement. The Owners' Committee shall meet at its discretion to exercise the authority granted to the Owners as a group under this Agreement pursuant to Article Two, Section IX, Paragraph C of this Agreement. The Owners' Committee shall select three (3) representatives to serve on the Advisory Committee established pursuant to Article Two, Section VI, Paragraph A of this Agreement.



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**VII. Open Meetings.**

**A. In General.** Except as provided herein, all meetings of the Board, all meetings of committees (also sometimes referred to herein as “internal committees”) and working groups of the Board (hereinafter “Board Committees and working groups”), all meetings of the Advisory Committee and all Members’ meetings convened under Article Two, Section V, Paragraph B of this Agreement, shall be open to the public. Timely notice of such meetings and copies of all materials to be addressed at such meetings shall be provided to the members of the Advisory Committee, appropriate state regulatory authorities, and the FERC and posted on the Midwest ISO’s Internet World-Wide Web site or equivalent form of electronic posting. The procedures adopted by the Board for the conduct of such meetings shall allow interested members of the public, including those stakeholders represented on the Advisory Committee, to provide oral and written comments at such meetings concerning any matter that may come before the Board, Board Committees and working groups, Advisory Committee, or Members, whichever is applicable, during the open portion of such meetings.

**B. Availability of Minutes.** The meeting minutes of all meetings of the Board, Board Committees and working groups, Advisory Committee, and Members addressed in Paragraph A of this Section VII shall be made available to the public and furnished to appropriate state regulatory authorities and the FERC, upon request; provided, however, that materials or information which is privileged or confidential pursuant to Paragraph C of

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this Section VII may be redacted from such minutes. Copies of executed or final documents, such as contracts, leases, and agreements, not otherwise required to be treated as confidential, shall be made available for review. In the event the basis for information being treated as confidential ceases to exist, said information shall thereafter be available for review.

**C. Executive Sessions to Preserve Confidentiality.** Executive sessions (closed to the public) shall be held as necessary to safeguard the confidentiality of (i) personnel-related information; (ii) information subject to the attorney-client privilege or to confidential treatment under the attorney-work product doctrine or concerning pending or threatened litigation; (iii) information that is confidential under Appendix A to this Agreement; (iv) consideration of assumption of liabilities, business combinations, or the purchase or lease of real property or assets; (v) except as may be required by law, consideration of the sale or purchase of securities, investments, or investment contracts; (vi) strategy and negotiation sessions in connection with a collective bargaining agreement; (vii) discussion of emergency and security procedures; (viii) consideration of matters classified as confidential by federal or state law; (ix) matters to protect trade secrets, proprietary information, specifications for competitive bidding, or to discuss a specific proposal if open discussion would jeopardize the cost or siting or give an unfair competitive or bargaining advantage to any person or entity; and (x) discussion of proceedings by the Alternate Dispute Resolution Committee established under Appendix D to this Agreement.

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**VIII. Due Diligence, Limited Liability, And Indemnification.**

**A. Due Diligence Duties.** It shall be the duty of Directors, Officers, employees, agents, and other representatives of the Midwest ISO (i) to faithfully and diligently administer the Midwest ISO as would reasonable and prudent persons acting in their own behalf; (ii) to keep correct and accurate records of all business transacted; (iii) to exercise prudence and economy in the business of the Midwest ISO, including the minimization of tax liability if the Midwest ISO is not tax-exempt; (iv) to act in good faith, and only for the best interests of the Midwest ISO; (v) to annually render a full and correct account of the Midwest ISO business; and (vi) at the termination of the Midwest ISO, to render and to deliver all the properties and funds of the Midwest ISO in accordance with this Agreement and applicable law.

**B. Limitations on Liability.** No Director, Officer, agent, employee, or other representative of the Midwest ISO, and no corporation or other business organization that employs a Director of the Midwest ISO, or any Director, Officer, agent, or employee of such corporation or other business organization, shall be personally liable to the Midwest ISO, any Member, or any User for any act or omission on the part of any such Director, Officer, agent, employee, or other representative of the Midwest ISO, which was performed or omitted in good faith in his official capacity as a Director, Officer, agent, employee, or other representative of the Midwest ISO pursuant to the operation of this Agreement, or in any other capacity he may hold, at the request of the Midwest ISO, as its

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representative in any other organization. However, this release of liability shall not operate to release such a Director, Officer, agent, employee, or other representative of the Midwest ISO from any personal liability resulting from willful acts or omissions knowingly or intentionally committed or omitted by him in breach of this Agreement, for improper personal benefit, or in bad faith. Directors, Officers, agents, employees, or other representatives of the Midwest ISO also shall not be personally liable for any actions or omissions of others, including Owners, whose actions or omissions may relate to the Midwest ISO, or any property or property rights forming, or intended or believed to form, part of the Midwest ISO's property, or for any defect in the title to, or liens or encumbrances on, any such property or property rights.

**C. Indemnification.** It is the intent of the Midwest ISO to indemnify its Directors, Officers, agents, employees, or other representatives to the maximum extent allowed by law consistent with this Agreement. Each Director, Officer, agent, employee, or other representative of the Midwest ISO shall be indemnified by the Midwest ISO against all judgments, penalties, fines, settlements, and reasonable expenses, including legal fees, incurred by him as a result of, or in connection with, any threatened, pending or completed civil, criminal, administrative, or investigative proceedings to which he may be made a party by reason of his acting or having acted in his official capacity as a Director, Officer, agent, employee, or representative of the Midwest ISO, or in any other capacity which he

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may hold at the request of the Midwest ISO, as its representative in any other organization, subject to the following conditions:

1. Such Director, Officer, agent, employee, or other representative must have conducted himself in good faith and, in the case of criminal proceedings, he must have had no reasonable cause to believe that his conduct was unlawful. When acting in his official capacity, he must have reasonably believed that his conduct was in the best interests of the Midwest ISO, and, when acting in any other capacity, he must have reasonably believed that his conduct was at least not opposed to the best interests of the Midwest ISO.

2. If the proceeding was brought by or on behalf of the Midwest ISO, however, indemnification shall be made only with respect to reasonable expenses referenced above. No indemnification of any kind shall be made in any such proceeding in which the Director, Officer, agent, employee, or other representative shall have been adjudged liable to the Midwest ISO.

3. In no event, however, will indemnification be made with respect to any described proceeding which charges or alleges improper personal benefit to a Director, Officer, agent, employee, or other representative and where liability is imposed upon him on the basis of the receipt of such improper personal benefit.

4. In order for any Director, Officer, agent, employee, or other representative to receive indemnification under this provision, he shall vigorously assert

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and pursue any and all defenses to those claims, charges, or proceedings covered hereby which are reasonable and legally available and shall fully cooperate with the Midwest ISO or any attorneys involved in the defense of any such claim, charges, or proceedings on behalf of the Midwest ISO.

5. No indemnification shall be made in any specific instance until it has been determined by the Midwest ISO that indemnification is permissible in that specific case, under the standards set forth herein and that any expenses claimed or to be incurred are reasonable. These two (2) determinations shall be made by a majority vote of at least a quorum of the Board consisting solely of Directors who were not parties to the proceeding for which indemnification or reimbursement of expenses is claimed. If such a quorum cannot be obtained, a majority of at least a quorum of the full Board, including Directors who are parties to said proceeding, shall designate a special legal counsel who shall make said determinations on behalf of the Midwest ISO. In making any such determinations, the termination of any proceeding (except proceedings referred to in Article Two, Section VIII, Paragraph C, (2) of this Agreement) by judgment, order, settlement, conviction, or upon plea of *nolo contendere*, or its equivalent, shall not, in and of itself, be conclusive that the person did not meet the standards set forth herein.

6. Any reasonable expenses, as shall be determined above, that have been incurred by a Director, Officer, agent, employee, or other representative who has been made a party to a proceeding as defined herein, may be paid or reimbursed in

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advance upon a majority vote of a quorum of the full Board, including those who may be a party to the same proceeding. However, such Director, Officer, agent, employee, or other representative shall have provided the Midwest ISO with (i) a written affirmation under oath that he, in good faith, believes that he has met the conditions for indemnification herein, and (ii) a written undertaking that he shall repay any amounts advanced, with interest accumulated at a reasonable rate, if it is ultimately determined that he has not met such conditions. In addition to the indemnification and reimbursement of expenses provided herein, the President shall, if reasonably practical, purchase insurance that would protect the Midwest ISO, its Directors, Officers, agents, employees, or other representatives against reasonably expected liabilities and expenses arising out of the performance of their duties for the Midwest ISO.

**D. Reliance on Information Provided.** In addition to and without limiting the provisions contained in Paragraph B of this Section VIII, Directors, Officers, agents, employees, or other representatives of the Midwest ISO shall be fully protected in, and shall incur no personal liability to the Midwest ISO or its Members for acting on any notice, request, consent, certificate, affidavit, statement, resolution, or other instrument, paper, or document believed in good faith by them to be genuine and to be signed and certified by the person stated in such instrument, paper, or document to be familiar with the facts set forth in such instrument, paper, or document. Directors, Officers, agents, employees, or other representatives may, however, in their sole discretion, require any such instrument,

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paper, or document to be sworn to, before their acceptance of such instrument, paper, or document, or before any duty shall devolve on them to act on such instrument, paper, or document. Directors, Officers, agents, employees, or other representatives may also reasonably rely upon information provided by professionals and consultants of the Midwest ISO within the area of their expertise, provided such reliance is undertaken in good faith.

**E. Annual Report.** The Board shall annually make a written report showing the financial results of the Midwest ISO's operations during the preceding fiscal year. A copy of such report shall be furnished to each Member.



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**IX. Amendments.**

**A. Amendments by Board.** Except as provided in Article Two, Section IX, Paragraphs B and C of this Agreement, this Agreement, including all appendices, may be amended by the Board from time to time, subject to the receipt of any necessary federal and state regulatory approvals. The provisions of this Paragraph A cannot be amended except by unanimous vote of the Owners who are signatories to this Agreement.

**B. Amendments Requiring Approval of Owners.** The provisions of Paragraph C of this Section IX are regarded as basic to the Owners' bargain in surrendering operation of their transmission facilities to the Midwest ISO as provided herein, and, therefore, cannot be amended except by vote of the Owners who are signatories to this Agreement, in the manner specified in Paragraph C and subject to the receipt of any applicable federal and state regulatory approvals. The provisions of this Paragraph B cannot be amended except by unanimous vote of the Owners who are signatories to this Agreement.

**C. Amendments by Owners.** The matters referred to in Subparagraph 6 of this Paragraph C may be changed by action of the Owners, as set forth in such Subparagraphs, without approval by the Board, subject to the receipt of any necessary federal and state regulatory approvals. The matters referred to in Subparagraphs 1 through and including 5 and 8 of this Paragraph C may be changed by action of the

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Owners, as set forth in such Subparagraphs, with approval by the Board, subject to the receipt of all necessary federal and state regulatory approvals. Subparagraph 7 of this Paragraph C may be changed only pursuant to Article V, Section H of Appendix K.

1. Ownership rights. The ownership rights set forth in Article Two, Section I, Paragraph E of this Agreement shall not be changed except by unanimous vote by the Owners.

2. Board. The qualifications for, and total number of Directors on, the Board, as set forth in Article Two, Section III of this Agreement, shall not be changed for a period of five (5) years following the Transfer Date except by unanimous vote of the Owners. Thereafter, the qualifications and total number of Directors may be changed by action of the Board, subject to approval by the FERC, without approval by the Owners.

3. Duties. The relationship established pursuant to Article Three, Section III, Paragraph A of this Agreement, and the duties specified in Article Three, Section III, Paragraphs B, C, and D of this Agreement, shall not be changed except by unanimous vote of the Owners.

4. Access to books and records. The right of the Owners, individually and collectively, to have access to the books and records of the Midwest ISO, as established pursuant to Article Three, Section IV, Paragraph C of this Agreement, shall not be changed except by unanimous vote of the Owners.

5. Compliance with requirements. The responsibility of the Midwest ISO to comply with the guidelines, standards, policies, rules, regulations, orders, license

## Article Two

conditions, and all other requirements of the North American Electric Reliability Council applicable regional reliability councils, or any successor organizations, applicable federal regulatory authorities, including the Nuclear Regulatory Commission and the FERC or any successor authorities, and state regulatory authorities, as set forth in Article Three, Section I, Paragraph A of this Agreement, shall not be changed except by unanimous vote of the Owners.

6. Revenue distribution and methodology and return of start-up costs**Error! Bookmark not defined..** The distribution of transmission service revenues collected by the Midwest ISO and the methodology for determining such distribution, as set forth in Appendix C to this Agreement, and the return of start-up costs, provided for in Appendix C to this Agreement, also shall not be changed except by unanimous vote of the Owners.

7. Filing Rights of Owners and the Midwest ISO Pursuant to Section 205 of the Federal Power Act. The rights of the Owners and the Midwest ISO to make filings pursuant to section 205 of the Federal Power Act shall be governed by the provisions of Appendix K to this Agreement.

8. Withdrawal rights. The withdrawal rights set forth in Articles Five and Seven of this Agreement shall not be changed except by unanimous vote by the Owners.

**Article Two**

**X. Duration And Termination.**

**A. Period.** Except with respect to Governmental Entities, as defined in Article Seven, Section C, this Agreement shall continue for a period of thirty (30) years from the earliest Effective Date for any signatory to this Agreement. Thereafter, it shall be renewed for successive five-year (5-year) terms unless, no later than two years prior to the end of any term, a majority of the Owners vote not to renew this Agreement. Notwithstanding any other provisions of this Agreement, the appendices thereto or the Transmission Tariff, as to Governmental Entities, who become signatories to this Agreement, the initial term of the Agreement shall begin as of the Effective Date applicable to the Governmental Entity, as provided in Article One, Section 1, through and including December 31 of the calendar year of execution. Thereafter, as to such Governmental Entities, this Agreement shall have a term of one (1) year and shall be automatically renewed for successive one (1) year terms; provided, however, that either the Midwest ISO or such Governmental Entity may cancel this Agreement at the end of each one (1) year term, including the initial term, without cause upon prior written notice to the other party at least thirty (30) days prior to the expiration of the then current term.

**Article Two**

**B. Transfer Date.** The transfer of operational control of the Transmission System from the respective Owners to the Midwest ISO pursuant to this Agreement shall not take place until the Midwest ISO can demonstrate that it is functionally able and ready to take over the provision of transmission service under the Transmission Tariff from the Owners. To reach this end, the Midwest ISO shall move as quickly as is reasonably practical to take the actions necessary for the Midwest ISO to begin providing such transmission services. The President shall notify the Owners of the date (hereinafter "Transfer Date") when such transfer is proposed to take place. The President shall provide, no later than sixty (60) days prior to the proposed Transfer Date, a technical demonstration of the ability of the Midwest ISO to perform such functions. Following such technical demonstration, the Owners' Committee may, by majority vote, postpone the Transfer Date if the technical demonstration raises reasonable concerns as to whether the Midwest ISO is capable of taking over the provision of transmission service from the Owners.

**Article Two**

**C. Interim Operations.** Nothing in this Agreement shall preclude the Midwest ISO from providing transmission service before it possesses the capability to implement full operations and responsibilities as described in this Agreement, provided that the Midwest ISO shall begin such “interim operations” only if all of the Owners agree. Both the Owners and the Midwest ISO shall investigate such interim operations.

**D. Withdrawal Notification.** An Owner may withdraw from the Midwest ISO at any time, but only upon notice as provided in Article Five, Sections I and IV, and Article Seven of this Agreement.

**E. Termination.** Upon the termination of the Midwest ISO, the Board shall, consistent with applicable federal and state regulatory requirements, liquidate the Midwest ISO, wind up its affairs, and dispose of its property and assets in the manner required by Delaware law applicable to non-stock corporations. Furthermore, in the event that the Midwest ISO is determined to be exempt from taxation by the Internal Revenue Service or any state governmental authorities, then such disposition shall be in accordance with all laws applicable to entities subject to the exemption granted.

**Article Three**

**ARTICLE THREE**

**RIGHTS, POWERS, AND OBLIGATIONS OF THE MIDWEST ISO**

**I. Operation And Planning.**

**A. Functional Control.** By this Agreement, each of the Owners authorizes the Midwest ISO to exercise functional control over the operation of the Transmission System as necessary to effectuate transmission transactions administered by the Midwest ISO. Such control shall be exercised in accordance with Good Utility Practice and shall conform to applicable reliability guidelines, policies, standards, rules, regulations, orders, license requirements and all other requirements of the North American Electric Reliability Council, applicable regional reliability councils, or any successor organizations, each Owner's specific reliability requirements and operating guidelines, and all applicable requirements of federal or state laws or regulatory authorities. Disputes regarding reliability requirements and operating guidelines may be resolved through the Dispute Resolution process provided for in Appendix D to this Agreement. Pending resolution of such disputes, the Owners' criteria shall be used by the Midwest ISO until the issue is resolved. The methods of functional control are set forth in more detail in Appendix E to this Agreement.

**Article Three**

**B. Reliability.** The Midwest ISO shall have responsibility for the reliability of the Transmission System in connection with its rights, powers, and obligations under this Agreement. The division of responsibility between the Midwest ISO and the Owners in maintaining the reliability of the Transmission System is set forth in more detail in Appendices B and E to this Agreement.

**C. Planning Activities.** The Midwest ISO shall engage in such planning activities as are necessary to fulfill its obligations under this Agreement and the Transmission Tariff. Such planning shall conform to applicable reliability requirements of the North American Electric Reliability Council, applicable regional reliability councils, or any successor organizations, each Owner's specific reliability requirements and operating guidelines, and all applicable requirements of federal or state laws or regulatory authorities. Such planning shall seek to minimize costs, consistent with the reliability and other requirements set forth in this Agreement. The division of responsibility between the Owners and the Midwest ISO for planning the Transmission System is set forth in more detail in Appendix B to this Agreement.

**D. Performance of Regulatory Obligations.** The Midwest ISO shall comply with existing transmission operation and planning obligations of an Owner, imposed by federal or state laws or regulatory authorities, which can no longer be performed solely by the Owner following transfer of functional control of its transmission facilities to the Midwest ISO, until such time as such obligations are changed or revised.



**Article Three**

**II. Non-discriminatory Transmission Service.**

**A. Type of Service.** The Midwest ISO shall offer transmission service over the entire Transmission System and over Non-transferred Transmission Facilities to all "Eligible Customers," as defined in the Transmission Tariff, including the Owners, on a non-discriminatory basis, pursuant to the Transmission Tariff and Agency Agreement attached hereto as Appendix G. The Transmission Tariff shall offer both network and point-to-point transmission service, as presently described in the FERC's pro-forma tariff adopted pursuant to FERC Order No. 888, 61 Fed. Reg. 21,540 (May 10, 1996), order on reh'g, Order No. 888-A, 62 Fed. Reg. 12,274 (March 14, 1997), or other forms of service pursuant to any superseding tariff. The Midwest ISO shall administer the Transmission Tariff.

**B. Pricing.** In connection with its administration of the Transmission Tariff, the Midwest ISO may propose to the FERC such transmission pricing for transmission service as is necessary to fulfill its obligations under this Agreement and may propose to the FERC such changes in prices, pricing methods, terms, and conditions as are necessary to continue to fulfill such obligations; provided, however, that the pricing approach set forth in Appendix C to this Agreement shall be changed only in accordance with Article Two, Section IX, Paragraphs B and C of this Agreement.

**Article Three**

**C. Standards of Conduct.** The Midwest ISO, its Directors, Officers, employees, contractors, and agents shall adhere to the Standards of Conduct set forth in Appendix A to this Agreement.

**D. OASIS.** The Midwest ISO shall implement an Open Access Same-time Information System or Systems (hereinafter sometimes referred to as "OASIS") or successor system(s) pursuant to the Transmission Tariff. The OASIS shall conform to the requirements for such systems as specified by the FERC.

**E. Ancillary Services.** The Midwest ISO shall offer, as part of the Transmission Tariff, such ancillary services as are required by the FERC to be offered. The Midwest ISO shall obtain such services from providers, in a manner which minimizes cost, consistent with its reliability responsibilities and other obligations under this Agreement. In obtaining such ancillary services, the Midwest ISO shall afford no undue preference or disadvantage to any supplier, including the Owners or their affiliates.

**Article Three**

**III. Responsibilities Of The Midwest ISO To The Owners.**

**A. Relationship.** The Midwest ISO and its Directors, Officers, employees, and agents shall have a custodial trust relationship to the Owners in performing the obligations set forth in Paragraphs B, C, and D of this Section III.

**B. Promise Not to Impair Value.** In performing their obligations under this Agreement, the Midwest ISO, its Directors, Officers, employees, and agents shall use their individual and collective best efforts to avoid physical damage to the Transmission System or any property of the Owners affected by the Midwest ISO's activities.

**C. Revenues.** All revenues for transmission service under the Transmission Tariff shall be received, held, used, managed, and distributed in accordance with this Agreement, the Funds Trust Agreement, and the Transmission Tariff.

**D. Duty to Maximize Revenues.** It shall be the duty of the Midwest ISO, its Directors, Officers, employees, and agents to maximize transmission service revenues associated with "Transmission Services," as defined in the Transmission Tariff, so as to most efficiently utilize the Transmission System as it exists at any given time consistent with Appendices B and E to this Agreement. The Board shall establish incentives for the Officers, employees, and agents of the Midwest ISO to meet this obligation.

**E. Revenue Distribution.** The Midwest ISO shall distribute on a monthly basis to each Owner or its designee(s) an amount determined in accordance with Appendix C to this Agreement.

**Article Three**

**IV. Additional Obligations.**

**A. Assume Liability.** With respect to the signatories to this Agreement, the Midwest ISO shall assume liability for any injury or damage to persons or property arising from the Midwest ISO's own acts or neglect, including the acts or neglect of its Directors, Officers, employees, agents, and contractors, and shall release, indemnify, and hold harmless each Owner, and the Owners as a group, from and against all damages, losses, claims, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising from the Midwest ISO's performance or neglect of its obligations under this Agreement, except in cases where, and only to the extent that, the gross negligence or intentional wrongdoing of an Owner, or the Owners as a group, contributes to the claimed injury or damage.

**B. Dispute Resolution.** The Midwest ISO shall resolve disputes between and among the Midwest ISO and the Owners, individually or collectively, and Users other than the Owners, in accordance with the procedures set forth in Appendix D to this Agreement. This provision does not apply to disputes covered under the Transmission Tariff.

**C. Inspection and Auditing Procedures.** The Midwest ISO shall grant each Member, its employees or agents, external auditors, and federal and state regulatory authorities having jurisdiction over the Midwest ISO or an Owner, such access to the Midwest ISO's books and records as is necessary to verify compliance by the Midwest ISO with this Agreement and to audit and verify transactions under this Agreement. Such

**Article Three**

access shall be at reasonable times and under reasonable conditions. The Midwest ISO shall also comply with the reporting requirements of federal and state regulatory authorities having jurisdiction over the Midwest ISO with respect to the business aspects of its business operations, including, but not limited to, the State of Delaware. Contacts between Officers, employees, and agents of any Owner and those of the Midwest ISO pursuant to this Paragraph C shall be strictly limited to the purposes of this Paragraph C and shall comply with the Standards of Conduct set forth in Appendix A to this Agreement.

**D. Stranded Cost Recovery Charges.** The Midwest ISO shall collect and distribute, as appropriate, any stranded cost recovery charges pursuant to applicable schedules accepted by the FERC.

**E. Performance Incentives.** The Midwest ISO shall develop appropriate incentives for efficient management and administration and shall file such incentives with the FERC.

**F. Location for Midwest ISO Operations.** The Midwest ISO shall promptly choose the location for Midwest ISO operations. The Midwest ISO shall review and give consideration to the report of any independent consultant hired by the Owners or by the Midwest ISO to identify and/or evaluate locations for Midwest ISO operations.

**G. Standards Governing Post-Employment Restrictions, Gifts, and Other Matters.**

**Article Three**

The Midwest ISO shall develop “ethics” standards governing, among other things, post-employment restrictions and gifts. As to post-employment restrictions, the Midwest ISO shall prohibit Directors and key employees (as identified by the Board) from having any involvement for twelve (12) months after they leave the Midwest ISO on behalf of any parties other than the Midwest ISO with regard to any matters in which they were substantially involved when serving for, or employed by, the Midwest ISO.

**H. Incentives Regarding Location of Generation.** The Midwest ISO shall consider whether incentives are necessary to ensure that new generators are located in areas that better facilitate transmission and do not detrimentally affect Available Transmission Capability, as defined in the Transmission Tariff. If it determines that such incentives are necessary, the Midwest ISO shall develop and file with the FERC any such incentives. Any such filing must comply with the requirements of Article Two, Section IX of this Agreement, if applicable.

**V. Enforcement Authority.**

**A. Violations.** The Midwest ISO shall have the authority to impose penalties or other sanctions for any of the following actions by an Owner or User (subject to the Dispute Resolution procedures discussed below):

1. Material and willful violations of Midwest ISO policies;

**Article Three**

2. Intentionally ignoring or disobeying any material directive from the Midwest ISO including, without limitation, operating orders or directives issued by the Midwest ISO;

3. Engaging in willful behavior which manipulates Available Transmission Capability to the detriment of other Users;

4. Willful violation of Midwest ISO operating standards; or

5. Willful violation of material provisions of this Agreement or the Transmission Tariff.

**B. Penalties.** Penalties or other sanctions for such violations may include one or more of the following:

1. Imposition of a penalty which shall be no more than \$10,000 per day, per violation.

2. Ability to withhold transmission revenues from an Owner until the violation ceases and any forfeiture is fully paid.

3. Termination of service to a User that consistently or habitually ignores or disobeys directives from the Midwest ISO, provided that the Midwest ISO complies with any applicable FERC requirements before such termination becomes effective.

**C. Offset of Expenses.** The Midwest ISO shall use revenues from any penalties under this Section V to offset Midwest ISO expenses.

**Article Three**

**D. Dispute Resolution.** All enforcement actions of the Midwest ISO, except for actions under Subparagraph 3 of Paragraph B of this Section V shall be subject to the Dispute Resolution provisions of Appendix D to this Agreement. The Midwest ISO shall be required to refund any forfeitures, including interest, which it is determined that the Midwest ISO was not justified in imposing. In such event, the Midwest ISO shall not be subject to any additional liability.



**Article Four**

**ARTICLE FOUR**

**RIGHTS, POWERS, AND OBLIGATIONS OF THE OWNERS AND USERS**

**I. Operation And Planning.**

**A. Redispatch and Curtailment.** Each Owner shall follow the directions of the Midwest ISO, its Officers, employees, or agents, in operating the Transmission System, redispatching generation, providing reactive supply and voltage control from generation sources or other ancillary services, and curtailing load, if so directed, in accordance with the Transmission Tariff. No Owner shall take any action which unduly interferes with the provision of transmission service by the Midwest ISO. Users that own or control generation that could affect the reliability or capability of the Transmission System and that are not Owners similarly shall follow the directions of the Midwest ISO in redispatching generation, providing reactive supply and voltage control from generation sources, and in providing other ancillary services consistent with the Transmission Tariff. Similarly, Users shall follow directives of the Midwest ISO to curtail load in accordance with the Transmission Tariff.

**B. Maintenance Practices.** Each Owner shall maintain its transmission facilities in accordance with Good Utility Practice. Each Owner shall follow the maintenance requirements set forth in more detail in Appendix E to this Agreement for both generation and transmission facilities. Users that own or control generation facilities

**Article Four**

that could affect the reliability or capability of the Transmission System similarly shall follow the requirements in Appendix E to this Agreement.

**C. Construction.** Each Owner shall use due diligence to construct transmission facilities as directed by the Midwest ISO in accordance with Article Three, Section I, Paragraph C of this Agreement and Appendix B to this Agreement, subject to such siting, permitting, and environmental constraints as may be imposed by state, local, and federal laws and regulations, and subject to the receipt of any necessary federal or state regulatory approvals. Such construction shall be performed in accordance with Good Utility Practice, industry standards, and any applicable requirements of federal or state laws or regulatory authorities. Each Owner shall be fully compensated for the costs of construction undertaken by such Owner in accordance with this Agreement, which compensation shall be in accordance with the Transmission Tariff and Appendix C to this Agreement.

**D. Acquisition.** In the event an Owner acquires transmission facilities not identified in Appendix H to this Agreement, such facilities shall not become part of the Transmission System unless the Midwest ISO, on its own initiative or in response to the request of any person, directs the Owner to assign such facilities to its control in accordance with Appendix E to this Agreement. In no event, however, shall any such facilities become part of the Transmission System or otherwise become subject to the

**Article Four**

Midwest ISO's control unless they are electrically connected to the Transmission System or, if not so connected, unless the Owner consents.

**E. Use of Distribution.** Each Owner shall provide such service over its distribution facilities as is necessary to effectuate transmission transactions administered to eligible customers under the Transmission Tariff by the Midwest ISO, at approved rates.

**F. Other Obligations.** Both Owners and Users, where applicable, shall comply with the requirements of Appendices B and E to this Agreement.

**Article Four**

**II. Additional Obligations.**

**A. Providing Information.** Each Owner and User shall provide such information to the Midwest ISO as is necessary for the Midwest ISO to perform its obligations under this Agreement and the Transmission Tariff. Information may be treated as confidential as more fully described in Appendix A to this Agreement.

**B. Facilities Access.** Each Owner shall allow the Midwest ISO, its Officers, employees, or agents, such access to Transmission System facilities as is necessary for the Midwest ISO to perform its obligations under this Agreement. Such access shall be at reasonable times and under reasonable conditions.

