

Independent Transmission System Operator, Inc. (Midwest ISO), which began operating in early 2002, and PJM Interconnection, L.L.C. (PJM).⁵ Moreover, while we have found that ITCs would be instrumental in achieving the goals of Order No. 2000, only one ITC—Michigan Electric Transmission Company, LLC (Michigan Transco)—is currently operating.

1. Innovative Rates for Independence

6. To date we have approved incentive rates for RTO participation and additional levels of independence on a case-by-case basis. In *International Transmission Company*,⁶ we conditionally approved a transmission rate moratorium based on the transmission component of bundled retail rates, and recovery of an amount necessary to hold the seller harmless from the income tax consequences of the divestiture of transmission assets, subject to the company becoming a fully independent transmission company (with no active or passive ownership by market participants) and fully participating in a Commission-approved RTO by a date certain.⁷ We stated:

We are cognizant of the risks [International Transmission Company] has assumed under this proposal and believe that its willingness to bear the financial risks of failing to meet the conditions [of Commission approval] is an example of the different approach to the transmission business that we can expect from a stand-alone transmission company. We also believe that accelerated development of independent stand-alone transmission businesses will lead to an accelerated transition to competitive, regional bulk power markets and is in the best interest of consumers.⁸

7. In *Trans-Elect, Inc., et al.*,⁹ a newly formed ITC, we conditionally approved a rate moratorium based on the transmission component of bundled retail rates, effective upon the transfer of operational control of transmission facilities to an approved RTO.¹⁰ Further,

⁵ See PJM Interconnection, L.L.C., 101 FERC ¶ 61,345 (2002).

⁶ 92 FERC ¶ 61,276 (2000), *reh'g pending* (*International Transmission*).

⁷ The rates were approved to become effective prior to the date certain, but were subject to refund if RTO participation and independent ownership were not both achieved by that date.

⁸ 92 FERC at 61,917.

⁹ 98 FERC ¶ 61,142, *order on reh'g*, 98 FERC ¶ 61,368 (2002) (*Trans-Elect*).

¹⁰ The transaction involved a transfer of Michigan Electric Transmission Company, LLC (Michigan Transco) from Consumers Energy Company to Michigan Transco Holdings, LP, an entity with no active or passive ownership interests in market participants. These facilities would be managed by Trans-Elect Michigan, LLC, managing member of Michigan Transco Holdings, LP and a subsidiary of Trans-Elect, Inc. (Trans-Elect), an independent, for-profit transmission company.

we approved rate recovery of an amount equal to the value of deferred taxes on the seller's books at the time of the sale associated with the difference between tax and book basis of transmission plant, with cost recovery over twenty years beginning January 1, 2006, as long as Michigan Transco joins and remains in a Commission-approved RTO.

8. In *Midwest Independent Transmission System Operator, Inc.*,¹¹ we permitted an upward adjustment of 50 basis points to the proxy group's ROE midpoint for use by all participating transmission owning utilities, and left open the possibility of additional upward adjustments, based on the Midwest ISO's level of operational independence:

There are, however, policy reasons to make upward adjustments—particularly with regard to the level of operational independence that the Midwest ISO provides. In this case, we will make an upward adjustment of 50 basis points from the proxy group midpoint for the turning over of operational control of transmission facilities. We will consider providing additional upward adjustments for greater levels of independence.¹²

2. Merchant Transmission

9. We have conditionally approved rates, terms and conditions for service over merchant transmission facilities. The basic features of the rate treatments allowed for merchant transmission facilities include negotiated rates with the project sponsor assuming all market risk associated with the project and all capacity initially allocated through a fair, non-discriminatory and transparent open season process. Additionally, we required that operational control of the facilities be turned over to an RTO adjacent to or containing the geographic area of the proposed facility and that service be provided under the OATT of the RTO.

10. For example, we conditionally approved the rates, terms and conditions proposed by TransEnergie U.S. Ltd. (TransEnergie) for service over three proposed merchant transmission projects.¹³ The first project, the Cross-Sound Cable (CSC) Interconnector, uses an undersea high-voltage direct current (HVDC) cable system to connect the New England Power Pool (NEPOOL)

¹¹ 100 FERC ¶ 61,292 (2002), *reh'g pending* (*Midwest ISO*).

¹² 100 FERC at P 31.

¹³ TransEnergie U.S., Ltd., 91 FERC ¶ 61,230, *orders on compliance filing*, 91 FERC ¶ 61,347 and 93 FERC ¶ 61,289 (2000). Additionally, the CSC project facilities were integrated into the NEPOOL regional transmission system operated and administered by ISO New England, Inc., through amendments to the NEPOOL Tariff and Restated NEPOOL Agreement. New England Power Pool, 99 FERC ¶ 61,338 and 100 FERC ¶ 61,259 (2002).

regional transmission system in Connecticut to the New York Independent Transmission System Operator (NYISO) transmission system on Long Island. We also authorized TransEnergie to provide service over a merchant transmission facility, the Harbor Cable interconnector project, an underground and undersea HVDC transmission cable system that would connect the PJM and NYISO transmission systems.¹⁴ Finally, we authorized TransEnergie's proposal with Hydro One Delivery Services, Inc., to provide transmission service over the Lake Erie Link, which is planned as an underwater HVDC transmission system connecting the Ontario Independent Electricity Market Operator to either PJM or the Midwest ISO.¹⁵

11. Similarly, we conditionally approved the rates, terms and conditions proposed by Neptune Regional Transmission System, LLC, (Neptune) for service over its planned merchant transmission facilities.¹⁶ Neptune proposed to build in four stages several thousand miles of undersea high-voltage direct current transmission lines and associated facilities to connect Maine, New Brunswick and Nova Scotia with capacity-constrained markets in Boston, New York City, Long Island, and Connecticut.

12. We also conditionally authorized a proposal by Northeast Utilities Service Company (NUSCO) to construct a merchant transmission project consisting of a 330 MW direct current cable under Long Island Sound, Connecticut-Long Island Cable.¹⁷

3. Western Orders

13. We issued a series of orders (Western Orders) to remove obstacles to increased energy supply in the West in response to the severe electric energy crisis facing California and the Western United States during 2000–2001.¹⁸ The Western Orders waived prior notice requirements and granted authorization of market-based rates for wholesale

¹⁴ TransEnergie U.S., Ltd., 98 FERC ¶ 61,144 (2002).

¹⁵ TransEnergie U.S., Ltd., 98 FERC ¶ 61,147 (2002).

¹⁶ Neptune Regional Transmission System, LLC, 96 FERC ¶ 61,147, *order on reh'g*, 96 FERC ¶ 61,326 (2001), *order on motion for clarification*, 98 FERC ¶ 61,140 (2002).

¹⁷ Northeast Utilities Service Company, 98 FERC ¶ 61,310 (2002).

¹⁸ See Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States, 94 FERC ¶ 61,277, *further order on removing obstacles to increased energy supply and reduced demand in the Western United States and dismissing petition for rehearing*, 95 FERC ¶ 61,225, *order on reh'g*, 96 FERC ¶ 61,155, *order on reh'g*, 97 FERC ¶ 61,024 (2001).