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Energizing the Heartland

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July 15, 2010

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The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426FEDERAL ENERGY  
REGULATORY COMMISSION**Re: Midwest Independent Transmission System Operator, Inc. and the Midwest  
ISO Transmission Owners, Docket No. ER10-1491-000**

Dear Secretary Bose:

Pursuant to section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, and Part 35 of the Federal Energy Regulatory Commission's ("Commission") regulations, 18 C.F.R. § 35, *et seq.*, and in accordance with the Commission's October 23, 2009 order in Docket No. ER09-1431-000<sup>1</sup>, the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") and the Midwest ISO Transmission Owners<sup>2</sup> (collectively "Filing Parties"), respectfully submit for filing an original and five (5) copies of proposed revisions to the Midwest ISO Open Access Transmission, Energy and Operating Reserve Markets Tariff ("Tariff").<sup>3</sup> As detailed below and in the accompanying testimony and Tariff changes, the Filing Parties propose to: (1) establish a new category of transmission projects designated as Multi Value Projects ("MVPs") and a

<sup>1</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 129 FERC ¶ 61,060, at P 1 (2009) ("October 23 Order").

<sup>2</sup> For the purposes of this filing the Midwest ISO Transmission Owners are Ameren Services Company, as agent for Union Electric Company d/b/a AmerenUE, Central Illinois Public Service Company d/b/a AmerenCIPS, Central Illinois Light Co. d/b/a AmerenCILCO, and Illinois Power Company d/b/a AmerenIP; American Transmission Company LLC; Dairyland Power Cooperative; Duke Energy Corporation for Duke Energy Ohio, Inc., Duke Energy Indiana, Inc., and Duke Energy Kentucky, Inc.; Great River Energy; Minnesota Power (and its subsidiary Superior Water, L&P); Montana-Dakota Utilities Co.; Northern Indiana Public Service Company; Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, subsidiaries of Xcel Energy Inc.; Northwestern Wisconsin Electric Company; Otter Tail Power Company; Southern Indiana Gas & Electric Company (d/b/a Vectren Energy Delivery of Indiana); and Southern Minnesota Municipal Power Agency. Individual Midwest ISO Transmission Owners supportive of this filing may submit supplemental comments in this proceeding regarding, *inter alia*, the impact of the proposed Tariff revisions on their individual systems and customers or issues associated with implementation of the proposed Tariff revisions.

<sup>3</sup> Midwest ISO, FERC Electric Tariff, Fourth Revised Volume No. 1.

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corresponding cost allocation methodology for such projects; (2) provide for Generator Interconnection Projects (“GIP”) arising within a defined time period to share the costs of Network Upgrades on which they mutually rely; and (3) otherwise retain the cost allocation for Network Upgrades<sup>4</sup> needed for GIPs that was conditionally accepted by the Commission in the October 23 Order.

## I. INTRODUCTION

The Tariff changes proposed in this filing are part of an ongoing, comprehensive review of the Midwest ISO’s Regional Expansion Criteria and Benefits (“RECB”) transmission cost allocation methodologies. The proposed changes are the result of more than 19 months of Midwest ISO stakeholder and RECB Task Force discussions, engaging various interest groups responsible for evaluating the Midwest ISO’s transmission planning and generator interconnection processes, in close coordination with the Organization of MISO States (“OMS”) through its focused Cost Allocation and Regional Planning (“CARP”) working group proceedings.

As described in more detail below, the Filing Parties propose to establish a new transmission project planning and cost allocation category, i.e., the MVP, for projects that enable the reliable and economic delivery of energy in support of documented energy policy mandates and address, through the development of a robust transmission system, multiple reliability and/or economic issues affecting multiple transmission zones. Recognizing the regional orientation of such projects, their costs will be allocated to all load in, and exports from, the Midwest ISO on a postage-stamp basis. Moreover, recognizing the year-round benefits of such projects, their costs will be recovered based on system usage. The new MVP transmission project category, and its associated broad-based cost allocation, are designed to: (1) facilitate the integration of large amounts of location-constrained resources, including renewable generation resources; (2) support Midwest ISO member and customer compliance with evolving state and federal energy policy requirements; (3) enable the Midwest ISO to address multiple reliability needs and provide economic opportunities through regional transmission development; and (4) strike a better balance than the current effective rules in allocating costs among multiple beneficiaries by reserving the GIP category (which allocates nearly all costs to Interconnection Customers) for more locally focused Network Upgrades that are not required for the regional system enhancements that will now be covered by the MVP category.

Moreover, the enclosed Tariff revisions will further narrow the cost burden faced by particular GIPs and resolve “first mover/late comer” issues by requiring subsequent Interconnection Customers that benefit from upgrades funded by earlier Interconnection Customers (termed “Shared Network Upgrades” or “SNU”) to contribute to the costs of such upgrades.

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<sup>4</sup> Capitalized terms not otherwise defined in this transmittal letter and the enclosed testimony have the meanings provided in the Tariff.

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Consistent with the cost-causation principle that is the touchstone of just and reasonable cost allocation, the enclosed revisions allocate new transmission project costs to those that use and benefit from the new facilities.<sup>5</sup> As shown in detail in this filing, regional loads and exports are reasonably expected to be by far the greatest users of MVPs and will, in addition, derive many other concrete benefits from these projects:

- Economic studies show that MVP-type projects will provide widespread regional benefits, including:
  - substantial reductions in regional congestion costs;
  - reductions in transmission losses, effecting significant, broadly shared cost savings;
  - reductions in the region's installed capacity requirement, thus measurably reducing capacity costs throughout the region;
- Transmission usage studies show that projects similar to those that are expected to qualify for MVP treatment would be used predominantly by regional loads and to serve exports;
- Broad regional cost-sharing for MVPs (coupled with retention of the current GIP cost allocation for Network Upgrades that do not qualify for MVP treatment) avoids the disproportionate impacts that threatened continued access by Midwest ISO loads, through the Midwest ISO market and Tariff, to prime wind-power development areas;
- More closely tailored cost assignment to prospective new generators (oriented more toward Network Upgrades needed to address local issues, and with shared cost responsibility among GIPs for Shared Network Upgrades) improves the region's ability to attract efficient, and diverse, new generation that enhances regional competition, preserves regional reliability, and fulfills public policy goals; and
- The types of projects expected to qualify for MVP treatment will strengthen and enhance reliability across the integrated transmission system on which all regional load and exports rely.

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<sup>5</sup> See *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Notice of Proposed Rulemaking, 131 FERC ¶ 61,253, at P 140 (2010) ("Transmission NOPR"); see also *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252, at PP 66-67 (2010) ("costs of jurisdictional transmission facilities must be allocated in a manner that satisfies the 'cost causation' principle . . . . The cost causation principle also requires the Commission to ensure that the costs allocated to a beneficiary under a cost allocation method are at least roughly commensurate with the benefits that are expected to accrue to that entity.") ("SPP Order").

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Similarly, Interconnection Customers clearly will cause, use, and benefit from the costs of the Network Upgrades for which they will be responsible under the Tariff revisions in this filing:

- Interconnection Customers that choose to site their projects in areas of the system that require transmission reinforcement, but that are consciously outside the areas where generator access will be improved by MVPs, will cause and properly should bear nearly all the costs of Network Upgrades needed in these areas to enable their reliable interconnection to the system; and
- GIPs that closely follow (i.e., within the near-term planning horizon) “first-mover” GIPs that required Network Upgrades, properly should bear a fair share (based on determined use) of Shared Network Upgrades that the first-mover funded and that make possible their own interconnection to the system.

Thus, the enclosed revisions ensure that the costs assessed to an entity will be commensurate with the benefits received by that entity.

For all of these reasons, as discussed in detail in this transmittal and the enclosed testimony, the Commission should promptly accept the submitted Tariff revisions as just and reasonable, and afford them the earliest possible effective date, i.e., July 16, 2010.

## II. EXISTING MIDWEST ISO COST ALLOCATION METHODOLOGIES

As indicated above, the Filing Parties propose both a new transmission cost allocation methodology relating to MVP projects and certain refinements to the interim GIP Network Upgrade cost allocation methodology to apply such revised methodology on a going-forward basis. Both the existing Baseline Reliability Projects (“BRP”) (“RECB I”) and Regional Beneficial Projects (renamed Market Efficiency Projects (“MEP”) in this filing) (“RECB II”) cost allocation methodologies, however, will be retained.<sup>6</sup> Moreover, the costs of certain Network Upgrades will continue to be subject to direct assignment.

### 1. RECB I (Docket No. ER06-18)

BRPs are Network Upgrades required to ensure that the Midwest ISO transmission system remains in compliance with applicable reliability standards adopted by the national Electric Reliability Organization (“ERO”) and by the appropriate Regional Entities.<sup>7</sup> BRPs include projects operating at 100 kV or above that are needed to maintain reliability while

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<sup>6</sup> In the case of MEP projects, however, the Midwest ISO and its stakeholders agree that such cost allocation methodology will be subject to continued review and evaluation through the stakeholder process.

<sup>7</sup> See Midwest ISO Tariff at Original Sheet No. 3437.

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accommodating the ongoing needs of existing Transmission Customers. Under the Tariff, the costs of BRPs meeting certain criteria are eligible to receive partial regional cost sharing.<sup>8</sup>

RECB I also established cost allocation rules for GIPs, which are New Transmission Access Projects (as defined in Section 1.455 of the Midwest ISO Tariff) that are associated with the interconnection of new, or an increase in generating capacity of existing, generation.<sup>9</sup> As accepted by the Commission in 2006,<sup>10</sup> the Midwest ISO incorporated language into its Tariff requiring the Interconnection Customer to pay the entire cost of Network Upgrades in advance. The Tariff provided that if, at the time the Interconnection Customer achieved commercial operation, the Interconnection Customer demonstrated that the generator was designated as a Network Resource or committed by contract of at least one year to supply capacity or energy to a Network Customer, then 50% of the costs of the Network Upgrades for the GIP would be repaid to the Interconnection Customer. As discussed below, the Commission modified the GIP allocation percentages in the October 23 Order.

## 2. RECB II (Docket No. ER06-18)

As required by the RECB I Order,<sup>11</sup> in November 2006, the Midwest ISO submitted proposed tariff revisions to incorporate a proposed cost allocation methodology for Regionally Beneficial Projects, which are defined in the Tariff as economic upgrades that meet specific standards, including costing more than \$5 million, having a voltage 345 kV or greater, and meeting defined benefit-to-cost requirements.<sup>12</sup> If the project meets these standards, then 20% of its costs will be allocated to all Transmission Customers on a system-wide basis and 80% will be allocated to specific Transmission Customers on a subregional basis based on a beneficiary analysis.<sup>13</sup>

On March 15, 2007, the Commission conditionally accepted the RECB II proposal; and on rehearing, the Commission further directed the Midwest ISO to make informational reports by August 2008 and August 2009 that analyze “the effectiveness of all of the transmission

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<sup>8</sup> BRPs must have a project cost of \$5 million or more. In the alternative, the project costs must constitute 5% or more of the Transmission Owner’s net plant. *Id.* at Original Sheet No. 3456.

<sup>9</sup> *Id.* at First Revised Sheet No. 3442.

<sup>10</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 114 FERC ¶ 61,106 (“RECB I Order”), *order on reh’g*, 117 FERC ¶ 61,241 (2006).

<sup>11</sup> RECB I Order at P 90.

<sup>12</sup> See Midwest ISO Tariff at Original Sheet Nos. 3443 – 3451.

<sup>13</sup> *Id.* at Original Sheet Nos. 3475 – 3476.

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expansion cost allocation methodologies.”<sup>14</sup> In compliance with the Commission’s RECB II Rehearing Order,<sup>15</sup> the Midwest ISO filed its August 2008 RECB report on August 29, 2008.<sup>16</sup> In that report, the Midwest ISO advised the Commission that many stakeholders were dissatisfied with the RECB cost allocation rules and recommended a continued review of the unanticipated consequences of those rules, and consideration of a possible solution, through the reformation of the RECB Task Force. The Midwest ISO indicated that such discussions would be guided by the Commission’s policy under Order No. 890 favoring cost allocation rules “generally supported by state authorities and participants across the region.”<sup>17</sup>

### 3. RECB III Phase I (Docket No. ER09-1431-000)

On July 9, 2009 (“July 9 Filing”), the Midwest ISO and certain Midwest ISO Transmission Owners (collectively, the “July 9 Filing Parties”) filed with the Commission an interim RECB III Phase I proposal to address certain inequities experienced under the then-effective RECB cost allocation rules. Specifically, the July 9 Filing Parties proposed revisions to the Tariff that: (1) eliminated the Line Outage Distribution Factor (“LODF”) allocation of generator interconnection-related network upgrades to load in pricing zones; (2) assigned, to Interconnection Customers, the share of costs then allocated to loads on an LODF basis; and (3) eliminated the requirement that Interconnection Customers show designation as a Midwest ISO Network Resource or a one-year power purchase agreement with a Network Customer to be eligible for cost sharing. The July 9 Filing proposed that Interconnection Customers would be responsible for 100% of the costs of Network Upgrades rated below 345 kV and 90% of the costs of Network Upgrades rated at 345 kV and above (with the remaining 10% being recovered on a system-wide basis).<sup>18</sup> In addition, the Midwest ISO offered to provide the Commission with quarterly reports on the status of its Phase II stakeholder discussions.

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<sup>14</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,209 (“RECB II Order”), *order on reh’g*, 120 FERC ¶ 61,080, at P 9 (2007) (“RECB II Rehearing Order”).

<sup>15</sup> RECB II Rehearing Order at P 9.

<sup>16</sup> Informational Compliance Filing of the Midwest Independent Transmission System Operator, Inc., Docket No. ER06-18-013 (Aug. 29, 2008) (“August 29 Informational Filing”).