**C. Inspection and Auditing Procedures.** Each Owner shall grant the FERC, the Midwest ISO, its Officers, employees, and agents, and each state regulatory authority having jurisdiction over that Owner, such access to the Owner's books and records as is necessary for the Midwest ISO to perform its obligations under this Agreement and to audit and verify transactions under this Agreement. Such access shall be at reasonable times and under reasonable conditions. Each Owner shall comply with the reporting requirements of any federal or state regulatory authorities having jurisdiction over the Owner with respect to the business aspects of the Midwest ISO's business operations, including, but not limited to, the State of Delaware. Pursuant to this Paragraph C, contacts between Officers, employees, and agents of the Midwest ISO and those of any Owner

**Article Four**

shall be strictly limited to the purpose of this Paragraph C and shall conform to the Standards of Conduct set forth in Appendix A to this Agreement.

**D. Assume Liability.** With respect to the parties to this Agreement, each Owner (hereinafter "Indemnifying Owner") shall assume liability for any injury or damage to persons or property arising from its own acts or neglect, including the acts or neglect of its officers, employees, agents, or contractors, and shall indemnify and hold harmless the Midwest ISO and each other Owner (hereinafter "Indemnified Owners") from any damages, losses, claims, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or of third parties, arising from the Indemnifying Owner's performance or neglect of its obligations under this Agreement or from the Indemnifying Owner's exercise of the rights and powers preserved to it by this Agreement, except, and to the extent that, the gross negligence or intentional wrongdoing of the Midwest ISO or the Indemnified Owner(s) contributes to the claimed injury or damage. Except as provided in the Transmission Tariff, no Owner shall be liable for any costs or expenses relating to the operation, repair, maintenance, or improvement of any of the transmission facilities committed to the Transmission System by any other Owner.

**Article Five**

**ARTICLE FIVE**

**WITHDRAWAL OF MEMBERS**

**I. Withdrawal Notice.**

A Member who is not an Owner may, upon submission of a written notice of withdrawal to the President, withdraw from membership in the Midwest ISO at any time which withdrawal shall be effective thirty (30) days after the receipt of such notice by the President. A Member who is also an Owner may, upon submission of a written notice of withdrawal to the President, commence a process of withdrawal of its facilities from the Transmission System. Such withdrawal shall not be effective until December 31 of the calendar year following the calendar year in which notice is given, nor shall any such notice of withdrawal become effective any earlier than five (5) years following the date that the Owner signed this Agreement except as provided for in Article Five, Section IV and Article Seven of this Agreement. Notwithstanding this limitation on withdrawals during the first five years, in the event of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of which substantially all of an Owner's transmission facilities which are part of the Transmission System are acquired by another entity, that entity shall have the right to withdraw its facilities from the Midwest ISO upon providing one (1) year's notice to the Midwest ISO. Such withdrawal, however, may become effective only if FERC approves the withdrawal. If any withdrawal creates a situation where an Owner's or Owners' transmission system is not physically interconnected with the Transmission

**Article Five**

System, the Midwest ISO shall determine if such withdrawal affects the ability of such Owner(s) to continue as an Owner(s). With regard to these withdrawal rights, the Owner shall remain a Member with all rights and obligations of a Member who is an Owner until such time as the FERC approves the withdrawal, as appropriate. However, no further FERC approval of the withdrawal is required for withdrawals pursuant to Article Five, Section IV and Article Seven of this Agreement, or for withdrawals by an Owner who is not subject to the jurisdiction of the FERC at the time it executes this Agreement.

**II. Effect Of Withdrawal By An Owner On Contractual Obligations.**

In the event of withdrawal of an Owner pursuant to Section I of this Article Five:

**A. Users Held Harmless.** Users taking service which involves the withdrawing Owner and which involves transmission contracts executed before the Owner provided notice of its withdrawal shall continue to receive the same service for the remaining term of the contract at the same rates, terms, and conditions that would have been applicable if there were no withdrawal. The withdrawing Owner shall agree to continue providing service to such Users and shall receive no more in revenues for that service than if there had been no withdrawal by such Owner.

**B. Existing Obligations.** All financial obligations incurred and payments applicable to time periods prior to the effective date of such withdrawal shall be honored by the Midwest ISO and the withdrawing Owner.

**Article Five**

**C. Construction of Facilities.** Obligations relating to the construction of new facilities pursuant to an approved plan of the Midwest ISO shall be renegotiated as between the Midwest ISO and the withdrawing Owner. If such obligations cannot be resolved through negotiations, they shall be resolved in accordance with Appendix D to this Agreement.

**D. Other Obligations.** Other obligations between the Midwest ISO and the withdrawing Owner shall be renegotiated as between the Midwest ISO and the withdrawing Owner.

**III. Regulatory And Other Approvals Or Procedures.**

Except as provided in Section IV of this Article Five, the withdrawal by an Owner of its facilities from the Midwest ISO shall be subject to applicable federal and state regulatory approvals or procedures as set forth in Article Five, Section I of this Agreement.

**IV. Withdrawal Because of Midwest ISO Configuration**

In the event that a signatory to this Agreement determines in its sole judgment that the Owners executing this Agreement do not form an acceptable Midwest ISO, then that signatory shall have the right to withdraw from the Agreement. This right of withdrawal will expire at Midnight on December 31, 1998. Any withdrawing Owner shall file a notice of withdrawal from the Agreement with the FERC. Such withdrawal may become effective only if such notice is approved or accepted by FERC or FERC otherwise allows the notice to become effective.



**Article Six**

**ARTICLE SIX**

**MEMBERSHIP FEES**

All entities eligible for membership in the Midwest ISO shall pay an initial membership fee of \$15,000 in order to become Members. On January 1 of each year, each Member shall pay an additional fee of \$1,000 to the Midwest ISO to retain its membership. All such fees are nonrefundable and may be adjusted from time to time, as may be appropriate, by the Board.

**Article Seven**

**ARTICLE SEVEN**

**REGULATORY, TAX, AND OTHER AUTHORITIES**

**A. Regulatory And Other Authorities.** This Agreement and the participation of the signatories to this Agreement is subject to acceptance or approval by the FERC and may be subject to actions of respective state regulatory authorities to which respective signatories may be subject and to the actions of any other governmental body which may affect the ability of any signatory to participate in this Agreement. This paragraph describes the signatories' rights and obligations in the event required regulatory and other approvals or acceptances are not obtained.

1. In the event the FERC disapproves or refuses in whole or in part to accept this Agreement or the Transmission Tariff, then this Agreement shall cease to be effective except that the signatories shall be obligated to attempt expeditiously and in good faith to negotiate a substitute agreement and tariff which address the reasons for such FERC action. If despite such good faith negotiation, the signatories are unable to produce such a substitute agreement and tariff, then the signatories shall have no further obligations under this Agreement, the Transmission Tariff or any filing associated herewith.

2. In the event the FERC by order imposes conditions on approval of the Agreement or the Transmission Tariff which adversely affect any signatory in the sole judgement of that signatory, each such signatory may, no later than thirty (30) days after the date of such order and upon notice to all signatories, withdraw from this Agreement. In

**Article Seven**

such event, the signatories shall in good faith, negotiate to determine whether changes should be made to this Agreement or the Transmission Tariff to address the reasons for such signatory's withdrawal.

3. In the event any state regulatory authority refuses to permit participation by a signatory or imposes conditions on such participation which adversely affect a signatory in the sole judgement of that signatory, such signatory or any other signatory that is, in its sole judgement, adversely affected by such regulatory action (whether or not the signatory is subject to that regulatory authority's jurisdiction) may, no later than thirty (30) days after the date of such action, or after any such signatory concludes reasonably that the state regulatory authority has refused to act, and upon notice to all signatories, withdraw from this Agreement. In such event, the signatories shall, negotiate in good faith to determine whether changes should be made to this Agreement or the Transmission Tariff to address the reasons for such signatory's withdrawal.

4. In the event any other governmental body takes an action (or fails to take a necessary action) which adversely affects a signatory, in the sole judgment of such signatory, such signatory, that is, in its sole judgement, adversely affected by such governmental action or any other signatory (whether or not the signatory is subject to that regulatory authority's jurisdiction) may, no later than thirty (30) days after the date of such action, or after any such signatory concludes reasonably that the governmental body has

**Article Seven**

refused to act, and upon notice to all signatories, withdraw from this Agreement without any additional FERC authorization. In such event, the signatories hereto shall, in good faith, negotiate to determine whether changes should be made to this Agreement or the Transmission Tariff to address the reasons for such signatory's withdrawal.

**B. Tax Authorities.** If the Internal Revenue Service or any other federal or state taxing authority issues, or fails to issue, any ruling, or imposes any requirement or obligation, in connection with this Agreement or the Midwest ISO, adverse to any signatory (in the sole judgment of such signatory), then, within thirty (30) days of the date of such final action, or after the signatory concludes reasonably that the governmental body has refused to act, and upon notice to all signatories, such signatory may withdraw from this Agreement without any additional FERC authorization. In such event, the signatories shall, in good faith, negotiate to determine whether changes should be made to this Agreement to address the reasons for such signatory's withdrawal.

**C. Effectiveness As To Certain Owners.** The effectiveness of this Agreement as to an Owner which is a political subdivision of a state (hereinafter "Governmental Entity") and which has outstanding tax-exempt bonds issued to finance, in whole or in part, transmission or distribution facilities is dependent upon satisfaction or written waiver of the following conditions:

1. Receipt of an unqualified opinion of a nationally recognized bond counsel to the effect that the provisions of this Agreement do not adversely affect the

**Article Seven**

exclusion from gross income of interest on any such outstanding bonds issued to finance transmission and distribution facilities under the Internal Revenue Code of 1986, as amended;

2. Receipt of an unqualified opinion of a nationally recognized bond counsel and general counsel to such Governmental Entity to the effect that the provisions of this Agreement do not constitute a breach or impairment of, or a default under, any agreement to which such Governmental Entity is a party, including, but not limited to, its master bond resolution, as amended, and any power sales contracts with its municipal members (if any), as amended, or other agreements;

3. Receipt of a certificate of the Trustee for any such outstanding bonds issued for transmission and distribution facilities to the effect that the Governmental Entity's entry into this Agreement is permitted under the master bond resolution, as amended; and

4. Receipt of an opinion of a nationally recognized bond counsel and general counsel to the Governmental Entity that such Governmental Entity has full constitutional and statutory authority to enter into this Agreement. In the event that any of the foregoing conditions are not satisfied or waived by a Governmental Entity, then the adversely affected Governmental Entity shall promptly give notice of its objections or conditions which have not been satisfied to the other signatories, and the signatories shall expeditiously attempt in good faith to negotiate a substitute agreement.

**Article Seven**

**D. Regulatory Approvals of Withdrawals.** No signatory shall withdraw from this Agreement pursuant to the provision of this Article Seven, unless such signatory shall have filed a notice of withdrawal with the FERC and FERC has approved or accepted such notice or has otherwise allowed the notice to become effective.

**Article Eight**

**ARTICLE EIGHT**

**MONITORING PROCEDURES AND ISO ASSESSMENT**

**A. Monitoring Procedures.**

The Midwest ISO shall develop monitoring procedures to be effective before the Transfer Date. It shall file such procedures with FERC. In order to carry out this monitoring, the Midwest ISO shall establish procedures for independent monitoring either within the Midwest ISO or by contract with an independent entity. These procedures shall allow reports to be submitted directly to regulatory agencies. The monitoring entity's duties shall include monitoring the behavior of the Owners, generators, and Users to determine if there are any attempts to create transmission constraints to exclude competitors, or any other behavior that undermines the provision of transmission service. Such monitoring also shall include monitoring of the relationship between control areas and the Midwest ISO on an ongoing basis to determine if the split of functions between the control areas and the Midwest ISO creates any competitive or reliability problems affecting the Midwest ISO's provision of nondiscriminatory transmission service. The monitoring entity shall make recommendations in its reports or elsewhere for any changes to Midwest ISO rules or protocols that it believes are necessary.

**Article Eight**

**B. Midwest ISO Assessment**

No later than eighteen months after the Transfer Date, the Midwest ISO shall submit a report to the FERC assessing its operations. Among other things, the report shall assess (1) the relationship between existing generation control areas and the Midwest ISO to determine if the relationship needs to be revised or improved to allow the Midwest ISO to better assure reliability and to provide nondiscriminatory transmission service; (2) whether the Midwest ISO's approach to managing congestion needs to be revised; (3) the effectiveness of the system of functional control together with the penalties and sanctions provisions; (4) the need for generation redispatch to provide non-firm transmission service; and (5) whether the Midwest ISO requires other changes to better carry out its responsibilities. In addition, the report shall include a discussion of the additional data and analyses that the Midwest ISO may need in order to perform on-going and comprehensive market monitoring. In developing the report, the input of the Members shall be solicited and considered.



**Article Nine**

**ARTICLE NINE**

**MISCELLANEOUS PROVISIONS**

**A. Descriptive Headings.** The descriptive headings of Articles, Sections, Paragraphs, Subparagraphs, and other provisions of this Agreement have been inserted for convenience of reference only and shall not define, modify, restrict, construe, or otherwise affect the construction or interpretation of any of the provisions of this Agreement.

**B. Governing Law.** This Agreement shall be interpreted, construed, and governed by the laws of the State of Delaware, except to the extent preempted by the laws of the United States of America.

**C. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument, binding upon all of the Owners, notwithstanding that all such Owners may not have executed the same counterpart.

**D. Successors And Assigns.** This Agreement shall inure to the benefit of, and be binding upon, the Owners, their respective successors and assigns permitted hereunder, but shall not be assignable by any Owner, by operation of law or otherwise, without the approval of the Board, except as to a successor in the operation of the Owner's transmission facilities committed to the operation of the Midwest ISO by reason of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of

**Article Nine**

which substantially all such transmission facilities are acquired by such successor and such successor becomes an Owner under this Agreement.

**E. No Implied Waivers.** The failure of an Owner to insist upon or enforce strict performance of any of the specific provisions of this Agreement at any time shall not be construed as a waiver or relinquishment to any extent of such Owner's right to assert or rely upon any such provisions, rights, or remedies in that or any other instance, or as a waiver to any extent of any specific provision of this Agreement; rather the same shall be and remain in full force and effect.

**F. Severability.** Except for Article Two, Section IX, Article Five, and Article Seven of this Agreement, each provision of this Agreement shall be considered severable, and if for any reason any provision of this Agreement, or the application thereof to any person, entity, or circumstance, is determined by a court or regulatory authority of competent jurisdiction to be invalid, void, or unenforceable, then the remaining provisions of this Agreement shall continue in full force and effect and shall in no way be affected, impaired, or invalidated, and such invalid, void, or unenforceable provision shall be replaced with a suitable and equitable provision in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid, void, or unenforceable provision.

**G. Renegotiation.** If any provision of this Agreement, or the application thereof to any person, entity, or circumstance, is held by a court or regulatory authority

**Article Nine**

of competent jurisdiction to be invalid, void, or unenforceable, or if a modification or condition to this Agreement is imposed by a regulatory authority exercising jurisdiction over this Agreement, then the Owners shall endeavor in good faith to negotiate such amendment or amendments to this Agreement as will restore the relative benefits and obligations of the Owners under this Agreement immediately prior to such holding, modification, or condition. If such negotiations are unsuccessful, then the Owners may exercise their individual or collective withdrawal or termination rights available under this Agreement.

**H. Representations And Warranties.** Each Owner represents and warrants to the other Owners that as of the later of the date it becomes an Owner under this Agreement or the Effective Date of this Agreement as to such Owner:

1. The Owner is duly organized, validly existing, and in good standing under the laws of the jurisdiction where organized.

2. Subject to any necessary approvals by federal or state regulatory authorities of the Midwest ISO, the Owner's participation in the Midwest ISO, or any transactions or actions covered by this Agreement, the execution and delivery by the Owner of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by all requisite action on the part of the Owner and do not conflict with any applicable law or with any other agreement binding upon the Owner, other than third-party joint agreements covered by Paragraph N of this Article Nine.

**Article Nine**

3. This Agreement has been duly executed and delivered by the Owner, and, subject to the conditions set forth in Subparagraph 2 of this Section H, this Agreement constitutes the legal, valid, and binding obligation on the part of the Owner, enforceable against it in accordance with its terms except insofar as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other similar laws affecting the enforcement of creditor's rights generally, and by general principles of equity regardless of whether such principles are considered in a proceeding at law or in equity.

4. There are no actions at law, suits in equity, proceedings, or claims pending or, to the knowledge of the Owner, threatened against the Owner before or by any federal, state, foreign, or local court, tribunal, or governmental agency or authority that might materially delay, prevent, or hinder the performance by the Owner of its obligations hereunder.

**I. Further Assurances.** Each Owner agrees that it shall hereafter execute and deliver such further instruments, provide all information, and take or forbear such further acts and things as may be reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the provisions of this Agreement.

**J. Delivery Of Notices.** Except as otherwise expressly provided herein, notices required under this Agreement shall be in writing and shall be sent to an Owner,

**Article Nine**

Member, or the Midwest ISO by U.S. mail, overnight courier, hand delivery, telefacsimile, or other reliable electronic means. Any notice required under this Agreement shall be deemed to have been given either upon delivery, if by U.S. mail, overnight courier, or hand delivery, or upon confirmation, if given by telefacsimile or other reliable electronic means.

**K. Limitations On Liability.** No Owner, Member, or User shall be liable to any other Owner, Member, or User for any actions taken pursuant to the direction of the Midwest ISO except in cases of the gross negligence or intentional wrong-doing of such Owner, Member or User.

**L. Entire Agreement.** This Agreement, including the appendices attached hereto, the Transmission Tariff, the Agency Agreement and other agreements referenced herein constitute the entire agreement among the Owners with respect to the subject matter of this Agreement, and no previous or contemporary oral or written representations, agreements, or understandings made by any officer, agent, or employee of any Owner shall be binding on any Owner unless contained in this Agreement, including the appendices attached hereto, the Transmission Tariff, the Agency Agreement, or other agreements referenced herein.

**M. Good Faith Efforts.** Each Owner agrees that it shall in good faith take all reasonable actions necessary to permit such Owner to fulfill its obligations under this Agreement. Where the consent, agreement, or approval of any Owner must be

**Article Nine**

obtained hereunder, such consent, agreement, or approval shall not be unreasonably withheld, conditioned, or delayed. Where any Owner is required or permitted to act, or omit to act, based on its opinion or judgment, such opinion or judgment shall not be unreasonably exercised. To the extent that the jurisdiction of any federal or state regulatory authority applies to any part of this Agreement and/or the transactions or actions covered by this Agreement, each Owner shall cooperate with all other Owners to secure any necessary or desirable approval or acceptance of such regulatory authorities of such part of this Agreement and/or such transactions or actions.

**N. Third-Party Joint Agreements.** This Agreement, including the appendices to this Agreement, the Transmission Tariff, and the Agency Agreement shall not be construed, interpreted, or applied in such a manner as to cause any Owner to be in material breach, anticipatory or otherwise, of any agreement (in effect on the later of the Effective Date of this Agreement as to such Owner or the date that it becomes an Owner under this Agreement) between such Owner and one or more third parties who are not Owners under this Agreement (regardless of the inclusion of one or more other Owners as parties to such agreement) for the joint ownership, operation, or maintenance of any electrical facilities covered by this Agreement, the Transmission Tariff, or the Agency Agreement. An Owner who has such a third-party joint agreement shall discuss with the Board and the other Owners under this Agreement any material conflict between such third-party joint agreement and this Agreement, the Transmission

**Article Nine**

Tariff, or the Agency Agreement raised by a third party to such joint agreement, but the resolution of such a conflict shall, vis-à-vis the Board and the other Owners under this Agreement, be and remain within the sole discretion of such Owner; provided, however, that such Owner shall, if otherwise unresolved, utilize the available remedies and dispute resolution procedures to resolve such conflict, including, but not limited to, submitting such conflict to the FERC for resolution; provided, further, that in no event shall such Owner enter into a resolution of such conflict which would impair the reliability of the Transmission System.

**O. No Partnership.** The Owners do not intend that the Midwest ISO constitute a partnership or joint venture, and no Owner shall be entitled to act as an agent for any other Owner with respect to the Midwest ISO.

Alliant Energy Corporation and Interstate Power and Light Company  
(formerly Wisconsin Power & Light Company, IES Utilities Inc., Interstate Power  
Company and South Beloit Water, Gas & Light Company)

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized  
representatives to execute and attest this Agreement, on their respective behalves, as of  
the 19th day of November, 1999.

  
\_\_\_\_\_  
ELLIOT PROTISCH

Wisconsin Power & Light Company, IES  
Utilities Inc., Interstate Power Company and  
South Beloit Water, Gas & Light Company  
Name of Owner

Executive Vice President  
Title of Signatory



**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, to be effective as to Ameren Services Company, as agent for Union Electric Company d/b/a AmerenUE and Central Illinois Public Service Company d/b/a AmerenCIPS as of May 1, 2004,\* solely for purposes of the running of the time period referenced in Article 5, Section I of this Agreement, and as of November 1, 2005 for all other purposes.

**Ameren Services Company, as agent for Union  
Electric Company d/b/a AmerenUE and Central  
Illinois Public Service Company d/b/a AmerenCIPS**

By: David A. Whiteley  
David A. Whiteley  
Senior Vice President, Energy Delivery Services

8/31/05  
Date of Execution

\* As of May 1, 2004, Ameren Services Company transferred functional control of the transmission facilities of AmerenUE and AmerenCIPS to GridAmerica, LLC, an independent transmission company operating within the Midwest ISO. Accordingly, as of May 1, 2004, the Midwest ISO began providing transmission services under the Midwest ISO OATT using the transmission facilities of AmerenUE and AmerenCIPS. Effective midnight October 31, 2005, GridAmerica LLC will cease operations and the Midwest ISO will assume direct functional control of the facilities of AmerenUE and AmerenCIPS and, thereby, continue to provide transmission service using such facilities.

Article Nine

IN WITNESS WHEREOF, the Owners have caused their duly authorized  
representatives to execute and attest this Agreement, on their respective behalves, as of  
the day of June 30, 2000,

Dale A. Lundgren  
Signature

American Transmission Company  
Name of Owner

Vice President  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, to be effective as to American Transmission Systems, Incorporated as of October 1, 2003,\* solely for purposes of the running of the time period referenced in Article 5, Section I of this Agreement, and as of November 1, 2005 for all other purposes.

**American Transmission Systems, Incorporated**

By: Stanley F. Szwed  
Stanley F. Szwed  
Vice President

8/31/05  
Date of Execution

\* As of October 1, 2003, American Transmission Systems, Incorporated ("ATSI") transferred functional control of its transmission facilities to GridAmerica, LLC, an independent transmission company operating within the Midwest ISO. Accordingly, as of October 1, 2003, the Midwest ISO began providing transmission services under the Midwest ISO OATT using the transmission facilities of ATSI. Effective midnight October 31, 2005, GridAmerica LLC will cease operations and the Midwest ISO will assume direct functional control of the facilities of ATSI and, thereby, continue to provide transmission service using such facilities.

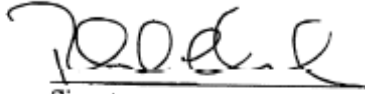
Aquila, Inc. (formerly UtiliCorp United Inc.)

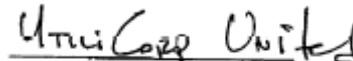
Midwest ISO  
FERC Electric Tariff, First Revised Rate Schedule No. 1

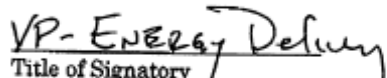
Original Sheet No. 96

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of February 28, 2001.

  
Signature

  
Name of Owner

  
Title of Signatory

Issued by: James P. Torgerson, Issuing Officer  
Issued on: November 20, 2000

Effective November 20, 2000

Article Nine

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of May 4, 1998

Michael J Bowling  
Signature

Central Illinois Light Company  
Name of Owner

Vice-President  
Title of Signatory

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Duke Energy Shared Services, Inc. (f/k/a Cinergy Services, Inc.)

Article Eight

IN WITNESS WHEREOF, the Owners have caused their duly authorized  
representatives to execute and attest this Agreement, on their respective behalves, as of  
the tenth day of December, 1997.

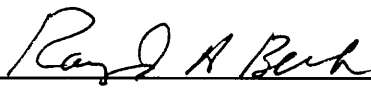
Larry C. Thomas  
Signature

Cinergy Corp.  
Name of Owner

President, Energy Delivery  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the 3<sup>rd</sup> day of September, 2002.

  
\_\_\_\_\_  
Signature

City of Columbia, Missouri  
Name of Owner

City Manager  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of 21st day of March 2001.

Laura Niska  
Signature

Karen Hasara  
Name of Owner

Mayor of Springfield, Ill.  
Title of Signatory

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**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of

the day of 10/21/04

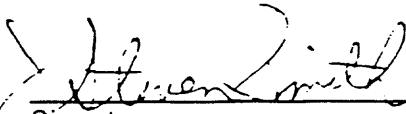
Min Kaul  
Signature

Great River Energy  
Name of Owner

Vice President  
Title of Signatory

Article Nine

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the 13<sup>th</sup> day of January, 1998.

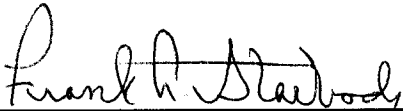
  
\_\_\_\_\_  
Signature

Hoosier Energy REC, Inc.  
Name of Owner

President and CEO  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized  
representatives to execute and attest this Agreement, on their respective behalves,  
as of the day of 8/24/04

  
\_\_\_\_\_  
Signature

Illinois Power  
\_\_\_\_\_  
Name of Owner

Vice President, Energy Supply &  
Title of Signatory Customer Management

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of <sup>28<sup>th</sup></sup> February, 2001. \*

L. J. Mayo  
Signature

Indiana Municipal Power Agency  
Name of Owner

Vice President  
Title of Signatory

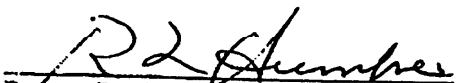
Issued by: James P. Torgerson, Issuing Officer  
Issued on: November 20, 2000

Effective \_\_\_\_\_  
(Accepted by FERC Order dated September 16, 1998.)

Article Nine

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute this Agreement, on their respective behalves, as of the 28<sup>th</sup> day of February, 2001.

CLS  
MGB

  
Eamon L. Humke  
President and Chief Operating Officer

Indianapolis Power & Light Company  
Name of Owner

Issued by: James P. Torgerson, Issuing Officer  
Issued on:

Effective \_\_\_\_\_  
(Accepted by FERC Order dated September 16, 1998.)

LG&E Corporation for Louisville Gas and Electric Company and Kentucky Utilities Company

Article Eight

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the 14th day of January, 1998.

Wayne T. Lucas  
Signature : Wayne T. Lucas

KENTUCKY UTILITIES COMPANY  
Name of Owner

Senior Vice President  
Title of Signatory

Article Eight

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day January 14, 1998.

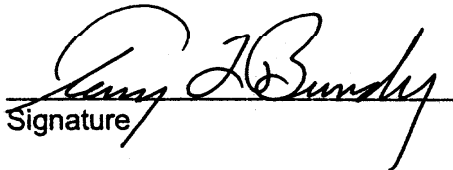
SM Wood  
Signature

Louisville Gas and Electric Company  
Name of Owner

President  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of February 28, 2001.\*

  
Signature

Lincoln Electric System  
Name of Owner

LES Administrator & CEO  
Title of Signatory

Issued by: James P. Torgerson, Issuing Officer  
Issued on: November 20, 2000

Effective \_\_\_\_\_  
(Accepted by FERC Order dated September 16, 1998.)

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the 8<sup>th</sup> day of March 2002.

Paul Smith  
Signature

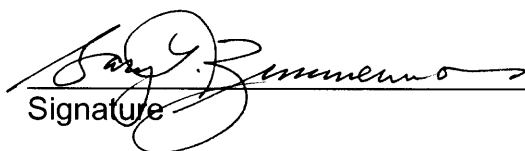
MICHIGAN ELECTRIC  
TRANSMISSION COMPANY, LLC  
Name of Owner

SENIOR VICE PRESIDENT  
Title of Signatory



**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of July 17, 2003.

  
Signature

Michigan Public Power Agency  
Name of Owner

General Manager  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of January 4, 2006.

  
Signature

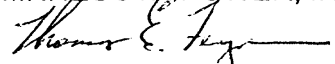
Michigan South Central Power Agency  
Name of Owner

Glen White, Assistant General Manager  
Title of Signatory

**Article Nine**

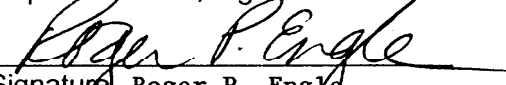
IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of February 28, 2001, subject to the contingencies listed below.

MINNESOTA POWER, INC.

  
\_\_\_\_\_  
Signature Thomas E. Ferguson

Vice President Minnesota Power -  
Power Delivery and Transmission  
Title of Signatory

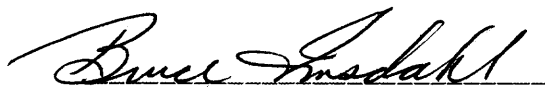
Superior Water, Light and Power Company

  
\_\_\_\_\_  
Signature Roger P. Engle

President and Chief Executive Officer  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of September 4, 2001.

  
Signature

Montana-Dakota Utilities Co.  
Name of Owner

**BRUCE IMSDAHL**  
**VICE PRESIDENT ENERGY SUPPLY**  
\_\_\_\_\_  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, to be effective as to Northern Indiana Public Service Company as of October 1, 2003,\* solely for purposes of the running of the time period referenced in Article 5, Section I of this Agreement, and as of November 1, 2005 for all other purposes.

**Northern Indiana Public Service Company**

By: Frank A. Venhuizen  
Frank A. Venhuizen, P.E.  
Vice President, Electric Transmission

AUGUST 31, 2005  
Date of Execution

\* As of October 1, 2003, Northern Indiana Public Service Company ("NIPSCO") transferred functional control of its transmission facilities to GridAmerica, LLC, an independent transmission company operating within the Midwest ISO. Accordingly, as of October 1, 2003, the Midwest ISO began providing transmission services under the Midwest ISO OATT using the transmission facilities of NIPSCO. Effective midnight October 31, 2005, GridAmerica LLC will cease operations and the Midwest ISO will assume direct functional control of the facilities of NIPSCO and, thereby, continue to provide transmission service using such facilities.

