

The Partnership is proposing the construction of a high voltage transmission network in the Upper Midwest that will provide economic and environmental benefits. The proposed Project and the evidence of its benefits, as presented by the Partnership, are much more than theory or concept. This is a specific proposal that the Partnership stands ready to implement.

In their comments, numerous parties attempt to raise concerns that the Partnership's application is premature, and that the Partnership seeks to sidestep regional planning processes. The Partnership's application, however, is focused on obtaining regulatory asset treatment and other rate approvals that are essential in supporting the further development of this important Project. It is appropriate and necessary to address and grant these requested approvals at this time. Moreover, as opposed to "side-stepping" planning processes, the Partnership in fact has submitted the Project to the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") to be part of its project review and planning processes, in coordination with other regional planning efforts.

The request for regulatory asset treatment is consistent with prior Commission determinations. The Commission has granted such approvals to facilitate needed transmission infrastructure. The Commission has accepted similar applications even before the projects were formally approved in a regional plan.² Whether in accordance with Order No. 679 or under the Commission's general authority to regulate the transmission of electric energy in interstate commerce by public utilities, the Green Power Express should be permitted to move forward. As explained in the filing and further in this answer, the Commission's acceptance of the Partnership's filing will not constitute authorization for the Partnership to commit billions of dollars in development and construction costs. Acceptance

² See, e.g., *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248 (2008) ("*Tallgrass*").

of the requested rate treatments will allow the Partnership to participate prudently in the required regional planning study, project design work, and initial siting efforts necessary to move the Green Power Express from concept to implementation. Moreover, the Commission has very recently confirmed that “cost allocation is not a prerequisite” for eligibility for a transmission rate incentive.³

Several intervenors have accused the Partnership of seeking to avoid regional planning, consistent with the principles outlined by the Commission in Order No. 890. That is simply not true. The Partnership has recognized the need for a rigorous – but fair – examination by a regional planning process consistent with Order No. 890. In fact, as the Midwest ISO said in its answer:

It appears from the comments filed in this proceeding that the GPE project is being planned outside of the normal RTO planning processes. The Midwest ISO does not believe that to be the case with respect to the Midwest ISO planning process. The GPE project has been introduced by the Company into the Midwest ISO planning process and is currently being evaluated.⁴

The Midwest ISO further stated, in a plain-spoken and straight-forward manner, that the Project will be treated inside its planning process, and that the Project will be considered as part of its Regional Generation Outlet Study to be concluded in 2009. The Partnership appreciates the Midwest ISO’s efforts to lead a project review and planning process, on a timely basis and in appropriate coordination with other regional planning efforts, that incorporate the Project.

³ *ITC Great Plains, LLC*, 126 FERC ¶ 61,223 at P 24 (Mar. 16, 2009) (“*ITC Great Plains*”) (finding a project with some unresolved development issues generally not premature for Order No. 679 incentives and regulatory asset treatment request specifically not considered premature).

⁴ Docket No. ER09-691-000, “Motion For Leave To Answer and Limited Answer of the Midwest Independent Transmission System Operator, Inc.,” at 3, Mar. 13, 2009 (“MISO Answer”).

As explained in its Application, the Partnership has concerns that there exist significant challenges with current regional planning processes when it comes to recognizing all of the attributes of a project as diverse and multi-regional as the Green Power Express. This concern is no criticism of the regional transmission organization (“RTO”) or its staff, but instead a recognition that projects such as the Green Power Express must be examined under criteria suitable for a different set of national priorities. Accordingly, ITC Holdings Corp.’s (“ITC”) President Joseph L. Welch has testified before the Commission and Congress as to the skill and expertise of the Midwest ISO planning staff.⁵ The need for new direction on planning criteria has even been candidly acknowledged by RTO senior executives. For example, Michael Kormos, Senior VP Operations for PJM Interconnection L.L.C. (“PJM”), has stated the RTOs “need to know what to study” and “RTOs, such as PJM can perform the analysis and screen projects so long as the assumptions and criteria are clearly identified.”⁶ The Partnership fully believes that transmission planning requirements must be used that recognize the need for large backbone transmission facilities, and that those requirements should be harmonized with, rather than supplant, planning efforts already taking place.

