

1. On February 23, 2005, Illinois Power Company, d/b/a AmerenIP (Illinois Power) filed, pursuant to section 205 of the Federal Power Act (FPA),¹ an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of capacity and energy at market-based rates, the resale of firm transmission rights (FTRs), and the reassignment of transmission capacity. It also includes the Commission's market behavior rules.² Illinois Power's submittal, as discussed below, satisfies the Commission's standards for market-based rate authority and is accepted for filing effective on the date that Midwest Independent Transmission System Operator, Inc. (Midwest ISO) becomes a single market and performs functions such as single central commitment and dispatch with Commission-approved market monitoring and mitigation, currently scheduled for April 1, 2005 (hereinafter referred to as the Midwest ISO Energy Market).³

2. We will also accept the updated market power analyses filed by Illinois Power's affiliated companies (collectively, the Ameren Companies⁴). Finally, we will accept the tariff revisions proposed by the Ameren Companies on December 27, 2004, in Docket No. ER01-294-004, *et al.*, submitted in conformance with the Commission's *Market Behavior Rules Order*. This order benefits customers by reviewing the conditions under which market-based rate authority is granted, thus ensuring that the prices charged for jurisdictional sales are just and reasonable.

Background

Illinois Power

3. Illinois Power is an electric and natural gas public utility operating company that owns and operates electric transmission and distribution facilities and natural gas distribution facilities located in central and southern Illinois. Illinois Power provides

¹ 16 U.S.C. § 824d (2000).

² *Investigation of Terms and Conditions of Public Utility Market-based Rate Authorizations*, 105 FERC ¶ 61,218 (2003) (*Market Behavior Rules Order*), order on *reh'g*, 107 FERC ¶ 61,175 (2004).

³ See *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163, order on *reh'g*, 109 FERC ¶ 61,157 (2004).

⁴ Ameren Energy Development Company (AED); Ameren Energy Generating Company (AEG); Ameren Energy Marketing Company (AEM); AmerenEnergy Medina Valley Cogen, LLC (Medina); Central Illinois Light Company, d/b/a as AmerenCILCO (AmerenCILCO); Central Illinois Public Service Company d/b/a AmerenCIPS (AmerenCIPS); and Union Electric Company, d/b/a as AmerenUE (AmerenUE).

retail electric service to approximately 600,000 customers and retail gas service to approximately 415,000 customers in the state of Illinois. Illinois Power states that it operates a control area within which it owns approximately 1,672 circuit miles of electric transmission lines and approximately 37,765 circuit miles of electric distribution lines. Illinois Power states that it does not own or control any interstate natural gas transmission pipelines, although it does own 763 miles of non-jurisdictional gas transmission pipelines.

4. Illinois Power states that it jointly owns three diesel generators with a combined net generating capacity of 5.25 MW, but that it obtains the majority of its capacity, energy, and ancillary services needs from a variety of agreements with unaffiliated entities. Illinois Power states that none of these agreements confers on Illinois Power the ability to control the operation of dispatch of any generating facility under normal operating conditions.

5. Illinois Power states that on September 30, 2004, it was acquired by Ameren Corporation from Dynegy Inc.⁵ Illinois Power adds that on that same date, Illinois Power became a transmission-owning member of the Midwest ISO. Illinois Power states that it operates a control area separate from that of AmerenCIPS, AmerenCILCO, and AmerenUE.

6. Illinois Power states that its retail operations are subject to the jurisdiction of the Illinois Commerce Commission (Illinois Commission). Illinois Power further states that presently, it does not have a market-based rate tariff on file with the Commission. Finally, Illinois Power notes that on November 2, 2004, as amended on December 30, 2004 and February 4, 2005, Illinois Power submitted for filing, in Docket No. ER05-173-000, *et al.*, a tariff that would permit Illinois Power to sell energy at negotiated rates, up to a cost-based cap, prior to the start of the Midwest ISO Energy Market.⁶

The Ameren Companies

7. Each of the Ameren Companies has been authorized by the Commission to sell power at market-based rates.⁷ In addition, the Ameren Companies state that each of the

⁵ *Ameren Corporation*, 108 FERC ¶ 61,094 (2004).

