

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Midwest Independent Transmission System  
Operator, Inc.

Docket Nos. ER06-1487-000  
ER06-1487-001

ORDER CONDITIONALLY ACCEPTING SMALL GENERATOR  
INTERCONNECTION AGREEMENT AND REJECTING CERTAIN REQUESTED  
NON-CONFORMING PROVISIONS

(Issued November 14, 2006)

**I. Introduction**

1. Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed an unexecuted Small Generator Interconnection Agreement (SGIA) among Ewington Energy Systems LLC (Ewington) as interconnection customer, itself as transmission provider, and Great River Energy (Great River) as transmission owner. Midwest ISO requests certain non-conforming provisions, which are incorporated into the proposed SGIA, including some of the pending proposed variations from the *pro forma* Small Generator Interconnection Procedures (SGIP) and Small Generator Interconnection Agreement (SGIA)<sup>1</sup> that Midwest ISO filed in Docket No. ER06-192-000. Ewington

---

<sup>1</sup> The Commission adopted the *pro forma* SGIA and SGIP in Order No. 2006. *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 70 Fed. Reg. 34,190 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 (2005), *order on reh'g*, Order No. 2006-A, 70 Fed. Reg. 71,760 (November 30, 2005), FERC Stats. & Regs. ¶ 31,196 (2005), *order on reh'g*, Order No. 2006-B, 116 FERC ¶ 61,046 (2006), *appeal pending*, *Consolidated Edison Co. of New York, Inc., et al. v. FERC*, Nos. 06-1018, 06-1031, 06-1032, 06-1036 (D.C. Cir.).

requests additional non-conforming deviations which have not been incorporated into the proposed SGIA.

2. In this order, we accept the proposed unexecuted SGIA subject to: (1) the outcome of Midwest ISO's Order No. 2006 compliance filing pending before the Commission in Docket No. ER06-192-000, as amended,<sup>2</sup> (2) the outcome of the proceeding in Docket No. ER06-18-000,<sup>3</sup> and (3) a compliance filing pending before the Commission in Docket No. ER06-1315-001.<sup>4</sup> As discussed below, we will conditionally accept the requested non-conforming provisions relating to the ownership characteristics of this small generator, crediting for Network Upgrades, conditional Energy Resource Interconnection Service (ERIS) and the nature of a three-party agreement.

## **II. Background**

3. Order No. 2006 requires all public utilities to adopt standard rules for interconnecting new sources of electricity no larger than 20 megawatts (small generators).<sup>5</sup> Order No. 2006 standardized the terms and conditions for small generator interconnection service, just as Order No. 2003 standardized the terms and conditions for large generator interconnection service. The Commission's *pro forma* SGIP and SGIA are designed to reduce interconnection time and costs for interconnection customers and transmission providers, preserve reliability, increase energy supply, lower wholesale prices for customers by increasing the number and types of new generation that will

---

<sup>2</sup> The SGIA is based on the *pro forma* Small Generator Interconnection Agreement contained in Attachment R of Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT), currently pending in Docket No. ER06-192-000.

<sup>3</sup> See *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106 (2006) (February 3 Order), *reh'g pending*. This proceeding involves the question of cost sharing between interconnection customers and transmission owners of Network Upgrades that are identified through an interconnection request.

<sup>4</sup> See *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,306 (2006). This proceeding involves the provision of conditional Energy Resource Interconnection Service by the Midwest ISO.

<sup>5</sup> For purposes of this order, public utilities are entities that own, control, or operate facilities used for transmitting electric energy in interstate commerce, as defined by the Federal Power Act (FPA), 16 U.S.C. § 824(e) (2000).

compete in the wholesale electricity market, facilitate development of non-polluting alternative energy sources, and mitigate undue discrimination.<sup>6</sup>

4. As required by Order No. 2006, on November 10, 2005, Midwest ISO filed proposed SGIP and a proposed *pro forma* SGIA to be included in Attachment R of Midwest ISO's TEMT. On November 22, 2005, the Commission issued Order No. 2006-A further revising the Commission's *pro forma* SGIP and SGIA. Midwest ISO submitted a letter to the Commission on December 30, 2005, stating that it would address any further revisions consistent with the Commission's determination in its pending Order No. 2006 compliance filing. On July 20, 2006, the Commission issued Order No. 2006-B further revising its *pro forma* SGIP and SGIA. In that order, the Commission directed independent transmission providers to amend their pending filing in cases where the Commission has not yet acted on its Order No. 2006 or Order No. 2006-A compliance filings. Midwest ISO filed an amendment to its Order No. 2006 compliance filing on October 25, 2006, in Docket No. ER06-192-001.

### **III. The Filing**

5. On September 13, 2006, as amended September 15, 2006, under section 205 of the FPA,<sup>7</sup> Midwest ISO filed an SGIA for the interconnection of several wind turbines owned by several different entities as a single, new 19.95 MW generating facility in Jackson County, Minnesota. Midwest ISO states that the proposed SGIA generally tracks the *pro forma* SGIA, with some non-conforming provisions, discussed below. The categories of non-conforming provisions included in the filed SGIA are: (1) provisions necessary to reflect the ownership structure of the small generating facility; and (2) provisions that Midwest ISO has proposed or intends to propose in future filings. Midwest ISO describes, but does not include, requested modifications by the Interconnection Customer related to insurance.