<sup>17</sup> August 29 Informational Filing at 4 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 2006-2007 FERC Stats. & Regs. ¶ 31,241 at PP 559-560, *order on reh’g*, Order No. 890-A, 2006-2007 FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

<sup>18</sup> Midwest ISO Tariff at First Revised Sheet Nos. 3461 – 3466.

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In the October 23 Order, the Commission accepted the Filing Parties Phase I proposal conditioned upon the Filing Parties submittal of superseding Tariff revisions on or before July 15, 2010.<sup>19</sup> In addition, the Commission accepted the Midwest ISO's offer to provide the Commission with reports on the status of the Phase II stakeholder process, requiring informational reports that were submitted on November 20, 2009,<sup>20</sup> February 26, 2010,<sup>21</sup> and May 28, 2010.<sup>22</sup> The instant filing is made pursuant to, and complies with, the Commission's October 23 Order, directing the Midwest ISO to submit Phase II Tariff revisions on or before July 15, 2010.

### III. STAKEHOLDER PROCESS

Since the Commission's October 23 Order, the Midwest ISO and its stakeholders have engaged in a rigorous process focused on developing a "Phase II" cost allocation methodology to integrate location-constrained resources and include a new category of cost sharing for transmission projects driven primarily by the need to integrate large quantities of remote generation resources.<sup>23</sup> In the three informational reports cited above that were required by the

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<sup>19</sup> October 23 Order at P 1.

<sup>20</sup> See Informational Report of the Midwest Independent Transmission System Operator, Inc., Docket No. ER09-1431-000 (Nov. 20, 2009).

<sup>21</sup> See Informational Report of the Midwest Independent Transmission System Operator, Inc., Docket No. ER09-1431-000 (Feb. 26, 2010).

<sup>22</sup> See Informational Report of the Midwest Independent Transmission System Operator, Inc., Docket No. ER09-1431-000 (May 28, 2010).

<sup>23</sup> As described in the July 9 Filing, the Midwest ISO empowered the RECB Task Force to address, in phases, certain cost allocation issues highlighted in the August 29 Informational Filing. In that report, the Midwest ISO advised the Commission that many stakeholders were dissatisfied with the current rules and that some transmission owners were so concerned about the impact of the allocation rules that they might withdraw from the Midwest ISO. As Phase I, the Task Force was directed to address "near-term solutions" to the GIP cost allocation concerns. July 9 Filing at 7. By contrast, Phase II would "focus more broadly on the integration of large quantities of generation located remotely from load," including "a new category of cost sharing" for transmission projects "driven primarily by the need for integration of large quantities of remote generation resources." *Id.* Thus, Phase II would entail a comprehensive look at transmission upgrade cost allocation in light of possible major "superhighway" transmission projects to facilitate regional or inter-regional movement of large quantities of power from remote areas. See RECB Task Force Charter, available at [http://www.midwestiso.org/publish/Document/20b78d\\_11ef44fc9c0\\_77590a48324a/RECB%20Task%20Force%20Charter%20Final%205\\_7\\_09.pdf?action=download&property=Attachment](http://www.midwestiso.org/publish/Document/20b78d_11ef44fc9c0_77590a48324a/RECB%20Task%20Force%20Charter%20Final%205_7_09.pdf?action=download&property=Attachment).

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October 23 Order, the Midwest ISO provided comprehensive summaries of the RECB Task Force meetings held from June 2009 to May 2010 that will not be reiterated in this filing.

Following the May 28, 2010 informational filing, the RECB Task Force held meetings on June 10, 2010<sup>24</sup> and June 22, 2010.<sup>25</sup> As described in the informational reports submitted to the Commission, the Midwest ISO and its stakeholders had already evaluated numerous cost allocation alternatives, including: an injection/withdrawal proposal, a highway/byway proposal, a proposal by the supporting Transmission Owners, the OMS CARP proposal, a portfolio proposal, and a proposal to maintain the existing provisions with no modifications. Throughout all of the stakeholder discussions, issues regarding potentially adverse market impacts associated with various cost allocation proposals were analyzed and discussed, as described in the Testimony of Todd Ramey.<sup>26</sup>

At the June 10 meeting, the Midwest ISO provided stakeholders with a straw version of its MVP cost allocation proposal,<sup>27</sup> which generally provided that MVP transmission projects would recover their costs through a system-wide usage rate applied to load and an access rate applied to generators. Under this methodology, 80% of MVP transmission facility costs would be recovered from load and exports and 20% would be recovered from Generators and Imports. In addition, 10% of GIP Network Upgrade costs for projects 345 kV or above would be allocated and recovered system-wide under Schedule 26. The remaining costs would be paid for by the interconnecting Generator.

The Midwest ISO also provided an overview of proposed modifications to the GIP Network Upgrade cost allocation methodology and Drive Out Charges.<sup>28</sup> In its status update, the

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<sup>24</sup> Draft Meeting Minutes, *available at* [http://www.midwestiso.org/publish/Folder/538398\\_1259d29a2bd\\_-7c6e0a48324a?rev=2](http://www.midwestiso.org/publish/Folder/538398_1259d29a2bd_-7c6e0a48324a?rev=2).

<sup>25</sup> Draft Meeting Minutes, *available at* [http://www.midwestiso.org/publish/Folder/538398\\_1259d29a2bd\\_-7c6e0a48324a?rev=2](http://www.midwestiso.org/publish/Folder/538398_1259d29a2bd_-7c6e0a48324a?rev=2).

<sup>26</sup> See Ramey Testimony at Tab D.

<sup>27</sup> See Midwest ISO MVP Cost Allocation Proposal (dated June 3, 2010), *available at* [http://www.midwestiso.org/publish/Document/15cf2f\\_128d94d853e\\_-7ca50a48324a/Cost%20Allocation%20Straw%20Proposal%20060310.pdf?action=download&\\_property=Attachment](http://www.midwestiso.org/publish/Document/15cf2f_128d94d853e_-7ca50a48324a/Cost%20Allocation%20Straw%20Proposal%20060310.pdf?action=download&_property=Attachment).

<sup>28</sup> Overview of Major Design Changes (dated June 10, 2010), *available at* [http://www.midwestiso.org/publish/Document/15cf2f\\_128d94d853e\\_-7db20a48324a/Item%2004%20-%20Overview%20of%20Major%20Design%20Changes%2006-10-10.pdf?action=download&\\_property=Attachment](http://www.midwestiso.org/publish/Document/15cf2f_128d94d853e_-7db20a48324a/Item%2004%20-%20Overview%20of%20Major%20Design%20Changes%2006-10-10.pdf?action=download&_property=Attachment).

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Midwest ISO explained that it had not decided on the final construction of the MVP proposal.<sup>29</sup> One of the considerations at issue regarding this proposal was the potential impact of MVP project cost allocation on generators, including the potential negative impacts on market prices. Additionally, LECG, LLC (“LECG”) presented its evaluation of the initial proposed MVP methodology,<sup>30</sup> identifying potential impacts of the initial MVP methodology on the short-run economic efficiency of the Midwest ISO economic dispatch, long-run impacts on Generator exit and entry, and potential impacts on Midwest ISO consumers. Finally, the Midwest ISO provided stakeholders with a demonstration on how the various proposed MVP rates would be calculated<sup>31</sup> and settled<sup>32</sup> and provided an overview of the proposed Tariff amendments to implement the proposal.<sup>33</sup>

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<sup>29</sup> The Conundrum of Transmission Cost Allocation – or Resolving Middle East Peace (dated June 10, 2010), *available at* [http://www.midwestiso.org/publish/Document/15cf2f\\_128d94d853e\\_-7d6a0a48324a/Item%2004%20-%20Status%20Update.pdf?action=download&\\_property=Attachment](http://www.midwestiso.org/publish/Document/15cf2f_128d94d853e_-7d6a0a48324a/Item%2004%20-%20Status%20Update.pdf?action=download&_property=Attachment).

<sup>30</sup> Evaluation of MVP Transmission Cost Allocation Design, Prepared by Scott Harvey and Susan Pope (dated June 9, 2010), *available at* [http://www.midwestiso.org/publish/Document/15cf2f\\_128d94d853e\\_-7db40a48324a/Item%2003a%20-%20Evaluation%20of%20MVP%20Transmission%20CA%20Design.pdf?action=download&\\_property=Attachment](http://www.midwestiso.org/publish/Document/15cf2f_128d94d853e_-7db40a48324a/Item%2003a%20-%20Evaluation%20of%20MVP%20Transmission%20CA%20Design.pdf?action=download&_property=Attachment); *see also* Comments on MVP Transmission Cost Allocation Design, Prepared by Scott Harvey and Susan Pope (dated June 10, 2010), *available at* [http://www.midwestiso.org/publish/Document/15cf2f\\_128d94d853e\\_-7d800a48324a/Item%2003a%20-%20Comments%20on%20MVP%20Transmission%20Cost%20Alloc\\_Jun%209.pdf?action=download&\\_property=Attachment](http://www.midwestiso.org/publish/Document/15cf2f_128d94d853e_-7d800a48324a/Item%2003a%20-%20Comments%20on%20MVP%20Transmission%20Cost%20Alloc_Jun%209.pdf?action=download&_property=Attachment).

<sup>31</sup> Sample Multi-Value Project Rate Calculations (dated June 10, 2010), *available at* [http://www.midwestiso.org/publish/Document/15cf2f\\_128d94d853e\\_-7d720a48324a/Item%2005d%20-%20MVP%20Rate%20Calculations%2006-10-10.pdf?action=download&\\_property=Attachment](http://www.midwestiso.org/publish/Document/15cf2f_128d94d853e_-7d720a48324a/Item%2005d%20-%20MVP%20Rate%20Calculations%2006-10-10.pdf?action=download&_property=Attachment).

<sup>32</sup> MVP Usage Rate and Zonal MVP Usage Rate Settlement (dated June 10, 2010), *available at* [http://www.midwestmarket.org/publish/Document/15cf2f\\_128d94d853e\\_-7d910a48324a/Item%2005e%20-%20MUR%20and%20ZMUR%20Settlement%20Treatment.pdf?action=download&\\_property=Attachment](http://www.midwestmarket.org/publish/Document/15cf2f_128d94d853e_-7d910a48324a/Item%2005e%20-%20MUR%20and%20ZMUR%20Settlement%20Treatment.pdf?action=download&_property=Attachment).

<sup>33</sup> MVP Cost Allocation Proposal Tariff Revisions (dated June 10, 2010), *available at* [http://www.midwestiso.org/publish/Document/15cf2f\\_128d94d853e\\_-7db00a48324a/Item%2005a%20-](http://www.midwestiso.org/publish/Document/15cf2f_128d94d853e_-7db00a48324a/Item%2005a%20-)

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On June 22, 2010, the Midwest ISO presented to the RECB Task Force its final MVP proposal as submitted in this filing.<sup>34</sup> As discussed in greater detail below, based on the Midwest ISO's evaluation of potential market efficiency impacts and related seams issues, and having considered stakeholder comments and LECG's evaluation of the initial version of the MVP approach, the final MVP proposal allocates 100% of MVP transmission costs to load and exports. The Midwest ISO also provided an overview of proposed Tariff revisions, including sample MVP rate calculations under the final MVP proposal,<sup>35</sup> presented Midwest ISO Transmission Expansion ("MTEP") Appendix A project qualifications,<sup>36</sup> and presented impacts to the generator interconnection queue from the integration of MVPs.<sup>37</sup>

At its May 19, 2010 meeting, the Midwest ISO Advisory Committee considered and took action on three motions relating to alternative RECB cost allocation methodologies that had previously been discussed at the RECB TF meetings. In the first motion, the Advisory Committee considered a Midwest ISO developed proposal, key elements of which included: (i) MVPs with 20% of the cost of the MVPs allocated to Generators through a demand-based charge and 80% allocated to Load through an Energy-based charge; and (ii) the continuation of the existing generator interconnection cost allocation approved by the Commission in the October 23 Order. In the second motion, the Advisory Committee considered a proposed methodology supported by OMS CARP, key elements of which included: (i) an allocation of the cost of "Unique Purpose Projects" ("UPPs") 20% to Generators through a demand-based charge and 80% to Load recovered through an Energy-based charge; and (ii) a "higher of" allocation of

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[%20MVP%20Cost%20Allocation%20Tariff%20Revisions-RECBTF-061010.pdf?action=download&\\_property=Attachment.](#)

<sup>34</sup> Midwest ISO FINAL Cost Allocation Proposal (dated June 22, 2010), *available at* [http://www.midwestmarket.org/publish/Document/15cf2f\\_128d94d853e\\_-7b990a48324a/Item%2002%20Midwest%20ISO%20RECB%20Proposal%20Final%200100622.pdf?action=download&\\_property=Attachment.](http://www.midwestmarket.org/publish/Document/15cf2f_128d94d853e_-7b990a48324a/Item%2002%20Midwest%20ISO%20RECB%20Proposal%20Final%200100622.pdf?action=download&_property=Attachment)

<sup>35</sup> MVP Cost Allocation Proposal Tariff Revisions (dated June 22, 2010), *available at* [http://www.midwestmarket.org/publish/Document/15cf2f\\_128d94d853e\\_-7b830a48324a/Item%2005b%20MVP%20Cost%20Allocation%20Tariff%20Revisions.pdf?action=download&\\_property=Attachment.](http://www.midwestmarket.org/publish/Document/15cf2f_128d94d853e_-7b830a48324a/Item%2005b%20MVP%20Cost%20Allocation%20Tariff%20Revisions.pdf?action=download&_property=Attachment)

<sup>36</sup> Appendix A Inclusion Update (dated June 22, 2010), *available at* [http://www.midwestmarket.org/publish/Document/15cf2f\\_128d94d853e\\_-7bc60a48324a/Item%2006%20Appendix%20A%20Inclusion%20Update.pdf?action=download&\\_property=Attachment.](http://www.midwestmarket.org/publish/Document/15cf2f_128d94d853e_-7bc60a48324a/Item%2006%20Appendix%20A%20Inclusion%20Update.pdf?action=download&_property=Attachment)

<sup>37</sup> MVP's vs. SPA (dated June 2010), *available at* [http://www.midwestmarket.org/publish/Document/15cf2f\\_128d94d853e\\_-7bd00a48324a/Item%2005%20-%20Generator%20Interconnection%20Queue.pdf?action=download&\\_property=Attachment.](http://www.midwestmarket.org/publish/Document/15cf2f_128d94d853e_-7bd00a48324a/Item%2005%20-%20Generator%20Interconnection%20Queue.pdf?action=download&_property=Attachment)

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Generation interconnection charges. Neither of these motions was adopted. Finally, the Advisory Committee considered a third proposal that was supported by a group of transmission owners (the “Supporting Transmission Owners”), key elements of which included: i) an allocation of the cost of the UPPs 100% to Load through a demand-based charge; and (ii) the modification of the existing generator interconnection cost allocation approved by the Commission in the October 23 Order to expand the regional cost sharing of facilities at voltages of 345 kV or higher to 20%. This motion was adopted. The Midwest ISO’s MVP proposal is generally consistent with that presented in the motion supported by the Advisory Committee.<sup>38</sup>

The Testimonies of Clair Moeller and Jennifer Curran further describe the history of the stakeholder process, and the interaction between the Midwest ISO process and the parallel processes being conducted by the OMS and related state organizations.<sup>39</sup>

The Filing Parties further note that, as is typical of the products of stakeholder discussions, the revisions proposed herein necessarily result from a balancing of interests and compromises. It is unlikely that any stakeholder believes that every element of this proposal is optimal. However, the Filing Parties strongly believe that the cost allocation methodology which has been produced by this balancing of interests is equitable to all parties and will result in the greatest overall benefits for the Midwest ISO and its customers.