In summary, the problem the Partnership faces is as follows: (1) substantial development of wind resources will not take place until transmission is in place; (2) transmission will not be built unless it is approved in an Order No. 890-compliant

⁵ Docket No. AD09-4-000, *Comments of Joseph L. Welch*, Technical Conference on Integrating Renewable Resources into the Wholesale Electric Grid, Mar. 2, 2009; *Testimony of Joseph L. Welch*, U.S. Senate Committee on Energy and Natural Resources, Mar. 12, 2009.

⁶ Docket No. AD09-4-000, *Statement of Michael J. Kormos to Support Oral Testimony*, Technical Conference on Integrating Renewable Resources into the Wholesale Electric Grid, at 3, Mar. 2, 2009. Mr. Kormos also testified, “*enhancements are needed to the current Commission-approved regional and inter-regional transmission planning protocols and cost allocation methodologies if the Commission’s goal is aggressive integration of new renewable resources.*” *Id.* at 5 (emphasis added).

regional plan coupled with an appropriate cost recovery mechanism; (3) it does not seem that RTOs can approve large, forward-looking backbone projects, and they cannot approve a corresponding cost allocation mechanism, in a regional plan unless accurate metrics that capture all benefits and beneficiaries, including support of public policy initiatives, are applied; (4) entities cannot finance a project, without reasonable hope of cost recovery; and (5) regulatory asset treatment is the critical first step in financing a project in today's changing regulatory climate.

The Partnership has brought forth a dynamic project that is consistent with national objectives. The filing was supported by a cost benefit analysis performed by CRA International ("CRA") demonstrating substantial economic and environmental benefits when realistic criteria relating to renewable portfolio standards and carbon-based legislation are applied. The capital structure and proposed rate of return are those previously-approved for ITC-affiliates and granting those incentives has resulted in the building of transmission. Accordingly, the Partnership respectfully asks that the Commission accept for filing its initial application for the Green Power Express.

The remainder of this Answer is organized as follows. In Part II, the Partnership reviews the background of this proceeding to date. In Part III, the Partnership requests leave to file this answer. Part IV contains the answer. Section IV.A explains why it is necessary for the Partnership to seek, and for the Commission to approve, consistent with its precedent, the requested regulatory asset treatment at this time. In Section IV.B, the Partnership reiterates its position that the project must be reviewed and approved by a Commission-approved regional planning process consistent with Order No. 890 before any significant expenditure can be made and steel placed in the ground, and its concern that various existing

planning efforts do not accommodate larger backbone projects. In Section IV.C, the Partnership explains that acknowledged limitations with the current regional planning processes should not prevent approval of the requested regulatory asset, accounting and rate treatments. In Section IV.D, the Partnership responds to additional concerns raised in the comments concerning the scope of the regulatory asset, the hypothetical capital structure, the proposed rate of return on common equity (“ROE”) and use of construction work in progress (“CWIP”), the need for compliance filings, the depreciation rate, and any requests for hearings on the proposed rates.

II. BACKGROUND

On February 9, 2009, the Partnership submitted a request for approval of certain accounting treatments, a formula rate structure for transmission service, various transmission rate incentives, and certain waivers associated with the Green Power Express, a state-of-the-art, 3000 mile long, 765 kilovolt (“kV”), green power “superhighway” transmission network that will bring up to 12,000 megawatts (“MW”) of wind energy and stored energy from the Dakotas, Minnesota, and Iowa to Midwest load centers, such as Chicago, Southeastern Wisconsin, and Minneapolis at an estimated cost of between \$10-12 billion.

Specifically, the Partnership requested that the Commission:

1. Grant permission to establish a regulatory asset that will include expenses (a) not included in CWIP; that are (b) incurred in connection with the formation of the Partnership or development of the transmission network.
2. Inclusion of 100 percent of CWIP in rate base for the transmission network.
3. Approval of the recovery of prudently-incurred costs associated with the transmission network in the event the project must be abandoned for reasons outside the Partnership’s control.