Issued by: James P. Torgerson, Issuing Officer  
Issued on: September 1, 2005

Effective: November 1, 2005

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the 10th day of October, 2000.

Mark F. Dahlberg  
Signature Mark F. Dahlberg

NORTHWESTERN WISCONSIN ELECTRIC COMPANY  
Name of Owner

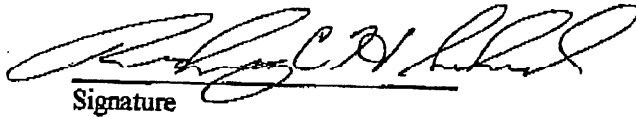
President  
Title of Signatory

Issued by: James P. Torgerson, Issuing Officer  
Issued on: November 20, 2000

Effective  
(Accepted by FERC Order dated September 16, 1998.)

Article Nine

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of February \_\_, 2001, subject to the contingencies listed below.

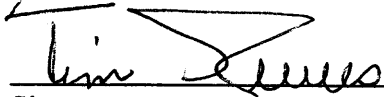
  
Signature

Otter Tail Power Company  
Name of Owner

Vice President, Delivery Systems  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of this 22nd day of April, 1999.

  
\_\_\_\_\_  
Signature

Southern Illinois Power Cooperative  
Name of Owner


President & General Manager  
Title of Signatory



Vectren Energy (formerly Southern Indiana Gas & Electric Company)

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of February 26, 1999.

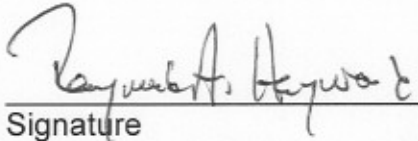
  
\_\_\_\_\_  
Signature

Southern Indiana Gas and Electric Company  
Name of Owner

Executive Vice President and Chief Operating Officer  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the 22 day of March, 2006.

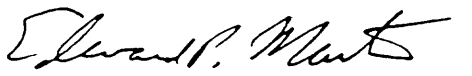
  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Owner - Southern Minnesota  
Municipal Power Agency

\_\_\_\_\_  
Executive Director & CEO  
Title of Signatory

Article Eight

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the eleventh (11<sup>th</sup>) day of December, 1997.



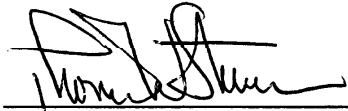
Signature

Wabash Valley Power Association, Inc.  
Name of Owner

President and Chief Executive Officer  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of January 1, 2006.



Thomas W. Stevenson

Wolverine Power Supply Cooperative, Inc.  
Name of Owner

President & CEO  
Title of Signatory

Xcel Energy, Inc. (formerly Northern States Power Company for Northern States Power Company-Minnesota and Northern States Power Company-Wisconsin)

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of 9-8-99

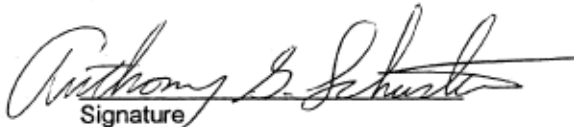
  
Signature

NSP-M  
Name of Owner

President, NSP Electric  
Title of Signatory

**Article Nine**

IN WITNESS WHEREOF, the Owners have caused their duly authorized representatives to execute and attest this Agreement, on their respective behalves, as of the day of 9-8-99

  
Signature

NSP-W  
Name of Owner

V.P. of Transmission Systems  
Title of Signatory

**APPENDIX A**

**APPENDIX A**

**STANDARDS OF CONDUCT**

**I. Background.**

It is the policy of the Midwest ISO to operate in a fair and non-discriminatory manner and to implement such rules and regulations in the governance of the organization as necessary to prevent control, or the appearance of control, of the decision-making process by any Owner, Member, or User of the Transmission System; and

It is the policy of the Midwest ISO to operate and plan the Transmission System without adverse distinction or preference to any Owner, Member, or User of the Transmission System, and that investments in facilities be made by the Owners as directed by the Midwest ISO without discrimination; and

It is the policy of the Midwest ISO that the Directors, agents, Officers, and employees of the organization shall not have a direct financial interest in, or a conflict of interest with, any Owner, Member, or User of the Transmission System or any affiliates of such entities.

Nothing in this Appendix A is intended to restrict or expand any rights that any federal or state regulatory authorities may have to receive or have access to any information.

**APPENDIX A**

**II. Standards.**

In furtherance of the above policies, the Standards of Conduct for the Midwest ISO shall include, but not be limited to, the following Standards:

**A.** The Midwest ISO, its Directors, agents, Officers, and employees shall operate and plan the Transmission System without adverse distinction or preference to any Owner, Member, or User of the Transmission System. In addition, the Transmission Tariff shall be applied to any Owner, Member, or User of the Transmission System without adverse distinction or preference to any of the Owners, Members, or Users of the Transmission System.

**B.** The operation of the Midwest ISO shall be conducted in such a manner that it shall be separate from the operations of the Owners, Members, or Users of the Transmission System.

**C.** The Midwest ISO, in operating its business, shall require any consultant, contractor, and/or subcontractor of the Midwest ISO to disclose to the Midwest ISO all financial affiliations and conflicts of interest with Owners, Members, or Users of the Transmission System. The Midwest ISO shall have the discretion to determine if the contents of such disclosure warrant disqualification of such consultant, contractor, or subcontractor.

**APPENDIX A**

**D.** No Midwest ISO Director, agent, Officer, or employee shall have any involvement in the sale of electric energy at wholesale or retail except as required or allowed by the Agreement or the Transmission Tariff.

**E.** The Directors, agents, Officers, and employees of the Midwest ISO shall not have a direct financial interest in, or stand to be financially benefited by, any transaction with any of the Owners, Members, or Users of the Transmission System. Each Director, agent, Officer, and employee of the Midwest ISO in a decision-making position shall certify in writing that he does not have a direct financial interest in any Owner, Member, or User of the Transmission System and that a conflict of interest does not exist. To that end, no Midwest ISO Director, agent, Officer, or employee may directly own securities issued by any Owner, Member, or User of the Transmission System, except under the following circumstances:

1. Each Midwest ISO Director, agent, Officer, or employee shall dispose of those securities or transfer such securities to a non-discretionary blind trust within six (6) months of the time of his affiliation or employment with the Midwest ISO.
2. Each Midwest ISO Director, agent, Officer, or employee shall dispose of those securities or transfer such securities to a non-discretionary blind trust within six (6) months of the time a new Owner or Member is added, or a new User of the Transmission System begins taking service under the Transmission Tariff, where the Midwest ISO



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Director, agent, Officer, or employee owns securities of such User, Owner, or Member.

3. If a Midwest ISO Director, agent, Officer, or employee receives a gift or inheritance of those securities, he must dispose of such securities or transfer such securities to a non-discretionary blind trust within six (6) months of the date of receipt.
4. Nothing in this Paragraph E shall be interpreted to preclude a Director, agent, Officer, or employee of the Midwest ISO from indirectly owning securities issued by an Owner, Member, or User of the Transmission System through a mutual fund, blind trust or similar arrangement (other than a fund or arrangement specifically targeted towards the electric industry or the electric utility industry, or any segments thereof) under which the Director, agent, Officer, or employee does not control the purchase or sale of such securities.
5. Participation in a pension plan of an Owner, Member, or User of the Transmission System shall not be deemed to be a direct financial benefit as long as such pension plan is a defined benefit pension plan that does not involve ownership in the securities of the company sponsoring such plan.
6. For the purposes of this Agreement, a "blind trust" means a legally binding arrangement in which a fiduciary third party trustee (the

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administrator of the trust) has full management discretion over the assets of the trust (the securities), and the trust beneficiary (i.e., the Midwest ISO Director, agent, Officer or employee) has no knowledge of the holdings or assets of the trust.

**F.** The Midwest ISO Directors, agents, Officers and employees shall not provide non-public transmission and reliability (hereinafter "T/R") information (including T/R information obtained from the Owners, Members, and Users of the Transmission System in the normal course of Midwest ISO business) to anyone outside the Midwest ISO, except for such disclosure of information to T/R employees of Owners (as determined under the applicable standards of the FERC) to the extent necessary to transact Midwest ISO business. Those T/R employees, in turn, are governed by the FERC Order No. 889, 61 Fed. Reg. 21737 (May 10, 1996), order on reh'g, 62 Fed. Reg. 12484 (March 14, 1997) or successor standards of the FERC -- standards of conduct -- as far as sharing any such information with their respective merchant employees, as determined under the applicable standards of the FERC. The Midwest ISO shall maintain the confidentiality of any market information obtained from merchant employees of any User of the Transmission System or other entity.

**G.** If an employee of the Midwest ISO discloses confidential information relating to the operation or function of the organization, which disclosure is contrary to the Standards of Conduct, then notice of such disclosure shall be posted immediately on the Midwest ISO OASIS (or successor system as approved by the FERC).

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**H.** The Midwest ISO Directors, agents, Officers, and employees shall treat all information supplied by an entity seeking transmission service under the Transmission Tariff, or supplied in connection with Midwest ISO coordination center(s) operations, as confidential, unless the information is required to be put on the Midwest ISO OASIS, or the entity seeking transmission service agrees that the information can be disclosed, or the information is otherwise publicly available.

Notwithstanding the restrictions contained in this Paragraph H, Midwest ISO Directors, agents, Officers, and employees may share information with third parties where required to satisfy the Operating Standards and Policies of the North American Electric Reliability Council (hereinafter "NERC") or successor reliability entity. A confidentiality statement must be executed by the third party before any such information is disclosed. To the extent required by FERC regulations, such information shall be put on the Midwest ISO OASIS.

**I.** Midwest ISO Directors, agents, Officers, and employees shall not give preferential access to transmission information, or any other information, to any third party.

Midwest ISO Directors, agents, Officers, and employees shall be prohibited from providing to any entity engaged in wholesale or retail sales of electric energy, or to any employee, representative, or agent of any such entity (except T/R employees as provided in Paragraph F, Section II of the Appendix A), information regarding the Transmission System covered by the Transmission Tariff, unless that information is: (i) posted on the Midwest ISO OASIS; (ii) otherwise available to the general public without restriction; or (iii) is the type of information disclosed to any third party on a nonpreferential basis.

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Any disclosures of transmission information not in compliance with this Paragraph I shall be posted immediately on the Midwest ISO OASIS.

**J.** Directors, Officers, agents, and employees of the Midwest ISO shall strictly enforce all Transmission Tariff provisions established by the Midwest ISO. In the event any Director, Officer, agent, or employee of the Midwest ISO may exercise his discretion, or is allowed by the Transmission Tariff to exercise his discretion, with respect to transactions or actions covered by the Transmission Tariff, then such discretion shall be exercised fairly and impartially, and such event shall be logged and available for FERC audit.

**K.** No employee, agent, or contractor of any entity engaged in wholesale or retail sales of electric energy shall have access to the Midwest ISO coordination center(s), except for educational tours approved by the Midwest ISO President where notification of such tours is posted on the Midwest ISO OASIS.

**L.** Notices shall be posted on the Midwest ISO OASIS of any employee engaged in transmission and/or reliability functions who is terminated or transferred from the Midwest ISO. The posted information shall include the name of the employee, the title of the employee while performing service for the Midwest ISO, and the effective date of the transfer or termination.

**M.** The Midwest ISO shall maintain its books and records separately from those of any Owner, Member, or User of the Transmission System.

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**N.** The Midwest ISO shall establish and file with the Board of Directors a complaint procedure for alleged violations of any of the Standards of Conduct set forth in this Appendix A. The complaint procedure shall provide for the opportunity of alternative dispute resolution, as set forth in the Agreement.

**O.** The Midwest ISO shall inform and train Midwest ISO Directors, agents, Officers, and employees with regard to these Standards of Conduct. The Midwest ISO shall distribute copies of these Standards of Conduct to each Midwest ISO Director, agent, Officer, and employee, and require that each such Director, agent, Officer and employee execute the attached compliance statement. The Midwest ISO shall monitor compliance with these Standards of Conduct. Any Director, agent, Officer, or employee of the Midwest ISO failing to comply with these Standards of Conduct may be subject to disciplinary action. Discipline may take the form of reprimand, suspension without pay, limitation in the scope of responsibilities, monetary fines, or termination, which discipline shall be within the discretion of the Midwest ISO.

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**COMPLIANCE STATEMENT**

I, \_\_\_\_\_, have read and received training on the  
Midwest ISO's Standards of Conduct and agree to comply with these Standards.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Printed Name: \_\_\_\_\_

\_\_\_\_\_  
(Title)

**APPENDIX B**

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**PLANNING FRAMEWORK**

**I. Overview.**

This Appendix B describes the process to be used by the Midwest ISO in planning the Transmission System. Nothing in this Appendix is intended to restrict or expand existing state laws or regulatory authority.

The following transmission facilities of the Owners shall constitute the Transmission System for which the Midwest ISO shall be responsible for operating and planning by the terms of the Agreement: (i) all networked transmission facilities above 100 kilovolts (hereinafter “kV”); and (ii) all networked transformers whose two (2) highest voltages qualify under the voltage criteria of item (i).

Network transmission facilities (including terminal equipment) are (i) transmission elements capable of carrying power in both directions for sustained periods, and (ii) components that are connected to such transmission facilities and are used for voltage or stability control of the Transmission System, including shunt inductors, shunt capacitors, and synchronous condensers. Appendix H to the Agreement identifies the facilities that constitute the Transmission System for which the Midwest ISO shall have operating and planning responsibility.

The Midwest ISO may direct the Owners to assign Non-transferred Transmission Facilities to its control as part of the Transmission System, subject to obtaining any necessary approvals of federal or state regulatory authorities, when such action is determined to be necessary to relieve a constraint or for security purposes. The

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Midwest ISO also may require that Owners take back control of facilities included in the Transmission System subject to any such necessary approvals. If an Owner disputes such an order from the Midwest ISO, the dispute shall be resolved pursuant to the dispute resolution provisions set forth in Appendix D to the Agreement.

With regard to Non-transferred Transmission Facilities, the Midwest ISO shall review and comment on the plans developed by the Owners of these facilities. With respect to such facilities, the Midwest ISO shall have only that planning authority necessary to carry out its responsibilities under the Transmission Tariff. Thus, the Midwest ISO, when performing System Impact and Facilities Studies under the Transmission Tariff, shall treat these Non-transferred Transmission Facilities just as it would facilities comprising the Transmission System. Similarly, the Midwest ISO shall require Owners to make Available Transmission Capability (hereinafter "ATC") determinations involving such Non-transferred Transmission Facilities under the Transmission Tariff. The Midwest ISO shall coordinate the analyses of ATC associated with Non-transferred Transmission Facilities with the affected Owners. Any disputes concerning Non-transferred Transmission Facilities shall be subject to the dispute resolution procedures under the Agreement.

The planning of all Non-transferred Transmission Facilities, as well as all distribution facilities, shall be done by the Owners. Furthermore, each Owner, in carrying out its planning responsibilities to meet the reliability needs of all loads connected to the Owner's transmission facilities and to pursue projects that will promote



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expanded trading in generation markets, to better integrate the grid and to alleviate congestion may, as appropriate, develop and propose plans involving modifications to any of the Owner's transmission facilities which

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are part of the Transmission System. All such plans developed by the Owners may be incorporated into the Midwest ISO regional plan, as described in Section VI of this Appendix B. Plans developed by the Owners that involve only Non-transferred Transmission Facilities may be incorporated into the Midwest ISO regional plan, as appropriate. The Owners shall continue to have planning responsibilities for meeting their respective transmission needs in collaboration with the Midwest ISO subject to the requirements of applicable state law or regulatory authority.

### **II. The Midwest ISO Planning Staff And The Planning Advisory Committee.**

The planning function of the Midwest ISO shall be the responsibility of the Midwest ISO Planning Staff (hereinafter "Planning Staff"). The process for carrying out the planning of the Midwest ISO shall be collaborative with Owners, Users, and other interested parties. The Midwest ISO shall be organized to engage in such planning activities as are necessary to fulfill its obligations under the Agreement and the Transmission Tariff. In exercising such authority, the Midwest ISO shall (i) evaluate and respond to requests for transmission service that extend into or fall within the "Planning Time Horizon" (defined as two (2) weeks and beyond); and (ii) develop a comprehensive Midwest ISO-wide transmission plan (hereinafter the "Midwest ISO Plan"). In order to carry out this planning function, the Planning Staff shall have the following responsibilities, set forth in more detail in subsequent Sections of this Appendix B: (i) to calculate ATC in the Planning Time Horizon; (ii) to process transmission service requests in the Planning Time Horizon; (iii) to develop cost-effective plans to resolve transmission constraints that would otherwise preclude

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requested transmission service; (iv) to create the Midwest ISO Plan by integrating, evaluating, and modifying the transmission plans, and other findings from (a) Facilities Studies, (b) plans and analyses developed by the individual Owners, and/or sub-regional groups, to define needs within the Owner's system(s), (c) plans and analyses developed by the Planning Staff to define regional needs, and (d) Planning Staff analyses giving consideration to information from the Planning Advisory Committee (established under this Appendix B) and other sources. The Midwest ISO shall make the final determination in the process, subject to the Dispute Resolution procedures under the Agreement and subject to review by the FERC or state regulatory authorities where appropriate.

There is hereby created a Planning Advisory Committee consisting of one (1) representative from each of the constituent groups represented on the Advisory Committee established pursuant to Article Two, Section VI, Paragraph A of the Agreement. The Planning Advisory Committee shall be a source of input to the Planning Staff concerning the development of the Midwest ISO Plan. The Planning Staff shall exercise its discretion in how it utilizes this advice in carrying out its responsibilities.

### **III. Calculation Of ATC.**

The Planning Staff shall be responsible for calculating ATC of the Transmission System for the Planning Time Horizon. In calculating ATC, the Planning Staff shall: (i) take into account transmission limits that may appear regardless of whether such limits involve transferred Transmission System facilities or Non-transferred Transmission

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Facilities; (ii) use planning criteria which are compatible with operations, including the use of appropriate equipment ratings; (iii) follow the general principles set forth in the NERC documents, *Transfer Capability* (May 1995) and *Available Transfer Capability: Definition and Determination* (June 1996), as those documents may be revised from time to time; (iv) provide for projected load growth, all relevant committed transactions and their resulting power flows throughout the interconnection; and (v) use appropriate analytical tools to determine thermal, voltage, and stability constraints.

The Planning Staff shall adhere to applicable reliability criteria of NERC, and regional reliability councils, or successor organizations, and Owner's planning criteria filed with federal, state, or local regulatory authorities. In the event that the Planning Staff questions the appropriateness of such Owner's planning criteria, the matter may be resolved through the Dispute Resolution process provided for in Appendix D to the Agreement. Until any such dispute is resolved, the Owner's criteria shall govern. The Planning Staff shall also apply equipment capability ratings provided by the Owners for their respective Transmission System facilities. The process to be used by the Planning Staff to validate the ratings is discussed in Section V of this Appendix B. Disputes regarding equipment capability ratings may be resolved through the Dispute Resolution process provided for in Appendix D to the Agreement. The Planning Staff shall at all times comply with the procedures of the Transmission Tariff for calculating ATC.

### IV. Evaluation Of Transmission Service Requests.

The Planning Staff shall receive, evaluate, and respond to all requests for transmission service that extends into or occurs within the Planning Time Horizon and

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involves the use of the Transmission System. With respect to all such requests, the Planning Staff shall analyze and make the determination on access to the Transmission System, including the amount of firm (non-recallable) and/or non-firm (recallable) service which the Transmission System can support. The Planning Staff shall document all requests for transmission service, the disposition of those requests, and supporting data. The Planning Staff shall coordinate with the Owners to process requests for service involving the use of Non-transferred Transmission Facilities and distribution facilities relating to service under the Transmission Tariff. The Planning Staff shall consult with the transmission planning representatives of the Owners and/or operators of the affected transmission facilities on matters such as equipment, procedures, maintenance, reliability, and public or worker safety. The Planning Staff shall provide the transmission planning representatives of each Owner with sufficient information to model local conditions and to monitor local consequences of Midwest ISO decisions by the Planning Staff related to ATC values and requests for transmission service. Any dispute regarding ATC calculations shall be subject to the applicable Dispute Resolution procedures.

### **V. Resolution Of Transmission Constraints.**

When the evaluation of posted ATCs reveals apparent transmission constraints that would preclude a requested firm transaction, the Planning Staff shall investigate the ability of operating guides and redispatch of generation to permit the transaction to proceed, to the extent that available information, in the form of existing studies and

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models, permit. In evaluating and resolving transmission constraints, the Planning Staff shall act in a manner consistent with the provisions of the Transmission Tariff.

The Planning Staff shall follow the procedures of the Transmission Tariff when conducting System Impact and Facilities Studies. Upon receipt of an approved Facilities Study Agreement, the Planning Staff shall form, chair, and direct the activities of an Ad Hoc Planning Committee that includes representatives of all affected Owners. The Ad Hoc Planning Committee shall develop expansion alternatives, perform the described studies, and develop the resulting options, costs, and service agreement which shall be provided to the transmission customer by the Planning Staff.

Each Owner shall file with the Midwest ISO information regarding the physical ratings of all of its equipment in the Transmission System. This information is intended to reflect the normal and emergency ratings routinely used in regional load flow and stability analyses. In carrying out its responsibilities, the Midwest ISO shall apply ratings that have been provided by the respective Owners and have been verified and accepted as appropriate by the Midwest ISO where such ratings affect Midwest ISO reliability. When requested by the Midwest ISO, Owners shall provide specific methods by which the ratings of equipment are calculated. If the Planning Staff and the Owners' respective planning representatives cannot reach agreement on a rating, the dispute shall be resolved through the Dispute Resolution process provided in Appendix D to the Agreement. However, the Midwest ISO shall use the ratings provided by the Owner unless and until such ratings are changed through the Dispute Resolution process or by voluntary agreement with the affected Owner.

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**VI. Development Of The Midwest ISO Transmission Plan.**

The Planning Staff, working in collaboration with representatives of the Owners and the Planning Advisory Committee, shall develop the Midwest ISO Plan, consistent with Good Utility Practice and taking into consideration long-range planning horizons, as appropriate. The Planning Staff shall develop this plan for expected use patterns and analyze the performance of the Transmission System in meeting both reliability needs and the needs of the competitive bulk power market, under a wide variety of contingency conditions. The Midwest ISO Plan will give full consideration to all market participants, including demand-side options, and identify expansions needed to support competition in bulk power markets and in maintaining reliability. This analysis and planning process shall integrate into the development of the Midwest ISO Plan among other things: (i) the transmission needs identified from Facilities Studies carried out in connection with specific transmission service requests; (ii) the transmission needs identified by the Owners in connection with their planning analyses to provide reliable power supply to their connected load customers and to expand trading opportunities, better integrate the grid and alleviate congestion; (iii) the transmission planning obligations of an Owner, imposed by federal or state law(s) or regulatory authorities, which can no longer be performed solely by the Owner following transfer of functional control of its transmission facilities to the Midwest ISO; (iv) the inputs provided by the Planning Advisory Committee; and (v) the inputs, if any, provided by the state regulatory

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authorities having jurisdiction over any of the Owners. In the course of this process, the Planning Staff shall seek out opportunities to coordinate or consolidate, where possible, individually defined transmission projects into more comprehensive cost-effective developments subject to the limitations imposed by prior commitments and lead time constraints. This multi-party collaborative process is designed to ensure the development of the most efficient and cost-effective Midwest ISO Plan that will meet reliability needs and expand trading opportunities, better integrate the grid, and alleviate congestion, while giving consideration to the inputs from all stakeholders.

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The Planning Staff shall test the Midwest ISO Plan for adequacy and security based on all applicable criteria. The Midwest ISO Plan shall adhere to applicable reliability requirements of NERC, regional reliability councils, or successor organizations, Owners' planning criteria filed with federal, state, or local regulatory authorities, and applicable federal, state and local system planning and operating reliability criteria. If the Planning Staff and any Owner's planning representatives cannot reach agreement on any element of the Midwest ISO Plan, the dispute may be resolved through the Dispute Resolution process provided in Appendix D to the Agreement or by the FERC or state regulatory authorities, where appropriate. The Midwest ISO Plan shall have as one of its goals the satisfaction of all regulatory requirements. That is, the Midwest ISO shall not require that projects be undertaken where it is expected that the necessary regulatory approvals for construction and cost recovery will not be obtained.

The Planning Staff shall present the Midwest ISO Plan, along with a summary of relevant alternatives that were not selected, to the Board for approval on a biennial basis, or more frequently if needed. The proposed Midwest ISO Plan shall include specific projects already approved as a result of the Midwest ISO entering into service agreements with transmission customers where such agreements provide for identification of needed transmission construction, its timetable, cost, and Owner or other parties' construction responsibilities. Ownership and the responsibility to construct facilities which are connected to a single Owner's system belong to that Owner, and that Owner is responsible for maintaining such facilities. Ownership and the responsibilities to construct facilities which are connected between two (2) or more Owners' facilities belong

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equally to each Owner, unless such Owners otherwise agree, and the responsibility for maintaining such facilities belongs to the Owners of the facilities unless otherwise agreed by such Owners. Finally, ownership and the responsibility to construct facilities which are connected between an Owner(s)' system and a system or systems that are not part of the Midwest ISO belong to such Owner(s) unless the Owner(s) and the non-Midwest ISO party or parties otherwise agree; however, the responsibility to maintain the facilities remains with the Owner(s) unless otherwise agreed.

If the designated Owner is financially incapable of carrying out its construction responsibilities or would suffer demonstrable financial harm from such construction, alternate construction arrangements shall be identified. Depending on the specific circumstances, such alternate arrangements shall include solicitation of other Owners or others to take on financial and/or construction responsibilities. Third-parties shall be permitted and are encouraged to participate in the financing, construction and ownership of new transmission facilities as specified in the Midwest ISO Plan. In the event interest among other Owners or other entities is not sufficient to proceed, all Owners, subject to applicable regulatory requirements, shall be responsible for sharing in the financing of the project and/or hiring of a contractor(s) to construct the needed transmission facility; provided, however, the Owners' obligations under this sentence shall be subject to the Owners being satisfied that they will be compensated fully for their investments and will not be subject to additional regulatory requirements, unless the Owners otherwise agree to waive either or both of these requirements

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Approval of the Midwest ISO Plan by the Board certifies it as the Midwest ISO's plan for meeting the transmission needs of all stakeholders subject to any required approvals by federal or state regulatory authorities. The Midwest ISO shall provide a

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copy of the Midwest ISO Plan to all applicable federal and state regulatory authorities. The affected Owner(s) shall make a good faith effort to design, certify, and build the designated facilities to fulfill the approved Midwest ISO Plan. However, in the event that a proposed project is being challenged through the Dispute Resolution process under the Agreement, the obligation of the Owners to build that specific project (subject to required approvals) is waived until the project emerges from the Dispute Resolution process as an approved project. The Board shall allow the Owners to optimize the final design of specific facilities and their in-service dates if necessary to accommodate changing conditions, provided that such changes comport with the approved Midwest ISO Plan and provided that any such changes are accepted by the Midwest ISO. Any disagreements concerning such matters shall be subject to the Dispute Resolution process under Appendix D to the Agreement.

The Planning Staff shall assist the affected Owner(s) in justifying the need for, and obtaining certification of, any facilities required by the approved Midwest ISO Plan by preparing and presenting testimony in any proceedings before state or federal courts, regulatory authorities, or other agencies as may be required. The Midwest ISO shall publish annually, and distribute to all Members and all appropriate state regulatory authorities, a five-to-ten-year (5-to-10-year) planning report of forecasted transmission requirements. Annual reports and planning reports shall be available to the general public upon request.

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**VII. Planning Responsibilities Of Owners.**

To fulfill their roles in the collaborative process for the development of the Midwest ISO Plan, the Owners shall develop expansion plans for their transmission facilities while taking into consideration the needs of (i) connected loads, including load growth, (ii) new customers and new generation sources within the Owner's system, and (iii) known transmission service requests. Any plans that call for modifications to the Transmission System which would significantly affect ATC must be approved by the Midwest ISO before being implemented. However, the Midwest ISO shall develop a streamlined approval process for reviewing and approving projects proposed by the Owners so that decisions will be provided to the Owner within thirty (30) days of the projects submittal to the Midwest ISO unless a longer review period is mutually agreed upon. Any dispute concerning such matters shall be subject to the Dispute Resolution procedures under Appendix D to the Agreement. In the event that the Midwest ISO fails to act or produce results through the Dispute Resolution procedures under the Agreement within a reasonable time (as determined by the Board) of the Owner's submission of its proposed projects, approval of the proposed project(s) by the Midwest ISO shall be automatically conveyed to the affected Owner(s), subject to all requisite approvals.

Owners shall provide to the Planning Staff any necessary modeling or supporting data, planning criteria applicable to the Owner's system, and system-specific operating procedures. Owners shall carry out other duties deemed appropriate by the Owners that support the objectives of the Midwest ISO planning process, the calculation of ATC,

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or regional reliability analyses. Owners shall participate in the integration and testing of the Midwest ISO Plan. Owners shall serve on Ad Hoc Planning Committees established by the Planning Staff to respond to transmission service requests and other matters. Owners shall also calculate ATC at points of delivery to or receipt from Non-transferred Transmission Facilities and distribution facilities.

**VIII. Coordination Between Midwest ISO Operating And Planning Staffs.**

The Planning Staff shall provide support to the Midwest ISO Operating Staff (hereinafter "Operating Staff") in determining and posting ATC during the Operating Time Horizon (as defined by the Operating Staff) and in developing and reviewing operating procedures. The Planning Staff also shall assist the Operating Staff by performing operational planning assessments for near-term system configurations. Within their respective time horizons, the Operating and Planning Staffs shall have the same general responsibilities for determining whether the Transmission System can accommodate a specific transaction. The Planning Staff shall be responsible for all responses to requests for transmission service that require an expansion of the Transmission System or Non-transferred Transmission Facilities.