⁶ *Illinois Power Company*, Letter Order, Docket No. ER05-173-000, *et al.* (March 23, 2005).

⁷ In chronological order, *Union Electric Development Corporation*, 80 FERC ¶ 61,352 (1997) (applicable to AmerenUE); *Central Illinois Light Company*, 83 FERC ¶ 61,252 (1998) (applicable to AmerenCILCO); *Ameren Services Company*, 84 FERC ¶ 61,144 (1998) (applicable to AmerenCIPS); *Madison Gas & Electric Company*,
(continued...)

Ameren Companies that own transmission facilities has transferred functional control of its transmission facilities to the Midwest ISO, either directly as a transmission owner or through a contractual arrangement with GridAmerica, LLC (Grid America), an independent transmission company within the Midwest ISO.

8. The Ameren Companies state that the Midwest ISO has filed with the Commission a Transmission and Energy Markets Tariff (TEMT) and expects to commence operation of day-ahead and real-time energy markets that will utilize Locational Marginal Pricing (LMP) and a single centralized unit commitment and dispatch process with Commission-approved market monitoring and mitigation rules. The Ameren Companies state that each of the Ameren Companies will participate in the Midwest ISO's markets as a buyer or seller of energy and will be subject to the TEMT's terms and conditions.

Updated Market Power Analyses Submitted by the Ameren Companies

9. Under the terms of their market-based rate authorizations, the Ameren Companies are required to file an updated market power analysis with the Commission demonstrating that they do not have, or have adequately mitigated, market power in generation or transmission, that they do not have the ability to erect other barriers to entry, and that sufficient safeguards exist to protect against affiliate abuse and reciprocal dealing.

10. In response to these requirements, the Ameren Companies state that updated market power analyses were timely filed on September 22, 2000, in Docket No. ER00-2687-001, on behalf of AmerenUE and AmerenCIPS;⁸ and on June 1, 2001, in Docket No. ER98-2440-002, on behalf of AmerenCILCO (June 2001 Filing). In addition, the Ameren Companies state that on December 10, 2003, in Docket No. ER01-294-002, *et al.*, an updated market power analysis was submitted on behalf of each of the Ameren Companies (December 2003 Filing), applying the Commission's Supply

90 FERC ¶ 61,115 (2000) (applicable to AEM); *AmerenEnergy Generating Company*, 93 FERC ¶ 61,024 (2000) (applicable to AEG); *Ameren Energy Development Company*, Letter Order, Docket No. ER01-294-000 (February 9, 2001) (applicable to AED); *Ameren Energy Marketing Company*, 95 FERC ¶ 61,448 (2001) (applicable to AEM); *AES Medina Valley Cogen, L.L.C.*, Letter Order, Docket No. ER01-1381-001 (July 6, 2001) (applicable to Medina); and *Central Illinois Generation, Inc.*, 101 FERC ¶ 61,082 (2002) (applicable to AERG).

⁸ *Ameren Energy, Inc., et al.*, Letter Order, Docket No. ER00-2687-001 (September 22, 2000).

Margin Assessment (SMA).⁹ The Ameren Companies further state that a revised analysis was submitted on December 27, 2004, in Docket No. ER01-294-003, *et al.* (December 2004 Filing), pursuant to the Commission's order issued on May 13 2004.¹⁰

11. The Ameren Companies state that they do not have market power in generation and transmission, and do not present concerns about the potential ability to erect barriers to entry. In addition, the Ameren Companies assert that they have implemented safeguards to protect against affiliate abuse. The Ameren Companies state that using the footprint of the Midwest ISO as the relevant geographic market, the Ameren Companies pass both of the indicative screens for assessing generation market power, as established by the Commission in the *April 14 Order*.