#### **IV. JUSTIFICATION FOR PROPOSED TARIFF REVISIONS**

The Commission has recognized that cost allocation reform is one of the most difficult issues facing transmission providers and Regional Transmission Organizations (“RTO”) today.<sup>40</sup> Transmission cost allocation challenges are heightened by changing federal and state energy policies and the recognized need for substantial transmission system enhancements to meet increased demand and integrate new generation resources into the grid. The MVP proposal is part of the Midwest ISO and its stakeholders’ ongoing efforts to implement a fair Network Upgrade cost allocation methodology that encourages transmission system development to support system reliability and economic goals, renewable resource integration, and other public policy objectives. Accordingly, submission of the MVP and related GIP Network Upgrade cost allocation proposal is a critical addition to the existing RECB I and RECB II cost allocation

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<sup>38</sup> A copy of the minutes from the May 19, 2010 Advisory Committee which were approved at the June 16, 2010 meeting can be found at:  
[http://www.midwestmarket.org/publish/Document/15cf2f\\_128d94d853e\\_-7e7b0a48324a/AC%20Draft%20Minutes%2020100519.pdf?action=download&property=Attachment](http://www.midwestmarket.org/publish/Document/15cf2f_128d94d853e_-7e7b0a48324a/AC%20Draft%20Minutes%2020100519.pdf?action=download&property=Attachment)

<sup>39</sup> Moeller Testimony at 3-4, 7-8, 11; Curran Testimony at 14-19.

<sup>40</sup> *See, e.g.*, Transmission NOPR at P 152 (“cost allocation within RTO or ISO regions, particularly those that encompass several states, is often contentious and prone to litigation because it is difficult to reach an allocation of costs that is perceived as fair.”).

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methodologies, and is a further step in establishing a holistic approach to transmission system planning, generator interconnection, and Network Upgrade cost allocation, consistent with Commission and judicial precedent and the goals of the Commission articulated in its Transmission NOPR.

#### A. Commission Precedent

Under section 205 of the FPA, the Commission is required to ensure that the rates, terms, and conditions for transmission of electricity in interstate commerce are just, reasonable, and not unduly discriminatory or preferential.<sup>41</sup> In applying this mandate, the Commission and the courts have found that the costs of jurisdictional transmission facilities must be allocated in a manner that satisfies the cost causation principle, i.e., the requirement that “all approved rates reflect to some degree the costs actually caused by the customer who must pay them.”<sup>42</sup> The Commission and the courts assess compliance with that principle “by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.”<sup>43</sup> Consideration of benefits is relevant because “[t]o the extent that a utility benefits from the costs of new facilities, it may be said to have ‘caused’ a part of those costs to be incurred, as without the expectation of its contributions the facilities might not have been built, or might have been delayed.”<sup>44</sup>

Under the cost causation principle, the Commission must ensure that the costs allocated to a beneficiary are at least roughly commensurate with the benefits that are expected to accrue to that entity.<sup>45</sup> However, the Commission and the courts have recognized that cost allocation is not an exact science where costs and benefits are allocated with exact precision.<sup>46</sup> The U.S.

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<sup>41</sup> 16 U.S.C. § 824d.

<sup>42</sup> *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300 (D.C. Cir. 1992).

<sup>43</sup> *Ill. Commerce Comm’n v. FERC*, 576 F.3d 470, 476 (7<sup>th</sup> Cir. 2009) (citing *KN Energy*, 968 F.2d at 1300; *Transmission Access Policy Study Group v. FERC*, 225 F.3d 667, 708 (D.C. Cir. 2000), *aff’d sub nom. N.Y. v. FERC*, 535 U.S. 1 (2002); *Pac. Gas & Elec. Co. v. FERC*, 373 F.3d 1315, 1320-21 (D.C. Cir. 2004); *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004); *Alcoa Inc. v. FERC*, 564 F.3d 1342, 1346-47 (D.C. Cir. 2009); *Sithe/Independence Power Partners, L.P. v. FERC*, 285 F.3d 1, 4-5 (D.C. Cir. 2002); 16 U.S.C. § 824d).

<sup>44</sup> *Id.*

<sup>45</sup> *Ill. Commerce Comm’n*, 576 F.3d at 476-77 (citing *Midwest ISO Transmission Owners*, 373 F.3d at 1369); *Sithe*, 285 F.3d at 5.

<sup>46</sup> See *Midwest ISO Transmission Owners*, 373 F.3d at 1368-69 (“[N]ot surprisingly, we have never required a ratemaking agency to allocate costs with exacting precision”); *Sithe*, 285 F.3d at 5 (“FERC is not bound to reject any rate mechanism that tracks the cost-causation principle less than perfectly”).

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Supreme Court has stated that “allocation of costs is not a matter for the slide-rule. It involves judgment on a myriad of facts. It has no claim to an exact science.”<sup>47</sup> Elaborating on this appropriate deference, the court in *Illinois Commerce Commission* explained:

We do not suggest that the Commission has to calculate benefits to the last penny, or for that matter to the last million or ten million or perhaps hundred million dollars. If it cannot quantify the benefits to the midwestern utilities from the 500 kV lines in the East ... but it has an articulable and plausible reason to believe that the benefits are at least roughly commensurate with those utilities’ share of total electricity sales in PJM’s region, then fine; the Commission can approve PJM’s proposed pricing scheme on that basis. For that matter it can presume that new transmission lines benefit the entire network by reducing the likelihood or severity of outages.<sup>48</sup>

In Order No. 890, among other reforms intended to clarify and expand the obligations of transmission providers to ensure that Transmission Service is provided on a non-discriminatory basis, the Commission directed each transmission provider to develop a transmission planning process that satisfies nine principles, including a “Cost Allocation for New Projects” principle. Order No. 890 did not impose a particular cost allocation method, but provided overall guidance to permit public utility transmission providers, customers, and other stakeholders to determine methods appropriate for their particular regions that are consistent with the cost causation principle. The Commission stated that when considering a dispute over cost allocation, it would exercise its judgment by weighing several factors, including: (1) whether a cost allocation proposal fairly assigns costs among participants, including those who cause the costs to be incurred and those that otherwise benefit from them; (2) whether a cost allocation proposal provides adequate incentives to construct new transmission; and (3) whether the proposal is generally supported by state authorities and participants across the region.<sup>49</sup>

As discussed in more detail below and in the Testimony of Clair Moeller and Jennifer Curran, the Tariff revisions proposed in this filing fully comply with Commission and judicial precedent governing cost allocation because they adopt a cost allocation methodology for new transmission projects that distributes the costs of MVPs to customers in a manner at least roughly commensurate with the benefits realized by those customers.<sup>50</sup> As Ms. Curran indicates, the Midwest ISO has identified several categories of benefits of MVPs, including advancing state and federal energy public policies, reductions in production costs and losses, reduced capacity

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<sup>47</sup> *Colo. Interstate Gas Co. v. FPC*, 324 U.S. 581, 589 (1945).

<sup>48</sup> *Ill. Commerce Comm’n*, 576 F.3d at 476-77 (citing *Midwest ISO Transmission Owners*, 373 F.3d at 1369; *Sithe*, 285 F.3d at 5).

<sup>49</sup> Order No. 890 at P 559.

<sup>50</sup> Moeller Testimony at 4; Curran Testimony at 7-8.

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requirements, and increased reliability, that accrue broadly to customers across the Midwest ISO region.<sup>51</sup> The Midwest ISO also has conducted analysis of transmission system usage that indicates predominantly regional usage of transmission facilities that are likely to qualify as MVPs.<sup>52</sup> The MVP proposal further recognizes the integrated nature of the transmission system and accounts for the changing use of the transmission system over time by allocating costs on the basis of system usage.<sup>53</sup>

In addition, the courts and the Commission have consistently found that an integrated transmission network, such as the Midwest ISO's, benefits all users of the network.<sup>54</sup> For example, in *Southern Company Services, Inc.*, the Commission stated:

Rolled-in pricing is appropriate when the relevant facilities are integrated into the transmission network. This pricing is appropriate because it spreads the cost of network facilities across the entire network; as part of the network, the added facilities benefit all users of the network and thus their costs should be shared among all users of the network.<sup>55</sup>

#### **B. October 23 Order**

In the October 23 Order, the Commission accepted the Filing Parties' RECB III Phase I proposal, pending submission of superseding Tariff revisions.<sup>56</sup> The Commission stated that:

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<sup>51</sup> Curran Testimony at 22-27.

<sup>52</sup> Curran Testimony at 27-29.

<sup>53</sup> Curran Testimony at 9-10.

<sup>54</sup> *See, e.g., Me. Pub. Serv. Co. v. FERC*, 964 F.2d 5, 8-10 (D.C. Cir. 1992); *N. Utils. Serv. Co.*, 60 FERC ¶ 61,012 (1992), *on remand from City of Holyoke Gas and Elec. Dept. v. FERC*, 954 F.2d 740, 742-43 (D.C. Cir. 1992).

<sup>55</sup> *S. Co. Servs., Inc.*, 116 FERC ¶ 61,247, at P 17 (2006) (internal footnotes omitted).

<sup>56</sup> October 23 Order at P 57. In accepting the interim proposal, the Commission recognized the scope of the instant Phase II filing as follows:

Filing Parties state that the Phase II stakeholder process will focus on the integration of location-constrained resources and will include a new category of cost sharing for transmission projects driven primarily by the need to integrate large quantities of remote generation resources. Filing Parties explain that "Phase II involves a comprehensive look at transmission upgrade cost allocation in light of possible major 'superhighway' transmission projects to facilitate regional or inter-regional movement of large quantities of power from remote areas.

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“Given the complexity and the challenge of developing the Phase II cost allocation methodology, we strongly encourage Filing Parties and their stakeholders to dedicate themselves to use of the stakeholder process for evaluation of Phase II reforms to transmission planning and cost allocation to more efficiently plan transmission expansions to interconnect and integrate new generation resources.”<sup>57</sup> The Commission indicated that “stakeholders may take a comprehensive approach to evaluating transmission needs by considering what upgrades are needed in light of load growth forecasts, aggregate generation interconnection requests, reliability and economic needs and benefits, and state resource policies.”<sup>58</sup>

The Midwest ISO and its stakeholders have fully considered the October 23 Order’s directives in developing the MVP and GIP Network Upgrade cost allocation proposals described in this filing. The instant proposal recognizes evolving industry and public policy conditions requiring the development of new paradigms to facilitate the development of new transmission facilities, including accommodation of renewable energy and other generating facilities that may be locationally constrained, as well as the construction of new transmission facilities to address reliability needs and economic benefits on a regional basis. Moreover, the proposed Tariff revisions recognize that, to facilitate construction of such facilities, a new cost allocation mechanism is necessary to fairly allocate costs to beneficiaries across the entire Midwest ISO region.

### C. Transmission NOPR

In the Transmission NOPR, the Commission proposed to amend its Order No. 890 transmission planning and cost allocation requirements to, among other things, “more closely align transmission planning and cost allocation processes”<sup>59</sup> and require each public utility, including RTOs, to consider public policy requirements established by state or federal laws or regulations in the transmission planning process.<sup>60</sup> The Commission indicated that the cost of transmission facilities must be allocated to entities that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits, including benefits such as the extent to which transmission facilities, individually or in the aggregate, provide for maintaining reliability and sharing reserves, production cost savings and congestion relief, and/or meeting public policy requirements established by state or federal laws or regulations that may drive transmission needs. Moreover, the Commission specifically recognized that a postage-stamp cost allocation appropriately may apply, “where all customers within a specified transmission planning region are found to benefit from the use or availability of a facility or class or group of facilities (e.g., all transmission facilities at 345 kV or higher), especially if the distribution of

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<sup>57</sup> *Id.* at P 70.

<sup>58</sup> *Id.* at P 60.

<sup>59</sup> Transmission NOPR at P 156.

<sup>60</sup> *Id.* at PP 63 – 70.