**IX. Miscellaneous Responsibilities Of Planning Staff.**

Among its general responsibilities, the Planning Staff shall: (i) review and comment on Owners' transmission plans; (ii) provide general oversight of all studies performed by Owners for the Midwest ISO; (iii) identify alternatives for further study and review that could increase the efficient and economic use of the Transmission System; (iv) analyze and assess the Transmission System periodically to ensure operational

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reliability, adequacy, and security, and that the long-term needs of transmission customers are being met; (v) facilitate communications among Owners, transmission customers, generation suppliers, and other stakeholders; and (vi) periodically monitor real-time data to identify emerging trends that require modification of planning assumptions to assure the reliable operation of the Transmission System in the future.

**APPENDIX C**

**APPENDIX C**

**PRICING AND REVENUE DISTRIBUTION,  
RETURN OF START-UP COSTS, AND  
RENEGOTIATION PROCEDURES FOR  
GRANDFATHERED AGREEMENTS**

The following represents the agreement of the Owners on pricing, revenue distribution, the return of Start-up Costs contributed by the Owners, and on the renegotiation procedures for certain Grandfathered Agreements.

**I. Additional Definitions.** Unless the context otherwise specifies or requires, the following additional definitions apply to this Appendix C, and, when used in this Appendix C, the following terms shall have the respective meanings set forth below.

**A. Border Transmission Owner.** A Midwest ISO Owner whose transmission facilities are interconnected with those of a non-Midwest ISO owner.

**B. Bundled Load.** The aggregate usage by customers who purchase electric services as a single service or customers who purchase electric services under a retail tariff rate schedule that includes power, energy and delivery components, as distinguished from customers who purchase Transmission Service as a separate service.

**C. Drive-in.** Point-to-Point Transmission Service where the generation source is outside the Midwest ISO and the load is located within the Midwest ISO.

**D. Drive-out.** Point-to-Point Transmission Service where the generation source is located within the Midwest ISO and the load is located outside of the Midwest ISO.



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**E. Drive-through.** Point-to-Point Transmission Service where both the generation source and the load are located outside of the Midwest ISO.

**F. Drive-within.** Point-to-Point Transmission Service where both the generation source and the load are located within the Midwest ISO.

**G. First Substantive Order.** The first order in which the FERC accepts for filing this Agreement and the Transmission Tariff (or if separately accepted, the later of the two (2) orders), even if the FERC orders changes to this Agreement or the Transmission Tariff, or sets for hearing the question of the justness or reasonableness of the Agreement or the Tariff.

**H. Grandfathered Agreements.** For revenue distribution purposes, the following types of agreements shall be considered Grandfathered Agreements: (i) non open access tariff transmission service agreements executed before the First Substantive Order date; (ii) bundled contracts which include transmission service as part of the contract executed prior to the First Substantive Order date; (iii) network and long-term firm Point-to-Point Transmission Service agreements executed prior to the First Substantive Order date; (iv) accepted and confirmed short-term firm and non-firm Point-to-Point Transmission transactions under open access transmission tariffs which were accepted and confirmed prior to the First Substantive Order date; and (v) Transmission Service agreements executed pursuant to Schedule F of the Mid-Continent Area Power Pool Open-Access Transmission Tariff executed prior to the Transfer Date.

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For pricing purposes, the first, second, and fifth categories above shall be Grandfathered Agreements. The third and fourth categories of agreements shall be considered only Grandfathered Agreements for pricing purposes if the pricing terms cannot be changed under sections 205 and 206 of the FPA (except under the *Mobile-Sierra* “public interest” standard).

I. **Host Zone**. The Zone where load is physically connected to the Midwest ISO transmission network either directly or through a distribution system.

J. **Load Serving Entity**. Any entity that, has undertaken an obligation to provide or obtain electric energy for end-use customers by statute, franchise, regulatory requirement or contract for load located within or attached to the Transmission System. Where a distribution cooperative or a municipal distribution system otherwise covered by the prior sentence is a wholesale customer of a generation and transmission cooperative or a municipal joint action agency, the generation and transmission cooperative or municipal joint action agency may act as the Load Serving Entity for such distribution cooperative or municipal distribution system.

K. **Network Transmission Service**. Defined the same as in the definition of Network Integration Transmission Service in the Transmission Tariff.

L. **Point-to-Point Transmission Service**. Defined the same as in the definition of the same term in the Transmission Tariff.

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**M. Transition Period.** The Transition Period begins on the Transfer Date and ends on the sixth anniversary of the Transfer Date.

**N. Zone(s).** The transmission pricing zone(s) identified in the Transmission Tariff as it (they) may be changed pursuant to this Appendix C.

**II. Pricing.**

**A. Rates and Procedures Applicable during the Transition Period.**

The following are the major elements of Midwest ISO pricing during the Transition Period:

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1. Transition Period Rates.

a. During the Transition Period, the Midwest ISO shall employ a Zonal pricing structure for both Network Transmission Service and Point-to-Point Transmission Service associated with loads physically located within a Midwest ISO Zone. The Zonal rates for each Zone shall be based on the costs of the booked transmission facilities within the Zone. Payment of the Zonal rate allows the customer to obtain transmission service over the facilities covered by the Transmission Tariff without paying additional base transmission charges. The Zones shall be as specified in the Transmission Tariff submitted as part of the initial filing with the FERC to establish the Midwest ISO or to add a new Owner that is a transmission provider and is or would have been a specified zone for pricing under an existing or proposed regional transmission tariff. The Zones only may be changed to reflect the effectuation of a merger (or consolidation and reorganization), to add a new Owner that operates a control area in existence on or before the date of the initial filing with the FERC to establish the Midwest ISO, or to reflect the withdrawal from the Midwest ISO of an Owner or Owners.

b. The rates for Network Transmission Service and Drive-in and Drive-within Point-to-Point Transmission Service shall be the rates for the Zone in which the load is located. The rates for Drive-through and Drive-out Point-to-Point Transmission Service shall be the single Midwest ISO system-wide rate calculated as set forth in the Transmission Tariff.

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2. Applicability to All Load

a. Each Transmission Owner, to the extent it is a Load Serving Entity, shall take Network Integration Transmission Service or Point-to-Point Transmission Service from the Midwest ISO in accordance with the Tariff, subject to the limitations in this Part II, Paragraph A.3 subparts a. through e. below for (1) Bundled Load served by a Load Serving Entity; and (2) load being served at wholesale under a Grandfathered Agreement. Each Transmission Owner that is a Load Serving Entity shall enter into a service agreement(s) under the Tariff with the Midwest ISO for such Transmission Service. A Transmission Owner, making contractual arrangements to act as agent on behalf of another Transmission Owner(s) with load located in the same pricing zone subject to Grandfathered Agreements, will be permitted to make arrangements for Network Integration Transmission Service or Point-to-Point Transmission Service with the Midwest ISO for load served by the other Transmission Owner(s).

b. All other Load Serving Entities not covered under Part II, Paragraph A.2 subpart a. above shall take Network Integration Transmission Service or Point-to-Point Transmission Service from the Midwest ISO in accordance with this Tariff and shall enter into a service agreement(s) under this Tariff with the Midwest ISO for such Transmission Service. A Transmission Owner that is not the Load Serving Entity may make contractual arrangements to act as agent on behalf of the Load Serving Entity for payment of the applicable Schedule 10 charges.

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3. Limitations on Charges and Cost Responsibilities.

a. **Bundled Load:** Transmission Owners taking Network Integration Transmission Service to serve their Bundled Load shall not pay charges pursuant to Schedules 1 through 6 and Schedule 9 and also shall not be responsible for losses from network resources located within their Control Areas or pricing zone pursuant to Attachment M. The Transmission Owner, however, shall be responsible for losses under Attachment M for network resources located outside of its Control Area or pricing zone that are within or attached to the Transmission System.

b. **Grandfathered Agreements for Load Inside of the ISO:** For the transmission service provided as a result of or pursuant to Grandfathered Agreements for load inside of the ISO, each Transmission Owner which is a party to that Grandfathered Agreement shall not be obligated to pay charges under Schedules 1 through 9, nor shall it be responsible for losses under Attachment M. Each Transmission Owner shall remain responsible for payment of the applicable Schedule 10 charges for the services taken pursuant to Section II, Paragraph A.2, subpart a above for its load, which may include wholesale loads under Grandfathered Agreements.

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c. **Grandfathered Agreements for Load Outside of the ISO:** For the transmission service provided as a result of or pursuant to Grandfathered Agreements for load outside of the ISO, the Transmission Owner shall be exempt from rates under this Tariff for services provided pursuant to the existing agreements, except for charges under Schedule 10, which will reimburse the Transmission Provider for the services it performs.

d. **Exception to Section II(A)(3)(b) and (c):** Notwithstanding the provisions of this Section II, Paragraph A. 3 subparts b. and c. above, (I) if ancillary services are not taken or provided under the Grandfathered Agreement, in whole or in part, then such ancillary services which are not provided under such Grandfathered Agreement shall be provided and charged for under this Tariff; and (II) if losses are not provided or paid for under the Grandfathered Agreement, then losses shall be provided in accordance with Attachment M.

e. **Direct Billing to Customers under Grandfathered Agreement:** Once a Service Agreement, either executed or unexecuted, between the Midwest ISO and the customer which is a party to the Grandfathered Agreement is effective, the Midwest ISO shall bill the customer for Schedule 10 charges associated with providing service rather than the Transmission Owner.

f. Service under Grandfathered Agreements shall continue according to their terms. Grandfathered Agreements are listed in Attachment P to the Transmission Tariff.

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[Reserved for future use]



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**B. Rates and Procedures Applicable after the Transition Period**

1. Rates.

a. The rates for Point-to-Point and Network Transmission Service shall be the same as the rates during the Transition Period which are specified in Section II, Paragraph A.1 above except under the conditions specified in subparagraphs b or c of this paragraph B.1.

b. The Midwest ISO shall file to combine zones (i) if all of the Owners in the Zones to be combined that are paying the Midwest ISO for transmission service associated with Bundled Load agree to combine such zones; (ii) if all of the Owners in contiguous Zones that are paying the Midwest ISO for transmission service associated with Bundled Load are allowed to recover amounts they pay the Midwest ISO for such transmission service in the applicable rates; provided, however, any Owner may agree to have zones combined whether or not the Owner recovers or is assured recovery of payments to the Midwest ISO; or (iii) if there are contiguous zones that are to be combined where there are no Owners paying the Midwest ISO for transmission service associated with Bundled Load.

c. The Midwest ISO shall file a revision to the rate formula which is set forth in Attachment O to the Transmission Tariff to implement Midwest ISO system-wide transmission rates (i.e., the same transmission rate shall apply to all customers) (i) if all Owners paying the Midwest ISO for transmission service associated with Bundled Load agree; (ii) if all Owners that are paying the Midwest ISO for transmission service

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associated with Bundled Load are allowed to recover such payments; or (iii) there are no Owners paying the Midwest ISO for transmission service associated with Bundled Load.

d. In order to implement and facilitate any rate revisions to paragraphs b and c of this Section II.B.1., the Midwest ISO shall establish procedures to provide for the development and submission of a filing to FERC, which shall be submitted at least six months before the end of the Transition Period.

2. Load under Transmission Tariff.

The Midwest ISO Transmission Tariff shall be applicable to all transmission service arranged over Midwest ISO transmission facilities whether for Bundled Load, for electric load that is not Bundled Load, or for deliveries made pursuant to Grandfathered Agreements; provided, however, that Grandfathered Agreements shall not be abrogated or modified by this Agreement. Owners shall be required to take transmission service under the Midwest ISO Transmission Tariff to serve Bundled Load to which they are providing bundled electric service unless some other entity is obtaining the necessary transmission service from the Midwest ISO.

**C. Other Pricing Matters.**

1. Owners shall be appropriately compensated for the construction of transmission facilities required by the Midwest ISO. The appropriate compensation or compensation requirements are set forth in Attachment N to the Transmission Tariff submitted as part of the initial filing with the FERC to establish the Midwest ISO.

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2. Prior to the end of the fourth (4th) year of the Transition Period, each Owner shall file a request with the appropriate regulatory authority or authorities (unless a proceeding has already been initiated or completed) for a determination of which of its facilities are transmission facilities or which are distribution in accordance with the seven (7) factor test set forth in FERC Order No. 888, 61 Fed. Reg. 21,540, 21,620 (1996), or any applicable successor test. Each Owner shall use its best effort to cause these determinations to be made before the end of the Transition Period. Owners that are not subject to regulation by a regulatory authority shall apply to the Midwest ISO for such a determination.

3. The ISO Cost Adder mechanism for the Transition Period shall be calculated as set forth in Schedule 10 to the Transmission Tariff submitted as part of the initial filing with the FERC to establish the Midwest ISO.

### III. Revenue Distribution.

Notwithstanding any language to the contrary in this Appendix C or the Agreement, the Midwest ISO shall cause the distribution monthly of the Owners' revenues associated with transmission services in accordance with this Appendix C and the Funds Trust Agreement. Any distribution of revenues to and among the Owners shall be consistent with this Appendix C and the Funds Trust Agreement.

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The revenues subject to this Section III are the transmission revenues associated with charges under Schedules 7, 8, and 9 to the Transmission Tariff.

**A. Revenue Distribution during Transition Period.**

1. Except by mutual agreement of the parties to a Grandfathered Agreement, the Midwest ISO shall not collect or distribute any revenues for transmission service related to such agreements during the Transition Period. The Owner providing the transmission service under a Grandfathered Agreement shall continue to receive payment directly from the customer under the Grandfathered Agreement. Nothing contained in this paragraph affects any rights of any party to unilaterally make application to FERC to alter, amend, or terminate a Grandfathered Agreement.

2. Revenues collected by the Midwest ISO for transmission services involving retail electric load that had the right to choose a different supplier under a state retail access program or legislation, shall be fully distributed to the Host Zone, regardless of whether the customers comprising such retail electric load have exercised such right to choose.

3. Revenues collected by the Midwest ISO for transmission services associated with power transactions where the generation source(s) and load(s) are physically located within the same Host Zone shall be fully distributed to that Host Zone whether the generation source is controlled by the Owner or another entity.

4. Revenues collected by the Midwest ISO for Network Transmission Service shall be fully distributed to the Host Zone.

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5. Revenues collected by the Midwest ISO for Point-to-Point Transmission Service for delivery directly to a wholesale requirements customer or a former wholesale requirements customer shall be distributed to the Host Zone.

6. Revenues collected by the Midwest ISO for Drive-in Point-to-Point Transmission Service shall be fully distributed to the Border Transmission Owner if that Owner purchases power from outside the Midwest ISO for delivery to its Zone and pays the Midwest ISO for such transmission service to effectuate that purchase.

7. All other Midwest ISO transmission revenues (*i.e.*, other than those revenues specified in Paragraphs 1-6 above) shall be distributed among Zones as follows: (i) fifty percent (50%) of such revenues shall be distributed in proportion to transmission investment (calculated each month based on the relative proportion of transmission investment reflected in the then applicable rates determined by the formula in Attachment O to the Transmission Tariff); and (ii) fifty percent (50%) of such revenues shall be shared based upon power flows. Such power flows shall be calculated using load flow analysis techniques to develop transaction participation factors. The methodology for developing transaction participation factors is described in Appendix C-1. Participation factors less than three percent (3%) shall be ignored.

Notwithstanding the foregoing in this paragraph 7, Transmission Owners that are also Mid-Continent Area Power Pool ("MAPP") members electing to take Network Integration Transmission Service pursuant to Section 37.5 of the Transmission Tariff shall receive no revenues under this paragraph from Point-to-Point Transmission

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Service associated with Transmission Owner purchases of power. Such MAPP Transmission Owners shall participate in all other revenue sharing under this paragraph 7.

8. The Owners located within a Zone that has more than one (1) Owner shall appoint a single Owner or designee to receive the revenues allocated to the Zone and to further distribute such revenues pursuant to agreement of the Owners within the Zone. If the Owners in a Zone cannot agree to a methodology for distributing such revenues, Owners may seek recourse through the Dispute Resolution procedures under Appendix D to the Agreement or the Owners may go to the FERC for resolution. An intra-Zonal revenue distribution methodology shall, to the greatest extent possible, minimize cost shifts so that the Owners shall continue to receive the revenues they would have received absent the formation of the Midwest ISO.

**B. Revenue Distribution after the Transition Period Ends.**

1. Each Owner shall receive revenues, on a monthly basis, based on its revenue requirement calculated in accordance with a formula filed with the FERC.

2. If Midwest ISO revenues are insufficient to satisfy revenue requirements in any year for any reason, then the shortfall shall be apportioned on a proportionate basis of revenue requirements (e.g., an Owner whose revenue requirements are ten percent (10%) of the total Midwest ISO revenue requirements shall bear \$1 million

**APPENDIX C**

of a total \$10 million shortfall). If Midwest ISO revenues exceed revenue requirements in any year, then any additional revenues shall be distributed on the same basis used for apportioning shortfalls.

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**IV. Return Of Start-up Costs.**

The Midwest ISO shall pay back an Owner's contributions to the Start-up Costs, plus reasonable interest; provided, however, only Owners that are signatories to the Agreement when it is initially filed with the FERC shall receive a return of their contribution to the Start-up Costs incurred prior to the date of filing. Those Owners that are not signatories at the time of filing shall forfeit any right to a return of their contributions to Start-up Costs incurred prior to the date of the initial filing. For those Owners that become signatories after the initial filing with FERC and make contributions to Start-up Costs after the date they become signatories, the Midwest ISO shall return those post-filing Start-up Costs after paying back all Start-up Costs incurred before the initial FERC filing date. The Midwest ISO shall obtain financing as soon as is reasonably possible to pay back such Owners and shall do so promptly upon receiving the necessary monies. The Midwest ISO also shall use any membership fees to pay back such Owners as soon as possible but no later than twelve (12) months after the date of the First Substantive Order. The Start-up Costs shall include only the following costs:

**A.** Contributions to cover outside joint expenses (i.e., outside legal costs and consultant or contractor costs) relating to the development of the Midwest ISO filing and implementation of the Agreement.

**B.** Costs associated with joint meetings of Owners and others relating to the formation of the Midwest ISO.



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**C.** Contributions relating to equipment, software, or other items related to the start-up of the Midwest ISO. These contributions include monies spent associated with equipment, software, and other items for (1) the Midwest ISO's systems; and (2) the Owners' systems where such expenditures are necessary to allow the Owners' systems to interface with the ISO. Payments made to consultants related to the start-up of the Midwest ISO are included within such expenditures.

**D.** Contributions to allow the Midwest ISO to obtain financing.

**E.** Contributions or monies paid relating to the recruitment, hiring, and/or employment of Directors, Officers, employees, and contractors by the Midwest ISO including salaries and other compensation and insurance premiums and any monies paid to any person or entity performing administrative and start-up functions until the Midwest ISO Board is elected.

**F.** Any other contributions by Owners to Midwest ISO expenses or costs in response to a request of the Midwest ISO Board or Officers.

For any facilities, software, or other items involving modifications or additions to the Owners' systems for which the Owners receive reimbursement of their costs under this Article IV, the Owners shall not include such facilities, software, or other items, or portions thereof, in their rates or in any charges to the Midwest ISO.

**V. Renegotiation Procedures For Certain Grandfathered Agreements.**

For Grandfathered Agreements where the agreements result in the payment of pancaked rates within the Midwest ISO, the parties to the agreement shall enter into

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good faith negotiations to consider the amendment or termination of the agreement. These negotiations shall conclude no later than the first day on which the Midwest ISO begins providing service under the Transmission Tariff. During this negotiating period, the parties to the Grandfathered Agreement cannot raise any issues regarding amendment or termination of such Grandfathered Agreement with the FERC. At the end of the negotiating period, if the parties to the Grandfathered Agreement are unable to reach agreement, then either party may utilize whatever rights it otherwise would have to request that the FERC consider the need for an amendment or to terminate the Grandfathered Agreement. Except as specifically provided in this Section V, this provision does not affect any rights or arguments that a party to a Grandfathered Agreement may have.

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## APPENDIX C-1

### APPENDIX C-1

#### DEVELOPMENT OF TRANSACTION PARTICIPATION FACTORS

In developing transaction participation factors (hereinafter "TPFs") for use in transmission revenue distribution, the Midwest ISO shall employ the principles outlined in this Appendix C-1, as described below.

Power Flow Models: The Midwest ISO shall develop power flow base cases with sufficient detail to represent the transmission systems of the Midwest ISO and surrounding networks, using the NERC power flow base case library. Power flow base cases should be developed annually for a number of load levels and various seasons (such as summer and winter) to recognize changes in the transmission system configuration, load level, and power flow patterns. Transformer taps and switched shunts should be held fixed and the phase angle regulators should be modeled as they would be in transmission reliability studies. Other modeling adjustments should be incorporated as appropriate.

Power Transaction Simulations: Each potential power transaction should be simulated by scaling load down in the selling (or from) control area by an appropriate amount (e.g., 100 MW) and scaling load up by the same amount in the buying (or to) control area, making a corresponding adjustment in the scheduled interchange of the affected control areas. Each power flow simulation should be solved using an AC solution.

Calculations of TPFs: Tables showing the TPF for each Midwest ISO Zone shall be constructed for each simulated transaction. When a Midwest ISO control area is host to the load or power source for a transaction, the TPF for that control area shall be 100%. A TPF which represents the response of each other Midwest ISO system affected by the simulated transaction shall be calculated. This calculation may be accomplished in several steps as follows:

- Algebraically sum the tie line flows between each affected control area and each interconnected control area neighbor of such control area (i.e., determine the net flow in (+) or out (-) over all ties of each control area to control area interface) for the base case and corresponding transaction simulation case;
- Compare the corresponding base case and transaction simulation case results and determine the tie line power flow change for each such control area interface;
- Sum the absolute values of such changes in tie line flows over all the control area interfaces of such control area; and
- Divide the sum by two and the simulation transaction amount, setting all TPF of less than 0.03 (3%) to zero.

**APPENDIX C-2**

**APPENDIX C-2**

**REVENUE DISTRIBUTION FOR ALLIANCE-MIDWEST ISO  
SUPER-REGIONAL RATE ADJUSTMENT CHARGE**

**I. Additional Definitions.** Unless the context otherwise specifies or requires, the following additional definitions apply to this Appendix C-2, and, when used in this Appendix C-2, the following terms shall have the respective meanings set forth below.

**A. ARTO-MISO Settlement.** The March 21, 2001 settlement filed in FERC Docket No. ER01-123-000, *et al.* and accepted by FERC on May 8, 2001. Illinois Power Co., 95 FERC ¶ 61,183 (2001).

**B. Alliance-Midwest ISO Super Region.** The transmission systems and the NERC-certified electrically metered control areas of the Alliance Companies and the Owners (including the ATC LLC Companies).

**C. SRA.** The Super-Regional Rate Adjustment which is being filed pursuant to the ARTO-MISO Settlement.

**II. Revenue Distribution.**

The Midwest ISO shall pass through monthly the Owners' revenues associated with transmission services in accordance with Appendix C-2. In order to provide revenues on a monthly basis, the Midwest ISO may estimate the revenues to be received by each Owner subject to a true-up. The revenues subject to this Section II are the transmission revenues associated with SRA charges under Schedule 13 to the Transmission Tariff. The following methodology is used to distribute revenues received associated with such SRA charges:

Revenues shall be allocated based on the relative proportions of SRA payments made by the Owners or load serving entities within each Zone as set forth on Appendix C-2, Attachment 1.

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**APPENDIX C-2  
ATTACHMENT 1**

**TRANSMISSION OWNER'S RELATIVE SHARE OF TOTAL SRA PAYMENTS**

Transmission Owner	SRA Payments	Percentage
Alliant Energy West (IES Utilities & IPC)	\$1,777,154	4%
ATCLLC	\$9,971,393	20%
Central Illinois Light Co.	\$927,159	2%
Cinergy Services (includes IMPA & WVPA)	\$4,675,465	9%
City Water, Light & Power (Springfield, IL)	\$160,525	0%
Hoosier Energy	\$1,508,693	3%
International Transmission Company	\$21,792,002	44%
Indianapolis Power & Light	\$293,130	1%
Louisville G & E/Kentucky Utilities	\$1,347,532	3%
Lincoln Electric (Neb.) System	\$16,823	0%
Manitoba Hydro	\$6,960	0%
Minnesota Power	\$121,232	0%
Montana-Dakota Utilities Co.	\$0	0%
Otter Tail Power	\$133,391	0%
Southern Illinois Power Cooperative	\$461,845	1%
UtiliCorp United Kansas	\$6,253	0%
UtiliCorp United Missouri	\$2,866,416	6%
Vectren Eenergy	\$117,648	0%
Xcel Energy (Northern States Power)	\$3,147,282	6%
Total	\$49,330,901	100%

## APPENDIX C-3

### REVENUE DISTRIBUTION FOR MIDWEST ISO REGIONAL THROUGH AND OUT RATE

**I. Additional Definitions.** Unless the context otherwise specifies or requires, the following additional definitions apply to this Appendix C-3, and, when used in this Appendix C-3, the following terms shall have the respective meanings set forth below.

**A. ARTO-MISO Settlement.** The March 21, 2001 settlement filed in FERC Docket No. ER01-123-000, et al. and accepted by FERC on May 8, 2001. Illinois Power Co., 95 FERC ¶ 61,183 (2001).

**B. Alliance-Midwest ISO Super Region.** The transmission systems and the NERC-certified electrically metered control areas of the Alliance Companies and the Owners (including the ATC LLC Companies).

**C. RTOR.** The Regional Through and Out Rate which is set forth in Schedule 14 of the Transmission Tariff.

## **II. Revenue Distribution.**

The Midwest ISO shall cause the distribution monthly of the Owners' revenues associated with transmission services established by the Owners in accordance with Appendix C-3 and the Funds Trust Agreement. In order to cause the distribution of revenues on a monthly basis, the Midwest ISO may estimate the revenues to be received by each Owner subject to a true-up. The revenues subject to this Section II are the transmission revenues associated with RTOR charges under Schedule 14 to the Transmission Tariff. The following methodology is used to distribute revenues received associated with such RTOR component:

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1. Fifty percent (50%) based on the relative share of total lost revenues of each entity identified on Appendix C-3, Attachments 1, 1A and 1B, with those relative shares set out on Appendix C-3, Attachment 1A for the period October 1, 2003 through April 30, 2004, Appendix C-3, Attachment 1 for the period May 1, 2004 through September 30, 2005, and Appendix C-3, Attachment 1B for the period beginning, October 1, 2005.

2. Fifty percent (50%) based on the relative flows across the facilities of each entity identified on Appendix C-3, Attachment 1 (for the period May 1, 2004 through September 30, 2005), Appendix C-3, Attachment 1A (for the period October 1, 2003 through April 30, 2004), and Appendix C-3, Attachment 1B (for the period beginning October 1, 2005) resulting from the provision of transmission service under the Midwest ISO OATT for Drive-through and Drive-out Point-to-Point transmission service transactions.