6. Midwest ISO requests waiver of the 60-day prior notice period to permit an effective date of September 14, 2006.

### **IV. Notice and Responsive Filings**

7. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 56,516 (2006), with interventions and protests due on or before October 4, 2006. Timely motions to intervene were filed by Ewington and Great River.

---

<sup>6</sup> Order No. 2006 at P 1.

<sup>7</sup> 16 U.S.C. § 824d (2000).

8. Included in its motion to intervene, Ewington requests waiver of the Commission's 60-day prior notice requirement.

## **V. Discussion**

### **A. Procedural Matters**

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

### **B. Analysis of Non-Conforming Provisions**<sup>8</sup>

#### **1. Revisions to Reflect the Ownership Structure**

10. Midwest ISO states that the proposed SGIA includes non-conforming provisions necessary to reflect the unique ownership structure of the small generating facility. According to Midwest ISO, five limited liability companies each own two wind turbines and related equipment, instead of the interconnection customer owning all ten wind turbines and related equipment. Certain revisions would delineate the relationship between the interconnection customer and the owner of each wind turbine.<sup>9</sup> Other revisions would require the interconnection customer to ensure that the small generating facility is operated in accordance with the provisions of the interconnection agreement.<sup>10</sup> Finally, Midwest ISO proposes to revise the Glossary of Terms to provide uniform use of

---

<sup>8</sup> In its transmittal letter, Midwest ISO presents several arguments that Ewington made in favor of revised insurance provisions that were rejected by Midwest ISO. Because Ewington failed to raise these arguments in a pleading or protest as required by the Commission's Rules, 18 C.F.R. §§ 385.203, .211 (2006), we consider these issues to be uncontested, and we do not address them here.

<sup>9</sup> Revisions to articles 1.2, 1.3, 1.8.2, 2.1.1 and 3.4.5 distinguish the Interconnection Customer from the Small Generating Facility.

<sup>10</sup> Revisions to articles 1.5.2, 1.5.4, 1.6, 1.8.1 and 2.2.2 have been revised to require the Interconnection Customer to "cause" the action provided in these provisions because the Interconnection Customer does not own or operate the wind turbines. For example, in article 1.5.2, Midwest ISO proposes to add the following underlined language: "The Interconnection Customer shall cause the Generating Companies to construct, interconnect, operate and maintain its Small Generating Facility . . . ."

terms throughout the interconnection agreement and clarify specific obligations of the interconnection customer. For example, the definition of “Small Generating Facility” would include the production facilities (without ascribing ownership of the generation facilities to the interconnection customer).

11. The Commission has previously permitted similar deviations as a result of ownership structure, including provisions that establish the relationship between the interconnection customer and the wind generation facilities, as well as the requirement that the interconnection customer “cause” the action to be undertaken.<sup>11</sup> We will accept Midwest ISO’s proposed deviations subject to the outcome of Midwest ISO’s Order No. 2006 compliance filing in Docket No. ER06-192-000, as amended.

## **2. Revisions Proposed in Other Filings**

12. The following proposed non-conforming provisions reflect some of the revisions to the *pro forma* SGIP and SGIA that Midwest ISO has already proposed or intends to propose in future filings.

### **a. Crediting Provisions for Network Upgrades**

13. Midwest ISO proposes here to incorporate by reference the new cost allocation for Network Upgrades approved in the February 3 Order.<sup>12</sup>

14. On August 28, 2006, in Docket No. ER06-1418-000, Midwest ISO filed proposed revisions to the Attachment R *pro forma* SGIA to conform to the tariff revisions conditionally accepted for Attachment X (Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA)) of the TEMT in the February 3 Order. The proposed revisions primarily provide reference to Attachment FF (Transmission Expansion Planning Protocol) in Article 5.2.1 (Repayment of Amounts Advanced for Network Upgrades). Midwest ISO proposes to incorporate the same provisions here. In a Commission Letter Order issued October 26, 2006, in Docket No. ER06-1418-000, the Commission accepted the proposed revisions to Attachment R, subject to the outcome of Docket Nos. ER06-18-000 and ER06-192-000.<sup>13</sup> Therefore,

---

<sup>11</sup> See *Midwest Independent Transmission System Operator Corp.*, 112 FERC ¶ 61,270 (2005).

<sup>12</sup> *Supra* n. 3.

<sup>13</sup> *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,115 (2006).

we conditionally accept the same provisions here subject to the outcome of Docket Nos. ER06-18-000 and ER06-192-000.

**b. Conditional Energy Resource Interconnection Service**

15. Ewington requested Energy Resource Interconnection Service (ERIS) on a conditional basis, because of its interconnection project's queue position relative to other queued interconnection projects under LGIP review.