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benefits associated with a class or group of facilities is likely to vary considerably over the long depreciation life of the facilities amid changing power flows, fuel prices, population patterns, and local economic developments.”<sup>61</sup>

#### **D. Quantification of MVP Benefits**

To determine appropriate cost allocation for MVP transmission projects, the Midwest ISO has conducted several analyses to identify the benefits of MVPs to beneficiaries across the Midwest ISO region. The Midwest ISO evaluated and quantified the economic benefits associated with a defined group of transmission projects identified through the Regional Generation Outlet Study (“RGOS”) process and other transmission planning studies to meet existing public policy requirements that seem likely to meet the criteria for MVP transmission projects described in more detail below. This group of projects (“MVP starter projects”) includes transmission lines in every region of the Midwest ISO footprint and represents about \$4.6 billion in investment in the Midwest ISO region, to be developed over the next 10 years.<sup>62</sup>

As Ms. Curran indicates, the Midwest ISO also conducted transmission usage studies on various RGOS projects to determine whether, and the extent to which, those transmission system enhancements would be used on a regional, rather than local, basis.<sup>63</sup> The transmission usage study included over two hundred 345 kV and 765 kV facilities, and evaluated the likely usage of these facilities throughout the year.<sup>64</sup>

In addition to advancing the integration of renewable energy projects necessary to meet defined public policy requirements, the Midwest ISO has determined that the MVP starter projects would alleviate major areas of congestion in the Midwest ISO, which will allow for the more efficient delivery of Energy to load and also results in substantial production cost benefits. Specifically, as demonstrated in the Testimony of John Lawhorn, the Midwest ISO projects that the MVP starter projects developed within the first 5 to 10 years following approval of the proposed MVP cost allocation methodology will generate between \$400 million to \$1.3 billion in aggregate annual adjusted production cost savings, spread almost evenly across all Midwest ISO Planning Regions.<sup>65</sup>

In addition to production cost savings, the Midwest ISO estimates development of the MVP starter projects to result in an annual reduction of approximately 2,000,000 MWh in

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<sup>61</sup> *Id.* at P 167.

<sup>62</sup> Curran Testimony at 22.

<sup>63</sup> Curran Testimony at 28-29.

<sup>64</sup> Curran Testimony at 28.

<sup>65</sup> Curran Testimony at 23-24; Lawhorn Testimony at 12.

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transmission system losses.<sup>66</sup> About \$104 million of additional savings are attributable to this reduction in losses. Moreover, reducing system losses also reduces capacity reserves required to maintain reliability, resulting in an estimated \$110 million savings from deferred capacity investment.<sup>67</sup>

The reduction in system congestion resulting from construction of the MVP starter projects could also lower the Planning Reserve Margin (“PRM”) requirement for the Midwest ISO. Even a relatively small reduction of 0.5% in the PRM would result in the deferral of about 500 MW of capacity investment saving approximately \$500 million.<sup>68</sup>

In addition to the projected savings in congestion costs and losses, development of MVP projects will provide regional reliability and other benefits. With respect to reliability, the Testimony of Jennifer Curran explains how an MVP will make the transmission system more resilient to unforeseen contingencies, and thus more reliable for the benefit of customers.<sup>69</sup> Moreover, as demonstrated in the Testimony of John Lawhorn, development of the MVP starter projects also is expected to reduce wind facility curtailments by approximately 25% in the east region.<sup>70</sup>

The transmission usage studies indicated that the evaluated RGOS projects would be used overwhelmingly (i.e., 80%, mileage-weighted) on a regional basis.<sup>71</sup> As Ms. Curran explains, because almost any transmission improvement project necessarily will be used locally to some extent, the indicated very high level of regional usage “underscores that these types of facilities are essentially for the purpose of strengthening the regional transmission system, for the use and benefit of all market participants that use the regional grid.”<sup>72</sup> Ms. Curran concludes that, in light of the high level of regional use of MVP-type projects, and the many other concrete benefits that such projects provide that are broadly shared across the region, allocating the costs

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<sup>66</sup> Curran Testimony at 24; Lawhorn Testimony at 14.

<sup>67</sup> Curran Testimony at 24; Lawhorn Testimony at 14.

<sup>68</sup> Curran Testimony at 25.

<sup>69</sup> Curran Testimony at 27.; *See* SPP Order at P 80 (finding rolled-in pricing to be appropriate because it spreads the cost of network facilities across the entire network, and as part of the network, the added facilities benefit all users of the system)(citing *Southern Company Services*, 116 FERC ¶ 61,247 (2006)); *See also* *Midwest ISO Transmission Owners*, 373 F.3d at 1369 (“upgrades designed to ‘preserve the grid’s reliability’ constitute system enhancements [that] are presumed to benefit the entire system.”)(citing *Entergy Services Inc. v. FERC*, 319 F.3d 536, at 543 (D.C. Cir. 2003).

<sup>70</sup> Lawhorn Testimony at 13-14.

<sup>71</sup> Curran Testimony at 28-29.

<sup>72</sup> Curran Testimony at 28-29.

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of MVPs to all loads and exports based on their use of the transmission system is just and reasonable.<sup>73</sup>

#### **E. MVP Proposal Consistency With Cost Causation Principles**

As discussed above, projects that are likely to qualify as MVPs provide many quantitative and qualitative benefits to customers throughout the Midwest ISO region. The MVP methodology, therefore, is based on the Commission's core cost causation principles summarized above; namely, those that benefit from new transmission facilities should pay the costs of building the facilities. The MVP cost allocation methodology spreads 100% of all Network Upgrade costs to all load and exports on the basis that MVPs and their associated transmission upgrades provide region-wide benefits to the Midwest ISO footprint as a whole.

Additionally, given the integrated nature of the Midwest ISO transmission system, the regional benefits that accrue from MVP Network Upgrades impact all users of the Midwest ISO transmission system in some way.<sup>74</sup> Accordingly, by allocating 100% of Network Upgrade costs to load and exports, the Midwest ISO's MVP cost allocation proposal honors the Commission's long-standing recognition of the integrated nature of transmission systems, the benefits shared across the transmission system as a result, and the preference for spreading the cost of transmission upgrades across the entire region given the integrated nature of the transmission system and benefits shared by all users of the network.<sup>75</sup>

Moreover, the MVP cost allocation proposal has been designed such that the allocation of costs will change over time in a manner that corresponds with the changing nature and classification of the beneficiaries, resulting in costs being allocated under the MVP proposal in a manner at least roughly commensurate with benefits to customers. The studies and analyses described above were performed for purposes of evaluating the likely use of the transmission system at specific points in time and given certain assumptions regarding the types of MVP facilities that may be constructed. However, such individual analyses and assumptions are, by their nature, necessarily somewhat limited and imprecise, when viewed alone. As the Commission has noted, "relying solely on the costs and benefits identified in a quantitative study at a single point in time may not accurately reflect the true beneficiaries of a given transmission facility, particularly because such tests do not consider any of the qualitative (i.e., less tangible) regional benefits inherently provided by an EHV transmission network."<sup>76</sup>

<sup>73</sup> *Id.*; See also SPP Order at PP 73-81 (accepting SPP's regional cost allocation methodology on the basis of transmission usage studies that demonstrated less than 100% regional usage coupled with other demonstrated benefits)

<sup>74</sup> *Ill. Commerce Comm'n*, 576 F.3d at 477 ("No doubt there will be *some* benefit to the midwestern utilities just because the network *is* a network.") (emphasis in original).

<sup>75</sup> See Section IV.A, *supra*.

<sup>76</sup> SPP Order at P 76.

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Consistent with Order No. 890, the MVP proposal provides adequate incentives to construct new transmission. As discussed in the Testimony of Jennifer Curran, the implementation of the MVP proposal will facilitate the development of documented public policy transmission projects in a number of respects. First, the “lumpy” costs of transmission upgrades relating to public policy driven generation projects, which are generally located remotely from load, will now be allocated on a regional basis rather than to the “first movers” of such projects. Such cost allocation will remove barriers to the construction of required transmission because it will spread related transmission costs regionally, consistent with the ultimate beneficiaries of such public policy driven projects, rather than allocating the costs to generators.<sup>77</sup>

In addition, as described in the Testimonies of Jennifer Curran and Eric Laverty, the MVP cost allocation proposal addresses and resolves the unintended consequences of the prior GIP cost allocation methodology in effect before the current proposal accepted by the October 23 Order.<sup>78</sup> The GIP cost allocation continues to eliminate the disproportionate allocation of Network Upgrade costs to pricing zones that would not necessarily benefit from such Network Upgrades under the previously effective LODF methodology because such costs are now allocated on a regional basis. As a result, utilities such as Otter Tail Power Company (“Otter Tail”) and Montana-Dakota Utilities (“MDU”) will not be allocated a disproportionate share of Network Upgrade costs (as was the case under the LODF methodology) based on application of the proposed MVP cost allocation methodology.<sup>79</sup> Notably, elimination of this disproportionate impact also benefits the region as a whole. By providing an ongoing solution to the serious concerns that prompted Otter Tail and MDU to give notice of withdrawal from the Midwest ISO, the filed proposal helps to retain access, under the Midwest ISO’s market and Tariff, to areas of prime wind-power development.

As described in Section III of this transmittal letter, and in the Testimonies of Clair Moeller and Jennifer Curran, the MVP proposal also complies with Order No. 890 given that it was developed through a collaborative process with state authorities and participants across the Midwest ISO region.<sup>80</sup>

In addition, while the Commission has not yet issued a final rule on the Transmission NOPR, the Tariff revisions proposed in this filing comport with the Transmission NOPR proposal specifically to consider state and federal public policy requirements in transmission planning and cost allocation, and to ground transmission cost allocation decisions in the planning

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<sup>77</sup> Curran Testimony at 5-6.

<sup>78</sup> Curran Testimony at 10-12.

<sup>79</sup> Curran Testimony at 11.

<sup>80</sup> Moeller Testimony at 4, 18; Curran Testimony at 14-19.

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process. The proposed MVP methodology's broad allocation of costs to beneficiaries across the Midwest ISO region, and its reliance on MVPs identified through the planning process, place the Midwest ISO at the forefront of the Commission's evolving transmission planning and cost allocation policy as suggested by the Transmission NOPR.

In sum, the MVP regional cost allocation methodology is consistent with the cost causation principle because it matches regional benefits with regional cost recovery. The MVP proposal therefore is just and reasonable and merits acceptance by the Commission.

## **V. DETAILED DESCRIPTION OF, AND FURTHER JUSTIFICATION FOR, PROPOSED TARIFF REVISIONS**

In order to implement the proposed MVP and GIP Network Upgrade revisions generally described above, the Filing Parties propose to revise several provisions of the Tariff, including Module A, Attachments X and FF, and Schedules 7, 8, 9, and 26. The Filing Parties also propose new Tariff provisions, including a new Attachment MM, and new Schedules 26-A and 26-B. Each of the proposed Tariff revisions is identified in Tab A, and is described generally below.

### **A. MVP Criteria and Cost Allocation Methodology**

As described above, the MVP planning and cost allocation category is designed, among other purposes, to facilitate the interconnection of location-constrained resources (including renewable generation) in the Midwest ISO footprint and to satisfy other existing and potential future public policy requirements by removing cost barriers currently impeding such development.<sup>81</sup> Specifically, the lumpy costs associated with transmission system upgrades relating to public policy driven, and other regionally beneficial, transmission projects will be allocated on a regional basis to load and exports. As shown above, the proposed cost allocation appropriately allocates costs based on the nature of and benefits associated with such projects, rather than to first movers through the generator interconnection process, as is the case today.<sup>82</sup>

#### 1. MVP Criteria And Eligibility

All transmission projects that are approved for inclusion in Appendix A of the MTEP after July 15, 2010 will be carefully scrutinized and evaluated to determine cost sharing eligibility under the MVP cost allocation methodology. As described in the Testimony of Jeffrey Webb, such determination will be made based on the Midwest ISO's Order No. 890 compliant transmission planning process. However, existing transmission facilities, facilities under construction, and facilities approved in Appendix A of prior MTEP reports that have not yet started construction will continue to have their costs allocated under the cost allocation

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<sup>81</sup> Curran Testimony at 3-6.

<sup>82</sup> Curran Testimony at 8-9.

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methodology in place at the time of the facility's approval by the Midwest ISO Board of Directors. As discussed above, the MVP cost allocation methodology will not replace the existing transmission facility cost allocation processes relating to BRP and MEP projects.

As set forth in Attachment FF, and as described in the Testimony of Jennifer Curran,<sup>83</sup> in order for a transmission project to qualify as an MVP, it must meet at least one of the following three criteria:<sup>84</sup>

- Criterion 1 - The project must be developed through the transmission expansion planning process for the purpose of enabling the transmission system to deliver energy reliably and economically support documented energy policy mandates or laws that directly or indirectly govern the minimum or maximum amount of energy that can be generated by specific types of generation in a manner that is more reliable and/or more economic than it otherwise would be without the transmission upgrade; and/or
- Criterion 2 - The project must provide multiple types of economic value across multiple pricing zones with a total project benefit-to-cost ratio of 1.0 or higher, as defined in Section II.C.6 of Attachment FF. In conducting the benefit-to-cost analysis, the reduction of production costs and the associated reduction of locational marginal prices ("LMP") resulting from a transmission congestion relief project are not additive and are considered a single type of economic value; and/or
- Criterion 3 - The project must address at least one Transmission Issue associated with a projected violation of a North American Electric Reliability Corporation ("NERC") or Regional Entity standard and at least one economic-based Transmission Issue that provides economic value across multiple pricing zones. In this case, the project must generate total financially quantifiable benefits in excess of the total project costs based on financial benefits and project costs, as defined in Section II.C.6 of Attachment FF.

The Testimony of Jennifer Curran further describes how the determination of whether a specific transmission project satisfies one of these three MVP criteria is made.<sup>85</sup> Projects meeting more than one criteria (i.e., resulting in the project being both MVP and BRP eligible) will be considered MVPs.

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<sup>83</sup> Curran Testimony at 30-31.

<sup>84</sup> Proposed Midwest ISO Tariff at Original Sheet No. 3451A.

<sup>85</sup> Curran Testimony at 34-38.