**APPENDIX C-3**  
**ATTACHMENT 1 (1 of 3)**  
**For Service Rendered May 1, 2004 Through September 30, 2004**  
**Transmission Owner's Relative Share of Total Lost Revenues**

Transmission Owner	Lost Revenues	Percentage
Alliant Energy Corporate Services, Inc. (as agent for Interstate Power & Light)	\$3,842,715	1.96%
Ameren Services Company, as agent for its electric utility affiliates, Union Electric Company (d/b/a AmerenUE) and Central Illinois Public Service Company (d/b/a AmerenCIPS)	\$41,067,813	20.94%
American Transmission Company, LLC	\$10,704,021	5.46%
American Transmission Systems, Incorporated (a subsidiary of FirstEnergy Corp.)	\$34,342,411	17.51%
Central Illinois Light Co.	\$742,743	0.38%
Cinergy Services (includes IMPA & WVPA)	\$31,913,382	16.27%
City Water, Light & Power (Springfield, IL)	\$334,484	0.17%
Hoosier Energy R.E.C.	\$332,770	0.17%
International Transmission Company	\$1,861,031	0.95%
Indianapolis Power & Light	\$4,107,286	2.09%
Louisville Gas & Electric/Kentucky Utilities	\$19,929,568	10.16%
Lincoln Electric (Neb.) System	\$383,915	0.20%
Manitoba Hydro	\$4,315,793	2.20%
Michigan Electric Transmission Company, LLC	\$4,682,713	2.39%
Minnesota Power, Inc.	\$2,710,339	1.38%
Montana-Dakota Utilities Co.	\$557,988	0.28%
Northern Indiana Public Service Company	\$5,641,752	2.88%
Otter Tail Power Co.	\$771,979	0.39%
Southern Illinois Power Cooperative	\$591,480	0.30%
UtiliCorp United Kansas	\$711,376	0.36%
UtiliCorp United Missouri	\$3,079,507	1.57%
Vectren Energy Delivery	\$2,358,291	1.20%
Xcel Energy Services, Inc. (Northern States Power)	\$21,153,592	10.79%
Total	\$196,136,949	100%

**APPENDIX C-3**  
**ATTACHMENT 1 (2 of 3)**  
**For Service Rendered October 1, 2004 Through November 30, 2004**  
**Transmission Owner's Relative Share of Total Lost Revenues**

Transmission Owner	Lost Revenues	Percentage
Alliant Energy Corporate Services, Inc. (as agent for Interstate Power & Light)	\$3,842,715	1.78%
Ameren Services Company, as agent for its electric utility affiliates, Union Electric Company (d/b/a AmerenUE) and Central Illinois Public Service Company (d/b/a AmerenCIPS)	\$41,067,813	18.99%
American Transmission Company, LLC	\$10,704,021	4.95%
American Transmission Systems, Incorporated (a subsidiary of FirstEnergy Corp.)	\$34,342,411	15.88%
Central Illinois Light Co.	\$742,743	0.34%
Cinergy Services (includes IMPA & WVPA)	\$31,913,382	14.76%
City Water, Light & Power (Springfield, IL)	\$334,484	0.15%
Hoosier Energy R.E.C.	\$332,770	0.15%
Illinois Power Company	\$20,113,298	9.30%
International Transmission Company	\$1,861,031	0.86%
Indianapolis Power & Light	\$4,107,286	1.90%
Louisville Gas & Electric/Kentucky Utilities	\$19,929,568	9.22%
Lincoln Electric (Neb.) System	\$383,915	0.18%
Manitoba Hydro	\$4,315,793	2.00%
Michigan Electric Transmission Company, LLC	\$4,682,713	2.17%
Minnesota Power, Inc.	\$2,710,339	1.25%
Montana-Dakota Utilities Co.	\$557,988	0.26%
Northern Indiana Public Service Company	\$5,641,752	2.61%
Otter Tail Power Co.	\$771,979	0.36%
Southern Illinois Power Cooperative	\$591,480	0.27%
UtiliCorp United Kansas	\$711,376	0.33%
UtiliCorp United Missouri	\$3,079,507	1.42%
Vectren Energy Delivery	\$2,358,291	1.09%
Xcel Energy Services, Inc. (Northern States Power)	\$21,153,592	9.78%
Total	\$216,250,247	100%

**APPENDIX C-3**  
**ATTACHMENT 1 (3 of 3)**  
**For Service Rendered December 1, 2004 through September 30, 2005**  
**Transmission Owner's Relative Share of Total Lost Revenues**

Transmission Owner	Lost Revenues	Percentage
Alliant Energy Corporate Services, Inc. (as agent for Interstate Power & Light)	\$3,842,715	1.77%
Ameren Services Company, as agent for its electric utility affiliates, Union Electric Company (d/b/a AmerenUE) and Central Illinois Public Service Company (d/b/a AmerenCIPS)	\$41,067,813	18.92%
American Transmission Company, LLC	\$10,704,021	4.93%
American Transmission Systems, Incorporated (a subsidiary of FirstEnergy Corp.)	\$34,342,411	15.82%
Central Illinois Light Co.	\$742,743	0.34%
Cinergy Services (includes IMPA & WVPA)	\$31,913,382	14.70%
City Water, Light & Power (Springfield, IL)	\$334,484	0.15%
Great River Energy	\$799,075	0.37%
Hoosier Energy R.E.C.	\$332,770	0.15%
Illinois Power Company	\$20,113,298	9.27%
International Transmission Company	\$1,861,031	0.86%
Indianapolis Power & Light	\$4,107,286	1.89%
Louisville Gas & Electric/Kentucky Utilities	\$19,929,568	9.18%
Lincoln Electric (Neb.) System	\$383,915	0.18%
Manitoba Hydro	\$4,315,793	1.99%
Michigan Electric Transmission Company, LLC	\$4,682,713	2.16%
Minnesota Power, Inc.	\$2,710,339	1.25%
Montana-Dakota Utilities Co.	\$557,988	0.26%
Northern Indiana Public Service Company	\$5,641,752	2.60%
Otter Tail Power Co.	\$771,979	0.36%
Southern Illinois Power Cooperative	\$591,480	0.27%
UtiliCorp United Kansas	\$711,376	0.33%
UtiliCorp United Missouri	\$3,079,507	1.42%
Vectren Energy Delivery	\$2,358,291	1.09%
Xcel Energy Services, Inc. (Northern States Power)	\$21,153,592	9.75%
Total	\$217,049,322	100%

**APPENDIX C-3  
ATTACHMENT 1A**

**For Service Rendered October 1, 2003 – April 30, 2004  
Transmission Owner's Relative Share of Total Lost Revenues**

Transmission Owner	Lost Revenues	Percentage
Alliant Energy West (IES Utilities & IPC)	\$3,905,956	2.49%
American Transmission Company, LLC	\$10,763,823	6.85%
American Transmission Systems, Incorporated (a subsidiary of FirstEnergy Corp.)	\$34,355,870	21.86%
Central Illinois Light Co.	\$786,401	0.50%
City Water, Light & Power (Springfield, IL)	\$365,779	0.23%
Cinergy Services (includes IMPA & WVPA)	\$32,560,164	20.72%
Hoosier Energy	\$339,399	0.22%
Indianapolis Power & Light	\$4,122,145	2.62%
International Transmission Company	\$1,891,957	1.20%
Louisville G & E/Kentucky Utilities	\$20,240,480	12.88%
Lincoln Electric (Neb.) System	\$383,915	0.24%
Manitoba Hydro	\$4,360,912	2.77%
Michigan Electric Transmission Company, LLC	\$4,697,124	2.99%
Minnesota Power	\$2,727,443	1.74%
Montana-Dakota Utilities Co.	\$565,000	0.36%
Northern Indiana Public Service Company	\$5,814,753	3.70%
Otter Tail Power	\$782,653	0.50%
Southern Illinois Power Cooperative	\$712,880	0.45%
UtiliCorp United Kansas	\$711,376	0.45%
UtiliCorp United Missouri	\$3,079,507	1.96%
Vectren Energy	\$2,370,613	1.51%
Xcel Energy (Northern States Power)	\$21,614,402	13.75%
Total	\$157,152,552	100%

**APPENDIX C-3**  
**ATTACHMENT 1B**  
**For Service Rendered October 1, 2005 and Thereafter**  
**Transmission Owner's Relative Share of Total Lost Revenues**

Transmission Owner	Lost Revenues	Percentage
Alliant Energy Corporate Services, Inc. (as agent for Interstate Power & Light)	\$3,955,282	1.62%
Ameren Services Company, as agent for its electric utility affiliates, Union Electric Company (d/b/a AmerenUE) and Central Illinois Public Service Company (d/b/a AmerenCIPS)	\$47,150,786	19.37%
American Transmission Company, LLC	\$10,841,613	4.45%
American Transmission Systems, Incorporated (a subsidiary of FirstEnergy Corp.)	\$37,196,127	15.28%
Central Illinois Light Co.	\$805,681	0.33%
Cinergy Services (includes IMPA & WVPA)	\$35,603,958	14.63%
City Water, Light & Power (Springfield, IL)	\$370,772	0.15%
Great River Energy	\$799,075	0.33%
Hoosier Energy R.E.C.	\$370,449	0.15%
Illinois Power Company	\$20,113,298	8.26%
International Transmission Company	\$4,839,662	1.99%
Indianapolis Power & Light	\$4,189,921	1.72%
Louisville Gas & Electric/Kentucky Utilities	\$20,803,949	8.55%
Lincoln Electric (Neb.) System	\$383,915	0.16%
Manitoba Hydro	\$4,420,322	1.82%
Michigan Electric Transmission Company, LLC	\$4,769,896	1.96%
Minnesota Power, Inc.	\$2,745,135	1.13%
Montana-Dakota Utilities Co.	\$575,182	0.24%
Northern Indiana Public Service Company	\$13,943,961	5.73%
Otter Tail Power Co.	\$795,715	0.33%
Southern Illinois Power Cooperative	\$724,636	0.30%
UtiliCorp United Kansas	\$711,376	0.29%
UtiliCorp United Missouri	\$3,079,507	1.26%
Vectren Energy Delivery	\$2,438,200	1.00%
Xcel Energy Services, Inc.(Northern States Power)	\$21,814,102	8.96%
Total	\$243,442,520	100%

## APPENDIX C-4

### REVENUE DISTRIBUTION FOR SECA

I. **Additional Definitions.** Unless the context otherwise specifies or requires, the following additional definitions apply to this Appendix C-4, and, when used in this Appendix C-4, the following terms shall have the respective meanings set forth below.

A. **SECA.** Seams Elimination Charge/Cost Adjustments/Assignments. The SECA is the mechanism for recovery of the lost revenues resulting from the elimination of through and out rates for transactions between the Midwest ISO and PJM. The SECA is to be paid by entities in PJM for (1) the period beginning on December 1, 2004 and ending on March 31, 2005, and (2) the subsequent period beginning on April 1, 2005 and ending on March 31, 2006.

B. **PJM.** PJM Interconnection, L.L.C.

C. **Coordinating Owner.** Manitoba Hydro.

D. **Owner.** For the purposes of Appendix C-4, the term Owner includes Manitoba Hydro, which is a Coordinating Owner.

E. **MWh.** Megawatt hour.

II. **Revenue Distribution.**

The Midwest ISO shall cause the distribution of the revenues received (from SECA charges under Schedule 21 of the Midwest ISO Transmission Tariff or from SECA charges implemented within PJM) to compensate the Owners for lost revenues in proportion to each Owner's lost revenues ratio in accordance with this Appendix C-4 and the Funds Trust Agreement. Each Owner's lost revenues ratio is set forth on Appendix C-4, Attachment 1.

**APPENDIX C-4**

The Owners for the purposes of the revenue distribution are listed on Appendix C-4, Attachment 1. Each Owner may designate another entity or other entities to recover the revenues it would be due under this provision.

**APPENDIX C-4  
ATTACHMENT 1**

**Transmission Owner's Relative Share of Total Lost Revenues**

<b>Transmission Owner</b>	<b>(Dec. 1, 2004 to Dec. 31, 2004)</b>	<b>(Jan. 1, 2005 to Mar. 31, 2005)</b>	<b>(Apr. 1, 2005 to Apr. 30, 2005)</b>	<b>(May 1, 2005 to Mar. 31, 2006)</b>
Alliant Energy Corporate Services, Inc. (as agent for Interstate Power & Light)	1.64%	1.44%	1.29%	1.29%
Ameren Services Company, as agent for its electric utility affiliates, Union Electric Company (d/b/a AmerenUE) and Central Illinois Public Service Company (d/b/a AmerenCIPS)	10.44%	9.06%	9.02%	9.27%
American Transmission Company, LLC	0.68%	0.58%	2.04%	2.04%
American Transmission Systems, Incorporated (a subsidiary of FirstEnergy Corp.)	34.12%	43.53%	42.94%	42.63%
Central Illinois Light Co.	0.46%	0.39%	0.47%	0.47%
Cinergy Services (includes IMPA & WVPA)	12.96%	10.97%	6.53%	6.53%
City Water, Light & Power (Springfield, IL)	0.12%	0.10%	0.14%	0.14%
Great River Energy	0.06%	0.06%	0.08%	0.08%
Hoosier Energy R.E.C.	0.84%	0.71%	0.55%	0.55%
Illinois Power Company	13.06%	10.88%	13.32%	13.36%
Indianapolis Power & Light	1.98%	1.68%	1.16%	1.16%
International Transmission Company	4.42%	3.79%	3.62%	3.62%
Louisville Gas & Electric/Kentucky Utilities	4.76%	4.06%	3.69%	3.69%
Manitoba Hydro	1.78%	1.52%	1.46%	1.46%
Michigan Electric Transmission Company, LLC	1.96%	1.67%	2.33%	2.33%
Minnesota Power, Inc.	0.57%	0.50%	0.43%	0.43%
Montana-Dakota Utilities Co.	0.24%	0.20%	0.18%	0.18%
Northern Indiana Public Service Company	2.88%	2.53%	6.48%	6.49%



**APPENDIX C-4**  
**ATTACHMENT 1 – cont'd.**

**Transmission Owner's Relative Share of Total Lost Revenues**

<b>Transmission Owner</b>	<b>(Dec. 1, 2004 to Dec. 31, 2004)</b>	<b>(Jan. 1, 2005 to Mar. 31, 2005)</b>	<b>(Apr. 1, 2005 to Apr. 30, 2005)</b>	<b>(May 1, 2005 to Mar. 31, 2006)</b>
Otter Tail Power Co.	0.42%	0.36%	0.34%	0.35%
Southern Illinois Power Cooperative	0.15%	0.13%	0.27%	0.27%
Vectren Energy Delivery	0.83%	0.71%	0.59%	0.59%
Xcel Energy Services, Inc. (Northern States Power)	5.63%	5.13%	3.09%	3.09%

**APPENDIX D**

**APPENDIX D**

**DISPUTE RESOLUTION PROCEDURES**

Attachment HH (Dispute Resolution Procedures) of the Open Access Transmission and Energy Markets Tariff is incorporated herein by reference.

**[Reserved for Future Use.]**

APPENDIX E

APPENDIX E

FRAMEWORK FOR OPERATIONAL RESPONSIBILITIES

I. **General Description Of Midwest ISO's Operational Responsibilities.**

The Midwest ISO, Owners, and Users shall be responsible for operational functions set forth in this Section I of this Appendix E. To the extent that there is any discrepancy between the functions and responsibilities of the Midwest ISO, Owners and Users as defined herein, those defined in the Transmission Tariff, the Transmission Tariff shall prevail.

A. **Midwest ISO Responsibilities.** The Midwest ISO shall be responsible for the following operational functions:

1. The Midwest ISO shall have functional control of the Transmission System as set forth in Section II of this Appendix E and as defined in Article One, Section I, Paragraph L of the ISO Agreement.

2. The Midwest ISO shall review and approve, as appropriate, requests for service and schedule transmission transactions as set forth in Section III of this Appendix E and shall determine available transmission capability (hereinafter "ATC") under the Transmission Tariff as set forth in Section III of this Appendix E, and in Appendix B to the Agreement.

**APPENDIX E**

3. The Midwest ISO shall implement and administer the Transmission Tariff applicable to the Transmission System and Non-transferred Transmission Facilities as set forth in Section IV of this Appendix E, and in Appendix B to the Agreement.

4. The Midwest ISO shall be responsible for the security of the Transmission System as set forth in Section V of this Appendix E.

5. The Midwest ISO shall offer ancillary services required to support transmission service as set forth in Section VI of this Appendix E.

## APPENDIX E

6. The Midwest ISO shall approve the scheduling of maintenance of all transmission facilities making up the Transmission System and shall coordinate with generation owners, as appropriate, the scheduling of maintenance on generation facilities as set forth in Section VII of this Appendix E.

7. The Midwest ISO shall be responsible for operations of OASIS system(s) in accordance with the Transmission Tariff.

8. The Midwest ISO shall monitor and coordinate voltage levels that shall be the responsibility of the control areas to maintain.

9. The Midwest ISO shall be responsible for administering the functions and responsibilities as defined in the Transmission Tariff in its role as the Reliability Authority, Market Operator, Interchange Scheduling Agent and Balancing Authority.

**B. Owners' and Users' Responsibilities.** As described more fully below, the Owners and Users, as appropriate, shall have the following responsibilities:

1. The Owners shall retain ownership of their transmission facilities comprising the Transmission System, and shall physically operate these facilities, subject to the Midwest ISO's direction, and maintain those facilities, subject to the Midwest ISO's scheduling approval as set forth in Sections II and VII of this Appendix E.

**APPENDIX E**

2. The Owners who are control area operators shall continue to operate their control areas for local generation control and economic dispatch as set forth in Section III of this Appendix E.

3. The Owners shall provide transmission service through their transmission facilities at the direction of the Midwest ISO pursuant to the terms of the Transmission Tariff as set forth in Section IV of this Appendix E.

**APPENDIX E**

4. The Owners and Users shall comply with the instructions of the Midwest ISO in its role as System Security Coordinator as set forth in Section V of this Appendix E.

5. The Owners shall perform maintenance on their transmission facilities included in the Transmission System under schedules as approved by the Midwest ISO, and shall coordinate maintenance on their Non-transferred Transmission Facilities and generation facilities significantly affecting Midwest ISO transmission capability or transmission reliability with the Midwest ISO as set forth in Section VII of this Appendix E. All Users that are not Owners shall coordinate maintenance on their generation facilities significantly affecting such transmission capability or reliability with the Midwest ISO.

6. The Owners and Users, where appropriate, shall offer to redispatch generating units in accordance with the Transmission Tariff, when feasible, subject to receiving appropriate compensation. The Owners and Users shall submit and coordinate unit schedules with the Midwest ISO that affect transmission capability or transmission reliability.

7. The Owners shall obtain approval of the Midwest ISO before taking transmission facilities included in the Transmission System out of service except in cases involving endangerment to the safety of employees or the public or damage to facilities. With regard to Non-transferred Transmission Facilities, the Owners shall



## APPENDIX E

provide notice to the Midwest ISO, as required from time to time by the Midwest ISO, before taking such facilities out of service.

8. Owners and Users shall be responsible for administering the functions and responsibilities as defined in the Transmission Tariff in their role as Balancing Authorities, Market Participants, Transmission Service Providers and Transmission Operators.

### II. Control Over Transmission Facilities.

#### A. Midwest ISO Control.

1. The Midwest ISO shall have functional control over the combined transmission facilities of the Owners that make up the Transmission System. Appendix H to the Agreement specifies all transmission facilities that initially shall constitute the Transmission System.

2. The Midwest ISO shall periodically review whether the Transmission System facilities under its functional control constitute all of the Owners' facilities necessary to provide reliable transmission service contemplated under the Agreement and the Transmission Tariff.

3. The Midwest ISO may exercise temporary operational control over any Non-transferred Transmission Facilities or associated non-generation facilities of an Owner in order to prevent or remedy a system emergency.

4. The Midwest ISO shall maintain a publicly available registry of all facilities that constitute the Transmission System.

5. The Midwest ISO shall, in consultation with affected Owners, other affected Members, and the Advisory Committee develop, and then revise from time-to-

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**APPENDIX E**

time as appropriate, operating procedures governing its exercise of operational control over the Transmission System (hereinafter "Operating Procedures"). The Operating Procedures shall be provided to the Owners, and, except to the extent determined by the Board as otherwise necessary for emergency or security reasons, such procedures shall be made available to the public. The Midwest ISO shall comply with its Operating Procedures in exercising its functional control over the Transmission System. To the extent required, such Operating Procedures shall be filed with the appropriate regulatory agency or agencies.

6. The Midwest ISO shall not exercise its operational control of the Transmission System in such a way as to interfere with rights of Users in contracts between an Owner and a User that are in effect as of the Effective Date of the Agreement (hereinafter "Existing Contracts").

7. The Midwest ISO shall be responsible for coordinating with the applicable regional reliability councils and shall join such councils as appropriate.

8. The Midwest ISO shall comply with any transmission operating obligations of an Owner imposed by Federal or state law or authorities which can no longer be performed solely by the Owner following transfer of functional control of its transmission facilities to the Midwest ISO, until such obligations are revised or changed.

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9. The Midwest ISO (i) shall take no action that would impair the safety and reliability of nuclear facilities; and (ii) shall take actions consistent with nuclear license conditions or requirements or as otherwise required by the Nuclear Regulatory Commission ("NRC").

**B. Owner Responsibilities.**

1. The Owners shall be obligated to physically operate and maintain their transmission facilities that are part of the Transmission System, and to comply with the directions of the Midwest ISO with respect to such operation and maintenance issued in compliance with the Operating Procedures.

**C. Retained Rights of Owners.** The Owners shall retain all rights of ownership in their transmission facilities, subject to the Midwest ISO's functional control of the Transmission System in accordance with the terms of this Appendix E. Nothing in this Appendix E shall be deemed to restrict or prohibit access to transmission facilities by the Owners, or those acting under their authority, when such access does not involve the removal of a transmission element from service or otherwise affect the provision of transmission services. To the extent required by the Midwest ISO, the Midwest ISO shall be notified by the Owners when maintenance is being performed on a facility that could result in unplanned outages of a transmission line or transformer.

**APPENDIX E**

**III. Determination Of Available Transmission Capability And Transmission Scheduling.**

**A. Available Transmission Capability.** For transactions of less than two (2) weeks' duration, the Midwest ISO operations staff shall determine the ATC consistent with the terms of the Transmission Tariff and Appendix B to the Agreement. See Appendix B to the Agreement for ATC determinations of two (2) weeks or more.

1. The Midwest ISO shall review all data received from non-Midwest ISO control areas, independent transmission system operators, regional reliability councils, or other entities that impact ATC calculations.

2. The Midwest ISO shall share data with non-Midwest ISO control areas, independent transmission system operators, regional reliability councils, or other entities with whom data must be exchanged, as requested, in order to determine ATC.

**B. Transmission Service Requests.** The Midwest ISO shall receive and process all transmission service requests in accordance with the Transmission Tariff. As a result:

1. The Midwest ISO shall be ultimately responsible for conducting all System Impact Studies associated with a request for transmission service. The analysis required shall be coordinated between the Midwest ISO and the Owners as follows:

a. The Midwest ISO shall provide sufficient information to the transmission/reliability representatives of all affected Owners to allow them to model local consequences of the requested service.

**APPENDIX E**

b. The Midwest ISO shall coordinate with affected Owners' transmission/reliability representatives when processing requests for service into and out of Non-transferred Transmission Facilities or distribution facilities.

c. The Midwest ISO shall consult with Owners with respect to equipment-specific and Non-transferred Transmission Facilities issues.

2. Upon completion of any required System Impact Studies, the Midwest ISO shall be responsible for making the final determination as to the amount of firm and non-firm transmission capacity that is available under the Transmission Tariff, and for resolving requests for transmission service in accordance with the terms of the Transmission Tariff.

3. When there is not adequate transmission capability to satisfy a transmission request, the Midwest ISO shall relieve or facilitate the relief of the transmission constraint consistent with the terms of the Transmission Tariff.

4. The Midwest ISO shall be responsible for documenting all transmission service requests under the Transmission Tariff, the disposition of such requests, and any supporting data required to support the decision with respect to such requests.

**C. Scheduling Transmission Service Transactions.** The Midwest ISO shall schedule all transmission service transactions involving the Transmission Tariff, including transactions under Existing Contracts, as follows:

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1. The Midwest ISO shall schedule and curtail transmission service and schedule the allocation of losses and ancillary services in accordance with the Transmission Tariff.

2. The Midwest ISO shall, in consultation with the affected Owners, other affected Members, and the Advisory Committee, develop and from time-to-time, amend when necessary, detailed scheduling protocols (hereinafter "Scheduling Protocols"), which shall be provided to all Members and made publicly available. For Members and Users who are operators of nuclear generating facilities, the Midwest ISO shall enter into written agreements, which define scheduling protocols, limitations, and restrictions necessary to ensure the safety and reliability of such facilities. The Scheduling Protocols shall not conflict with the provisions of the Transmission Tariff. All scheduling shall be performed in accordance with the Scheduling Protocols. To the extent required, such Scheduling Protocols shall be filed with the appropriate regulatory agency or agencies.

3. In performing its scheduling functions, the Midwest ISO shall ensure that the Transmission System is operated in compliance with applicable NERC, regional reliability council or successor organizations, and all other applicable operating reliability criteria.

4. The Midwest ISO shall inform all control areas and the transmission reliability representatives of all Owners of the approved schedules under the Transmission Tariff, and of any subsequent changes made thereto.

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5. The Midwest ISO shall perform all inadvertent flow accounting for Member control areas and shall coordinate the performance of such accounting with non-Member entities.

**D. Owners' Responsibilities.** The Owners who are control area operators shall continue to operate their control areas for local generation control and economic dispatch purposes. In so doing, the Owners shall comply with the scheduling instructions of the Midwest ISO issued pursuant to the Scheduling Protocols.

**IV. Administration Of Transmission Tariff.**

**A. Midwest ISO Responsibilities.**

1. The Midwest ISO shall be solely responsible for administering the Transmission Tariff.

2. The Midwest ISO shall negotiate as appropriate to develop reciprocal service, equitable tariff application, compensation principles, and any related arrangements.

3. The Midwest ISO shall monitor the service provided under the Transmission Tariff to determine if any hoarding of transmission capacity is occurring. The Midwest ISO shall attempt to eliminate the hoarding initially through direct contacts with the customer. If hoarding continues, then the Midwest ISO may file a complaint with FERC or develop and file with FERC other procedures or mechanisms to address hoarding.



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**B. Owner Responsibilities.** The Owners shall provide transmission service through their transmission facilities that are subject to the Transmission Tariff as directed by the Midwest ISO pursuant to the Transmission Tariff.

**V. Security Of The Transmission System.**

**A. General.**

1. The security and reliability of the Transmission System shall be the responsibility of the Midwest ISO.

2. The Owners who are control area operators shall continue to be responsible for operating their control areas in a secure and reliable manner, subject to the requirements of this Appendix E.

3. The Midwest ISO is hereby designated and shall be the Security Coordinator of the Transmission System for the Owners. In this role, the Midwest ISO shall have security monitoring and emergency response functions, as described in more detail in Section V, Paragraphs B and C of this Appendix E.

**B. Security Monitoring.**

1. The Midwest ISO shall periodically perform load-flow and stability studies of the Transmission System to identify and address security problems.

2. The Owners shall continue to monitor their own control areas for system security. They shall be responsible for identifying and addressing local security problems, consistent with the requirements of this Appendix E.

**APPENDIX E**

3. The Owners shall continuously provide the Midwest ISO with all data required to assess the security of the Transmission System consistent with NERC (or successor organizations) requirements, and consistent with regional requirements and the Standards of Conduct.

4. The Midwest ISO shall exchange necessary security information with other non-Member control areas, independent transmission system operators and regional reliability councils consistent with NERC (or successor organizations) requirements, with regional requirements and the Standards of Conduct.

5. The Midwest ISO shall monitor real-time data to determine whether any control areas are experiencing generation capacity deficiencies. If a generation capacity deficiency event threatens the security of the system, the Midwest ISO shall take appropriate action, including if necessary ordering the shedding of firm load.

**C. Emergency Response.**

1. The Midwest ISO shall work with the Owners, appropriate state agencies, regional reliability councils, and other security coordinators to develop regional security plans and emergency operating procedures.

2. The Midwest ISO shall, in coordination with the Members and the Advisory Committee and in compliance with applicable state and federal laws and standards, develop, and from time-to-time update, procedures for responding to emergencies (hereinafter the "Emergency Procedures"). The Emergency Procedures shall be provided to all Members and shall be made available to the public.

**APPENDIX E**

a. The Emergency Procedures shall include procedures for responding to specified critical contingencies.

b. The Midwest ISO shall continuously analyze issues that may require the initiation of emergency response actions. Such analysis shall be made at the Midwest ISO's initiative or at the request of Members, regional reliability councils, or other independent system operators or control areas. The Emergency Procedures shall be amended to include any changes or additions resulting from such analysis.

c. The Emergency Procedures shall make provision for system restoration including priority restoration of off-site power to nuclear generating facilities.

3. The Midwest ISO shall direct the response to any emergency in the Transmission System pursuant to the Emergency Procedures. Individual Owners, Users, and control areas shall carry out the required emergency actions as directed by the Midwest ISO, including the shedding of firm load if required for regional security.

4. After the conclusion of an emergency condition, any affected entity that disagrees with the Midwest ISO's handling of the emergency may resolve that disagreement pursuant to the dispute resolution procedures of Appendix D to the Agreement or the Transmission Tariff, as appropriate.

**VI. Ancillary Services.**

A. The Midwest ISO shall offer to provide all Ancillary Services as defined and required under the Transmission Tariff.

**APPENDIX E**

**B.** As part of its scheduling function, the Midwest ISO shall ensure that every scheduled transaction is supported by the required ancillary services and shall deny any scheduling request where the required ancillary services have not been arranged.

**C. Owners' and Other Generators' Responsibilities.**

1. All Owners and Users that own generation within the Midwest ISO shall be required to offer to provide ancillary services to the extent required under the Transmission Tariff. For FERC regulated public utilities, the charges by the generation owners for such ancillary services shall be in accordance with FERC accepted or approved rate schedules.

**VII. Transmission And Generation Maintenance.**

**A. Planned Transmission Maintenance.** The Midwest ISO's approval is required for all planned maintenance of facilities in the Transmission System. The approval process shall be as follows:

1. All Owners shall submit their planned transmission maintenance schedules to the Midwest ISO for a minimum of a rolling one-year (1-year) period. The planned maintenance schedules shall be updated daily.

2. Planned transmission maintenance requests shall be submitted to the Midwest ISO for its approval at least two (2) weeks in advance of an outage.

**APPENDIX E**

3. The Midwest ISO shall determine if, and the extent to which, such planned transmission maintenance requests affect ATC, Ancillary Services, the security of the Transmission System, and any other relevant effects. This determination shall include appropriate analytical detail. Within two (2) business days of receiving a planned maintenance request, the Midwest ISO shall either approve the request or deny the request and provide an acceptable time frame in which the maintenance can be performed. Failure by the Midwest ISO to act within the two (2) day period shall be deemed as approval of the request.

4. The Midwest ISO shall have the authority to revoke any previously-approved planned transmission maintenance outages if forced transmission outages or other circumstances compromise the integrity or reliability of the Transmission System. The Midwest ISO shall notify the Owner of the decision to revoke approval of the maintenance as soon as possible after the circumstances arise that create the need for the revocation. If an Owner incurs any additional costs associated with the deferred transmission maintenance, the Owner shall be compensated for those costs pursuant to procedures adopted by the Midwest ISO, applied on a non-discriminatory basis to all Owners, and filed with FERC.

5. As part of its review process, the Midwest ISO shall identify planned transmission maintenance schedules that limit ATC and, if requested by a User, shall identify opportunities and associated costs for rescheduling planned maintenance to enhance ATC.

**APPENDIX E**

6. The Midwest ISO shall be responsible for documenting all planned transmission maintenance requests, the disposition of those requests, and all data supporting the disposition of each request.

**B. Unplanned and Emergency Transmission Maintenance.** The Midwest ISO shall coordinate with the Owners to implement schedules for unplanned transmission maintenance. For emergency transmission maintenance, when conditions endanger the safety of employees or the public, or may result in damage to facilities, the Owners shall notify the Midwest ISO of such emergency maintenance. Approval by the Midwest ISO for such emergency transmission maintenance is not required.