Notice and Responsive Pleadings

12. Notice of AmerenCILCO's June 2001 Filing was published in the *Federal Register*, 66 Fed. Reg. 32,344 (2003), with protests and motions to intervene due on before June 25, 2001. A notice of intervention and comments were timely filed by the Illinois Commerce Commission (Illinois Commission). In its comments, the Illinois Commission urges the Commission to discontinue its use of its so-called "hub-and-spoke" analysis in reviewing a seller's continued use of the seller's market-based rate authority.¹¹

13. Notice of the Ameren Companies' December 2003 Filing was published in the *Federal Register*, 68 Fed. Reg. 74,571 (2003), with protests and motions to intervene due on before December 31, 2003. A notice of intervention and a motion to intervene were timely filed, respectively, by the Illinois Commission and the Missouri Joint Municipal Electric Utility Commission (Missouri Municipal). Missouri Municipal filed a protest asserting that the Ameren Companies fail the Commission's SMA test and that, as such,

⁹ *AEP Power Marketing, Inc., et al.*, 97 FERC ¶ 61,219 (2001) (*SMA Order*). In the *SMA Order*, the Commission stated that the SMA would be applied to market-based rate applications on an interim basis, pending a generic review of new methods for comprehensively analyzing market power.

¹⁰ *Acadia Power Partner, LLC*, 107 FERC ¶ 61,168 (2004) (May 13 Order). The May 13 Order addressed the procedures for implementing the generation market power analysis announced on April 14, 2004 and clarified on July 8, 2004. *AEP Power Marketing, Inc.*, 107 FERC ¶ 61,018 (*April 14 Order*), *order on reh'g*, 108 FERC ¶ 61,026 (2004) (July 8 Order). In the *April 14 Order*, we granted rehearing of the SMA Order and, in so doing, replaced the SMA generation market power test with two "indicative screens" for assessing generation market power.

¹¹ The Commission has since abandoned the hub-and-spoke analysis.

the Ameren Companies' market-based rate authority should be revoked.¹² In addition, Missouri Municipal argues that because the Ameren Companies constitute a vertically-integrated group of entities that have yet to transfer control over their transmission facilities to an ISO or a regional transmission organization (RTO), the issue of vertical market power, in this instance, requires close scrutiny by the Commission. On January 15, 2004, the Ameren Companies filed an answer responding to the arguments raised by Missouri Municipal.

14. Notice of the Ameren Companies' December 2004 Filing was published in the *Federal Register*, 70 Fed. Reg. 4,115 (2005), with protests and motions to intervene due on before January 26, 2005. A motion to intervene and protest were timely filed by Missouri Municipal. In its protest, Missouri Municipal asserts that the Ameren Companies' updated market power analysis must be rejected because it relies on the unjustified assumption that the Midwest ISO footprint is the relevant geographic market to analyze the Ameren Companies' market power. In addition, Missouri Municipal asserts that the Midwest ISO has no mitigation program for long-term contracts and that, as such, it cannot mitigate the long-term market power concerns prevalent in the Ameren Companies' control area.¹³ On February 15, 2004, the Ameren Companies filed an answer responding to the arguments raised by Missouri Municipal.

15. Finally, notices of the Ameren Companies filing, in Docket No. ER01-294-004, *et al.*, and Illinois Power's filing in ER05-638-000, were published in the *Federal Register*,¹⁴ with protests and motions to intervene due on before January 26, 2005, in Docket No. ER01-294-004, *et al.*, and March 16, 2005, in Docket No. ER05-638-000. There were no responsive pleadings.

Discussion

Procedural Matters

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹⁵ the timely, unopposed motions to intervene and notices of intervention serve to make the

¹² As noted above, the Commission replaced the SMA test in the April 14 Order with two indicative screens for assessing generation market power.

¹³ Missouri Municipal notes, in particular, the absence of long-term firm transmission into the Ameren region and generation siting barriers attributable to these inadequacies.

¹⁴ 70 Fed. Reg. 4,115 and 11,002 (2005).

¹⁵ 18 C.F.R. § 385.214 (2004).

entities that filed them parties to the proceedings in which these interventions were filed. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,¹⁶ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers submitted by Ameren and therefore will reject them.

Market-Based Rate Authorization

17. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, market power in generation and transmission and cannot erect other barriers to entry. The Commission also considers whether there is evidence of affiliate abuse or reciprocal dealing.¹⁷

18. As discussed below, the Commission concludes that the Ameren Companies and Illinois Power satisfy the Commission's standards for market-based rate authority. We will accept Illinois Power's market-based rate tariff for filing to be effective on the date that Midwest Independent Transmission System Operator, Inc. (Midwest ISO) becomes a single market and performs functions such as single central commitment and dispatch with Commission-approved market monitoring and mitigation, currently scheduled for April 1, 2005.

