

July 11, 2002

VIA FEDERAL EXPRESS

FILED²

JUL 12 2002

Missouri Public
Service Commission



Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Governor Office Building
200 Madison Street, Suite 100
Jefferson City, MO 65101

Re: In the matter of the Application of Union Electric Company
(d/b/a AmerenUE) for an Order Authorizing It to Withdraw
from the Midwest ISO to Participate in the Alliance RTO
Case No.EO-2001-684

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are an original and eight (8)
copies of Union Electric Company's **Motion to Dismiss**.

Please kindly acknowledge receipt of this filing by stamping as filed a copy of this
letter and returning it to the undersigned in the enclosed, self-addressed, stamped
envelope.

Sincerely,

A handwritten signature in cursive script, appearing to read "David B. Hennen".

David B. Hennen
Associate General Counsel

DBH:sew
enclosures
cc: Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing document were sent U.S. Mail, postage prepaid, to the following parties of record on this 11th day of July, 2002:

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David B. Hennen

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MOTION TO DISMISS

Background

Article Five or Article Seven of the Midwest ISO Agreement, the Company shall file a Notice of Withdrawal with the Commission, and with any other applicable regulatory agency, and *such Withdrawal shall become effective when the Commission, and such other agencies, approve or accept such Notice or have otherwise allowed it to become effective.*" (emphasis added)
(Stipulation and Agreement at p. 2-3)

On November 9, 2000, following the announced withdrawals of Illinois Power Company and Commonwealth Edison Company from the Midwest ISO, Ameren Services Company ("Ameren"), on behalf of its operating companies UE and Central Illinois Public Service Company ("CIPS"), provided written notice to the Midwest ISO of its intent to withdraw from participation in the Midwest ISO.

On January 11, 2001, in order to remain in compliance with the requirements of FERC Order No. 2000, Ameren executed an Amendment to the Alliance Agreement to become a transmission owning member of the Alliance RTO. Ameren's membership in the Alliance RTO is contingent upon Ameren's receipt of all necessary regulatory approvals.

On January 16, 2001, Ameren filed with the FERC in Docket No. ER01-966-000, on behalf of its operating companies UE and CIPS, a notice of intention to withdraw from the Midwest ISO pursuant to Article Five of the Midwest ISO Agreement.

On January 24, 2001, in Docket No. ER01-123-000, the FERC issued an order in the Illinois Power Company withdrawal case establishing settlement judge procedures suggesting that it would be in the best interest of all interested parties in the Midwest region to jointly assess the Midwest ISO and Alliance RTO situation further and make one last effort at resolving their differences before the FERC rules in this proceeding.

On February 1, 2001, pursuant to the Order issued in Docket No. ER01-123-000, the Chief Administrative Law Judge convened settlement procedures that continued through February 23, 2001. On March 21, 2001, a formal Stipulation and Agreement ("Settlement Agreement") was reached by the parties at the settlement proceedings and was filed with the FERC. The Settlement Agreement permitted Ameren to withdraw from the Midwest ISO and join the Alliance RTO upon payment of an \$18 million exit fee to the Midwest ISO.

On April 6, 2001, the Chief Judge certified the Settlement Agreement to the FERC. On May 8, 2001, FERC issued its Order on the Settlement Agreement accepting it after making some minor modifications and clarifications.

On May 14, 2001, the Alliance Companies filed with FERC a letter of acceptance indicating that the Alliance Companies, the Midwest ISO, Inc. and the certain Midwest Transmission Owners had accepted the minor modifications and clarifications made by FERC to the Settlement Agreement contained in the FERC's May 8, 2001 Order.

On May 15, 2001, in accordance with the terms of the Settlement Agreement approved by FERC in its May 8, 2001 Order, Ameren tendered to the Midwest ISO the \$18 million (\$12.5 million from AmerenUE, \$5.5 million from AmerenCIPS) exit fee.

On June 11, 2001 UE filed an application with the Commission requesting an Order authorizing it to withdraw from the Midwest ISO to participate in the Alliance RTO, which initiated this proceeding.

On July 26, 2001, the Commission granted the intervention requests of the Missouri Industrial Energy Consumers, the Missouri Energy Group and the Doe Run Company. No other interventions were filed.

A prehearing Conference was held on July 31, 2001. Prefiled direct, rebuttal and surrebuttal testimony were filed in this case in accordance with usual Commission procedures and pursuant to orders entered in this case.

The hearing for this case was held on October 10, 2001.

On October 26, 2001, the parties to this proceeding filed their respective initial briefs.

On November 7, 2001, the parties to this proceeding filed their respective reply briefs.

On December 19, 2001, the FERC met and announced, at its regularly scheduled meeting, major decisions affecting the future of regional transmission organizations ("RTOs") in the Midwest. The next day FERC issued five interrelated orders codifying the announcements made at its December 19th meeting. As described by FERC, the orders issued are "intended to move the process forward in establishing an optimally sized [RTO] in the Midwest and to support the establishment of viable, for-profit transmission companies that operate under an RTO umbrella and may, depending on their level of independence from market participants, perform certain of the RTO functions contained in [FERC's] Order No. 2000."