**C. Generation Maintenance.** The Midwest ISO shall coordinate the maintenance of generating units of the Owners and other generating units as appropriate to the extent such generation maintenance affects the transmission capability or transmission reliability of the Midwest ISO as follows:

1. All Owners and Users owning or controlling generation affecting Midwest ISO transmission capability or security shall submit their planned generating unit maintenance schedules to the Midwest ISO for a minimum of a rolling one-year (1-year) period. The planned maintenance schedules shall be updated daily.

**APPENDIX E**

2. The Midwest ISO shall analyze a planned generating unit maintenance schedule to determine its effect on ATC, ancillary services, the security of the Transmission System, and any other relevant effects. The Midwest ISO shall inform a Member or User if its maintenance schedule is expected to have an impact on the security of the Transmission System.

3. As part of its review process, the Midwest ISO shall identify generating unit maintenance schedules that limit ATC and shall identify opportunities and associated costs for rescheduling planned maintenance to enhance ATC. Owners or Users shall be compensated for additional costs associated with rescheduling such planned generating unit maintenance pursuant to procedures adopted by the Midwest ISO, applied on a non-discriminatory basis to all Owners and Users, and filed with FERC.

4. The Midwest ISO shall be responsible for documenting all planned generating unit maintenance schedules, all schedule changes, and all studies and services performed with respect to planned generation maintenance.

5. For Members and Users who are operators of nuclear generating facilities, the Midwest ISO shall enter into written agreements which define planned transmission and generating unit maintenance scheduling criteria, limitations and restrictions necessary to insure the safety and reliability of such facilities.

**APPENDIX F**

**APPENDIX F**

**BYLAWS**

**of the**

**MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.**  
A Delaware Non-Stock Corporation

**ARTICLE I**

**DEFINITIONS AND INTERPRETATION**

**Section 1.1. *Definitions.*** Unless the context otherwise specifies or requires, certain capitalized terms are used in these Bylaws and the attached appendices with the meanings set forth below or in other provisions of these Bylaws.

***Agency Agreement*** - The agreement allowing Non-transferred Transmission Facilities to be offered by the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") for transmission service under the Transmission Tariff. The Agency Agreement is Appendix G to the Midwest ISO Agreement.

***Effective Date*** - The effective date of the Midwest ISO Agreement.



## APPENDIX F

**FERC** - The Federal Energy Regulatory Commission, or any successor agency.

**Funds Trust Agreement** – The Funds Trust Agreement among JPMorgan Chase Bank, N.A., Midwest Independent Transmission System Operator, Inc., and the Beneficiaries, as may be amended from time to time, under which agreement a trust is established and maintained for the receipt and distribution of revenues resulting from the provision of transmission services under the Transmission Tariff.

**Good Utility Practice**- Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather to be a range of acceptable practices, methods, or acts generally accepted in the region.

**He, Him, or His** - Includes "she," "her," or "hers."

**Member** - A person or business entity which is (i) an Eligible Customer, as defined in the Transmission Tariff, or (ii) an Owner, as defined herein, and which pays to the Midwest ISO, the non-refundable membership fees as required herein. Such person or entity shall be a Member during the period covered by the applicable membership fees unless earlier terminated pursuant to the Bylaws.

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*Midwest ISO Agreement* - The Agreement Of Transmission Facilities Owners To Organize The Midwest Independent Transmission System Operator, Inc., A Delaware Non-Stock Corporation, and any amendments thereto, and as accepted by the FERC.

*Non-owner Member* - A Member which is not an Owner.

*Non-transferred Transmission Facilities* - The booked transmission facilities not identified in Appendix F to the Midwest ISO Agreement which are the subject of the Agency Agreement.

*Owner* - A utility or other entity which owns, operates, or controls facilities for the transmission of electricity in interstate commerce (as determined by the Midwest ISO by applying the seven-factor (7 – factor) test of the FERC set forth in FERC Order No. 888, 61 Fed. Reg. 21,540, 21,620 (1996), or any successor test adopted by the FERC) and which is a signatory to the Midwest ISO Agreement. A public utility holding company system shall be treated as a single owner for purposes of the Midwest ISO Agreement. Each Owner shall pay the applicable membership fees and become a Member. Any termination of a utility's or entity's status as an Owner shall be determined pursuant to the Midwest ISO Agreement and these Bylaws.

*Person* - Any general partnership, limited partnership, corporation, limited liability company, joint venture, trust, business trust, governmental agency, cooperative, association,

**APPENDIX F**

other entity, or individual, and the heirs, executors, administrators, legal representatives, successors, and assigns of such person, as the context may require.

***Transmission Tariff*** - The transmission tariff on file with the FERC under which the Midwest ISO will offer transmission service, or any successor tariff.

***Transmission System*** - The transmission facilities of the Owners which are committed to the operation of the Midwest ISO by the Midwest ISO Agreement. The facilities comprising the Transmission System are identified in Appendix H to the Midwest ISO Agreement.

***User*** - A Transmission Customer under the Transmission Tariff or an entity that is a party to a transaction under the Transmission Tariff.

**Section 1.2. Interpretation.** In the event of any conflict between these Bylaws and the Midwest ISO Agreement, the Midwest ISO

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Agreement shall control. The descriptive headings of Articles and Sections of these Bylaws have been inserted for convenience of reference only and shall not define, modify, restrict, construe, or otherwise affect their construction or interpretation.

**ARTICLE II**  
**GENERAL PROVISIONS**

**Section 2.1. *Organization.*** The Midwest ISO is a non-stock, not-for-profit corporation, pursuant to Title 8, Chapter 1 of the laws of the State of Delaware. The Midwest ISO shall be operated exclusively for the promotion of social welfare, in furtherance of the public policy reflected in the Order of the FERC approving the Midwest ISO Agreement and FERC Order No. 888. No part of the net earnings, if any, of the Midwest ISO shall inure to the benefit of any Midwest ISO Member, Director, Officer, employee, or any other interested private person. The Midwest ISO is authorized and empowered to pay reasonable compensation for services actually rendered and to make payments or distributions in furtherance of the purposes and objectives set forth in the Midwest ISO Agreement and the Transmission Tariff. No substantial part of the activities of the Midwest ISO shall be carrying on propaganda or otherwise attempting to influence legislation. The Midwest ISO shall not participate in or intervene in any political campaign on behalf of any candidate for

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public office. In the event that the Internal Revenue Service deems the Midwest ISO to be exempt from federal taxation under § 501(c) of the Internal Revenue Code, the Midwest ISO shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under the Internal Revenue Code, or successor provisions in any subsequent federal tax laws, or such other provision or successor provisions under which the Internal Revenue Service may recognize that the Midwest ISO is exempt from taxation. If the Midwest ISO is not tax-exempt, the Midwest ISO shall minimize its federal and state tax obligations.

**Section 2.2. *Offices.*** The principal office of the Midwest ISO shall be located as determined by the initial Board of Directors. The Board may establish such branch offices or places of business as it shall determine to be in the best interests of the Midwest ISO.

**Section 2.3. *Start-up.*** The Owners may select and employ a person or an entity (or persons or entities) to perform such administrative and start-up functions as in the Owners' judgment may be necessary or desirable until the Board is elected. Such person or entity shall serve in such capacity until the election of the initial Board, and, during such service, shall exercise the authority and perform the duties of the Board and the President.

**APPENDIX F**

**ARTICLE III**

**MEMBERS**

**Section 3.1. *Qualifications; Membership Fees; Term.*** (a) Qualifications. Any Person which (i) is an Eligible Customer (as defined in the Transmission Tariff) or an Owner and (ii) pays to the Midwest ISO the non-refundable membership fees set forth in Section 3.1(b) shall be eligible to become a Member. A person may apply to become a Member of the Midwest ISO by submitting an application in the form then approved by the President and making payment of the membership fees set forth in Section 3.1(b) of these Bylaws. Action upon any application for membership shall be taken at the first meeting of the Board following submission of the membership application.

(b) Membership Fees. All entities eligible for membership in the Midwest ISO shall pay an initial membership fee of \$15,000 in order to become Members. On January 1 of each year, each Member shall pay an additional fee of \$1,000 to the Midwest ISO to retain its membership. All such fees are nonrefundable and may be adjusted from time to time, as may be appropriate, by the Board.

(c) Term. A Person shall be a Member during the period covered by the applicable membership fees unless earlier terminated as provided in these Bylaws.

(d) Withdrawal of Members. A Member who is not an Owner may, upon submission of a written notice of withdrawal to the President, withdraw from membership in the

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Midwest ISO at any time, which withdrawal shall be effective thirty (30) days after the receipt of such notice by the President. A Member who is also an Owner may, upon submission of a written notice of withdrawal to the President, commence a process of withdrawal of its facilities from the Transmission System. The terms and conditions of such withdrawal are specified in the Midwest ISO Agreement.

**Section 3.2. *Owner Status.*** Members admitted to Membership after the start-up of the Midwest ISO who wish also to have the status as Owners, must (i) own, operate, or control facilities used for the transmission of electricity in interstate commerce (as determined by the Midwest ISO by applying the seven factor (7-factor) test set forth in FERC Order No. 888, 61 Fed. Reg. 21,540, 21,620 (1996), or any successor test adopted by the FERC) that are physically interconnected with the facilities of an existing Owner; (ii) express its agreement to become a signatory to the Midwest ISO Agreement, to be bound by all of its terms, and to make any and all payments or contributions required by the Midwest ISO Agreement, and (iii) express its agreement to become a signatory to the Funds Trust Agreement, to be bound by all of its terms, and to make any and all payments or contributions required by the Funds Trust Agreement if and/or when it receives revenues for transmission service, and prior to the existence of any right of the Member to receive revenues from transmission service under the Transmission Tariff executes the Funds Trust Agreement. Upon fulfillment of these conditions, and upon completion of any physical integration of the new Owner's facilities with the Transmission System in a fashion consistent with the

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President's direction, the Board shall allow the new Member to become a signatory to the Midwest ISO Agreement. In general, an Owner must own, operate, or control interstate transmission facilities as detailed above; however, on a case-by-case basis, the Board may waive the requirement that such facilities be physically interconnected if allowing the Member also to become an Owner will result in significant net benefits to the Midwest ISO and its Members.

**Section 3.3. *No Rights of Members to Manage or Control.*** No Member shall have any rights to manage or control the property, affairs, or business of the Midwest ISO, or any power to control the Board in these respects.

**Section 3.4. *Regular Meetings.*** The Members shall hold their initial meeting at the principal office of the Midwest ISO, or other location designated by the Board, or by the person or entity selected pursuant to Section 2.3 of these Bylaws, on the date designated by the Board or such person or entity, and shall hold meetings at such location on the third Monday of the same month each year thereafter, or such other day of said month as may be designated by the Board, for the purpose of electing Directors and of exercising and discharging any other powers or duties vested in them by the Midwest ISO Agreement and the Bylaws. Members shall hold their initial meeting on July 1, 1998, or as soon



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thereafter as is reasonably practical. Provided, however, that the signatories to the Midwest ISO Agreement, by majority vote (with each signatory having one vote), may, pursuant to the terms and conditions of the Midwest ISO Agreement, extend this date.

**Section 3.5. *Special Meetings.*** The Board or any twenty-five percent (25%) of the Members may call special meetings of the Members at any time.

**Section 3.6. *Notification.*** (a) The Secretary shall provide notice to appropriate state regulatory authorities, FERC, the members of the Board Advisory Committee (established pursuant to the Midwest ISO Agreement), and the public by posting on the Midwest ISO's Internet World-Wide Web Site or equivalent form of electronic posting at least seven (7) days prior to the meeting, of the time and place of all meetings of Members, whether regular or special.

(b) Notice mailed to a Member or sent by telefacsimile no later than seven (7) days prior to the date of the meeting, directed to the Member at the address as shown on the books of the Midwest ISO, shall be deemed sufficient for the provisions of this provision and for all other purposes, unless written notice of change of such address has been previously given to the Midwest

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ISO. In the case of special meetings, the Secretary shall also give notice to all Members of the general purpose of the meeting and the nature of the business to be considered at such meeting. Such a special meeting shall be limited to the business thus specified in the case, unless at least twenty-five percent (25%) of the Members consent in writing to the consideration of other matters. The Members of record eligible to participate in any meeting shall be determined as of the date notice of the meeting is provided to the Members.

**Section 3.7. *Conduct of Meetings; Quorum; Voting.*** At all meetings of Members, the Chairman of the Board, or such other person as may be designated by the Board, shall preside. Each Member shall be entitled to one vote, and Members may vote by proxy. Twenty-five percent (25%) of the Members, or their proxies, shall constitute a quorum for the purpose of any such meeting. Except where it is otherwise provided in these Bylaws, a vote of a majority of the Members represented and voting at the meeting shall control.

## ARTICLE IV

### BOARD OF DIRECTORS

**Section 4.1. *General Powers.*** There shall be a Board of Directors of the Midwest ISO which shall consist of seven (7) persons plus the President. The Board may exercise all of the powers of the non-stock corporation and do all lawful acts and things (including the adoption of such rules and regulations for the conduct of its meetings, the exercise of its powers, and the management of the Midwest ISO) as it may deem proper and consistent with applicable law, the

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Midwest ISO Agreement, the Transmission Tariff, the articles of incorporation, and these Bylaws, provided that authority for such actions is not reserved to the Members or Owners.

**Section 4.2. *Qualifications.*** A Director shall not be, and shall not have been at any time within two (2) years prior to or subsequent to election to the Board, a Director, Officer, or employee of a Member, User, or an affiliate of a Member or User. At all times while serving on the Board, and for two (2) years thereafter, a Director shall have no material business relationship or other affiliation with any Member or User or an affiliate of a Member or User. A Director's participation in a pension plan of a Member or User or an affiliate thereof shall not be deemed to be a material business relationship if the Member's or User's financial performance has no material effect on such pension plan. Similarly, a Director's ownership of securities in a Member or User or affiliate thereof shall not be deemed to be a material business relationship if such securities are held through a mutual fund, retirement fund, blind trust (as defined in Appendix A, Section II.E.6) or similar arrangement where the Director has no discretion to manage the assets in such an account. Of the seven (7) Directors, four (4) shall have expertise and experience in corporate leadership at the senior management or board of directors level, or in the professional disciplines of finance, accounting, engineering, or utility laws and regulation. Of the other three (3) Directors, one (1) shall have expertise and experience in the operation of electric transmission systems, one (1) shall have expertise and experience in the planning of electric transmission systems, and one (1) shall have expertise and experience in commercial markets and trading and associated risk management.

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**Section 4.3. *Number; Election.*** (a) Initial Board. The initial Board shall be elected by the Members at their initial meeting from a slate of candidates presented to them by an independent executive search firm chosen by a majority vote of the signatories to the Midwest ISO Agreement, with each signatory having one vote. Such firm shall select such candidates consistent with the qualification requirements set forth in Section 4.2. The slate shall include at least two (2) candidates with the appropriate type of qualifications for each Board position. Each Member shall be entitled to cast a single vote for each of the seven (7) positions on the Board from among the candidates for each position. The candidates with the most votes shall fill the Director positions for which they were nominated. In the event of a tie among the candidates for a Board position, one (1) of the candidates shall be selected by a drawing. Two (2) Directors shall hold office for one (1) year; two (2) Directors shall hold office for two (2) years; and the final three (3) Directors shall hold office for three (3) years; and, in each foregoing case, until their respective successors are duly elected and qualified, or until their earlier resignation or removal. At the first meeting of the initial Board, the Directors shall determine each of their respective terms hereunder by a drawing.

(b) Succeeding Boards. After the election of the initial Board as provided above, succeeding Directors shall be elected to terms of three (3) years, except for any Director elected to fill a vacancy in the remainder of the term. Before the term of a Director expires, a nominating committee consisting of three Board Members whose terms are not expiring appointed by the Board and two members of the Advisory Committee selected by the Advisory Committee shall select an executive search firm to provide at least two (2) candidates to the

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nominating committee for each open Director position. Members may submit the names of candidates directly to the nominating committee. The Nominating Committee shall then provide at least two (2) candidates to the Board for each open position. The candidates for a specific Director position shall have the same type of qualifications as the Director being replaced, as set forth in Subparagraph 2 of this Paragraph A. At least thirty (30) days prior to the meeting of the Members at which the Directors will be elected, the Board shall distribute to the Members a slate of candidates consisting of one (1) candidate for each Director position to be filled. The Board shall also provide the Members with information on the qualifications and experience of the candidate to fill the Director seat for which each candidate is proposed. A candidate receiving a majority of the votes cast by the Members shall be elected. Should the Members fail to elect a candidate from the slate proposed by the Board, the Board shall prepare a new slate using the procedures set forth above for consideration by the Members at a meeting of the Members to be called no later than seventy-five (75) days after each election. Each Director shall serve until his successor shall have been duly elected and qualified, or until his earlier resignation or removal. Vacancies on the Board caused by a Director leaving office before the expiration of his term shall be filled by vote of the Board, which shall choose a candidate having the same type of qualifications as his predecessor from a list prepared by the nominating committee in consultation with an executive search firm chosen by the nominating committee. A Director selected to fill such a vacancy shall serve out the term of his predecessor.

**Section 4.4. *Chairman of the Board.*** The Board shall select from among its members a Chairman of the Board. The Chairman shall serve in such capacity at the pleasure of the Board until the first meeting of the Board following the next succeeding annual meeting of the

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Members, or until his successor shall have been elected and have qualified. The Chairman of the Board shall, unless otherwise determined by the Board, preside over all meetings of the Board and Members, and shall sign, with the Secretary, certificates of membership, the issuance of which shall have been authorized by the Board. The Chairman shall perform all duties incident to the office of

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Chairman of the Board and such other duties as from time to time may be assigned to him by the Board.

**Section 4.5. *Vice Chairman.*** The Board shall select from among its members a Vice Chairman of the Board. The Vice Chairman shall serve in such capacity at the pleasure of the Board until its first meeting following the next succeeding annual meeting of the Members, or until his successor shall have been elected and have qualified. In the absence of the Chairman of the Board, or in the event of his inability or refusal to act, the Vice Chairman shall perform the duties of the Chairman of the Board, and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the Chairman of the Board. The Vice Chairman shall also perform such other duties as from time to time may be assigned to him by the Board.

**Section 4.6. *Resignation of Directors.*** Any Director may resign his office by submitting a signed notice of resignation, delivered or mailed to the principal office of the Midwest ISO. Such notice of resignation shall state the effective date of resignation. If the notice does not indicate an effective date, the resignation shall take effect upon receipt of the notice at the principal office of the Midwest ISO.

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**Section 4.7. *Removal of Directors.*** (a) Removal by Members. The Members may remove a Director by a vote of a majority of the Members. Removal proceedings may only be initiated by a petition signed by not less than twenty percent (20%) of all Members. The petition shall state the specific grounds for removal. A copy of the petition shall be provided to the FERC and to each appropriate state regulatory authority. A Director sought to be removed shall be given fifteen (15) days to respond in writing to any charges set forth in the petition. The petition shall specify either that the removal vote shall be taken at the next regular meeting of the Members or at a special meeting of the Members at a designated date, place, and time.

(b) Removal by Owners for Unauthorized Acts. If the Board of the Midwest ISO changes, or attempts to change, any of the provisions of the Midwest ISO Agreement identified in Article Two, Section IX, Paragraph C of the Midwest ISO Agreement without obtaining the requisite approval of the Owners as specified therein, or if the Board fails to enact these Bylaws or enacts any Bylaws contrary to the Midwest ISO Agreement, or if the Board fails or refuses to fulfill the duties owed to the Owners set forth in Article Three, Section III, Paragraphs B and C of the Midwest ISO Agreement, then the Board shall be deemed to have acted without authorization, and may be removed in its entirety by unanimous vote of the Owners' Committee (established by



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Article Two, Section VI, Paragraph B of the Midwest ISO Agreement), provided that such removal shall be subject to approval by the FERC. Removal proceedings hereunder shall be initiated only by the delivery by the Owners' Committee to the Chairman of the Board of a statement specifying in detail the manner in which the Board has acted without authorization. The Board shall have sixty (60) days to respond to such a statement, after which the Owners may, by unanimous vote of the Owners' Committee, reaffirm their proposal to remove the Board if they are not satisfied with the Board's response. If the Owners vote unanimously to reaffirm their proposal, they shall file such proposal with the FERC and provide notice to the appropriate state regulatory authorities. Upon the FERC's approval of such proposal, the Board shall be removed in its entirety and a new Board shall be selected in accordance with the provisions for the selection of an initial Board specified in these Bylaws. The new Board so selected shall have all of the powers specified herein as belonging to the Board, including the power to replace the President and other Officers, employees, or agents of the Midwest ISO chosen by the removed Board or its predecessors. Nothing herein shall be deemed to prejudice any right any Owner may otherwise have under the FPA or other provisions of law.

**Section 4.8. *Meetings; Notification.*** Regular meetings of the Board shall be held at least quarterly, and other meetings shall be held from time to time on the call of the President, Chairman, or a majority of the

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Board. A Director may participate in a meeting personally or by electronic means. Written notice of the date, location, and time of each meeting of the Board must be provided by first-class mail or by telefacsimile to each Director no later than seven (7) calendar days prior to the date of the meeting. Participation in a meeting by a Director is a waiver of any objection that the Director may make to any failure to give adequate notice under this provision. Any action required or permitted to be taken at any meeting of the Board, or of any Board Committee, may be taken without a meeting if all Directors or Board Committee members, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or Board Committee. Consistent with the Midwest ISO Agreement, the Board shall have all procedural authority provided and options available under Title 8 of the Delaware Corporation Law, section 141, as such law may be amended or, any successor provision thereto.

**Section 4.9. *Quorum; Voting.*** Five (5) Directors shall constitute a quorum of the Board. Except as provided in Section 4.7 of these Bylaws, the affirmative vote of a majority of the Directors present at a meeting is required to constitute any act or decision rendered by the Board.

**Section 4.10. *Accounting.*** At each quarterly meeting of the Board, or such other time as the Board directs, the Board shall require

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the President to submit for Board approval a full statement of the conditions of the Midwest ISO, and all business transacted by it, and, when the statement is approved, shall cause a copy of it to be sent to each Member.

**Section 4.11. *Minutes and Reports.*** The Board shall cause to be kept by the Secretary, elected by it, accurate minutes of all meetings of the Board, Members, and Board Committees. Insofar as non-Members of the Midwest ISO are concerned, these records shall be conclusive for the Board of the facts and activities stated and recorded therein.

**Section 4.12. *Director Compensation and Expenses.*** Directors shall receive from the Midwest ISO such compensation, regular or special, subject to the terms and conditions stated in the Midwest ISO Agreement, Article Two, Section Three, Paragraph D, Subparagraph 1. The independent executive search firm chosen to select a slate of candidates for election for Director positions shall set Director compensation following such election, subject to approval of the Members. If two-thirds (2/3) or more of the Members vote to reject the search firm's recommended compensation, then the recommended compensation shall be rejected. In establishing the compensation for the initial Board, if there are not yet Members, then a vote of two-thirds (2/3) or more of the signatories to the

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Midwest ISO Agreement shall be required to reject the search firm's recommended compensation. If the recommended compensation is rejected, then the search firm shall be requested to submit another recommendation or another search firm may be hired for such purpose. Directors, and their successors and assigns, shall have the right to reimbursement by the Midwest ISO for all of their actual expenses reasonably incurred or accrued in the performance of their duties as Directors of the Midwest ISO.

**Section 4.13. *Annual Report.*** The Board shall annually make a written report showing the financial results of the Midwest ISO's operations during the preceding fiscal year. A copy of such report shall be furnished to each Member.

**Section 4.14. *Board Oversight.*** The Board of Directors shall oversee the President's performance of the obligations of the Midwest ISO specified in the Midwest ISO Agreement and these Bylaws. The performance of such obligations shall be carried out and executed by the President with oversight as appropriate by the Board. The Board shall establish general policies to be followed by the President and employees of the Midwest ISO in the conduct of their duties. The Board shall have the obligation to assure that the President accounts for all transactions on the Transmission System and other activities of the

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Midwest ISO; submits bills for such transactions; pays the expenses of operation of the Midwest ISO; collects monies for transmission service from customers solely as agent for Owners or their designee(s) in accordance with the Transmission Tariff; and distributes monies to the Owners or their designee(s) in accordance with the Midwest ISO Agreement, any associated agreements referred to in the Midwest ISO Agreement, the Funds Trust Agreement, and the Transmission Tariff.

**Section 4.15. *Standards of Conduct.*** The Directors shall comply with the Standards of Conduct set forth in Appendix A to the Midwest ISO Agreement, and, by direction or oversight, shall require that the Officers and employees of the Midwest ISO also comply with such standards.

**Section 4.16. *Employ Staff.*** The Board shall have the power to employ staff, auditors, counsel, and other personnel as necessary to carry out the business of the Midwest ISO, and may delegate to the President all or part of such authority to employ such staff, auditors, counsel, and other personnel.

**Section 4.17. *Board Committees.*** The Board may appoint such committees of the Board of Directors as are necessary and appropriate for the conduct of the Midwest ISO's business, provided that final responsibility for any action recommended by any such committee remains with the Board.

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**ARTICLE V**  
**OFFICERS**

**Section 5.1. *Titles.*** The Officers of the Midwest ISO shall be the President, one or more Vice Presidents (in the discretion of the Board), and a Secretary.

**Section 5.2. *Election and Term of Office.*** The Officers of the Midwest ISO shall be elected from time to time by the Board. Each Officer shall hold office at the pleasure of the Board.

**Section 5.3. *Removal of Officers by Directors.*** Any Officer may be removed by the Board whenever, in the Board's judgment, the best interests of the Midwest ISO will be served thereby.

**Section 5.4. *President.*** The President shall serve on the Board of the Midwest ISO. The President may vote on any matter presented at a Board meeting except when the President's vote would create a tied Board vote. In that circumstance, the President shall be barred from voting. The President also may not vote on the selection of, or continued employment of the President or on the President's compensation. The President shall be included in the determination of a quorum of the Board for any meeting of the Board and in the determination of a majority vote of the Board for any purpose. The duties of the President are as follows:

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(a) Right of President to Manage. The right of the President to exercise functional control over the operation of the Transmission System, insofar as is necessary to carry out the rights, duties, and obligations of the Midwest ISO as set forth in the Midwest ISO Agreement, shall be absolute, unconditional, and free from the control and management of the Owners, who shall have only the rights specifically set forth in the Midwest ISO Agreement. The President shall have the authority to act for the Midwest ISO before any and all applicable federal or state regulatory authorities to carry out the business of the Midwest ISO.

(b) General Powers. The President shall possess and exercise any and all such additional powers as are reasonably implied from the powers contained in the Midwest ISO Agreement such as may be necessary or convenient in the conduct of any business or enterprise of the Midwest ISO. The President may (i) do and perform everything that (a) he deems necessary, suitable, or proper for the accomplishment of any of the purposes, or the attainment of any one or more of the objectives, enumerated in the Midwest ISO Agreement, or (b) that shall at any time appear conducive to, or expedient for, the protection or benefit of the Midwest ISO, and (ii) do and perform all other acts or things that are deemed necessary or incidental to the purposes set forth in the Midwest ISO Agreement.

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(c) Acquire Property. The President shall have power to purchase, or otherwise acquire through leases, such property, except for transmission facilities which shall be governed by Appendix B to the Midwest ISO Agreement, as necessary to carry out the obligations of the Midwest ISO as specified in Article Three of the Midwest ISO Agreement.

(d) Prosecute Claims. The President shall have full and exclusive power and authority to demand, sue for, claim, and receive any and all revenues and monies due the Midwest ISO.

(e) Borrow. The President shall have the power to borrow money up to the level authorized by the Board for the purposes of the Midwest ISO and to give the obligations of the Midwest ISO to secure such indebtedness.

(f) Contracts. The President shall have the authority and power to make all such contracts as he may deem expedient and proper in conducting the business of the Midwest ISO, except as may be limited by the Board.

(g) Taxes and Assessments. The President shall have the power (i) to pay all taxes or assessments of whatever kind or nature imposed upon or against the Midwest ISO in connection with the Midwest ISO property, or upon or against the Midwest ISO property, or any part of such property; (ii) to do all acts and things as may be required or permitted by any present or future law for the purpose of making the activities of the Midwest ISO exempt from taxation; and (iii) for any of the above-stated purposes, to do all such other acts and things as may be deemed by him necessary or desirable.

(h) Depository. In accordance with policies set by the Board, and subject to any limitations set forth in the Midwest ISO Agreement or the Funds Trust Agreement, the President



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shall have the power to select a depository, and to deposit any monies or securities held by the Midwest ISO in connection with the performance of its obligations under the Midwest ISO Agreement, with any one or more banks, trust companies, or other banking institutions, that are federally insured and deemed by the President to be responsible, such monies or securities to be subject to withdrawal on notice upon demand or in such manner as the President may determine, with no responsibility upon the President for any loss that may occur by reason of the failure of the person with whom the monies or securities had been deposited properly to account for the monies or securities so deposited.

**Section 5.5. *Vice President.*** The Vice President or, if there be more than one, the Vice President designated by the Board, shall in the absence or disability of the President, exercise the powers and perform the duties of the President. Each Vice President shall exercise such other powers and perform such other duties as shall be prescribed by the Board consistent with these Bylaws. No Vice President shall be eligible to serve on the Board of the Midwest ISO except when performing the duties of the President as provided in the Midwest ISO Agreement.

**Section 5.6. *Secretary.*** The Secretary shall be responsible for the following duties:

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(a) Keeping the minutes of the applicable meetings in one or more books provided for that purpose;

(b) Seeing that all notices are duly provided in accordance with these Bylaws, policies of the Midwest ISO, and any and all other documents which provide for the governance of the Midwest ISO;

(c) Maintaining custody of the records of the business of the Midwest ISO and the seal of the Midwest ISO, and affixing such seal to all certificates of membership prior to the issuance thereof and to all documents, the execution of which, on behalf of the Midwest ISO, under its seal, is duly authorized in accordance with the provisions of these Bylaws;

(d) Keeping a register of the names and post office addresses of all Members and Directors;

(e) Signing with the Chairman of the Board certificates of membership, the issuance of which shall have been authorized by the Board or Members;

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(f) Keeping on file at all times at the principal office of the Midwest ISO a complete copy of the Midwest ISO Agreement, and all amendments thereto, together with these Bylaws and any policies concerning the governance of the Midwest ISO, and, at the expense of the Midwest ISO, forwarding or otherwise making available copies of such information to each of the Members and to the public to the extent required by law; and generally performing all duties instant to the office of Secretary and such other duties that, from time to time, may be assigned to the Secretary by the Board.