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In addition to meeting at least one of the criteria identified above, MVP eligibility also depends on satisfying the following requirements:<sup>86</sup>

- Facilities associated with the transmission project must not be in service, under construction, or approved for construction by the Midwest ISO Board of Directors prior to July 16, 2010, or the date the constructing entity becomes a Transmission Owner, whichever is later.
- The transmission project must be evaluated through the Midwest ISO's transmission planning process and approved for construction by the Midwest ISO Board of Directors prior to the start of construction, where construction does not include the preliminary site and routine selection activities.
- The transmission project must not contain any transmission facilities listed in Attachment FF-1 of the Midwest ISO Tariff.
- The total capital cost of the transmission project must be greater than or equal to the lesser of \$20,000,000.00 or 5% of the constructing Transmission Owner's contemporaneously reported net transmission plant.
- The transmission project must include the construction or improvement of transmission facilities operating at voltages above 100 kV.<sup>87</sup>
- Network Upgrades driven solely by an Interconnection Request or a Transmission Service request will not be considered MVPs.

The Tariff revisions also specify that certain project types cannot qualify for MVP cost allocation:<sup>88</sup>

- Any Network Upgrade cost associated with constructing an underground or underwater transmission line above and beyond the cost of a feasible alternative overhead transmission line that provides comparable regional benefits; and
- Any direct current ("DC") transmission line and associated terminal equipment when the Midwest ISO is not authorized to schedule or dispatch the DC transmission line, when real-time control of the DC transmission line is not turned over to the Midwest ISO's automatic generation control system, and/or when the

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<sup>86</sup> Proposed Midwest ISO Tariff at Original Sheet Nos. 3451B-3151C.

<sup>87</sup> A transformer is considered to operate above 100 kV when at least two sets of transformer terminals operate at voltages above 100 kV.

<sup>88</sup> Proposed Midwest ISO Tariff at First Revised Sheet No. 3451.

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DC transmission line is operated in a manner that requires specific users to subscribe for DC Transmission Service.

While an MVP must include some facilities operating above 100 kV, the MVP category does not exclude lower-voltage facilities. Such lower-voltage, or “underbuild,” facilities will be included in the MVP category so long as they are, from a planning perspective, required as part of the same project as the MVP.<sup>89</sup> As described in the Testimony of Jennifer Curran, such required facilities could include, for example, the costs to upgrade a 69 kV transmission line determined to experience an overload resulting from construction of a 765 kV transmission facility that qualifies as an MVP.<sup>90</sup> If a transmission project with a Network Upgrade is recommended for construction solely as a result of an interconnection request or a transmission service request, however, such Network Upgrade will not qualify as an MVP.<sup>91</sup> On the other hand, a project that otherwise qualifies as an MVP and is recommended for construction by both the generator interconnection planning process and the transmission expansion planning process within the same planning cycle will be classified as an MVP.<sup>92</sup> The Testimony of Jeffrey Webb describes in more detail the transmission planning process, including a discussion of how required underbuild facilities are evaluated as part of a transmission project,<sup>93</sup> and a description of the time in the planning process at which the ultimate MVP determination is made for cost allocation purposes.<sup>94</sup> The Testimony of Eric Laverty describes in more detail the changes to the generator interconnection planning process.

## 2. Economic Value Determination

As noted above, both Criterion 2 and Criterion 3 MVP transmission projects must demonstrate quantifiable economic benefits, as defined in Section II.C.6 of Attachment FF,<sup>95</sup> and as further described in the Testimony of Jennifer Curran.<sup>96</sup> A Criterion 2 MVP transmission project must provide multiple types of economic value, such as the reduction of planning reserve margins and the reduction of energy and operating reserve costs. In addition, the economic value resulting from such a project must be spread across multiple pricing zones. Economic value is only realized, however, when the economic benefits exceed the associated project’s economic

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<sup>89</sup> Curran Testimony at 31.

<sup>90</sup> Curran Testimony at 31.

<sup>91</sup> Proposed Midwest ISO Tariff at Original Sheet No. 3451C.

<sup>92</sup> Curran Testimony at 33 .

<sup>93</sup> Webb Testimony at 10-11.

<sup>94</sup> Webb Testimony at 11.

<sup>95</sup> Proposed Midwest ISO Tariff at Original Sheet Nos. 3451A-3451B, 3451E.

<sup>96</sup> Curran Testimony at 35-38.

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costs, and where such value is present in multiple pricing zones, calculated for the first 20 years of a project's life.<sup>97</sup> Ms. Curran explains that the 20-year period used for calculating the benefit-to-cost ratio strikes the right balance between the desire to maximize the long-term value of the transmission system and the desire to manage payback expectations and potential future uncertainties.<sup>98</sup> A project that provides economic value in a localized area only (e.g., a load pocket), may qualify as an MEP under the existing MEP cost allocation methodology, but would not qualify as an MVP.<sup>99</sup>

A Criterion 3 MVP must address at least one Transmission Issue associated with a projected violation of a NERC or Regional Entity standard and at least one economic-based Transmission Issue that provides economic value across multiple pricing zones.<sup>100</sup> The process for calculating economic value relating to Criterion 3 MVP transmission projects (i.e., application of the benefit-to-cost ratio test) is otherwise the same as described above with respect to Criterion 2 projects.

Determining economic value across multiple pricing zones ensures that Criterion 2 and Criterion 3 MVP transmission projects provide benefits that are regional in nature, and is consistent with the proposed MVP cost allocation methodology. Moreover, analyzing benefits over a twenty-year period recognizes that the beneficiaries of such projects may change over time, which also is consistent with the proposed MVP cost allocation methodology.

### 3. MVP Cost Allocation

The Tariff revisions proposed in this filing provide recovery for 100% of all Network Upgrade costs from load and exports using a per-MWh charge.<sup>101</sup> The MVP charge will be based on the annual revenue requirements reported by each Midwest ISO Transmission Owner for projects that meet the MVP criteria.<sup>102</sup>

#### a. *Allocation to Load, Export, and Wheel-Through Transactions*

With respect to export and wheel-through transactions, all external transactions sinking outside the Midwest ISO, including those sinking in PJM, will be subject to the proposed MVP

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<sup>97</sup> Curran Testimony at 35-38.

<sup>98</sup> Curran Testimony at 36.

<sup>99</sup> Curran Testimony at 32, 37.

<sup>101</sup> Proposed Midwest ISO Tariff at First Revised Sheet No. 3478.

<sup>101</sup> Proposed Midwest ISO Tariff at First Revised Sheet No. 3478.

<sup>102</sup> Proposed Midwest ISO Tariff at First Revised Sheet No. 3779.

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charge.<sup>103</sup> The MVP charge is properly applied to all such transactions because the MVP transmission infrastructure ultimately will benefit not only load internal to the Midwest ISO, but external loads subject to public policy requirements and thus benefiting from the construction of the MVP facilities.<sup>104</sup> Notably, exports to PJM will bear only the costs of the new regional beneficial transmission facilities classified as MVPs. Consistent with existing Commission directives,<sup>105</sup> rates covering the costs of existing and other types of new facilities under Firm and Non-Firm Point-To-Point Transmission Service reservations for external transactions sinking in PJM will continue to be discounted to zero.

b. *Usage Based Charge*

As noted above, the MVP charge is proposed to be applied on a usage (i.e., MWh) basis rather than a demand (i.e., MW) basis. As explained in the Testimony of Jennifer Curran, a usage-based charge is warranted because energy flows and the corresponding benefits will occur in all hours of the year, not just during peak demand. This is in contrast to many local facilities in existence today, which were constructed to meet the peak demand of the area in which they are located.<sup>106</sup>

Moreover, as Ms. Curran testifies, Load Serving Entities use the transmission system on a regional basis under the Midwest ISO's security constrained economic dispatch, which frequently results in transactions between Local Balancing Authorities within the Midwest ISO Balancing Authority Area.<sup>107</sup> As detailed above, MVP-related reductions in production costs (e.g., congestion and losses) underscore the usage-based benefits of MVPs. Moreover, the MVP cost allocation proposal does not make an up-front allocation of costs based on an analysis of benefits and usage at a specific point in time, but instead allocates costs based on usage over time, which helps ensure that as usage and benefits change, cost allocation also will change

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<sup>103</sup> Curran Testimony at 14.

<sup>104</sup> Curran Testimony at 14.

<sup>105</sup> The Commission's orders regarding rate pancaking do not preclude the proposed Schedule 26-A surcharge on exports to PJM load that use *new* MVP transmission facilities. Those orders essentially addressed *existing* transmission facilities, and expressly required the development of different rules for allocating "the cost of new transmission facilities that are built in one RTO but provide benefits to customers in the other RTO." *Midwest Indep. Transmission Sys. Operator, Inc.*, 109 FERC ¶ 61,168, at P 60 (2004), *order on reh'g*, 131 FERC ¶ 61,174, at P 22 (2010) (noting requirement to develop "a proposal for allocating to customers in each RTO the cost of new transmission facilities that are built in one RTO but provide benefits in the other RTO").

<sup>106</sup> Curran Testimony at 12.

<sup>107</sup> Curran Testimony at 13-14.

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accordingly.<sup>108</sup> All of these factors demonstrate that allocation of the MVP charge on a usage basis is just and reasonable.

#### 4. MVP Usage Rate and Transmission Revenue Distribution

The MVP Usage Rate (“MUR”) is an energy-based charge used to recover the MVP Annual Revenue Requirements from monthly withdrawals, exports, and wheel-through transactions, as described and calculated in accordance with Attachment MM of the Tariff. Attachment MM includes language to prevent over-recovery of Attachment O revenue with the revenue requirement calculated pursuant to Attachment MM subtracted by each Transmission Owner from their respective Attachment O revenue requirement.<sup>109</sup>

Similar to Schedule 26, which governs the recovery of the costs of Network Upgrades that are determined under Attachment FF to be subject to Attachment GG charges, Schedule 26-A will not be assessed on Grandfathered Agreements.<sup>110</sup>

Schedule 26-A also sets forth the revenue distribution for revenue collected for MVPs. As and to the extent that the Midwest ISO collects revenues from the MUR, it shall remit such revenues to Transmission Owners in proportion to their annual pro-rata share of the total MVP revenue requirement as determined under Attachment MM.<sup>111</sup>

#### 5. Other MVP Tariff Issues

As set forth in Attachment FF, and as discussed in the Testimony of Jennifer Curran, new Transmission Owners joining the Midwest ISO after the effective date of the MVP cost allocation proposal will be allocated an MVP usage charge to be phased in over a transition period.<sup>112</sup> Specifically, 25% of the charge will apply in the first full year of membership as a Transmission Owner, 50% of the charge will apply in the second full year of membership, 75% of the charge will apply in the third full year of membership, and 100% of the charge will apply thereafter. A new Transmission Owner will not be responsible for any portion of a BRP, GIP, MEP, or Transmission Delivery Service Project approved prior to their entry into the Midwest

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<sup>108</sup> Curran Testimony at 9-10.

<sup>109</sup> Midwest ISO Tariff, Attachment MM at Original Sheet No. 3780. In a subsequent filing, the Midwest ISO Transmission Owners will file the necessary revisions to Attachment O to prevent this potential over-recovery.

<sup>110</sup> Not all Midwest ISO Transmission Owners agree that Grandfathered Agreements should be exempt from charges under Schedule 26 or Schedule 26-A.

<sup>111</sup> Proposed Midwest ISO Tariff, Schedule 26-A at Original Sheet No. 2199B.

<sup>112</sup> Proposed Midwest ISO Tariff, Attachment FF at First Revised Sheet No. 3840, Original Sheet Nos. 3480A-3480B; *See also* Curran Testimony at 37.

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ISO.<sup>113</sup> On the other hand, a Transmission Owner that withdraws from the Midwest ISO will remain responsible for all financial obligations incurred under Attachment FF while a member of the Midwest ISO.<sup>114</sup>

In addition to the modifications noted above, the Filing Parties are proposing several corresponding changes to affected Schedules. Currently, Schedules 7 (Long-Term Firm and Short-Term Firm Point-To-Point Transmission Service), 8 (Non-Firm Point-To-Point Transmission Service), and 9 (Network Integration Transmission Service) reflect an adjustment to the zonal rates provided thereunder for charges collected under Schedule 26. The Filing Parties are proposing modifications to Schedules 7, 8, and 9 to reflect an additional adjustment to the rates set forth in those Schedules for charges collected under proposed Schedule 26-A, which governs the collection of the MUR charge calculated under proposed Attachment MM.<sup>115</sup> Similarly, the Filing Parties are proposing to amend Schedule 26 to include charges under proposed Schedule 26-A to the existing language indicating that charges under Schedule 26 are in addition to charges under Schedules 7, 8, and 9.<sup>116</sup>

#### 6. Assessment of Potential Market Impacts

In addition to undertaking several analyses necessary to ensure that the MVP cost allocation methodology is consistent with principles of cost causation as discussed above, the Midwest ISO assessed the potential market impacts of the MVP cost allocation methodology. The results of that analysis are described in the Testimony of Todd Ramey. As described by Mr. Ramey, the key findings of the market analysis were: (1) charging 100% of MVP costs to load, export, and wheel-through transactions as proposed in the filing will avoid the market distortions and other adverse impacts that might result from imposing such a charge on generators and import transactions; (2) while there could be market distortions associated with the export charge, the Midwest ISO weighed the advantages and disadvantages and determined that charging exports the MVP usage charge proposed in the filing, absent other agreements for cost recovery with neighboring regions, is necessary to (a) avoid providing an undue advantage to external loads that will rely on and use the transmission constructed to support MVPs without any cost responsibility for that benefit and (b) place market participants serving external loads in

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<sup>113</sup> Proposed Midwest ISO Tariff, Attachment FF at First Revised Sheet No. 3840.

<sup>114</sup> *Id.*

<sup>115</sup> See Summary of Proposed Tariff Revisions at Tab A (listing proposed revisions by section); Proposed Midwest ISO Tariff at First Revised Sheet Nos. 1849A & 1856A, Second Revised Sheet Nos. 1863B & 1870 (Schedule 7); Third Revised Sheet No. 1876, First Revised Sheet No. 1882A & Second Revised Sheet No. 1889B (Schedule 8); Second Revised Sheet No. 1896 (Schedule 8- Michigan); Second Revised Sheet Nos. 1900 & 1907B (Schedule 9).