More specifically, in the order issued by FERC in Docket Nos. RT01-88-000 et al., FERC denied the Alliance Companies request to be a stand-alone RTO. FERC also directed the Alliance Companies to explore how their business plan (including the proposal for National Grid to become the managing member of the Alliance) can be accommodated within the Midwest ISO.

Recognizing that the Alliance Companies would need some time to react to this order, FERC directed the Alliance Companies "to file a statement of their plans to join an RTO, including the timeframe, within 60 days of the date of [the December 20] order."

As a result of the December 20 order, on December 27, 2001, UE requested that the Commission ("Commission") suspend all further action in this proceeding until March 1, 2002.

On February 11, 2001, the Commission issued an order granting UE's motion to suspend and further directed the parties to file jointly or individually, by March 1, 2002, a status update regarding relevant activity at FERC.

On February 28, 2002, some of the parties in this proceeding filed a status update of all relevant FERC activity, as directed by the Commission in its February 11, 2002 order. Within UE's status update, UE summarized the various February 19th filings made by the Alliance Companies and the Midwest ISO. Within the respective February 19th filings, it was abundantly clear that continued negotiations between the Alliance Companies and the Midwest ISO was desired and necessary.

As a result, in its February 28th filing, the Company requested that the Commission continue to hold this proceeding in abeyance until May 1, 2002 in order to provide the Midwest ISO and the Alliance Companies with additional time to reach resolution of the outstanding issues.

On March 5, 2002, after the negotiations between the Alliance Companies and the Midwest ISO reached an impasse on a number of policy issues, the Alliance Companies (and National Grid) filed a Petition for Declaratory Order seeking the FERC's guidance on these contentious matters. In their Petition for Declaratory Order, the Alliance companies averred that unless and until the FERC resolves the policy matters as requested in this petition, it will not be possible for the Midwest ISO and the Alliance companies to reach agreement.

On April 25, 2002, FERC issued an ***Order On Petition For Declaratory Order*** ("April 25th Order") granting in part and denying in part, the Petition for Declaratory Order filed by the Alliance Companies and National Grid. The April 25th Order also directed the Alliance

Companies and National Grid to file a compliance filing within 30 days of the date of the April 25th Order detailing which RTO the petitioners plan to join and whether such participation will be collective or individual. (See 99 FERC ¶ 61,105)

As a result of the April 25th Order issued by FERC, UE was required to select, within 30 days of the Order, an RTO in which to participate. In order for UE to evaluate its options, one of which was returning to the Midwest ISO - RTO, on May 3, 2002, the Company respectfully requested that the Commission continue to hold this proceeding in abeyance until June 1, 2002.

On May 24, 2002, in response to the April 25th Order, Ameren Services Company, as agent for Union Electric Company, d/b/a AmerenUE and Central Illinois Public Service Company, d/b/a AmerenCIPS (collectively "Ameren"), and the Midwest System Operator, Inc. ("MISO") entered into a memorandum of understanding ("MOU") that provides for Ameren's return to the MISO in accordance with the terms and conditions of the MOU. The MOU requires Ameren to apply for membership in the MISO within thirty days of execution of the MOU. Moreover, in compliance with the April 25th Order, on May 28, 2002, Ameren made a filing at FERC advising FERC that Ameren will join the MISO.

Accordingly, on June 3, 2002, as a result of these actions by Ameren, UE requested that the Commission continue to hold this proceeding in abeyance until July 1, 2002 in order to provide the UE with additional time to make the necessary filings in this proceeding.

On July 3, 2002, Ameren along with FirstEnergy Corp. ("FirstEnergy"), on behalf of its subsidiary American Transmission Systems, Incorporated, Northern Indiana Public Service Company ("NIPSCO"), and National Grid USA ("National Grid") filed a number of agreements with FERC indicating their intent to form the GridAmerica independent transmission company. Once GridAmerica is formed, GridAmerica will participate in and operate under the Midwest

ISO - RTO in accordance with Appendix I of the Midwest ISO Agreement. (See Attachment 1 for copies of Agreements filed at FERC.)

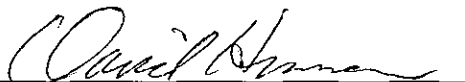
Request

As a result of the Company's decision to rejoin the Midwest ISO-RTO through its participation in GridAmerica, the request made in this proceeding to withdraw from the Midwest ISO to participate in the Alliance RTO has become moot. Furthermore, since the Commission has not issued an order in this proceeding, UE's withdrawal from the Midwest ISO has not been legally effectuated. As a result, the dismissal of this proceeding by the Commission would preserve the prior authorities provided to UE by the Commission for UE to transfer functional control of its transmission assets and to participate in the Midwest ISO, albeit now through GridAmerica under Appendix I of the Midwest ISO Agreement.

For the forgoing reasons, the company hereby requests that the Commission grant UE's motion to dismiss.

Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a AmerenUE

By: 

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Dated: July 11, 2002