Generation Market Power

19. In the *April 14 Order*, the Commission adopted two indicative screens for assessing generation market power, the pivotal supplier screen and the wholesale market share screen. The Ameren Companies and Illinois Power state that they have prepared these screens for the markets operated by the Midwest ISO and PJM Interconnection, L.L.C. (PJM), and the Electric Energy, Inc. (EEInc.) control area.¹⁸

20. The Ameren Companies and Illinois Power state that all of their capacity in the PJM market and the EEInc. control area is committed under long-term contracts and that, as such, none of this capacity is available for sales in the wholesale market. Based on

¹⁶ *Id.* at § 385.213(a)(2).

¹⁷ See, e.g., *Progress Power Marketing, Inc.*, 76 FERC ¶ 61,155, at 61,919 (1996); *Northwest Power Marketing Co., L.L.C.*, 75 FERC ¶ 61,281, at 61,899 (1996); accord *Heartland Energy Services, Inc.*, 68 FERC ¶ 61,223, at 62,062-63 (1994).

¹⁸ The Ameren Companies states that EEInc. is jointly owned by three parties: AmerenEnergy Resources Company (40 percent); AmerenUE (40 percent); and LG&E Energy Corporation's Kentucky Utilities (20 percent). EEInc owns and operates, in Joppa Illinois, a six-unit coal-fired generating facility, with a capacity of approximately 1,100 MW, and two combustion turbines with a capability of approximately 108 MW.

this representation, the Commission has determined that the Ameren Companies and Illinois Power pass both the pivotal supplier and wholesale market share screens in those markets.

21. The Commission has reviewed the Ameren Companies' and Illinois Power's generation market power screens for the Midwest ISO market and has determined that these companies pass both the pivotal supplier and wholesale market share screens in that market. As the Commission noted in the *April 14 Order*, once the Midwest ISO becomes a single market and performs such functions as central commitment and dispatch with Commission-approved market monitoring and mitigation (currently scheduled for April 1, 2005), the Midwest ISO would be considered a single geographic market for purposes of our generation dominance screens. Accordingly, we find that the Ameren Companies and Illinois Power satisfy the Commission's generation market power standard for the grant of market-based rate authority based on the Midwest ISO becoming a single market and performing such functions as central commitment and dispatch with Commission-approved market monitoring and mitigation.

22. In its protest of the December 2004 Filing, Missouri Municipal asserts that the Ameren Companies' updated market power analysis must be rejected because it improperly relies on the Midwest ISO footprint as the relevant geographic market to analyze the Ameren Companies' market power. Missouri Municipal asserts Ameren's usage of the Midwest ISO as the relevant geographic market is unsupported and otherwise inconsistent with the position taken by AmerenUE in Docket No. EC03-53-000, wherein AmerenUE sought authorization to purchase generation assets of its affiliate, AEG, based on the results of a request for proposal (RFP) process. In that RFP, certain competing bids were rejected based in part on transmission constraints within and outside the Ameren Companies' control area.¹⁹ Missouri Municipal submits that based on these facts, the Ameren Companies should be required to file all necessary data to permit an analysis of constraints into and within the Ameren Companies' control area such that a fact-based determination of the relevant geographic market can be made.

23. Missouri Municipal also asserts that the Midwest ISO TEMT does not protect the consumer in long-term markets, because the Midwest ISO's market power mitigation measures address only short-term markets. Missouri Municipal states that it expects that

¹⁹ Missouri Municipal argues that the Commission accepted the Ameren Companies' representations when it authorized disposition of the jurisdictional facilities associated with AmerenUE's proposed acquisition in *Ameren Energy Generating Co.*, 108 FERC ¶ 61,081 (2004).

the Ameren region is likely to be designated as a Broad Constrained Area (BCA). Based on these circumstances, Missouri Municipal concludes that Ameren has failed to demonstrate that it lacks or has mitigated its generation market power.