4. An incentive-based return on equity of 12.38 percent.
5. Permission to use a hypothetical capital structure during development and construction based upon 60 percent equity and 40 percent debt, until the first facilities of the Project are placed into service, after which the Partnership will use its actual capital structure targeting 60% equity and 40% debt.
6. Acceptance for filing of a formula rate structure under which the costs of the transmission network ultimately will be recoverable through the applicable open access tariffs of the Midwest ISO and/or PJM.

Pursuant to the Commission's February 12, 2009 notice of filing and February 26, 2009 notice of extension of time, motions to intervene, comments and protests were due to be filed on March 6, 2009. Certain parties filed motions to intervene with no substantive comments⁷ and other parties filed comments and/or protests in addition to motions to intervene.⁸ The Partnership does not object to any of the requested interventions.

⁷ The following entities filed only a motion to intervene: Acciona Wind Energy USA LLC; Allegheny Power; American Electric Power Service Corp.; Central Iowa Power Cooperative; Certain Midwest Transmission Owners (City of Columbia, Duke, IP&L, MPPA, NIPSCO, Vectren, Wabash Valley, and Wolverine); Constellation Energy Commodities Group; Coalition of Midwest Transmission Customers; Dayton Power & Light Co.; Delaware Public Service Commission; Detroit Edison Co.; Dominion Resources Services, Inc.; Duquesne Light Co.; Emmet County Energy, LLC; Hoosier Energy Rural Elec. Coop./Southern Illinois Power Coop; Illinois Commerce Commission; Iowa Utilities Board; Michigan Public Service Commission; Midwest ISO; Montana-Dakota Utilities Co.; Montana Public Service Commission; NextEra Energy Resources LLC; North Dakota Public Service Commission; Otter Tail Power Co.; Public Utilities Commission of Ohio; Red Rock Wind Energy, LLC; Root River Energy, LLC; South Dakota Public Utilities Comm.; and Wisconsin Industrial Energy Group.

⁸ The following entities submitted comments and/or protests in addition to motions to intervene: ALLETE d/b/a Minnesota Power; Alliant Energy Corporate Services, Inc.; Ameren Services Co.; American Municipal Power-Ohio Inc.; American Transmission Co. LLC; American Wind Energy Association and Wind on the Wire; Basin Electric Power Cooperative ("Basin Electric"); CapX2020; Consumers Energy Co. ("Consumers"); Dairyland Power Cooperative ("Dairyland"); Electric Transmission America; Fox Ridge Energy and Development Association; Great River Energy; Indiana Utility Regulatory Commission; Indicated PJM and MISO Members (American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Ohio Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company, all subsidiaries of FirstEnergy Corp.; Baltimore Gas and Electric Company; Virginia Electric and Power Company, d/b/a Dominion Virginia Power; Monongahela Power Company, The Potomac Edison Company and West Penn Power Company, all doing business as Allegheny Power, and Trans-Allegheny Interstate Line Company; Pepco Holdings, Inc., and its

The Partnership highlights that Crownbutte Wind Power, Denali Energy, Emmet County Energy, LLC, Fox Ridge Energy and Development Association, Horizon Wind Energy LLC, Iberdrola Renewables, Inc., NorthWestern Energy, Red Rock Wind Energy, LLC, Root River Energy, LLC, Renewable Energy Systems Americas Inc., and Wind Capital Group support Green Power Express's proposal ("Supporting Interventions").

Among the many other interventions, many of which took a "wait and see" approach on the Project itself, were some that recognized the difficulties that lie ahead for the Green Power Express. The pleading filed by the South Dakota Public Utility Commission ("SDPUC") is instructive. Although the SDPUC took no position on the specifics of the Application, the SDPUC urged the Commission:

to recognize the challenges posed by implementing an aggressive national renewable energy policy. There is a distinction between system upgrades to serve the narrow and largely incremental needs dictated by the traditional generation and transmission system itself, and those that will be needed to meet a national policy objective that cannot, by its nature, be achieved by traditional system optimization approaches, such as matching generation resource location with load location to the extent possible.⁹

