

pancaking across the proposed seam, effects that would be eliminated had certain of the former Alliance Companies joined Midwest ISO instead of PJM.<sup>46</sup>

34. These facts thus indicate that the proposed RTO configuration would: (1) Preserve an elongated and irregular seam that divides a highly interconnected portion of the grid and a natural market; (2) leave portions of Midwest ISO barely contiguous with the rest of the region; and (3) subject a significant number of transactions in the region to continued rate pancaking. In addition, as we noted in the July 31 Order, decisions as to which RTO to join may be affected by inter-RTO rate pancaking. That is, transmission owners may be driven by the interests of their merchant function, rather than motivated by a desire to achieve the most rational and efficient RTO configuration, resulting in inappropriate RTO configuration that places the transmission owner's merchant function at a competitive advantage relative to other similarly situated market participants. Indeed, in this proceeding, one transmission owner stated that Midwest ISO's through and out rate was a factor in its decision to join PJM,<sup>47</sup> and both Midwest ISO and PJM agreed that this is an issue.<sup>48</sup>

35. In sum, the choices of the former Alliance Companies as to which RTOs they join: (1) Exacerbate rate pancaking across the proposed seam for transactions sinking within the RTOs, thereby obstructing more efficient and competitive electricity markets in the region; (2) violate the fundamental requirement of Order No. 2000 that RTOs eliminate rate pancaking over a region of appropriate scope and configuration; and (3) result in unjust, unreasonable, unduly discriminatory or preferential RTO rates.<sup>49</sup> Indeed, given Order No. 2000's requirement that RTOs eliminate rate pancaking over a region of appropriate scope and configuration, rate pancaking across the proposed seam is incorrectly characterized as

*inter-RTO rate pancaking*; rather, it constitutes intra-RTO rate pancaking which is unequivocally prohibited under Order No. 2000. The solution is to eliminate the RTORs, *i.e.*, eliminate the through and out rates that constitute the rate pancaking, and in a very real sense constitute the seam.

36. We disagree with the New PJM Companies and PECO that eliminating the RTORs is inconsistent with the Commission's recently-issued White Paper. As an initial matter, we note that parties to this proceeding are in agreement that the RTORs must be eliminated when the common market becomes operational, in order to realize the goal of truly efficient and competitive electricity markets in the region. (As discussed above, it is due to the proposed RTO configuration that the Commission finds that Midwest ISO and PJM RTORs are unjust and unreasonable and directs Midwest ISO and PJM to eliminate these charges.) Furthermore, we note that, while the White Paper contemplates use of an export fee in situations where there is an imbalance between imports to and exports from a region, the White Paper reaffirms the RTO scope and configuration requirements of Order No. 2000.<sup>50</sup> Indeed, the replacement of RTORs with inter-regional allocation of transmission revenue requirements is consistent with the transmission pricing concepts advanced in the SMD NOPR and the White Paper.<sup>51</sup>

37. We also disagree with arguments that rate pancaking across the proposed seam provides beneficial price signals by incorporating an element of distance into transmission rates.<sup>52</sup> As we explain above, rate pancaking across the proposed seam obstructs more efficient and competitive electricity markets and thus violates Order No. 2000's goal and requirement that RTOs eliminate rate pancaking within regions of appropriate scope and configuration. Moreover, in Order No. 2000, the Commission rejected similar arguments that the Commission allow rate pancaking within RTOs in order to reflect distance in rates. In doing so, the Commission essentially rejected rate pancaking based on corporate boundaries as a supportable distance-based rate methodology.<sup>53</sup> Rate pancaking across the proposed seam suffers from the same flaw.<sup>54</sup> Because the RTORs are

based on embedded transmission costs, they can have a distorting effect on economic choices.<sup>55</sup> Thus, we disagree that the RTORs provide beneficial price signals. In this regard, we affirm the Presiding Judge's finding that the configuration of the seam argues against relying on rate pancaking across the seam to incorporate an element of distance in rates.<sup>56</sup>

38. With respect to the concerns expressed by JCA and the Classic PJM Companies that eliminating the RTORs may result in hoarding of capacity, we agree with Cinergy that there are other, better means to discourage hoarding of transmission capacity than to perpetuate unjust and unreasonable rates. We will direct the market monitors of PJM and Midwest ISO to assess the potential for, and to look for signs of, hoarding of transmission capacity. Should they detect any, they should notify us and their respective RTOs immediately, and the RTOs should promptly file a proposal to rectify the matter.

39. Accordingly, the Commission finds that the PJM and Midwest ISO RTORs, when applied to transactions sinking within the proposed Midwest ISO/PJM footprint, are unjust and unreasonable and must be eliminated. As discussed below, we will eliminate them effective November 1, 2003,<sup>57</sup> in order to provide sufficient time for the parties to prepare the appropriate filings and the Commission to review those filings.<sup>58</sup>

pancaking across it does not accurately incorporate distance into rates. *See* Tr. at 212–14 (indicating that a hypothetical transaction sourcing in Richmond, Virginia and sinking in Chicago, Illinois would not be subject to pancaked rates, while a transaction sourcing in Gary, Indiana and sinking in Chicago would be subject to pancaked rates).

<sup>55</sup> *See* Exhibit No. CAS–1 at 9.

<sup>56</sup> Initial Decision at P 63.

<sup>57</sup> We disagree with the Classic PJM Companies that the Commission should not eliminate the RTORs before the common market is operational. As discussed above, the RTORs violate Order No. 2000 and are unjust and unreasonable. This is true regardless of whether the common market has become operational. While we expect the most benefits in terms of more efficient and competitive markets once the common market is operational, the elimination of the RTORs during the transition to a common market will accelerate the realization of those benefits.

<sup>58</sup> Further, we note that ComEd plans to be fully integrated into PJM on November 1, 2003. *See* Press Release, PJM Interconnection, Market Implementation Date for Northern Illinois Region Confirmed for November 1 (July 11, 2003), available at <http://www.pjm.com/contributions/news-releases>. On July 11, 2003, in a status report filed in Docket No. ER02–22–002, *et al.*, GridAmerica indicated that it is on schedule to become operational under the Midwest ISO as of October 1, 2003.

If GridAmerica and ComEd meet these targets, the individual-company tariffs of the individual GridAmerica Participants and ComEd will be superseded by the applicable RTO tariff, and rate

<sup>46</sup> *See, e.g.*, Exhibit No. CAS–1 at 13–18.

<sup>47</sup> June 26, 2002 Commission Meeting, Tr. at 321.

<sup>48</sup> July 17, 2002 Commission Meeting, Tr. at 176–77.

<sup>49</sup> We note that only four parties in this proceeding object to the elimination of the through and out rates (New PJM Companies and PECO, JCA, Classic PJM Companies, and the Maryland and Pennsylvania Commissions). However, even certain of these parties recognize inefficiencies related to the through and out rates and benefits of eliminating them. *See* Tr. at 185 (where a witness for the New PJM Companies recognizes that elimination of rate pancaking would represent an improvement); Exhibit No. Certain Classic PJM TOs–1 at 24 (recognizing that through and out rates are inefficient and should be eliminated when a common market is implemented).

<sup>50</sup> *See* White Paper, Appendix A at 3.

<sup>51</sup> *Id.* at 6; SMD NOPR at P 183–89.

<sup>52</sup> JCA Brief on Exceptions at 13.

<sup>53</sup> *See* Order No. 2000 at 31,174–75. However, the Commission clarified that it would be receptive to distance-sensitive rates that can be justified.

<sup>54</sup> Indeed, the record indicates that, due to the irregular contour of the proposed seam, rate