24. The *April 14 Order* stated that, when performing the generation market power screens, applicants located in ISO/RTOs with sufficient market structure and a single energy market may consider the geographic region under the control of the ISO/RTO as the default relevant geographic market for purposes of completing their analyses.²⁰ As the Commission noted in the *April 14 Order*, once the Midwest ISO becomes a single market and performs such functions as central commitment and dispatch with Commission-approved market monitoring and mitigation (currently scheduled for April 1, 2005), the Midwest ISO would be considered a single geographic market for purposes of our generation dominance screens.²¹ However, we stated that intervenors can present evidence on a case-by-case basis to show that some other geographic market should be considered as the relevant market in a particular case.²²

25. In the current case, in support of its argument for a smaller relevant geographic market, Missouri Municipal points to information submitted by Ameren in Docket No. EC03-53-000 regarding three specific transmission constraints considered in the evaluation of certain bids submitted in response to Ameren's request for proposals. However, we do not believe that Missouri Municipal's argument is sufficient to rebut the use of the Midwest ISO as the default geographic market definition for purposes of examining generation market power dominance. As the initial decision in Docket No. EC03-53-000 notes, Ameren's RFP took account of transmission constraints, creditworthiness, completion risk, and operational concerns associated with competing bidders and price factors when comparing competing bids. The relevant geographic market was not an issue in the EC03-53-000 proceeding and the Commission did not make any finding with regard to the relevant geographic market for the purposes of the generation market power screens.

26. Even assuming the existence of transmission constraints in the Ameren Companies' control area, the Commission has previously found that sufficient mitigation exists in the Midwest ISO. The Commission has accepted for filing the Midwest ISO's TEMT, which establishes market monitoring and mitigation measures for the Midwest

²⁰ April 14 Order, 107 FERC ¶ 61,018 at P 187.

²¹ *Id.* at P 188.

²² July 8 Order, 108 FERC ¶ 61,026 at P 177.

ISO.²³ In those orders, the Commission noted its obligation to assure that rates are just and reasonable in evaluating the Midwest ISO's proposal for market monitoring and mitigation.²⁴ The Commission specifically considered certain transmission constrained regions in the Midwest ISO. However, the Commission did not find that the Ameren region should be given a special designation as the result of transmission constraints.²⁵

27. With respect to Missouri Municipal's allegations that there is no mitigation in the Midwest ISO market for long-term products, as we explained in the April 14 Order, in contrast to other markets, markets with Commission-approved market monitoring and mitigation undertake daily and hourly oversight of seller's pricing behavior to ensure, consistent with clearly established Commission-approved rules, that prices do not exceed competitive levels.²⁶

28. The evaluation and mitigation of market power in markets with Commission-approved market monitoring and mitigation does not depend upon a snapshot test of the size or concentration of ownership of any seller. Such mitigation is typically implemented in real-time and in advance of any market price impact. All sellers' interactions with the market are required to comply with predetermined bidding restrictions and Commission-approved rules and mitigation protocols. High locational prices or binding transmission constraints can trigger the market monitor into further examining the market outcome.

29. In addition, in markets with Commission-approved market monitoring and mitigation, electricity products are often broken up into tradable components with distinct markets such as energy, installed capacity and various ancillary services (some of which have forward elements such as forward reserves). The creation of fungible tradable electricity products (*e.g.*, installed capacity and energy balancing) facilitates the development of a competitive market for each of the subcomponents.

²³ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (2004) (August 6 Order), *order on reh'g*, 109 FERC ¶ 61,157 (2004) (November 8 Order).

²⁴ November 8 Order at P 219.

²⁵ Missouri Municipal states that, given Ameren's representations and the findings made by the Commission in Docket No. EC03-53-000 regarding transmission constraints, the Ameren region is likely to be designated as a Broad Constrained Area (BCA). Missouri Municipal's argument is premature in this regard as to date the Midwest ISO has made no such declaration.

²⁶ April 14 Order, 107 FERC ¶ 61,018 at P 190-191.