<sup>116</sup> Proposed Midwest ISO Tariff, Schedule 26 at First Revised Sheet No. 2194.

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a comparable position to Midwest ISO loads; (3) imposing the MVP charge on a usage basis to Midwest ISO load will not distort the markets; and (4) there may be a need to modify Financial Transmission Rights (“FTR”) and Auction Revenue Rights (“ARR”) allocation processes so that the benefits of the MVP transmission as determined through the FTR/ARR process are similarly socialized.<sup>117</sup>

In addition to the market analysis performed by the Midwest ISO staff, the Midwest ISO contracted with LECG to provide a qualitative analysis of the potential market efficiency impacts of a number of cost allocation methods under consideration during the stakeholder process (“the “LECG Report”).<sup>118</sup> As described by Mr. Ramey, LECG performed market impact analyses of various proposed cost allocation methodologies, including the so-called injection/withdrawal and highway/byway methodologies.<sup>119</sup> In general, the LECG Report supported the Midwest ISO’s market analysis and the MVP approach ultimately adopted by the Midwest ISO.<sup>120</sup>

Additionally, the OMS CARP supported the creation of a new category of projects similar to MVPs, but proposed allocating a percentage of the costs of such facilities to new and existing generators in addition to load and exports. Ultimately, the Midwest ISO determined that any cost allocation to generators or to import transactions was not necessary or appropriate.<sup>121</sup> In reaching this decision, the Midwest ISO considered the potential impacts on market efficiency that could result from allocating MVP costs to new and existing generators, including those potential impacts described in the LECG Report.<sup>122</sup> In addition, the Midwest ISO considered whether allocating such costs to new and existing generators would result in seams issues between the Midwest ISO and its neighboring RTOs and/or other utilities (including PJM and Southwest Power Pool, Inc. (“SPP”)), none of which impose such costs on generators.<sup>123</sup> Moreover, the Midwest ISO determined that the proposed allocation of GIP Network Upgrade costs, described below and in the Testimony of Eric Laverty, represented an appropriate, just and reasonable allocation of costs to generators.<sup>124</sup>

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<sup>117</sup> Ramey Testimony at 2-3, 8.

<sup>118</sup> Ramey Testimony at 3.

<sup>119</sup> A link to the LECG Report is included with the Testimony of Todd Ramey. Ramey Testimony at 3, n. 2.

<sup>120</sup> Ramey Testimony at 7.

<sup>121</sup> Ramey Testimony at 4.

<sup>122</sup> Ramey Testimony at 8; LECG Report at 23-39 (discussing potential market impacts).

<sup>123</sup> Ramey Testimony at 2-7.

<sup>124</sup> Laverty Testimony at 18, 27, 34, 36-39.

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Finally, as discussed in more detail in the Testimony of Todd Ramey, the Filing Parties propose no changes in this filing to the existing FTR/ARR allocation design. However, the Midwest ISO has established a stakeholder process to examine whether any changes to the FTR/ARR allocation design may be appropriate based on the creation of the new MVP category of transmission projects.<sup>125</sup>

## **B. GIP Network Upgrades**

### **1. Explanation of GIP Revisions**

Once a Network Upgrade is found to be required for a particular GIP, cost allocation for the Network Upgrade remains the same as in the current Tariff language adopted in the July 9 Filing.<sup>126</sup> However, as a result of the Tariff revisions in this filing: (1) the costs allocated to GIPs as a whole are expected to be reduced relative to the current rules because some Network Upgrades will be allocated as MVPs, rather than as GIP-Network Upgrades; and (2) even if a GIP Network Upgrade is required for an Interconnection Customer, it may be classified as an SNU requiring each Interconnection Customer that depends on that upgrade to share in the costs of the upgrade. The Filing Parties have revisions to Tariff Attachments X and FF to create the SNU category of Network Upgrades.

The enclosed Tariff revisions retain the current cost allocation methodology for GIPs (with the addition of MVPs and SNUs) because the underlying circumstances that prompted the current cost allocation rules have not materially changed. Specifically, significant numbers of generator interconnection requests continue to originate in areas of the Midwest ISO region that lack sufficient transmission infrastructure to accommodate all of the requests. The impact is most pronounced in, but is not limited to, the Otter Tail and MDU zones, as the Commission recognized the RECB III Phase I proposal “reasonably address[es] for the interim period the balance between costs and benefits in the Otter Tail and MDU zones and in other zones.”<sup>127</sup> In order for the output from numerous proposed generators in these wind-rich regions to reach load, significant upgrades to the transmission system will be needed and, absent the current cost allocation methodology, the impact would disproportionately affect certain Transmission Owners.<sup>128</sup> As discussed in the Testimony of Eric Laverty, these circumstances have not

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<sup>125</sup> Ramey Testimony at 8-9.

<sup>126</sup> As noted above, the October 23 Order accepted the current effective rules under which the Interconnection Customer bears 100% of the costs of required Network Upgrades rated below 345 kV and bear 90% of the costs of required Network Upgrades rated at 345 kV and above (with the remaining 10% being recovered on a system-wide basis). *See* October 23 Order at PP 1, 8.

<sup>127</sup> *Id.* at P 49.

<sup>128</sup> *Id.* at PP 7-8 (discussing the high percentage of interconnection requests to load in certain areas of the Midwest ISO footprint and the deleterious effects of the prior GIP cost

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changed substantially. For example, there are now 10.2 MW of interconnection requests for every 1 MW of load in the Otter Tail zone (rather than 12.7 MW as noted in the July 9 Filing) and for the MDU zone, the ratio has worsened to 5.3 MW of interconnection requests to 1 MW of load (from a ratio of 4.7 to 1 as noted in the July 9 Filing).<sup>129</sup> Because the current interconnection request-to-load ratios in these two zones remain unacceptably high, retaining the current cost allocation percentages is reasonable to prevent adverse impacts with regard to the balance of costs and benefits, including the possible withdrawal of transmission owning members of the Midwest ISO, as noted in the October 23 Order.<sup>130</sup>

The MVP and SNU facility classifications proposed in this filing should mitigate the effect on Interconnection Customers of retaining the current cost allocation rules by reducing the number of facilities that will be subject to the current cost allocation percentages for Network Upgrades. First, Network Upgrades that could be assigned to Interconnection Customers under the current GIP cost allocation may now be designated as MVPs that individual Interconnection Customers would not be required to fund. Second, Network Upgrades that are later found to benefit other “late comer” Interconnection Customers will be designated as SNUs and the Interconnection Customer that originally funded such upgrades would be eligible for contributions from other generators that share the benefit of a specific upgrade.<sup>131</sup>

As discussed in the Testimony of Jeffrey Webb, the MVP designation will be made through the MTEP process,<sup>132</sup> and many long transmission lines needed to integrate large quantities of location-constrained resources will likely be designated as MVPs.<sup>133</sup> The cost of

allocation rule that divided Network Upgrade costs equally between the Interconnection Customer and the Transmission Owner).

<sup>129</sup> See *Id.* at P 7; Lavery Testimony at 19-20 (comparing current percentages to those at the time of the July 9 Filing).

<sup>130</sup> *Id.* at PP 6-10 (noting the likelihood that members would withdraw from the Midwest ISO rather than expose customers in their respective zones to dramatically increased costs associated with the earlier-effective cost allocation percentages); *id.* at P 48 (accepting this cost allocation as an “interim approach to the unanticipated consequences resulting from the LODF methodology due to the concentration of GIPs in pricing zones with low load densities.”).

<sup>131</sup> See Lavery Testimony at 21-24 (discussing the anticipated effects of MVP and SNU designations).

<sup>132</sup> See discussion in Part V.A, *supra*; See also October 23 Order at P 58 (acknowledging that “stakeholders may seek to plan for transmission projects on a region-wide basis to address region-wide concerns as opposed to planning merely for specific generators or load growth.”)

<sup>133</sup> The Commission has previously recognized that location-constrained resources present unique challenges that other resources do not present and that flexibility in applying the

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such large Network Upgrades might have been assigned to a particular first mover Interconnection Customer prior to the creation of the MVP category, therefore, applying the MVP designation to upgrades that would otherwise be the responsibility of individual Interconnection Customers will result in a substantial reduction in the costs assessed to GIPs, as Mr. Lavery testifies.<sup>134</sup>

As described in the Testimony of Eric Lavery, an SNU is a Network Upgrade or Common Use Upgrade that is funded by an Interconnection Customer(s) and also benefits other, later-identified Interconnection Customer(s).<sup>135</sup> Interconnection Customer(s) that benefit from an SNU will contribute to the reimbursement of the Interconnection Customer that originally funded that SNU. Revisions to Attachment X and Attachment FF of the Midwest ISO Tariff provide mechanisms to facilitate repayment by benefiting Interconnection Customer(s) to the Interconnection Customer(s) that initially funded the SNU from which the subsequent Interconnection Customer(s) benefit.<sup>136</sup> To promote certainty among developers and other market participants about possible cost exposure, the Midwest ISO will post information about upgrades eligible for SNU treatment.<sup>137</sup>

Network Upgrades eligible for SNU designation are those GIP Network Upgrades funded by earlier Interconnection Customer(s) (“Generator A”):

- i. that have a Generator Interconnection Agreement (“GIA”) effective date after July 15, 2010;
- ii. that have an actual in-service date that is less than five years from the date of the publication of a System Impact Study that identifies them as being eligible for contribution (i.e., if the subsequent Interconnection Customer’s (“Generator B”) System Impact Study is published more than five years after the in-service date for Generator A’s GIP Network Upgrade, Generator B will not be considered for contribution. The execution date of Generator B’s GIA is not relevant to whether Generator B is required to contribute.); and

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Commission’s interconnection policy may be needed to accommodate such resources.  
*Id.* at P 58.

<sup>134</sup> See Lavery Testimony at 21-24 (discussing the anticipated effects of MVP and SNU designations).

<sup>135</sup> See Tab A (listing proposed redlined Tariff sheets by section). The proposed revisions to Attachment X include a definition of an SNU.

<sup>136</sup> Lavery Testimony at 12-13; 29-33. The proposed Tariff revisions are attached at Tab C.

<sup>137</sup> See Lavery Testimony at 28. More specifically, the Midwest ISO will maintain a cumulative list of all GIPs that potentially qualify for SNU treatment. Using this data, an Interconnection Customer will be able to evaluate the likelihood of SNU treatment for a GIP Network Upgrade associated with its project.

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iii. that have been determined by the Midwest ISO to benefit a later-interconnected Interconnection Customer (i.e., Generator B).<sup>138</sup>

The Midwest ISO will determine SNUs through its interconnection study process by examining the use of the possible SNU by the subsequent Interconnection Customer(s) and the funding Interconnection Customer(s). After applying filtering criteria to determine appropriate impacts, the Midwest ISO will be able to determine if a late comer Interconnection Customer (i.e. Generator B), benefits from an upgrade funded by a first mover Interconnection Customer (i.e., Generator A). If the subsequent Interconnection Customer uses the SNU to a significant level, then the subsequent Interconnection Customer will contribute funds to cover its share of the SNU that was funded by the original funding Interconnection Customer.<sup>139</sup> The amount of the contribution will correlate to the level of use by the contributing Interconnection Customer. Accordingly, it will be possible for several Interconnection Customers to contribute to the funding of a project that creates significant “headroom,” or of a facility from which several Interconnection Customers benefit, such as a new substation to which several projects connect. As a simple example, if a first mover Interconnection Customer must fund an entire new substation, subsequent Interconnection Customers that seek to interconnect using the same substation would be required to contribute to the cost of that substation under the SNU concept.<sup>140</sup>

## 2. Determination of GIP Network Upgrade Costs and Funding Mechanism

As discussed above, the cost allocation percentages for GIP Network Upgrades do not change under this proposal. GIP Network Upgrade costs will continue to be allocated to generators based on the percentages in the current Tariff. However, the SNU designation will ensure that an Interconnection Customer will only pay its fair share of the cost of a GIP Network Upgrade that benefits and is used by multiple Interconnection Customers. The proposed revisions also do not modify the current interconnection queue, the study process for Interconnection Requests, or the terms and conditions of the standard *pro forma* agreements in the Generator Interconnection Procedures in Attachment X of the Tariff, except those sections relating to cost allocation and cost recovery, as described below.

The initial steps for funding GIP Network Upgrades will not change from the current methodology. The Interconnection Customer will still fund GIP Network Upgrades by paying 100% of the costs to the Transmission Owner in advance, subject to reimbursement under Attachment FF of the Tariff.<sup>141</sup> The Transmission Owner will repay the appropriate amounts

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<sup>138</sup> Lavery Testimony at 25.

<sup>139</sup> Lavery Testimony at 16.

<sup>140</sup> Lavery Testimony at 6-7.

<sup>141</sup> Proposed Midwest ISO Tariff, Attachment FF at Second Revised Sheet No. 3461; See October 23 Order at P 5 (noting that International Transmission Company, ITC Midwest

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based on the terms of the underlying agreement and the two options noted in Attachment FF of the Tariff.

As explained in the Testimony of Eric Laverty, Transmission Owners that construct upgrades for GIPs may still select one of two repayment options (Option 1 or Option 2) under Section III.A.2.d. of Attachment FF for Interconnection Customer repayment of the cost of Network Upgrades.<sup>142</sup>

Under Option 1, a Transmission Owner repays 100% of the costs of Network Upgrades constructed for a GIP to the Interconnection Customer under repayment terms consistent with the schedules and other terms of Attachment X.<sup>143</sup> The Interconnection Customer then pays a monthly charge based on the Transmission Owner's annual revenue requirement for each eligible GIP Network Upgrade utilizing the methodology prescribed by Attachment FF for repayment Option 1. This "Network Upgrade Charge" is developed through a formula in Attachment GG of the Tariff; the charges to be paid are set forth in service agreements filed with the Commission.<sup>144</sup>

Under Option 2, the Transmission Owner(s) constructing the GIP will repay the portion of the cost of Network Upgrades that is eligible for repayment to the Interconnection Customer (i.e., 10% of the cost of required Network Upgrades rated at 345 kV or greater) in advance.