**Section 5.7. *Standards of Conduct.*** The Officers, agents, and employees of the Midwest ISO shall comply with the Standards of Conduct set forth in Appendix A to the Midwest ISO Agreement.

**Section 5.8. *Bonds of Officers.*** Any Officer, employee, or agent of the Midwest ISO charged with the responsibility for the custody of any of its funds or property shall give bond in such sums, and with such sureties, as the Board shall determine. The Board, in its discretion, may also require any other Officer, agent, or employee of the Midwest ISO to give bond in such amount, with such surety, as it shall determine. All premiums of the aforesaid bonds shall be paid by the Midwest ISO.

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**Section 5.9. *Compensation.*** Compensation of the Officers, agents, and employees of the Midwest ISO shall be established by the Board or pursuant to the policies approved by the Board.

## ARTICLE VI

### EXTERNAL COMMITTEES

**Section 6.1. *Advisory Committee.*** (a) At all times there shall exist an Advisory Committee to the Board consisting of a total of twenty-three (23) representatives from the following stakeholder groups chosen as follows: (i) three (3) representatives of Owners, with one (1) seat assigned to an Owner who was a member of the Mid-Continent Area Power Pool (“MAPP”) as of March 1, 2000; (ii) three (3) representatives of municipal and cooperative electric utilities and transmission-dependent utilities, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000; (iii) three (3) representatives of independent power producers (“IPPs”) and exempt wholesale generators (“EWGs”), with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (iv) three (3) representatives of power marketers and brokers, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (v) three (3) representatives of eligible end-use customers, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000,

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or who is actively involved in the MAPP region (as it existed on March 1, 2000); (vi) three (3) representatives of state regulatory authorities, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (vii) two (2) representatives of public consumer groups, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); (viii) two representatives of environmental and other stakeholder groups, with one (1) seat assigned to a Member of this group who was a member of MAPP as of March 1, 2000, or who is actively involved in the MAPP region (as it existed on March 1, 2000); and (ix) one (1) representative of Members who, being legally unable to transfer operational control to the Midwest ISO have, entered into coordination or agency agreements with the Midwest ISO (“Coordination Members”). The Board may revise or expand the stakeholder groups as circumstances and industry structures change. The Board shall be responsible for facilitating meetings of the Advisory Committee, which shall be held at least quarterly. At such quarterly meetings, the President and at least two (2) other members of the Board shall meet

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with the Advisory Committee. Upon request of the Advisory Committee, Board members and the President shall use their best efforts to attend other Advisory Committee meetings. The Advisory Committee shall be a forum for its members to be apprised of the Midwest ISO's activities and to provide information and advice to the Board on policy matters of concern to the Advisory Committee, or its constituent stakeholder groups, but neither the Advisory Committee nor any of its constituent groups shall exercise control over the Board or the Midwest ISO. Nothing in the Midwest ISO Agreement shall prohibit a corporate or other entity from participating in more than one stakeholder group provided it meets the approved eligibility criteria. The reports of the Advisory Committee and any minority reports shall be presented by the President to the Board. The Board shall determine how and when it shall consider and respond to such reports. The President shall inform the Advisory Committee of any Board determination(s) with respect to such report.

(b) Members of the Advisory Committee shall be selected in the following manner:

(i) The Owners' representatives on the Advisory Committee shall be selected in accordance with Section 6.2 of these Bylaws.

(ii) The representatives of municipal and cooperative electric utilities and transmission-dependent utilities, IPPs and EWGs, power marketers and brokers, eligible end-use customers, and Coordination Members on the Advisory Committee shall be chosen by the Members belonging to such groups. Such Member groups shall propose to the Board their own methods of eligibility and voting. Approval by the Board of such procedures shall not be unreasonably withheld.

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(iii) The representatives of state regulatory authorities on the Advisory Committee shall be chosen by the state public service commissions which regulate the retail electric or distribution rates of the Owners who are signatories to the Midwest ISO Agreement.

(iv) The representatives of public consumer groups and environmental and other stakeholder groups on the Advisory Committee shall be chosen by recognized consumer, environmental, and other stakeholder organizations having an interest in the activities of the Midwest ISO. The Board shall certify the organizations eligible to participate in the selection of such representatives to the Advisory Committee. Such certification shall not unreasonably be withheld. The groups so certified shall propose to the Board their own methods of eligibility and voting. Approval of such procedures shall not unreasonably be withheld.

(v) Meetings of the constituent stakeholder groups represented on the Advisory Committee need not be open to the public.

(c) In order to ensure appropriate representation on the Advisory Committee, the Board may change the size and composition of the Advisory Committee at three-year (3-year) intervals.

**Section 6.2. *Owners' Committee.*** An Owners' Committee shall exist throughout the period of the Midwest ISO Agreement. The Owners' Committee shall consist of one (1) person representing each of the

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Owners who are signatories to the Midwest ISO Agreement. The Owners' Committee shall meet at its discretion to exercise the authority granted to the Owners as a group under these Bylaws, including voting upon the matters set forth in Sections 4.8(b) and 8.2(b) of these Bylaws, and under the Midwest ISO Agreement. The Owners' Committee shall select three (3) representatives to serve on the Advisory Committee established pursuant to Section 6.1 of these Bylaws.

### ARTICLE VII

#### OPEN MEETINGS

**Section 7.1. *Open Meetings.*** Except as provided herein, all meetings of the Board, all meetings of Board Committees and working groups, all meetings of the Advisory Committee and all Members' meetings shall be open to the public. Timely notice of such meetings and copies of all materials to be addressed at such meetings shall be provided to the members of the Advisory Committee, appropriate state regulatory authorities, and the FERC and posted on the Midwest ISO's Internet World-Wide Web Site or equivalent form of electronic posting. The procedures adopted by the Board for the conduct of such meetings shall allow interested members of the public, including those stakeholders represented on the Advisory Committee, to provide oral and written comments at such meetings concerning any matter that may come before the Board, Board Committees and working groups, Advisory Committee, or Members, whichever is applicable, during the open portion of such meetings.



**APPENDIX F**

**Section 7.2. *Minutes.*** The meeting minutes of all meetings of the Board, Board Committees and working groups, Advisory Committee, and Members shall be made available to the public and furnished to appropriate state regulatory authorities and the FERC, upon request; provided, however, that materials or information which is privileged or confidential pursuant to Section 7.3 of these Bylaws may be redacted from such minutes. Copies of executed or final documents, such as contracts, leases, and agreements, not otherwise required to be treated as confidential shall be made available for review. In the event the basis for information being treated as confidential ceases to exist, said information shall thereafter be available for review.

**Section 7.3. *Executive Sessions to Preserve Confidentiality.*** Executive sessions (closed to the public) shall be held as necessary to safeguard the confidentiality of (a) personnel-related information; (b) information subject to the attorney-client privilege or to confidential treatment under the attorney-work product doctrine or concerning pending or threatened litigation; (c) information that is confidential under Appendix A to the Midwest ISO Agreement; (d) consideration of assumption of liabilities, business combinations, or the purchase or lease of real property or assets; (e) except as may be required by law, consideration of the sale or purchase of securities, investments, or investment contracts; (f) strategy and negotiation sessions in connection with a collective bargaining agreement; (g) discussion of

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emergency and security procedures; (h) consideration of matters classified as confidential by federal or state law; (i) matters to protect trade secrets, proprietary information, specifications for competitive bidding, or to discuss a specific proposal if open discussion would jeopardize the cost or siting or give an unfair competitive or bargaining advantage to any person or entity; and (j) discussion of proceedings by the Alternate Dispute Resolution Committee established under Appendix D to the Midwest ISO Agreement.

**ARTICLE VIII  
DUE DILIGENCE, LIABILITY, AND INDEMNIFICATION**

**Section 8.1. *Due Diligence Duties.*** It shall be the duty of Directors, Officers, employees, agents, and other representatives of the Midwest ISO (a) to faithfully and diligently administer the Midwest ISO as would reasonable and prudent persons acting in their own behalf; (b) to keep correct and accurate records of all business transacted; (c) to exercise prudence and economy in the business of the Midwest ISO, including the minimization of tax liability if the Midwest ISO is not-tax exempt; (d) to act in good faith, and only for the best interests of the Midwest ISO; (e) to annually render a full and correct account of the Midwest ISO business; and (f) at the termination of the Midwest ISO, to render and to deliver all the properties and funds of the Midwest ISO in accordance with the Midwest ISO Agreement and applicable law.

**Section 8.2. *Limitations on Liability.*** No Director, Officer, agent, employee, or other representative of the Midwest ISO, and no corporation or other business organization that employs a Director of the Midwest ISO, or any Director, Officer, agent, or employee of such

**APPENDIX F**

corporation or other business organization, shall be personally liable to the Midwest ISO, any Member, or any User for any act or omission on the part of any such Director, Officer, agent, employee, or other representative of the Midwest ISO, which was performed or omitted in good faith in his official capacity as a Director, Officer, agent, employee, or other representative of the Midwest ISO pursuant to the operation of the Midwest ISO Agreement, or in any other capacity he may hold, at the request of the Midwest ISO, as its representative in any other organization. However, this release of liability shall not operate to release such a Director, Officer, agent, employee, or other representative of the Midwest ISO from any personal liability resulting from willful acts or omissions knowingly or intentionally committed or omitted by him in breach of the Midwest ISO Agreement, for improper personal benefit, or in bad faith. Directors, Officers, agents, employees, or other representatives of the Midwest ISO also shall not be personally liable for any actions or omissions of others, including Owners, whose actions or omissions may relate to the Midwest ISO, or any property or property rights forming, or intended or believed to form, part of the Midwest ISO's property, or for any defect in the title to, or liens or encumbrances on, any such property or property rights.

**Section 8.3. *Indemnification.*** The Midwest ISO shall indemnify each Director, Officer, agent, employee, or other representative strictly in accordance with the terms and conditions of the Indemnification provisions of the Midwest ISO Agreement, Article II, Section VIII.

**APPENDIX F**

**ARTICLE IX**  
**AMENDMENTS**

**Section 9.1. *Amendment.*** These Bylaws may be amended by the Board from time to time, subject to the receipt of all necessary federal and state regulatory approvals, and provided that no amendment is contrary to the Midwest ISO Agreement.

**ARTICLE X**  
**MISCELLANEOUS MATTERS**

**Section 10.1. *Dispute Resolution.*** The Midwest ISO shall resolve disputes between and among the Midwest ISO and the Owners, individually or collectively, and Users other than the Owners, in accordance with the procedures set forth in Appendix D to the Midwest ISO Agreement. This provision does not apply to disputes covered under the Transmission Tariff.

## APPENDIX F

**Section 10.2. *Inspection and Auditing Procedures.*** The Midwest ISO shall grant each Member, its employees or agents, external auditors, and federal and state regulatory authorities having jurisdiction over the Midwest ISO or an Owner, such access to the Midwest ISO's books and records as is necessary to verify compliance by the Midwest ISO with the Midwest ISO Agreement and to audit and verify transactions under the Midwest ISO Agreement. Such access shall be at reasonable times and under reasonable conditions. The Midwest ISO shall also comply with the reporting requirements of federal and state regulatory authorities having jurisdiction over the Midwest ISO with respect to the business aspects of its business operations, including, but not limited to, the State of Delaware. Contacts between Officers, employees, and agents of any Owner and those of the Midwest ISO pursuant to this Section 10.2 shall be strictly limited to the purposes of this Section 10.2 and shall comply with the Standards of Conduct set forth in Appendix A to the Midwest ISO Agreement.

## ARTICLE XI

### WITHDRAWAL OR TERMINATION OF MEMBERS

**Section 11.1. *Withdrawal Notice.*** A Member who is not an Owner may, upon submission of a written notice of withdrawal to the President, withdraw from membership in the Midwest ISO at any time, which withdrawal shall be effective thirty (30) days after the receipt of such notice by the President.

A Member who is also an Owner may withdraw under the procedures and rights specified in the Midwest ISO Agreement and shall be subject to the regulatory approvals referred to

**APPENDIX F**

in that Agreement or as provided by applicable law. The effect of such withdrawal shall be as stated in that Agreement.

**APPENDIX G**

**APPENDIX G**

**AGENCY AGREEMENT FOR OPEN ACCESS  
TRANSMISSION SERVICE  
OFFERED BY THE MIDWEST ISO FOR  
NONTRANSFERRED TRANSMISSION FACILITIES**

Through this Agreement ("Agency Agreement"), the entity executing this Agency Agreement ("Transmission Owner"), allows the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") to offer and provide transmission service over certain facilities as detailed below.

**RECITALS**

- A. A group of Owners will be filing or will have filed an Open Access Transmission Tariff ("Transmission Tariff") with the Federal Energy Regulatory Commission ("FERC") as part of a proposal for the Midwest ISO to become an Independent System Operator ("ISO"). Upon FERC approval and the transfer of those facilities in accordance with the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation ("Agreement"), the Midwest ISO will control certain transmission facilities, control of which will be transferred to it under Section 203 of the Federal Power Act, 16 U.S.C. § 824b. The Midwest ISO will offer to provide open access transmission service across those facilities. Through the Transmission Tariff, it is intended that the Midwest ISO also will offer to provide transmission service over other booked transmission facilities, control of which will not be transferred to the Midwest ISO under Section 203 of the Federal Power

**APPENDIX G**

Act as part of the initial filings. These other booked transmission facilities are the “Non-transferred Transmission Facilities.”

- B. The Owners are or will be members of the Midwest ISO. The Owners will or may maintain control of Non-transferred Transmission Facilities that are offered for service under the Midwest ISO Transmission Tariff.
- C. In order for the Midwest ISO to offer service over Non-transferred Transmission Facilities, it is necessary that Owners provide the authority to the Midwest ISO to provide the transmission and other services necessary to effectuate the Transmission Tariff.
- D. The Owners also will be entering into or will have entered into the Agreement which will detail the rights and responsibilities of the Owners, members and of the Midwest ISO.
- E. Each Owner will enter into an Agency Agreement to authorize the Midwest ISO to act as its agent in the performance of its tariff administration duties with regard to Non-transferred Transmission Facilities; to commit Non-transferred Transmission Facilities and services as required for the performance of service agreements and of the Transmission Tariff; to arrange for dispute resolution; and for other purposes as specified herein and in the Agreement. This Agency Agreement pertains only to the Non-transferred Transmission Facilities and has no affect or bearing on service over any other transmission or other facilities.



**APPENDIX G**

**TERMS OF AGREEMENT**

**1. Incorporation Of Transmission Tariff.**

**1.1 Incorporation Of Transmission Tariff Into Agreement.**

The Transmission Tariff, including each and every constituent part, is incorporated into this Agency Agreement as though set forth herein in its entirety. In the event of any conflict between any provision of this Agency Agreement and the Transmission Tariff, the Transmission Tariff shall control.

**2. Appointment Of Midwest ISO As Agent.**

The Transmission Owner appoints the Midwest ISO as its agent to enter into service agreements in conformity with the Transmission Tariff on its behalf with regard to service involving Non-transferred Transmission Facilities. It is agreed that all such service agreements will bind the Transmission Owner to perform to the requirements and specifications of the Transmission Tariff and service agreements where appropriate.

**3. Performance By Transmission Owner.**

The Transmission Owner agrees to provide all services necessary or appropriate for performance under the Transmission Tariff and service agreements thereunder with regard to service involving Non-transferred Transmission Facilities. Upon the Midwest ISO's request, the Transmission Owner further agrees to provide the Midwest ISO with all information necessary or appropriate relating to the Non-transferred Transmission Facilities to permit or facilitate the Midwest ISO to perform its tariff administration functions under the Transmission Tariff and service agreements relating to such facilities.

**APPENDIX G**

**4. Payment Of Transmission Owners.**

The Midwest ISO shall distribute revenues associated with service under the Transmission Tariff among Transmission Providers in accordance with Appendix C to the Agreement.

**5. Effectiveness, Duration Of Agency Agreement, and Withdrawal Rights.**

The Agency Agreement is effective on the Transfer Date as defined in the Agreement unless the Owner withdraws from the Agreement before the Transfer Date. In that event, this Agency Agreement shall not become effective. The term of this Agency Agreement shall thereafter be coextensive with the duration of the Transmission Owner's participation as an Owner under the Agreement. The Transmission Owner's withdrawal rights and obligations associated with such withdrawal under this Agency Agreement shall be as set forth in the Agreement.

**6. Liability And Indemnification.**

The liability and indemnification provisions governing the Midwest ISO's liability to the Transmission Owner and any indemnification shall be the same as set forth in either the Transmission Tariff or the Agreement, whichever provision is applicable.

**7. Dispute Resolution Procedures.**

Any dispute between or among the Midwest ISO and the Transmission Owner shall be resolved in accordance with the Dispute Resolution Procedures of either the Transmission Tariff or the Agreement, whichever procedures are applicable.

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**8. Integration And Amendment.**

This is an integrated agreement which contains all terms and conditions of agreement between the parties concerning the subject matter. Any prior or oral agreements concerning the subject matter not stated herein are superseded by this Agency Agreement. This Agency Agreement may be amended only by an executed writing.

**9. Authority.**

The Transmission Owner hereto represents that the person executing this agreement on its behalf is authorized to execute this agreement and bind such Transmission Owner to its terms, and that such authorization has been made in compliance with all applicable laws, articles of incorporation, bylaws, and resolutions and in a manner that the authorization is binding upon the Transmission Owner.

TRANSMISSION OWNER

Company: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX H**

**APPENDIX H**

**TRANSMISSION SYSTEM FACILITIES**

This Appendix provides the description and supporting documents for the Transmission System transferred to Midwest ISO for the purposes of planning and operation. In general, the criteria defining the Transmission System include:

1. All networked facilities above 100 kV.
2. All transformers whose two highest voltages qualify under the above voltage criteria.
3. All substation equipment that form the endpoints of the transmission lines in item 1, terminate the transformers in item 2, or provide voltage/stability control.

Each Transmission Owner provided, as a minimum, the following information on their facilities:

The descriptions of the transmission lines, including:

1. The names of the substations associated with a transmission line (the two endpoints for a two terminal line or the two endpoints and intermediate taps for multi-tapped lines).
2. The voltage level of each line.
3. Circuit maps containing each line or documents describing each line.
4. The mileage associated with each transmission line or tap section was optional and was provided by some Transmission Owners.
5. Ratings of each line were optional and were provided by some Transmission Owners.

**APPENDIX H**

Descriptions of the transformers meeting criteria 2 above, including:

1. Name of substation where transformer is located.
2. Voltage levels.
3. Number of windings (Optional).
4. Tap changing capabilities -- load and no load taps (Optional).
5. Ratings of each transformer were optional and were provided by some Transmission Owners.

If the map or circuit diagram provided by a Transmission Owner contained Non-transferred Transmission Facilities, these Non-transferred Transmission Facilities were marked out indicating that they were not included in the facilities to be controlled and planned by the Midwest ISO.

In cases of jointly owned facilities, there was an indication of the jointly owned facilities through symbols or specific notations.

Interconnections between transmission systems (Midwest ISO Transmission Owners and non-Midwest ISO Owners) are clearly marked on the system one-line drawings. The names or initials of the companies who own the facilities on each side of the interconnections are provided.

**APPENDIX H**

The following Transmission Owners provided descriptions of their Transmission System facilities:

1. Central Illinois Public Service Company (CIPSCo)
2. Cinergy
3. Commonwealth Edison Company (ComEd)
4. Hoosier Energy
5. Illinois Power Company
6. Kentucky Utilities (KU)
7. Louisville Gas & Electric Company (LG&E)
8. Union Electric Company (UE)
9. Wisconsin Electric Power Company (WEPCo)
10. Wabash Valley Power Association (WVPA)

**APPENDIX I**

**APPENDIX I  
INDEPENDENT TRANSMISSION COMPANIES**

This Appendix sets forth a general framework for the development and operation of Independent Transmission Companies (“ITC’s”) within the Midwest ISO. Any conflict between Appendix I and other provisions of this Agreement or the Transmission Tariff shall be governed by the provisions of this Appendix. Under Appendix I, certain responsibilities which currently reside with the Midwest ISO may be assigned to an ITC, if it chooses to accept those responsibilities and if the Federal Energy Regulatory Commission (“FERC”) acceptance or approval of the assignment is obtained as provided herein.

This Appendix I is intended to describe broad areas regarding the assignment of certain rights, responsibilities, and functions to an ITC. Any entity or entities submitting a proposal to become an ITC (“Filing Entity”) shall submit a filing with FERC detailing each of the rights, responsibilities, and functions the ITC proposes to assume from the Midwest ISO together with specifics on implementing any of these assigned rights, responsibilities, and functions. The Filing Entity may do this through multiple filings as the ITC develops or through a single filing. Before submitting any filing to FERC, however, the Filing Entity shall provide details of the filing to the Midwest ISO at least thirty days before the filing date. In the filing to FERC, the Filing Entity shall demonstrate to FERC that the rights, responsibilities and functions proposed to be assigned to the ITC are appropriate by showing, among other things, that the proposed ITC’s governance and structure assures independence of the ITC from any market participant and that the proposed ITC is of sufficient size and configuration to assume such rights, responsibilities, and functions appropriately. The Midwest ISO, its members, and others shall have the right to intervene, comment, or protest any such ITC filing or to file a complaint under Section 206 of the Federal Power Act with regard to any such ITC filing or document.

**1. FERC APPROVAL**

- 1.1 FERC Acceptance As A Prerequisite. Before receiving the rights and responsibilities provided for under this Appendix I, the Filing Entity shall apply for and receive a FERC order accepting the ITC proposal to be implemented and finding that the proposed ITC satisfies FERC’s independence criteria and any other applicable criteria such that the entity may be treated as an ITC under this Appendix I.
- 1.2 Effect of FERC Acceptance. Once FERC issues an order accepting the filing and providing the finding required under Section 1.1, then the ITC may operate within the Midwest ISO consistent with the rights, responsibilities, and functions that have been accepted or approved by FERC.

## APPENDIX I

- 1.3 Effect of FERC Denial. A Filing Entity which does not receive a FERC order finding satisfaction of FERC's independence and other applicable criteria shall be treated as an Owner under this Agreement once it executes the Agreement and Agency Agreement (if applicable). It shall not be considered an ITC eligible to assign the responsibilities detailed in this Appendix I until such time as it receives the necessary FERC order.

### 2. SECURITY COORDINATION

- 2.1 Regional Security Coordinator. The Midwest ISO shall be the regional security coordinator and shall perform the functions specified in Appendix E, Section V of this Agreement for all Midwest ISO transmission systems, including any ITC transmission systems.
- 2.2 ITC Actions. An ITC may take actions to preserve the security of the ITC system before requesting assistance from the Midwest ISO. The ITC shall inform the Midwest ISO of any such actions and coordinate such actions with the Midwest ISO.
- 2.3 Ultimate Authority. Notwithstanding any other provision in this Appendix I, the Midwest ISO may intercede and direct appropriate actions in its role as the regional security coordinator. If such Midwest ISO action is disputed, the Midwest ISO's position shall control pending resolution of the dispute.

### 3. BASE TRANSMISSION RATES

- 3.1 Right to File Rate Changes. The ITC shall possess the unilateral right, without receiving any Midwest ISO approval, to make filings at FERC proposing rate or rate structure changes (including incentive rate structures) involving base transmission charges for service to load within the ITC. Base transmission charges as used herein refer to the charges in Schedules 7, 8, and 9 of the Midwest ISO tariff or such other similar schedules used by the ITC. All other service to load outside the ITC is subject to the Midwest ISO base transmission charges. However, in the development of the "Drive-through" and "Drive-out" Midwest ISO rates, the ITC may submit inputs to the rate calculation for the ITC's facilities and costs which differ from the Midwest ISO rate formula that is part of the Transmission Tariff so long as the ITC has sought and received FERC authorization for the inclusion of such inputs in the Midwest ISO "Drive-through" and "Drive-out" transmission rates.



## APPENDIX I

3.2 Limitations. The ITC may not unilaterally propose transmission rates to FERC that do not preserve revenues or payments due Midwest ISO Owners that are outside the ITC.

3.3 No Rate Pancaking. Notwithstanding its rights under Section 3.1, the ITC shall not implement rates or a rate structure which results in a transmission customer paying the ITC and the Midwest ISO more than one base transmission charge for any one transaction.

### 4. REVENUE DISTRIBUTION

4.1 ITC Receipt of Transmission Revenues. The ITC shall receive and/or retain revenues resulting from the provision of transmission service under the Tariff in accordance with Appendix C of this Agreement. The ITC may take no unilateral action which interferes with or affects the revenue distribution provided for in Appendix C of this Agreement or which interferes with the collection by the Midwest ISO of the revenues due it for services it provides or arranges. If the ITC receives revenues which other Owners or the Midwest ISO are entitled to receive, the ITC shall forward such revenues to the Owners or the Midwest ISO as soon as possible.

4.2 Redistribution of Revenues. The ITC may distribute the revenues due it in accordance with Appendix C of this Agreement in any manner it wishes subject to receiving any necessary regulatory approvals, without involvement of the Midwest ISO.

4.3 Funds Trust Agreement. The ITC shall agree to sign the Funds Trust Agreement, to be bound by all of its terms, and to make any and all payments or contributions required under the Funds Trust Agreement, and prior to the existence of any right of the ITC to receive revenues from transmission service under the Transmission Tariff shall execute the Funds Trust Agreement.

### 5. CONGESTION MANAGEMENT

5.1 ITC Congestion Management. Before filing any congestion management mechanism for constraints within the ITC, the ITC shall advise the Midwest ISO of its proposed filing, and both the ITC and the Midwest ISO shall use reasonable efforts to reach agreement on the filing. After a reasonable consultation process and even without agreement being reached, the ITC shall possess the right to file at FERC, without Midwest ISO approval, a mechanism for congestion management for constraints within the ITC.

## APPENDIX I

- 5.2 Limitations. Any such ITC congestion management mechanism shall not operate in instances where its operation would cause a material adverse effect upon the Midwest ISO transmission system outside of the ITC or upon the users of that system. In addition, before the ITC congestion management mechanism becomes effective, the ITC and the Midwest ISO shall develop protocols detailing when the Midwest ISO and ITC congestion management mechanisms would operate. The ITC shall file such protocols with FERC and the protocols must be accepted or approved by FERC before the ITC congestion management mechanism becomes effective.

### 6. LOSSES

- 6.1 Right to File. The ITC shall possess the unilateral right to file at FERC, without any Midwest ISO approval, a mechanism for determining loss responsibility within the ITC, provided that this method does not affect the losses received by Transmission Owners and generators in areas outside of the ITC.

### 7. TARIFF ADMINISTRATION

- 7.1 Service under the Midwest ISO Tariff. Customers will receive transmission service under a single Midwest ISO Tariff which will apply to transmission service over the entire Midwest ISO (including the ITC), subject to changes to the Tariff accepted by FERC that the ITC may propose pursuant to this Appendix I. Customers will apply for service on the Midwest ISO OASIS. The Midwest ISO will execute the agreements with the customers for service and studies. The ITC shall make all decisions on rate discounts for ITC-only transactions.
- 7.2 Studies. If a system impact or other study is required to evaluate the ability of the ITC to provide the transmission service and the transaction is within the ITC, then the ITC shall possess the right to assume responsibility for the study, subject to coordination with the Midwest ISO. If a facilities study is required to study a constraint within the ITC, then the ITC shall possess the right to assume responsibility for the study in coordination with the Midwest ISO. With regard to such studies, the Midwest ISO shall administer the contracts with the customers and shall provide the notices and make the filings under the Transmission Tariff.

**APPENDIX I**

- 7.3 ATC. The Midwest ISO shall administer the ATC calculation in accordance with this Agreement and shall calculate CBM and TRM, provided that the ITC shall possess the unilateral right to provide the ratings, operating guides, and assumptions to be used in calculating ATC over the ITC facilities. If the Midwest ISO disagrees with these ratings, operating guides, or assumptions, the ITC's position shall prevail pending dispute resolution.
- 7.4 Scheduling. Customers will schedule through the processes established by the Midwest ISO. Scheduling protocols will be between the Midwest ISO and the control areas and/or the ITC.

**8. CURTAILMENTS**

- 8.1 ITC Responsibilities. For curtailments of transmission pursuant to the Tariff, if the curtailment involves a transaction within the ITC or is the result of a system problem or constraint within the ITC, then the ITC will have the first opportunity to address the need for or to carry out the curtailment of transactions within the ITC, subject to the Midwest ISO's authority to act as regional security coordinator. The ITC and the Midwest ISO shall develop protocols for the coordination of curtailments.
- 8.2 Midwest ISO Responsibilities. If the ITC is unsuccessful in addressing the curtailment as provided in Section 8.1, then the Midwest ISO shall assume responsibility for carrying out the curtailment provisions of the Tariff. In all circumstances other than those provided in Section 8.1, the Midwest ISO shall possess full responsibility for addressing the curtailment consistent with the Transmission Tariff and this Agreement.

**9. OPERATIONS**

- 9.1 Ratings and Operating Procedures. The ITC may establish ratings and operating procedures for its facilities subject to dispute resolution if the Midwest ISO disagrees. The ITC's position shall prevail pending dispute resolution.
- 9.2 Transmission Maintenance. The ITC may set its own transmission maintenance and outage schedules subject to dispute resolution if the Midwest ISO disagrees. The ITC shall coordinate such transmission maintenance and outage schedules with the Midwest ISO. With regard to such schedules, the ITC's position shall prevail during the dispute resolution process unless the Midwest ISO determines that system security is involved, in which case the Midwest ISO's determination shall prevail pending dispute resolution.