16. On July 31, 2006, in Docket No. ER06-1315-000, Midwest ISO proposed to revise the Attachment X *pro forma* LGIP and LGIA to offer ERIS and Network Resource Interconnection Service (NRIS) on a conditional basis to all interconnection customers. In that filing, Midwest ISO explained that the concept of conditional ERIS and NRIS extends a lower form of interconnection service to all interconnection customers so that they can maximize the use of the transmission system and ensure that only necessary network upgrades are constructed. Further, Midwest ISO argued, conditional ERIS and NRIS permit interconnection customers to use all available energy/network resource capacity until a higher queued project (*i.e.*, earlier queued interconnection request) goes into service and uses the available capacity. The Commission subsequently conditionally accepted these provisions, subject to Midwest ISO submitting a compliance filing clarifying certain matters regarding conditional ERIS service, and which is pending before the Commission in Docket No. ER06-1315-001.<sup>14</sup>

17. On September 8, 2006, in Docket No. ER06-1483-000, Midwest ISO submitted proposed revisions to the *pro forma* SGIP in Attachment R of the TEMT. The proposed revisions allow interconnection customers with small generating facilities to employ ERIS until a higher queued project goes into service.<sup>15</sup> The Commission subsequently accepted these proposed revisions, subject to the outcome of the proceeding in Docket No. ER06-1315-001.<sup>16</sup>

---

<sup>14</sup> *Supra* n.4.

<sup>15</sup> Midwest ISO notes that the revisions to the *pro forma* SGIA do not include conditional NRIS because both small and large generator interconnection requests for NRIS are processed through the Attachment X *pro forma* LGIP and governed by the *pro forma* LGIA. Transmittal Letter at p. 6.

<sup>16</sup> Midwest Independent Transmission System Operator, Inc., Docket No. ER06-1483-000 (Nov. 2, 2006) (unpublished Commission letter order).

18. In the present filing, Midwest ISO proposes to provide conditional ERIS as described in Attachment 5 of the SGIA. Proposed Attachment 5 states that the proposed interconnection project (designated the G536 project) is located near the Buffalo Ridge region located in Minnesota, a known constrained area. Certain network upgrades are required, but will not be needed until a combination of higher queued interconnection projects are placed into commercial operation, *i.e.*, at least five years from now. Since the G536 project has an estimated in-service in December 2006, the interconnection customer has opted for conditional ERIS.

19. Consistent with precedent on the Midwest ISO's conditional ERIS proposal, the Commission will accept the conditional ERIS provisions in the instant agreement, subject to the outcome of the proceeding in Docket No. ER06-1315-001.

**c. Revisions Reflecting Nature of a Three-Party Agreement**

20. The proposed SGIA includes non-conforming provisions to reflect the nature of a three-party agreement among the interconnection customer, Midwest ISO, and the transmission owner. The revisions clarify that more than two parties are involved in an agreement, *e.g.*, deleting "party" and replacing the term with "parties." Midwest ISO requests that the Commission accept these non-conforming provisions on the condition that its *pro forma* SGIA will be revised to reflect the three-party arrangement, since not all revisions necessary to reflect the nature of a three-party agreement were incorporated in the Attachment R *pro forma* SGIA.

21. These proposed SGIA provisions are consistent with the deviations from the Commission's *pro forma* SGIA reflected in Midwest ISO's Order No. 2006 compliance filing. Therefore, we accept the provisions, subject to the outcome of Docket No. ER06-192-000. In addition, if Midwest ISO's Order No. 2006-B compliance filing does not incorporate these changes into the *pro forma* SGIA, then our acceptance of the instant filing is also conditioned on Midwest ISO filing revisions to its *pro forma* SGIA that include these non-conforming provisions.

**VI. Underlying Order No. 2006 Compliance Filing**

22. As noted previously, our acceptance of the proposed SGIA is based on the outcome of other proceedings. Insofar as the proposed Interconnection Agreement reflects revisions to Midwest ISO's *pro forma* LGIA that are subject to rehearing in Docket No. ER06-18, subject to compliance in Docket No. ER06-1315, and pending before the Commission in ER06-192, we direct Midwest ISO to file, within 30 days of the date of an order either approving or directing further revisions to the Attachment R *pro forma* SGIA in these proceedings, any necessary revisions to this proposed Small

Generator Interconnection Agreement to conform to the revisions required by those orders.

23. We find that good cause exists to grant Midwest ISO's request for waiver of the 60-day prior notice requirement<sup>17</sup> to permit an effective date of September 14, 2006.

The Commission orders:

(A) Midwest ISO's proposed SGIA is hereby conditionally accepted for filing, as discussed above, effective September 14, 2006, subject to the outcome of the proceedings in Docket Nos. ER06-18-000, ER06-192-000, ER06-192-001, and ER06-1315-001.

(B) Midwest ISO is hereby directed to make further compliance filings, as necessary, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

---

<sup>17</sup> 18 C.F.R. § 35.3 (2006), *Central Hudson Gas & Electric Corp.*, 61 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).