To permit cost sharing for SNUs, the enclosed revisions: (a) require the Transmission Owner to declare its election of Option 1 or 2 within fifteen (15) days of tender of the draft GIA/Facilities Construction Agreement ("FCA")/Multi-Party Facilities Construction Agreement ("MPFCA") by the Midwest ISO (i.e., commencement of negotiations under Section 11.2 of the Generator Interconnection Procedures), and (b) modify the repayment options to address the cost responsibility of later Interconnection Customers for SNUs.<sup>145</sup>

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LLC, and Michigan Electric Transmission Company (collectively "ITC") and American Transmission Company, LLC ("ATCLLC") use different cost allocation rules). Generators interconnecting to facilities owned by ATCLLC and ITC will receive 100% repayment pursuant to the applicable sections of Attachment FF (for ITC) and Attachment FF-ATCLLC (for ATCLLC).

<sup>142</sup> Laverty Testimony at 28-29 (*citing* Midwest ISO Tariff at First Revised Sheet Nos. 3461-68).

<sup>143</sup> Laverty Testimony at 30.

<sup>144</sup> *See* Midwest ISO Tariff at Second Revised Sheet No. 3464 (providing the Option 1 formula in Attachment FF and referencing Attachment GG); *see id.* at Second Revised Sheet No. 3623. The Attachment GG formula is not being revised in this filing.

<sup>145</sup> Proposed Midwest ISO Tariff at 1<sup>st</sup> Rev First Revised Sheet Nos. 3093 & 3093A (Attachment X); Second Revised Sheet Nos. 3462 & 3466, Original Sheet Nos. 3466A &

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The Transmission Owner must now elect Option 1 or Option 2 earlier in the process because cost sharing for SNUs differs depending on the option selected, and advance knowledge of the repayment option will enable Interconnection Customers to evaluate the timing of any possible future repayment for SNUs.<sup>146</sup>

The changes to the repayment options adapt the current options to the possibility of cost contributions from later Interconnection Customers. Option 1 includes a mechanism is included to permit subsequent beneficiary Interconnection Customers to pay a charge to the Transmission Owner for their share of an SNU. Because a Transmission Owner that selects Option 1 repays 100% of the cost to the funding Interconnection Customer and then uses an ongoing charge to recover the cost from the first mover Interconnection Customer over time, this mechanism is necessary to permit late comer Interconnection Customers who benefit to fund their share of the SNU. The proposed revisions to Attachment FF now provide a formula for calculating this payment, and the Transmission Owner would reduce the charge to the first mover Interconnection Customer accordingly and would administer the monthly charge to all parties contributing to an SNU that is being repaid under Option 1.<sup>147</sup>

For Option 2, the Transmission Owner repays the appropriate percentage of Network Upgrade costs funded by the Interconnection Customer in advance, rather than refunding 100% and collecting a charge over time to recover the remaining amount. Therefore, payments from beneficiary Interconnection Customers for SNUs will need to be made to the Interconnection Customer that funded the SNU directly rather than the Transmission Owner. Under the proposed revisions, the Midwest ISO, as Transmission Provider, will determine the up-front compensation amount that the benefiting Interconnection Customer shall submit to the Midwest ISO for payment to the first mover Interconnection Customer that funded the upgrade. The benefiting Interconnection Customer will make a one-time payment pursuant to Schedule 26-B.<sup>148</sup> The revisions to Attachment X provide a mechanism for the timing and method of payment by each benefiting Interconnection Customer depending on whether benefiting Interconnection Customers execute their GIAs prior to the in-service date of the SNU.<sup>149</sup> If the benefiting Interconnection Customers execute their GIAs prior to the in-service date of the SNU, they will

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3466B (Attachment FF). The Tariff sheet designations used here reflect additional unrelated revisions to Attachment X that were accepted effective July 28, 2010 in a Letter Order issued on July 13, 2010 in Docket No. ER10-1366.

<sup>146</sup> Lavery Testimony at 29-30.

<sup>147</sup> Lavery Testimony at 30-31. *See* proposed redline revisions to Attachment FF at Tab C.

<sup>148</sup> Lavery Testimony at 32. *See* proposed redline revisions to Schedule 26-B at Tab C.

<sup>149</sup> Lavery Testimony at 32-33. *See* proposed redline revisions to Attachment X and Attachment FF at Tab C.

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be required to post an irrevocable letter of credit payable to the Midwest ISO in the amount equal to their actual or estimated contribution to the SNU costs.<sup>150</sup>

3. Justification for the Proposed Cost Allocation Methodology Under the Independent Entity Standard

The Commission reviews RTO proposals to modify the procedures for generation interconnection set forth in Order No. 2003 under an “independent entity” standard of review.<sup>151</sup> Under that standard, RTOs like the Midwest ISO “are entitled to more flexibility in proposing variations than are non-independent entities,” because they are “less likely than non-independent entities to favor one generator over another.”<sup>152</sup> Accordingly, the Filing Parties must show that the changes proposed in this filing “are just and reasonable and not unduly discriminatory, and that they would accomplish the purposes of Order No. 2003.”<sup>153</sup>

In addition, the Commission explained in the October 23 Order that “cost allocation for generator interconnection-related network upgrades must strike an appropriate balance between the entity that ‘caused’ the need for an upgrade (i.e., by deciding to interconnect a new generator) and the larger set of entities that will actually benefit from that upgrade.”<sup>154</sup> The instant proposal is just and reasonable and superior to the Order No. 2003 methodology, as well as an improvement upon the RECB III Phase I proposal accepted in the October 23 Order and earlier Midwest ISO GIP cost allocation methods. Specifically, the instant proposal is just and reasonable because it addresses the free rider/late comer issue, appropriately allocates costs among those who cause the need for and benefit from network upgrades, and appropriately shares costs between generation and load, as discussed below.<sup>155</sup>

The proposed revisions also address the concern expressed in the Transmission NOPR regarding the complexity and uncertainty of transmission cost allocation that, “any individual

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<sup>150</sup> Lavery Testimony at 33.

<sup>151</sup> *See Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 2001-2005 FERC Stats. & Regs. ¶ 31,146, (2003) (“Order No. 2003”), *order on reh’g*, Order No. 2003-A, 2001-2005 FERC Stats. & Regs. ¶ 31,160 (2004) (“Order No. 2003-A”), *order on reh’g*, Order No. 2003-B, 2001-2005 FERC Stats. & Regs. ¶ 31,171 (2004) (“Order No. 2003-B”), *order on reh’g*, Order No. 2003-C, 2001-2005 FERC Stats. & Regs. ¶ 31,190 (2005) (“Order No. 2003-C”), *aff’d sub nom. Nat’l Ass’n of Regulatory Utility Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

<sup>152</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 129 FERC ¶ 61,301, at P 14 (2009) (“Phase II Order”).

<sup>153</sup> *Id.*

<sup>154</sup> October 23 Order at P 54 (citation omitted).

<sup>155</sup> *See* Lavery Testimony at 36-39.

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beneficiary of a project has an incentive to defer investment in the hopes that other beneficiaries will value the project enough to fund its development.”<sup>156</sup> Consequently, transmission investment can result in free rider problems because “customers who do not agree to support a particular project may nonetheless receive substantial benefit from it.”<sup>157</sup> The Transmission NOPR also reaffirmed the cost causation principle and explained that “[t]o the extent that a utility benefits from the costs of new facilities, it may be said to have ‘caused’ a part of those costs to be incurred, as without the expectation of its contributions the facilities might not have been built or might have been delayed.”<sup>158</sup>

The SNU and MVP cost allocation methodologies are intended to provide for an equitable allocation of charges to generators and load based on use of and benefits derived from the transmission system. By determining the extent to which later Interconnection Customers benefit from the SNU and having them contribute to the first mover Interconnection Customer, the proposed SNU will more fairly link costs and benefits.<sup>159</sup> As explained in the Testimony of Eric Lavery, upgrades are not custom designed to fit the precise needs for a given interconnection, but use standardized equipment to take advantage of economies of scale.<sup>160</sup> The Commission has recognized a similar principle for upgrades needed to support a cluster of

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<sup>156</sup> Transmission NOPR at P 40. The Commission also noted that few cost allocation structures exist to accommodate transmission facilities that involve multiple transmission planning regions. *Id.* at P 41. The risk of free rider problems is particularly high for projects that affect multiple utilities’ transmission systems and is not easily addressed. Relying exclusively on participant funding without respect to other beneficiaries of a transmission facility increases the incentive to defer investment in the hope of being a free rider. On the other hand, if costs are allocated to entities that receive no benefit from a transmission facility, such entities are more likely to oppose inclusion of the facility in a regional transmission plan or impose obstacles that delay or prevent construction of the upgrade. *Id.* at P 153.

<sup>157</sup> *Id.* at P 124. Different regions have addressed the free rider/late comer problem differently. Some regions have assigned transmission rights only to those who financially support a project or have spread the cost of high voltage projects more broadly than the immediate beneficiaries of the project. *Id.* at P 124 n.125.

<sup>158</sup> *Id.* at P 140 (quoting *Ill. Commerce Comm’n*, 576 F.3d at 476 (internal quotation marks omitted)).

<sup>159</sup> See SPP Order at PP 62-89 (approving the RTO’s cost allocation proposal and discussing the general requirement that costs must be roughly commensurate with benefits). To paraphrase the Seventh Circuit’s explanation, to the extent a generator benefits from new Network Upgrades, “it may be said to have ‘caused’ a part of those costs to be incurred, as without the expectation of its contributions the facilities might not have been built, or might have been delayed.” *Ill. Commerce Comm’n v. FERC*, 576 F.3d at 476.

<sup>160</sup> Lavery Testimony at 12-13 (discussing the lumpy nature of transmission upgrades).

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generators studied under the group study methodology used by the Midwest ISO because, where projects are studied as a group, the cost responsibility of an individual project may be greater than if it were studied individually. However, “it is also possible that the use of group studies will result in cost savings for a customer and that the cost responsibility of an individual project may be less than it would have been had the project been studied individually.”<sup>161</sup> This situation is especially pronounced when a group of projects seek to interconnect in a wind-rich region that lacks sufficiently robust transmission infrastructure. Because these upgrades can have the lumpy quality that impacts the first mover while creating an upgrade from which other generators later benefit, the SNU will require late comers who benefit from the project to help fund the SNUs from which they benefit.

The proposed revisions will also accomplish two goals noted in Order No. 2003 for participant funding by encouraging efficient siting of generation and preventing improper subsidies.<sup>162</sup> The revisions will encourage projects to site generation efficiently by assigning the majority of the costs associated with Network Upgrades to the Interconnection Customer(s) that benefit from them. For example, under the changes proposed in this filing, long 345 kV upgrades may be designated as MVPs; however, if a generator chooses to locate far from MVPs in a part of the Midwest ISO transmission system with less robust transmission infrastructure in place, that Interconnection Customer will bear the full cost responsibility associated with its siting decision. Even in that instance, the proposed revisions would provide an opportunity for cost sharing and an appropriate price signal for such a first mover Interconnection Customer through the SNU. A late comer Interconnection Customer siting nearby and using previously-funded upgrades could reduce the cost of the first mover by contributing to a SNU.<sup>163</sup> In the event that no MVP or SNU designation applied, then the Interconnection Customer would appropriately bear the full cost of upgrades based on its siting decision. A Network Upgrade that is under consideration for inclusion in MTEP Appendix A will also be listed as a contingency in the Interconnection Customer’s GIA until it is accepted. During this time period, the Interconnection Customer will be on notice that it may be responsible for funding the necessary Network Upgrade based upon the results of the System Impact Study and can make business decisions based upon this knowledge. If the upgrade is later moved to Appendix A, the generator will benefit from knowing that its interconnection service will not be contingent on its funding of the Network Upgrade, but rather will be contingent only upon the Network Upgrade actually being in service.<sup>164</sup>

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<sup>161</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 131 FERC ¶ 61,165, at P 19 n.26 (2010)(internal quotation marks and parenthetical removed).

<sup>162</sup> *See Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,210, at P 19 (2008) (citing Order No. 2003 at P 695).

<sup>163</sup> Lavery Testimony at 20-21, 28.

<sup>164</sup> *See* Lavery Testimony at 34-35.

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The Common Use Upgrade (“CUU”) definition in the current Midwest ISO Tariff provides a mechanism for several known beneficiaries (i.e., Interconnection Customers with interconnection requests concurrently pending in the interconnection queue) to share the costs of these upgrades in advance.<sup>165</sup> The SNU builds on this concept and addresses the same issue when beneficiaries are identified later in time (i.e., the benefiting Interconnection Customers are not identified in the interconnection queue at the time the first mover is assigned responsibility for the SNU). In combination, these revisions will permit each Interconnection Customer to assess the estimated cost associated with its GIP at the time it will be built (including any CUU identified) and the likelihood of potential reimbursement for a SNU if the project funds an upgrade that is later designated as a SNU. For example, a first mover in a wind-rich region would likely be studied in a group study and might contribute to a large upgrade to reach load as part of a CUU. The CUU process would require projects to commit to fund the CUU early in the process and increase certainty for those projects that remain. To the extent that the size of the CUU permits extra headroom due to the lumpiness of the upgrades, the funding Interconnection Customers could assess the likelihood that a late comer Interconnection Customer would propose a project nearby in order to make use of that capacity and later contribute to the CUU as an SNU.<sup>166</sup>

The proposed revisions address the free rider/late comer issue and the concern with the improper subsidization of late comer projects by first movers who create headroom on the system from which late comer Interconnection Customers benefit. In particular, the SNU will minimize the possibility of free riders and should reduce the number of upgrades for which an Interconnection Customer would bear sole responsibility. The Commission expressly noted the free rider/late comer issue when it accepted the implementation of the Midwest ISO’s MPFCA and the CUU. The MPFCA and the CUU permit multiple Interconnection Customers that will use a CUU to fund such an upgrade jointly to increase the certainty for all identified beneficiary projects that the CUU will actually be built.<sup>167</sup> In accepting the CUU, the Commission noted that allocating Network Upgrade costs among multiple Interconnection Customers through an

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<sup>165</sup> Phase II Order at P 29 (explaining that “[t]he *pro forma* MPFCA is intended to provide a cost-sharing mechanism that places the cost responsibility with identifiable, queued generation that would require the common use upgrade [CUU].”)