**APPENDIX I**

- 9.3 Generation Maintenance. The ITC may assume from the Midwest ISO the coordination of generator maintenance for generators within the ITC with regard to those generators which are required to coordinate maintenance pursuant to Appendix E, Section VII of this Agreement. The ITC shall inform the Midwest ISO of those maintenance activities.
- 9.4 Congestion Management and Must Run Units. The ITC may control congestion management consistent with Section V of this Appendix I and must run units to the extent permitted by FERC.
- 9.5 Temporary Operational Control. The Midwest ISO may assume temporary operational control over the ITC's facilities when required to return the Midwest ISO system to a secured state as required by its role as a regional security coordinator.

10. PLANNING

- 10.1 ITC Plan. The ITC may develop its plan for the construction of transmission facilities within the ITC. The ITC shall inform and provide a copy of its plan to the Midwest ISO as soon as it is available and shall coordinate with the Midwest ISO to the maximum extent practicable. Midwest ISO approval is not required for the ITC plan, subject to any dispute resolution as provided in Section 10.2 of this Appendix. Such ITC plan shall become part of the Midwest ISO regional plan, subject to Section 10.2. If the Midwest ISO believes that an ITC planned facility will have a material impact on facilities outside of the ITC which are located within the Midwest ISO, the ITC planned facility shall not be placed into operation until such time as the Midwest ISO has a reasonable time to review the ITC plan and any disputes are resolved.
- 10.2 Midwest ISO Disagreement. If the Midwest ISO disagrees with the ITC's plan, the Midwest ISO's disagreement with the plan will be resolved through dispute resolution.
- 10.3 Regional Planning. Nothing in this Section X is intended to change the responsibility of the Midwest ISO to develop a regional plan, including the ITC facilities, as provided in this Agreement.

**APPENDIX I**

**11. BILLING AND REMITTANCE**

- 11.1 ITC Responsibilities. For transactions occurring solely within the ITC or where the load is located within the ITC, the ITC possesses the right to perform the Midwest ISO billing, credit, and accounting responsibilities for those transactions.
- 11.2 Return of Revenues. If the ITC receives revenues which it is not entitled to receive pursuant to Appendix C of this Agreement, it shall as soon as possible remit those revenues to the Midwest ISO.

**12. MONITORING AND PENALTIES**

- 12.1 Midwest ISO Responsibilities. The Midwest ISO will continue to impose and collect penalties as currently provided in the Agreement and Tariff, and to perform the monitoring functions pursuant to this Agreement for transactions involving the ITC.
- 12.2 Exception. The ITC will be allowed to impose and collect penalties approved by FERC associated with its congestion management program so long as any such penalty does not cause an entity to be subjected to a penalty by both the Midwest ISO and the ITC for the same violation.
- 12.3 Monitoring and Assessment of ITC-Midwest ISO Relationship. The Midwest ISO shall monitor the ITC-Midwest ISO relationship to determine if the division of functions creates a competitive or reliability problem that affects the Midwest ISO's ability to provide reliable, non-discriminatory transmission service.
- 12.4 The Midwest ISO will monitor markets operating by an ITC.

**13. LIABILITY**

- 13.1 Assumption of Liability. The ITC shall assume all liabilities associated with its acts or omissions regarding those functions for which it has assume responsibility. The ITC shall indemnify and hold harmless the Midwest ISO for any and all liabilities associated with the ITC's actions.

**14. DISPUTE RESOLUTION**

- 14.1 Dispute resolution as used in this Appendix I refers to the dispute resolution procedures included as Appendix D to this Agreement, as it may be amended. The Midwest ISO shall consider whether any changes to its dispute resolution procedures need to be made to implement this Appendix I.

**APPENDIX I**

15. NOTIFICATION OF ASSUMPTION OF RESPONSIBILITIES

- 15.1 The ITC shall provide notice to the Midwest ISO of its election to assume the responsibilities described in Sections 7.2-7.4, 8.1, 9.1-9.4, 10.1, and 11.1 of this Appendix I. The ITC must provide notice to allow the Midwest ISO sufficient time to implement procedures to allow coordinated operation of the ITC together with the Midwest ISO.

16. OPERATING PROCEDURES AND PROTOCOLS

- 16.1 The ITC and the Midwest ISO shall cooperate and use their best efforts to develop the necessary operating procedures and protocols to allow timely start-up of the ITC pursuant to this Appendix I. Any disagreements shall be resolved pursuant to dispute resolution. Once such procedures and protocols have been developed, either through agreement or after dispute resolution, the Midwest ISO shall post such procedures and protocols on its website.

**APPENDIX J**  
**REVENUE DISTRIBUTION FOR**  
**SCHEDULE 18**

**I. Additional Definitions.** Unless the context otherwise specifies or requires, the following additional definitions apply to this Appendix J, and, when used in this Appendix J, the following terms shall have the respective meanings set forth below.

**A. GridAmerica Companies.** The GridAmerica Companies are Ameren Services Company, as agent for its electric utility affiliates Union Electric Company d/b/a AmerenUE and Central Illinois Public Service Company d/b/a AmerenCIPS, America Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp., and Northern Indiana Public Service Company.

**B. Initial GridAmerica Companies.** The Initial GridAmerica Companies are America Transmission Systems, Incorporated, a subsidiary of FirstEnergy Corp., and Northern Indiana Public Service Company.

**C. Coordinating Owner.** Manitoba Hydro.

**D. Owners' and Coordinating Owner's Revenues.** Owners' and Coordinating Owner's Revenues are those revenues collected by the Midwest ISO from the GridAmerica Companies' zones pursuant to Schedule 18 for distribution to Owners, other than the GridAmerica Companies, and Coordinating Owner.

**APPENDIX J**

**II. Revenue Distribution.**

The Midwest ISO shall cause the distribution monthly of the Owners' and Coordinating Owner's Revenues associated with transmission services under Schedule 18 in accordance with this Appendix J and the Funds Trust Agreement. This Appendix J shall not apply to revenues collected under Schedule 18 by the Midwest ISO from zones other than the GridAmerica Companies' zones for distribution to the GridAmerica Companies. In order to cause the distribution of revenues on a monthly basis, the Midwest ISO may estimate the revenues to be received by each Owner and Coordinating Owner subject to a true-up. The following methodology is used to distribute revenues received associated with charges under Schedule 18:

Revenues shall be fully distributed to the Owners and Coordinating Owner based on each Owner's and Coordinating Owner's relative share of total lost revenues collected from GridAmerica Companies' zones, with those relative shares set out on Appendix J, Attachment 1. For this Section II, lost revenues collected from GridAmerica Companies' zones only reflect those test period revenues that would be eliminated because of the GridAmerica Companies joining the Midwest ISO.

**III. Effective Date.**

Appendix J will be effective on the first date that one of the GridAmerica Companies have their transmission facilities under the Transmission Tariff and charges under Schedule 18 begin.



**APPENDIX J  
ATTACHMENT 1**

**OWNERS' AND COORDINATING OWNER'S RELATIVE SHARE OF LOST REVENUES  
COLLECTED FROM THE GRIDAMERICA COMPANIES' ZONES UNDER SCHEDULE 18<sup>1</sup>**

Transmission Owner	Lost Revenues (all GridAmerica Companies under the Transmission Tariff)	Percentage (all GridAmerica Companies under the Transmission Tariff)	Lost Revenues (Initial Grid- America Companies)	Percentages (Initial Grid-America Companies)
Alliant Energy West (IES Utilities and IPC)	\$112,567	1.23%	\$49,326	0.68%
American Transmission Company LLC	\$137,592	1.50%	\$77,790	1.07%
Central Illinois Light Co.	\$62,938	0.69%	\$19,280	0.27%
Cinergy Services, Inc.	\$3,690,576	40.32%	\$3,043,794	41.94%
City Water L&P, Springfield, Illinois	\$36,288	0.40%	\$4,993	0.07%
Hoosier Energy	\$37,679	0.41%	\$31,050	0.43%
International Transmission Company	\$2,978,631	32.54%	\$2,947,705	40.62%
Indianapolis Power & Light Company	\$82,635	0.90%	\$67,776	0.93%
LG&E Corporation	\$874,381	9.55%	\$563,469	7.76%
Manitoba Hydro	\$104,529	1.14%	\$59,410	0.82%
Michigan Electric Transmission Co. LLC	\$87,183	0.95%	\$72,772	1.00%
Minnesota Power, Inc.	\$34,796	0.38%	\$17,692	0.24%
Montana-Dakota Utilities Co.	\$17,194	0.19%	\$10,182	0.14%
Northern States Power Companies	\$660,510	7.22%	\$199,700	2.75%
Otter Tail Power Company	\$23,736	0.26%	\$13,062	0.18%
Southern Illinois Power Cooperative	\$133,156	1.45%	\$11,756	0.16%
Vectren	\$79,909	0.87%	\$67,587	0.93%
<b>TOTAL</b>	<b>\$9,154,299</b>	<b>100.0%</b>	<b>\$7,257,344</b>	<b>100.0%</b>

<sup>1</sup>

The percentages of total lost revenues collected from the GridAmerica Companies' zones pursuant to Schedule 18 resulting from the GridAmerica Companies having their transmission facilities under the Transmission Tariff shall be calculated for each Owner based upon the test period used to derive the charges under Schedule 18 of the Transmission Tariff. The percentages reflect all three GridAmerica Companies having their transmission facilities under the Transmission Tariff. For any month in which one or more GridAmerica Companies do not have their transmission facilities under the Transmission Tariff, the Lost Revenues and Percentages columns on the table would need to be revised to reflect only those GridAmerica Companies that do have their transmission facilities under the Transmission Tariff. For any month in which none of the GridAmerica Companies have their transmission facilities under the Transmission Tariff, Schedule 18 shall not apply and both the Lost Revenues and Percentage columns on the table would be zero for all Owners. In addition, if any of the Owners listed on the table withdraw from the Midwest ISO, upon the effectiveness of that withdrawal the Lost Revenues and Percentages columns on the table would need to be revised to reflect that withdrawal.

## APPENDIX K

### FILING RIGHTS PURSUANT TO SECTION 205 OF THE FEDERAL POWER ACT OF THE OWNERS AND THE MIDWEST ISO

The following represents the agreement of the Transmission Owners and the Midwest ISO on filing rights pursuant to section 205 of the Federal Power Act.

**I. Additional Definitions.** Unless the context otherwise specifies or requires, the following additional definitions apply to this Appendix K, and when used in this Appendix K, the following terms shall have the respective meanings set forth below.

**A. Appendix I Agreement.** One of the following agreements:

(a) "Appendix I Agreement by and Between International Transmission Company and the Midwest Independent Transmission System Operator, Inc." dated August 31, 2001, as amended by the "Supplemental Agreement" by and among the Midwest Independent Transmission System Operator, Inc., International Transmission Company, and undersigned Owners dated November 15, 2001, as such agreement may be amended from time to time; (b) "Second Amended and Restated Appendix I ITC Agreement" by and between the Midwest ISO and GridAmerica LLC, dated as of May 30, 2003, as such agreement may be amended from time to time, and (c) any additional agreement that may be entered into by and between the Midwest ISO and a third party pursuant to Appendix I of the Agreement.

**B. Attachment O.** The rate formula set out in the Tariff, from Sheet No. 364 through 393, as may be amended from time to time.

- C. **FPA.** The Federal Power Act, 16 U.S.C. § 824 et al.
- D. **Grandfathered Agreements.** The agreements listed on Attachment P of the Transmission Tariff as that attachment may be changed from time to time.
- E. **Non-Jurisdictional Transmission Owners.** Owners of transmission facilities that are not FERC public utilities, but over which service is provided by the Midwest ISO under the Transmission Tariff and who have transferred functional control of those facilities to the Midwest ISO.
- F. **Parties.** The Transmission Owners and the Midwest ISO.
- G. **Transmission Owner.** The owner of, and/or holder of FPA section 205 filing rights with respect to, transmission facilities, service over which is provided by the Midwest ISO under the Transmission Tariff and functional control over which has been transferred to the Midwest ISO, and who is a signatory to the Settlement Agreement Between Transmission Owners and Midwest ISO on Filing Rights, filed with FERC on November 30, 2004 in Docket Nos. RT01-87, ER02-106, and ER02-108. Only Transmission Owners that are public utilities under the FPA are included within this definition of Transmission Owner when the term is used to specify filing rights under FPA section 205.

**II. Division Of Filing Rights**

**A. Transmission Revenue Requirements.** Each Transmission Owner shall possess the full and exclusive right to submit filings under FPA section 205 with regard to its transmission revenue requirements. This full and exclusive right shall include the right to propose a new rate formula or any change to any component of any rate formula used to calculate its revenue requirements, if applicable, provided that such a change is related to that Transmission Owner's revenue requirements. A Transmission Owner shall not be required to follow the governance and coordination provisions of Articles III and IV of this Appendix K to exercise the filing right provided for in this Article II, Section A.

**B. Attachment O.** In order to change the Attachment O rate formula, the governance and coordination provisions of Articles III and IV of this Appendix K shall apply, provided that those Transmission Owners that do not have their revenue requirements calculated through such formula shall not have voting rights pursuant to Articles III and IV of this Appendix K with respect to such a change.

**C. Zonal Rates.**

**1. Generally.** The Transmission Owner(s) whose transmission facilities comprise the facilities within a zone shall possess the full and exclusive right to submit filings under FPA section 205 with regard to the transmission rate design for that zone for network load and transactions sinking within that zone; provided, however, that any filing made pursuant to this Article II, Section C, Paragraph 1 shall not in any

way affect the rates charged or revenues collected in any other zone. Filings that may be made under this Article II, Section C, Paragraph 1 include, but are not limited to the following types of rate design changes: (1) changing from a formula rate to stated rates or vice-versa; (2) changing the form or type of formula rate; (3) proposing incentive rates; and (4) proposing performance-based rates. A Transmission Owner shall not be required to follow the governance and coordination provisions of Articles III and IV of this Appendix K to exercise the filing right provided for in this Article II, Section C, Paragraph 1.

**2. Multiple Transmission Owners Within a Zone.** If there are multiple Transmission Owners within a zone, those Transmission Owners should seek to reach agreement on a rate design. If no agreement is reached, then each Transmission Owner within the zone shall have the right to submit a FPA section 205 filing proposing an initial rate design or rate design change for the zone. A Transmission Owner shall not be required to follow the governance and coordination provisions of Articles III and IV of this Appendix K to exercise the filing right provided for in this Article II, Section C, Paragraph 2.

**3. Zone Boundaries.** For filings that propose to realign, eliminate, or otherwise reconfigure rate zones, only those Transmission Owners whose zones would be realigned, eliminated, or otherwise reconfigured by a filing shall possess the corresponding FPA section 205 rights. If there are multiple Transmission Owners whose rate zones would be realigned, eliminated, or otherwise reconfigured pursuant to a filing,

then all such Transmission Owners shall reach agreement before making a filing under this article. Transmission Owners shall not be required to follow the governance and coordination provisions of Articles III and IV of this Appendix K to exercise the filing right provided for in this Article II, Section C, Paragraph 3. Nothing in this Article II, Section C, Paragraph 3 is intended to modify, in any way, existing provisions and limitations applicable to zone boundary changes, including those included in Appendix C of the Agreement.

**D. Rates Affecting More Than One Zone and Through and Out Rates.**

Except as may be provided in Article II, Section E, Paragraph 2 of this Appendix K, the Transmission Owners shall possess the full and exclusive right to submit filings under FPA section 205 with regard to transmission rate design associated with rates affecting more than one zone as well as for transactions going through or out of the Midwest ISO. The filing right specified in this Article II, Section D shall be subject to the governance and coordination provisions of Articles III and IV of this Appendix K.

Limitations: Notwithstanding the foregoing, each Transmission Owner shall fully control its revenue requirement component used in calculating the total through and out rates set forth in Schedules 7 and 8 of the Transmission Tariff and in any other Transmission Tariff Schedule setting forth rates affecting more than one zone in which individual Transmission Owner revenue requirements are used to derive the rate.

**E. Transmission Upgrades and New Transmission Facilities.**

1. Each Transmission Owner shall possess the full and exclusive right under FPA section 205 to submit filings with regard to transmission upgrades and new transmission facilities that affect only the rates within the applicable Transmission Owner's Transmission Tariff zone(s). This provision applies to (a) a Transmission Owner constructing transmission upgrades or new transmission facilities in its own zone and seeking recovery of costs through rates that apply only to its zone; (b) a Transmission Owner constructing, or otherwise assuming financial responsibility for, transmission upgrades or new transmission facilities in a zone other than that Transmission Owner's zone and seeking recovery of costs through rates that apply only to its own zone; and (c) a Transmission Owner assigned costs associated with transmission upgrades or new transmission facilities and seeking recovery of costs through rates that apply only to its zone.

2. Both the Transmission Owners and the Midwest ISO shall possess the right to submit filings under FPA section 205 with regard to the allocation of costs associated with transmission upgrades and new transmission facilities affecting multiple Transmission Tariff zones; provided, however, that this filing right shall be subject to the governance provisions of Article III of this Appendix K with regard to filings made by Transmission Owners, and Article IV of this Appendix K with regard to filings made by either the Transmission Owners or the Midwest ISO.

**F. Retail Transmission.** Both the Transmission Owners and the Midwest ISO shall possess the right to submit filings under FPA section 205 with regard to revising the Transmission Tariff to include or change the terms or conditions applicable to transmission services for unbundled retail transmission customers. A Transmission Owner shall not be required to follow the governance and coordination provisions of Articles III and IV of this Appendix K to exercise the filing right provided for in this Article II, Section F; provided, however, that any such filing shall not materially affect any other Transmission Owner.

**G. Schedule 1 Costs.** Each Transmission Owner shall possess the full and exclusive right under FPA section 205 to submit its revenue requirements to be recovered under Schedule 1 of the Transmission Tariff. The Transmission Owners shall possess the full and exclusive right under FPA section 205 to submit changes in rates and rate design under Schedule 1 of the Transmission Tariff subject to the governance and coordination provisions of Articles III and IV of this Appendix K; provided, however, if a rate or rate design proposal affects only one zone, the Transmission Owner(s) in that zone may file under FPA section 205 without following the governance and coordination provisions of Articles III and IV of this Appendix K.

**H. Other Costs.** Each Transmission Owner shall possess the full and exclusive right under FPA section 205 to file a proposal or rate to recover other costs imposed on it and nothing in this Appendix K shall be interpreted as precluding any Transmission Owner from making a FPA section 205 filing to propose a method or rate



for recovering any other cost the Transmission Owner may incur as a result of Midwest ISO actions (unless expressly dealt with herein in which case the specific provision would apply), provided that such costs are not otherwise recovered in rates. These other costs may include non-transmission costs such as the costs associated with implementing the Midwest ISO's directives with regard to preserving reliability or energy markets, including (but not limited to) directives pursuant to a Midwest ISO Transmission and Energy Markets Tariff (or successor document). A Transmission Owner shall not be required to follow the governance and coordination provisions of Articles III and IV of this Appendix K to exercise the filing right provided for in this Article II, Section H and shall, instead, have a full, exclusive, and unilateral right to submit any filing that only affects the rates within its zone(s); provided, however, that any proposal that requires loads in other zones to bear some or all of the costs shall be subject to Articles III and IV of this Appendix K.

**I. Ancillary Services Other Than Schedule 1.** Both Transmission Owners that own or control generation or other resources capable of providing ancillary services (offered to customers pursuant to the Transmission Tariff) and the Midwest ISO shall have the right to submit filings under FPA section 205 to govern the rates, terms, and conditions applicable to the provision of ancillary services. A Transmission Owner shall not be required to follow the governance and coordination provisions of Articles III and IV of this Appendix K to exercise the filing right provided for in this Article II,

Section I; provided, however, that any ancillary service proposal with regional impacts shall be subject to the governance and coordination provisions of Articles III and IV of this Appendix K.

**J. Seams Agreements.** The Midwest ISO shall invite the participation of the Transmission Owners in any discussions with adjoining transmission providers or transmission owners, having as their purpose the consummation of a seams agreement containing provisions that could affect transmission revenues or impose costs or responsibilities on any or all of the Transmission Owners. The execution of agreements with adjoining transmission providers or owners shall be subject to the stakeholder review process provided for in the Agreement. The Midwest ISO shall take appropriate measures, consistent with its responsibilities under Article Three, Section D of the Agreement, to minimize the risk that any seams agreement will result in a net reduction in revenues recoverable by a Transmission Owner.

**K. Other Provisions Affecting Transmission Revenues.** With regard to any other tariff provision affecting transmission revenues, the Midwest ISO and the Transmission Owners shall each have filing rights under FPA section 205. The filing right specified in this Article II, Section K shall be subject to the limitations set forth in Article II, Section D above, and the governance and coordination provisions of Articles III and IV of this Appendix K.

**L. Provisions Not Addressed in Article II, Sections A-K of this Appendix**

**K.** Except as provided herein, the Midwest ISO shall have the full and exclusive right to submit filings under FPA section 205 with regard to its Transmission Tariff and related documents; provided, however, that nothing herein shall prevent the Midwest ISO from inviting the participation of one or more Transmission Owners in any such submission; and provided further that nothing in this provision or Appendix K provides the Midwest ISO with any authority (other than that which it already may possess) to submit revisions to the Agreement or to any documents to which it is not a party.

**III. TRANSMISSION OWNER GOVERNANCE ISSUES**

**A.** FPA section 205 filings subject to this Article III, as provided for in Article II of this Appendix K, shall not be made by individual Transmission Owners. Instead, it is the intention of all Parties that Transmission Owners will coordinate the filing rights subject to this Article III through the development of joint filings of the type set forth herein. Decisions on whether or not to make a joint section 205 filing shall be made by majority vote, on a “one Transmission Owner – one vote” basis; provided that any entity that has one or more written delegations of authority to exercise section 205 rights on the matter that is the subject of a vote shall be authorized to cast a vote under each such delegation of authority. A minority of Transmission Owners may submit a filing under FPA section 205, provided the minority consists of at least three (3) Transmission Owners that either own or have been delegated authority to

exercise section 205 rights concerning combined gross transmission plant of at least \$2,500,000,000 as calculated based on the gross transmission plant reported by each Transmission Owner in its most recent FERC Form No. 1 filing (or equivalent data for Transmission Owners that do not file FERC Form No. 1 reports).

#### **IV. COORDINATION**

**A. Transmission Owners Coordination.** Transmission Owner(s), whether acting individually or jointly pursuant to Article III of this Appendix K, shall provide the Midwest ISO and all other Transmission Owners with at least thirty (30) days' notice before submitting any FPA section 205 filing that is subject to this Article IV as provided for in Article II of this Appendix K, unless circumstances require a shorter notice, in which case the Transmission Owner(s) shall use reasonable efforts to provide as much notice before the filing as possible. In the notice, the Transmission Owner(s) will use best efforts to provide as detailed a description of the filing and its rate impacts as possible. The Midwest ISO will circulate this information to its members, advisory committee, and state commission representatives. If the Midwest ISO believes it necessary, the Transmission Owner(s) will participate in a pre-filing meeting to discuss the filing and issues unless precluded by time exigencies.

**B. Transmission Owners and Midwest ISO Coordination for Midwest ISO Filings.** On any filing in which both the Midwest ISO and the Transmission Owners possess filing rights under FPA section 205 and which the Midwest ISO proposes to file, the Midwest ISO will provide advance notice to the Transmission Owners of at least

thirty (30) days before making a filing under FPA section 205, unless circumstances require a shorter notice, in which case the Midwest ISO shall use reasonable efforts to provide as much notice before the filing as possible. In the notice, the Midwest ISO will use best efforts to provide as detailed a description of the filing and its rate impacts as possible. The Midwest ISO will circulate this information to its members, advisory committee, and state commission representatives. If the Transmission Owners believe it necessary, the Midwest ISO will participate in a pre-filing meeting to discuss the filing and issues unless precluded by time exigencies.

C. **Transmission Owners and Midwest ISO Coordination.** In instances in which both the Midwest ISO and the Transmission Owners in whole or in part intend to submit FPA section 205 filings on the same or similar subjects or tariff provisions, the Midwest ISO and the Transmission Owners shall meet to determine if a joint filing could be submitted. If the Midwest ISO and the Transmission Owners cannot agree to a joint filing, then separate filings may be submitted.

V. **MISCELLANEOUS**

A. **Jurisdiction.** Nothing in this Appendix K is intended to provide FERC with jurisdiction over Non-Jurisdictional Transmission Owners who may rely on the Midwest ISO to submit filings for them with regard to their individual revenue requirements or rate designs.

B. **FPA Section 206 Rights.** Nothing in this Appendix K is intended to limit or in any way abridge the rights of any Transmission Owner or the Midwest ISO to seek revisions to any document pursuant to FPA section 206. Moreover, nothing in this

Appendix K is intended to limit or in any way abridge the rights of any Transmission Owner or the Midwest ISO to intervene in any proceeding before FERC or to protest or comment upon any filing made with FERC.

C. **Appendix I of the Agreement.** Nothing in this Appendix K is intended to affect or in any way abridge the rights of Independent Transmission Companies under their respective Appendix I Agreement(s) and related agreements, as may be supplemented from time to time.

D. **Agreement and Transmission Revenue Distribution.** Nothing in this Appendix K is intended to modify or affect the filing rights of Transmission Owners and restrictions on such filing rights relating to the Agreement set forth in the Agreement or to provide the Midwest ISO with any filing rights with regard to transmission revenue distribution.

E. **Others' Filing Rights.** Nothing in this Appendix K is intended to affect the FPA section 205 filing rights of any entity which is not a Party. Nor is anything in this Appendix K intended to affect the procedural rights of any other interested party, including state regulatory commissions, regarding a filing submitted by the Midwest ISO or a Transmission Owner (or both) pursuant to Article II of this Appendix K.

F. **Midwest ISO Administration of Transmission Tariff.** Nothing in this Appendix K is intended to eliminate the Midwest ISO's responsibility for administering the Transmission Tariff in a prudent manner, consistent with the Agreement and FERC requirements. To that end, the Midwest ISO shall continue its administrative functions with regard to the Transmission Tariff in which, for example, it is responsible for

ensuring that the formatting of the Transmission Tariff pages (including those pages submitted by Transmission Owners for advance Midwest ISO review pursuant to Article IV, Section A of this Appendix K) is in compliance with FERC requirements, and in which it remains the administrator of the Transmission Tariff even for Transmission Tariff provisions over which the Transmission Owners possess FPA section 205 filing rights under this Appendix K. In addition, nothing in this Appendix K is intended to affect the rights the Midwest ISO possesses to discount transmission service under the Transmission Tariff consistent with the provisions of this Appendix K. Additionally, nothing in this Appendix K forbids the Midwest ISO, if specifically authorized by a Transmission Owner or by multiple Transmission Owners, as appropriate, from making a filing on behalf of the Transmission Owner(s).

**G. Grandfathered Agreements.** Nothing in the Appendix K is intended to affect or modify whatever rights any entity may possess to seek modification of any Grandfathered Agreements.

**H. Appendix K Modifications.** It is the intent of the Parties that the provisions of this Appendix K, and the conforming changes to the Transmission Tariff and the Agreement required by this Appendix K, shall be subject to change solely by written amendment executed by the Midwest ISO and the Transmission Owners, with execution by the Transmission Owners requiring approval by a majority of the Transmission Owners provided, however, that any such amendment is not affirmatively opposed by three (3) or more Transmission Owners collectively owning gross transmission plant of at least \$2,500,000,000 as calculated based on the gross

transmission plant reported by each Transmission Owner in its most recent FERC Form No. 1 filing (or equivalent data for Transmission Owners that do not file FERC Form No. 1 reports). Otherwise, no Party may make a FPA section 205 filing that, if accepted or approved by FERC, would in any way have the effect of (1) canceling, modifying or limiting the FPA section 205 filing rights of any other Party provided for in this Appendix K, or (2) converting exclusive FPA section 205 filing rights of a Party provided for in this Appendix K into non-exclusive rights.

**I. Mobile-Sierra Standard.** It is the intent of the Parties that any change to any provision of this Appendix K, or to any conforming change to the Transmission Tariff or the Agreement, that is not proposed pursuant to Article V, Section H of this Appendix K whether proposed by a Party, non-Party, or the FERC shall be limited to the maximum extent permissible by law and shall be subject to the Mobile-Sierra public interest standard of review applicable to fixed rate agreements; provided, however, that beginning five years from the date of execution of the Settlement Agreement Between Transmission Owners and Midwest ISO on Filing Rights (filed at FERC on November 30, 2004 in Docket Nos. RT01-87, ER02-106, and ER02-108), actions initiated by the FERC, acting *sua sponte* pursuant to FPA section 206, shall be governed by the just and reasonable standard.

## **VI. TERM**

This Appendix K shall remain in effect for 5 years from the date it becomes effective and shall remain in effect from year to year thereafter unless (a) it is deemed withdrawn pursuant Section 6.12 of the Settlement Agreement Between



Transmission Owners and Midwest ISO on Filing Rights (filed at FERC on November 30, 2004 in Docket Nos. RT01-87, ER02-106, and ER02-108) (referred to as "Filing Rights Settlement" for purposes of this Article VI, Section A), (b) it is withdrawn pursuant to a modification or amendment executed pursuant to Sections 6.8 and/or 6.9 of the Filing Rights Settlement, or (c) three-fourths of the Transmission Owners then subject to this Appendix K give one year advance notice in writing that they wish to terminate this Appendix K; provided, however, that unless expressly stated otherwise, this Appendix K shall not be deemed withdrawn if modified or amended under Sections 6.8 and/or 6.9 of the Filing Rights Settlement; and provided further that a Transmission Owner shall not be subject to, or otherwise bound by, this Appendix K at any time following its effective withdrawal from either the Agreement or an Appendix I Agreement.