Transmission Market Power

30. When a transmission-owning public utility seeks market-based rate authority, the Commission has required the public utility to have an open access transmission tariff (OATT) on file before granting such authorization. The Ameren Companies and Illinois Power state that each of their affiliates that owns transmission facilities has transferred functional control of its transmission facilities to the Midwest ISO, either directly as a transmission owner or through a contractual arrangement with GridAmerica.²⁷

31. In its protest of the December 2003 Filing, Missouri Municipal urges the Commission to condition the Ameren Companies' continued authorization to engage in market-based rate sales on their membership and participation in the Midwest ISO. We will deny this aspect of Missouri Municipal's protest as moot. The Ameren Companies state that their transmission assets are operated under the Midwest ISO TEMT. Based on the Ameren Companies' and Illinois Power's representations, the Commission finds that the Ameren Companies and Illinois Power satisfy the Commission's transmission market power standard for the grant of market-based rate authority.

Other Barriers to Entry

32. Illinois Power states that it does not own or control any interstate natural gas transmission pipelines. The Ameren Companies and Illinois Power further state that neither they nor any of their affiliates own or control any land or buildings, fuel supplies or suppliers, or fuel transportation facilities or suppliers, electrical equipment or suppliers, except for those intended for use in the development of their own projects. In addition, no intervenors have raised barrier to entry concerns. Based on the Ameren Companies' and Illinois Power's representations, the Commission is satisfied that the Ameren Companies and Illinois Power cannot erect barriers to entry. However, should the Ameren Companies, Illinois Power, or any of their affiliates deny, delay, or require unreasonable rates, terms, or conditions for natural gas service to a potential electric competitor, then the Commission may suspend the Ameren Companies' and Illinois Power's authority to sell electricity at market-based rates.²⁸

²⁷ See *Cent. Ill. Light Co.*, 86 FERC ¶ 62,233 (1999) (approving transfer of functional control), See also *Ameren Services Co.*, 100 FERC at 61,511, 61,515; *Alliance Cos.*, 100 FERC ¶ 61,137 at PP 13, 35 (2002).

²⁸ *Louisville Gas & Electric Company*, 62 FERC ¶ 61,016 (1993).

Affiliate Abuse

33. The Ameren Companies state that their relationship to their affiliates continues to be governed by the code of conduct incorporated in their market-based rate tariff. Illinois Power states that it will also be governed by a code of conduct. The Ameren Companies also state that under their tariffs, no sales of power will be made by or to an affiliate that serves a franchise service territory without first receiving approval from the Commission under FPA section 205. In addition, no intervenors have raised affiliate abuse concerns. Based on the Ameren Companies' and Illinois Power's representations, the Commission finds that the Ameren Companies and Illinois Power satisfy the Commission's concerns with regard to affiliate abuse.

Waivers, Authorizations and Reporting Requirements

34. Illinois Power requests authority to reassign transmission capacity, and resell FTRs. We find these provisions consistent with the Commission's requirements.²⁹ Accordingly, we grant these requests.

35. Illinois Power also requests the following waivers and authorizations: (i) waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except as to sections 35.12(a), 35.13(b), 35.15 and 35.16; (ii) waiver of Parts 41, 101 and 141 of the Commission's accounting and periodic reporting requirements; (iii) waiver of the full filing requirements of Parts 45 of the Commission's regulations, (requiring only an abbreviated filing identifying any interlocking directorates); and (iv) blanket authorization under section 204 of the FPA and Part 34 of the Commission's regulations for all future issuances of securities and assumptions liability.

36. The Commission will grant the requested waivers and authorizations consistent with those granted other entities with market-based rate authorizations.³⁰

²⁹ See *Southwestern Public Service Co.*, 80 FERC ¶ 61,245 (1997); *Calif. Indep. Sys. Operator, Inc.*, 89 FERC ¶ 61,153 (1999).

³⁰ It should be noted that the Commission is examining the issue of continued applicability of the waivers of its accounting and reporting requirements (18 C.F.R. Parts 41, 101 and 141) as well as continued applicability of the blanket authorization for the issuance of securities and the assumption of obligations and liabilities, (18 C.F.R. Part 34). See *Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities*, Order No. 627, 67 Fed. Reg. 67,691 (Nov. 6, 2002), FERC Stats. & Regs. ¶ 31,134 at P 23 and P 24 (2002).