<sup>166</sup> The Midwest ISO will amend a GIA to remove the funding contingency for a Network Upgrade that is subsequently approved for inclusion in MTEP Appendix A (which includes MTEP projects that are recommended by Midwest ISO staff and approved by the Midwest ISO Board of Directors for implementation by Transmission Owners) within the later of: (1) one year from the execution or unexecuted filing of the GIA; or (2) the date of issuance of the next annual MTEP report. In such a case, the Network Upgrade will be funded pursuant to the appropriate MTEP rules. Lavery Testimony at 33-34.

<sup>167</sup> See Phase II Order at P 33 (accepting the CUU proposal and noting the ongoing discussion on the issue of headroom created by upgrades and the potential windfall for late comer projects).

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MPFCA “simply implements existing tariff language” that permits the determination of cost responsibility for projects in a group study to be determined by factors other than queue position.<sup>168</sup> The SNU concept is analogous.

The SNU also responds, in a manner that is consistent with Order No. 2003 principles, to the concern that a later identified beneficiary of an upgrade would avoid the cost of construction. The SNU approach retains the importance of queue position while denying a windfall to late comer projects at the expense of first movers. This concept is in line with the Commission precedent that addresses first movers who move ahead with funding upgrades before a higher queued project. In such situations, the higher queued, but later-starting Interconnection Customer will repay the lower queued first mover for upgrades that would have been the responsibility of the higher queued project.<sup>169</sup> Accordingly, requiring late comer Interconnection Customers to pay their share of Network Upgrades used to support the interconnection requests, even if they were previously funded by another project, is consistent with Order No. 2003 principles.<sup>170</sup> By requiring future beneficiary Interconnection Customers to contribute to the upgrades that they use, SNUs provide for an appropriate cost sharing to refine further the cost sharing provided by the CUU to the ongoing concern with fair treatment of additional headroom on the system created by upgrades and how to allocate that benefit to a future generator that uses such an upgrade.<sup>171</sup>

As described above, SNU cost-sharing is time-limited; future GIPs may be assigned a cost of earlier Network Upgrades so long as the publication date of the final System Impact Study for each of those additional future beneficiary Interconnection Customers is no more than five years after the actual in-service date of the Network Upgrade.<sup>172</sup> The five-year period is a reasonable time limitation that is comparable to the near-term planning horizon described by the

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<sup>168</sup> *Id.* at P 32 (*citing* Midwest ISO Tariff at Second Revised Sheet No. 3073 ).

<sup>169</sup> *See, e.g.*, Order No. 2003-A at P 318 (*citing Va. Elec. and Power Company*, 104 FERC ¶ 61,249 (2003)) (noting that “[i]f another Interconnection Customer is ready to proceed with its project, it should be allowed to use the capacity that has been earmarked for a higher queued Interconnection Customer that has suspended its project. The Network Upgrades can be built when the latter customer is ready to proceed.”).

<sup>170</sup> *Id.* at P 320 (noting that an Interconnection Customer is responsible for “funding the cost of [among other facilities] all Network Upgrades (other than those already in the Transmission Provider’s current expansion plan) that must be constructed to support that Interconnection Customer’s In-Service Date[.]”). The SNU applies these principles to combat the incentive for projects to delay funding in hopes of benefiting as a free rider by applying cost sharing to late comer projects. *See* Transmission NOPR at PP 40-41, 124 (discussing free rider concerns for transmission upgrades).

<sup>171</sup> Transmission NOPR at PP 40-41, 124; *see* Phase II Order at P 33.

<sup>172</sup> Laverty Testimony at 25.

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Testimony of Jeffrey Webb, which is the planning horizon that takes into account generation additions that can be reasonably anticipated.<sup>173</sup>

For all of these reasons, the GIP cost allocation proposal is just and reasonable and consistent with the Commission's direction that "cost allocation for generator interconnection-related network upgrades must strike an appropriate balance between the entity that 'caused' the need for an upgrade (i.e., by deciding to interconnect a new generator) and the larger set of entities that will actually benefit from that upgrade."<sup>174</sup>

## **VI. PROPOSED EFFECTIVE DATE AND REQUEST FOR EXTENDED COMMENT PERIOD**

The Filing Parties respectfully request that the proposed Tariff revisions become effective on July 16, 2010, one day following the date of this filing. As explained in the Testimony of Clair Moeller, such an effective date is necessary and appropriate in order to provide guidance and certainty in connection with pending public policy driven transmission project proposals and with respect to the generator interconnection process. The July 16, 2010 effective date was selected to allow transmission projects that may be approved in Appendix A of the 2010 MTEP for MVP cost allocation methodology if applicable.<sup>175</sup> This effective date allows the Midwest ISO to apply the MVP criteria to those transmission projects eligible for approval in the 2010 MTEP and report the projects that are eligible for the MVP cost allocation methodology to the Midwest ISO Board of Directors for approval in December 2010.<sup>176</sup> Moreover, given the Commission's directive to adopt subsequent Tariff revisions by July 15, 2010 to address issues identified in the October 23 Order, stakeholders have been on notice that changes in the Midwest ISO cost allocation methodology were forthcoming and have had ample opportunity to participate in the process, as described above and in the Testimony of Jennifer Curran.

If the July 16, 2010 effective date is not accepted, projects that are being considered in the 2010 MTEP that may qualify as MVPs would not be eligible for MVP cost allocation. This could result in delays in the construction of new transmission infrastructure, the termination of certain projects, delays in realizing incremental regional benefits, and impediments to the Midwest ISO's ability to foster transmission infrastructure to meet documented energy public policies.<sup>177</sup> Also, delaying the effective date would create uncertainty for Interconnection Customers deciding how to proceed with interconnection requests involving significant Network

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<sup>173</sup> Webb Testimony at 7 (discussing the short term (one- to five-year) planning horizon); *see also* Laverty Testimony at 26 (noting that the five-year period is comparable to the five-year planning horizon used in the MTEP).

<sup>174</sup> October 23 Order at P 54 (citation omitted).

<sup>175</sup> Moeller Testimony at 20.

<sup>176</sup> Moeller Testimony at 20.

<sup>177</sup> Moeller Testimony at 21.

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Upgrades that might qualify as MVPs under the new methodology. This uncertainty will drive existing Interconnection Customers to try to time when to move to the next phase of the generator interconnection process. It may even result in Interconnection Customers exiting and re-entering the generation interconnection queue, which could have a cascading adverse impact on lower-queued generation interconnection requests. Accordingly, the Midwest ISO respectfully requests that the Commission waive the 60-day notice requirement set forth in section 205 of the FPA, 16 U.S.C. § 824d, and section 35.3(a) of the Commission's regulations, 18 C.F.R. § 35.3(a), and make the Tariff revisions proposed herein effective as of July 16, 2010, for good cause shown.<sup>178</sup>

In addition, the Filing Parties respectfully request that the Commission provide an extended period for parties to file comments on this filing until September 10, 2010. Given the complexity and extent of the proposed Tariff changes, the Filing Parties believe an extended comment period is appropriate to permit all interested parties adequate opportunity to analyze and submit comments on the proposed Tariff changes. In this regard, the Filing Parties note that the proposed extended comment period should better align with the OMS processes, and provide the OMS and its members the opportunity to discuss and comment on the filing.

The Filing Parties further respectfully request that the Commission act on this filing during or prior to its December 16, 2010 meeting. Action by this date will help to provide certainty with regard to complex issues presented herein to the Midwest ISO and its stakeholders.

## VII. CORRESPONDENCE AND COMMUNICATIONS

Correspondence and communications with respect to this filing should be sent to, and the parties request the Secretary to include on the official service list, the following persons, who shall also be authorized to receive notice in this docket:

Arthur W. Iler\*  
 Assistant General Counsel  
 Matthew R. Dorsett

Michael L. Kessler\*  
 David DeSalle  
 Michael A. Splete

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<sup>178</sup> See S. Cal. Edison Co., 132 FERC ¶ 61,007 (2010) (waiving the 60-day notice requirement for good cause shown) (*citing Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,338-339, *order on reh'g*, 61 FERC ¶ 61,089 (1992); *see also Allegheny Power*, 131 FERC ¶ 61,278, at P 32 (2010) (“Pursuant to 18 C.F.R. § 35.11, the Commission may waive the 60-day prior notice requirement for good cause shown.”); *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at 61,339 (noting that when considering a waiver request, the Commission “must balance the requirement that utilities promptly file their rates as embodied in the Federal Power Act and the need of utilities to transact business on short notice. Accordingly, we will grant waiver of notice if good cause is shown and the agreement is filed prior to the commencement of service.”).

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**VIII. SUMMARY OF PROPOSED TARIFF CHANGES**

In addition to the description of Tariff changes provided above, a summary description of the complete set of changes to existing Tariff provisions, and proposed new Tariff provisions, is attached hereto as Tab A.<sup>179</sup>

**IX. SUPPORTING DOCUMENTS**

In addition to this Transmittal Letter, the following documents are being submitted with this filing:

Tab A – Summary of Proposed Tariff Revisions

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<sup>179</sup> The Commission recently accepted certain revisions to Attachment X in Docket No. ER10-1366-000, with an effective date of July 28, 2010. Due to the order issued in that proceeding, the Midwest ISO is submitting two versions of the revisions to Attachment X; the first set of revisions is redlined against the currently effective Tariff and reflects an effective date of July 16, 2010 on all sheets, the second set (separated by a divider reflecting that the sheets contain recently approved language), contain revisions accepted in Docket No. ER10-1366-000, with the applicable sheets reflecting effective dates of July 28, 2010 (Sheet Nos. 3093, 3093A, 3244 and 3245).

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Tab B – Clean Tariff Sheets

Tab C – Redlined Tariff Sheets

Tab D – Ramey Testimony

Tab E – Moeller Testimony

Tab F – Lawhorn Testimony

Tab G – Curran Testimony

Tab H – Lavery Testimony

Tab I – Webb Testimony

Tab J – List of Starter Projects

Tab K – Midwestern Governors Association Letter

## **X. ADDITIONAL INFORMATION REQUIRED BY COMMISSION REGULATIONS**

While the Midwest ISO submits the instant filing under Part 35 of the Commission’s regulations, the Midwest ISO’s proposal is not procedurally subject to the requirements set forth in 18 C.F.R § 35.13(a) given that the MVP proposal is a cost allocation filing and not a rate increase filing.<sup>180</sup> As determined by the Commission in the SPP Highway/Byway Order, cost allocation proposals are not subject to the filing requirements for rate increases as outlined in section 35.13(a)(2). Rather, the Commission views such filings “as having been made under the narrow requirements of section 35.13(a)(2)(iii), which pertain to tariff changes other than rate increases.”<sup>181</sup>

The Commission’s regulations in section 35.13(a)(2)(iii) require that companies file general information in section 35.13(b)<sup>182</sup> and information relating to the effect of the rate change in section 35.13(c).<sup>183</sup> The instant filing includes all the information required under

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<sup>180</sup> See SPP Order at P 108.

<sup>181</sup> *Id.*

<sup>182</sup> The general information required under section 35.13(b) includes a list of documents submitted, the effective date, list of recipients of the filing, brief description of the filing, statement of the reasons for the filing, a showing of requisite agreement to the filing, and a statement that there were no illegal, duplicative, or unnecessary costs that are the result of discriminatory employment practices.

<sup>183</sup> Specifically, the information relating to the effect of the rate change includes a comparison of revenues from services under the rate schedule before the rate change and

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section 35.13(b) as applicable. In particular, sections 35.13(b)(6)<sup>184</sup> and 35.13(b)(7)<sup>185</sup> do not apply to this filing. Otherwise, the instant transmittal letter adequately provides a description of and the reasons for the Midwest ISO filing. Additionally, this transmittal letter provides a list of documents submitted with the filing, a proposed effective date, and a statement of service to all Midwest ISO stakeholders.

## XI. NOTICE AND SERVICE

The Midwest ISO notes that it has served a copy of this filing electronically, including attachments, upon all Tariff Customers, Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the Midwest ISO Region. In addition, the filing has been posted electronically on the Midwest ISO's website at [www.midwestmarket.org](http://www.midwestmarket.org) under the heading "Filings to FERC" for other interested parties in this matter.

## XII. CONCLUSION

Wherefore, for all the reasons stated above, the Filing Parties respectfully requests that the proposed Tariff revisions be approved as set forth herein, effective July 16, 2010.

Respectfully submitted,

*Arthur W. Iler*

Arthur W. Iler  
 Assistant General Counsel  
 Matthew R. Dorsett  
 Attorney  
 Midwest Independent Transmission  
 System Operator, Inc.

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after the rate change, a comparison of the rate change and the utility's other rates for similar transmission services and an appropriate map showing any specifically assignable facilities that will be installed or modified in order to provide service.

<sup>184</sup> Section 35.13(b)(6) requires a showing that all requisite agreements to the rate change have been obtained. The proposed revisions to the Midwest ISO Tariff do not require any such agreements.

<sup>185</sup> Section 35.13(b)(7) requires a statement showing any expenses or costs included in cost of service statements that have been alleged or judged to be illegal, duplicative or unnecessary costs that are demonstrably the product of discriminatory employment practices.

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