Notwithstanding the waiver of the accounting and reporting requirements here, we expect Illinois Power to keep its accounting records in accordance with generally accepted accounting principles.

37. Consistent with the procedures the Commission adopted in Order No. 2001, an entity with market-based rates must file electronically with the Commission an Electric Quarterly Report containing: (i) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (ii) transaction information for effective short-term (less than one year) and long-term (one year or greater) market-based power sales during the most recent calendar quarter.³¹ Electric Quarterly Reports must be filed quarterly no later than 30 days after the end of the reporting quarter.³² Accordingly, Illinois Power must file its first Electric Quarterly Report no later than 30 days after the first quarter that its market-based rate tariff is in effect.³³

38. The Ameren Companies and Illinois Power must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.³⁴ Order No. 652 requires that the change in status reporting requirement be incorporated in the market-based rate tariff of each entity authorized to make sales at market-based rates. Accordingly, the Ameren Companies and Illinois Power are directed, within 30 days of the date of issuance of this order, to revise their market-based rate tariff to incorporate the following provision:

³¹ *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). Required data sets for contractual and transaction information are described in Attachments B and C of Order No. 2001. The Electric Quarterly Report must be submitted to the Commission using the EQR submission system software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

³² The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10(b) (2004).

³³ Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

³⁴ *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, 70 Fed. Reg. 8,253 (Feb. 18, 2005), FERC Stats. & Regs. ¶ 31,175 (2005).

[Market-based rate seller name] must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. A change in status includes, but is not limited to, each of the following: (i) ownership or control of generation or transmission facilities or inputs to electric power production other than fuel supplies, or (ii) affiliation with any entity not disclosed in the application for market-based rate authority that owns or controls generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area. Any change in status must be filed no later than 30 days after the change in status occurs.

39. The Ameren Companies and Illinois Power are directed to file an updated market power analysis within three years of the date of this order, and every three years thereafter. The Commission also reserves the right to require such an analysis at any intervening time.

The Commission orders:

(A) The Ameren Companies' updated market power analyses are hereby accepted for filing, as discussed in the body of this order.

(B) Illinois Power's proposed market-based rate tariff is accepted for filing effective on the date the Midwest ISO Energy Market begins operation, as discussed in the body of this order.

(C) The Ameren Companies' revised tariff sheets incorporating the market behavior rules are accepted for filing effective December 17, 2003.

(D) The Ameren Companies' and Illinois Power's next updated market power analyses are due within three years of the date of this order.

(E) The Ameren Companies and Illinois Power are directed, within 30 days of the date of issuance of this order, to revise their market-based rate tariffs to include the change in status reporting requirement adopted in Order No. 652.

(F) In Docket No. ER05-638-000, Illinois Power's proposal to allow Illinois Power to sell energy and capacity at market-based rates is hereby accepted for filing.

(G) Illinois Power's request for waiver of Parts 41, 101 and 141 of the Commission's regulations is hereby granted, with the exception of 18 C.F.R. §§141.14, 141.15 (2004) (providing for the filing both of the Form No. 80 and of the Annual Conveyance Report).

(H) Within 30 days of the date of the issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Illinois Power should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214 (2004).

(I) Absent a request to be heard within the period set forth above, Illinois Power is hereby authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Illinois Power, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(J) Until further order of this Commission, the requirements of Part 45 of the Commission's regulations, except as noted below, are hereby waived with respect to any person now holding or who may hold an otherwise proscribed interlocking directorate involving Illinois Power. Any such person shall instead file a sworn application providing the following information: (1) his or her full name and business address; and (2) all jurisdictional interlocks, identifying the affected companies and the positions held by that person.

(K) The Commission reserves the right to modify this order to require a further showing that neither the public nor private interests will be adversely affected by continued Commission approval of Illinois Power's issuances of securities or assumptions of liabilities, or by the continued holding of any affected interlocks.

(L) Illinois Power's request for waiver of the provisions of Subparts B and C of Part 35 of the Commission's regulations, with the exception of sections 35.12(a), 35.13(b), 35.15, and 35.16, is hereby granted.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.