subsidiaries Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company; Public Service Electric and Gas Company, PSEG Energy Resources & Trade LLC, PSEG Power LLC; Old Dominion Electric Cooperative; PPL Electric Utilities; Corporation; Exelon Corporation on behalf of its operating company affiliates Commonwealth Edison Company (and its wholly-owned subsidiary Commonwealth Edison Company of Indiana, Inc.) and PECO Energy Company; Dayton Power and Light Company); Generation Energy, Inc.; Integrys Energy Group ("Integrys"); Iowa Office of Consumer Advocate; Iowa Utilities Board; LS Power Associates LP; MidAmerican Energy Co. ("MidAmerican"); Midwest TDUs (Great Lakes Utilities, Lincoln Electric System, Madison Gas & Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, and WPPI Energy); Minnesota Public Utilities Commission and Minnesota Office of Energy Security; Montana Consumer Commission; Montana Consumer Counsel; National Wind, LLC; North Carolina Agencies (North Carolina Utilities Commission, Public Staff of the North Carolina Utilities Commission, and the Attorney General of the State of North Carolina); Northern Indiana Public Service Company ("NIPSCO"); PJM Interconnection LLC; Renewable Energy Systems America Inc.; Western Area Power Administration; Wind Capital Group; Wisconsin Public Service Commission ("Wisconsin PSC"); Wisconsin Electric Power Co. ("WEPCO"); and Xcel Energy Services, Inc ("Xcel"). As noted above, the Midwest ISO filed its Answer on March 13, 2009.

⁹ SDPUC Intervention at 2. The SDPUC even went further and previewed the cost allocation hurdle the Project will face: "A national policy pursued to achieve objectives other than system optimization and that will require a set of national-scope transmission, ancillary services and other system investments if it is to be realized, will also require a national-scope approach to investment and cost recovery that (i) appropriately balances the need for public and private investment, (ii) emphasizes the need for cooperation across the nation

III. MOTION TO ANSWER AND ANSWER

Although the Commission's procedural rules generally do not provide for answers to protests, answers, or similar filings unless otherwise ordered,¹⁰ the Commission may, for good cause shown, permit such answers.¹¹ Good cause exists in this case to permit the Partnership to respond to the protests and comments filed in the captioned proceedings. This Answer will assist the Commission's resolution of the issues presented by providing for a complete and accurate record to assist it in understanding and evaluating the issues raised by Parties.¹² Accordingly, Green Power Express LP respectfully requests that the Commission accept this Answer.

IV. ANSWER

As the Commission considers Green Power Express LP's application, the Partnership believes it is important for the Commission to consider a few overarching reasons why the application should be approved:

(1) For more than thirty years, U.S. Presidents of both political parties have declared energy independence to be vital to the economic security and prosperity of the nation;

(2) Concerns over global warming and carbon emissions have led to increased focus on utilization of carbon-free renewable sources of energy;

among states, utilities and regional transmission organizations and the appropriate role that independent transmission providers can play in helping bridge those boundaries, and (iii) recognizes that traditional allocation rationales, such as 'cost causer pays' in the narrow sense, and traditional allocation distinctions, such as 'system-wide reliability' versus 'regional reliability' versus 'economic' may not necessarily appropriately, equitably and adequately address the challenges posed by this new genre of system upgrades." *Id.* at 2-3.

¹⁰ 18 C.F.R. § 385.213(a)(2).

¹¹ 18 C.F.R. § 385.101(e).

¹² See, e.g., *Michigan Elec. Transmission Co., LLC*, 106 FERC ¶ 61,129 at 61,452 (2004) (allowing responses to protest "as they provide additional information that assists the Commission in the decision-making process"); *PJM Interconnection, L.L.C.*, 104 FERC ¶ 61,031 at 61,077 (2003) (admitting answer to protest "since it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will insure a complete record upon which the Commission may act").

(3) It is possible – perhaps even probable – that Congress will enact some form of carbon mitigation legislation, for example, a national Renewable Portfolio Standard (“RPS”), a form of cap and trade or carbon emission tax, or both or even if no legislation is forthcoming, a national policy goal of enhanced use of renewables is appropriate and consistent with the states in the Eastern Interconnection that already have state RPS requirements;

(4) A recognition that if the U.S. is to meet these energy security and environmental goals, it is important to utilize the best available locations for renewables that can produce energy with the highest capacity factors;

(5) It is undisputed that the upper Midwest – North Dakota, South Dakota, Minnesota, and Iowa – contain some of the highest on-shore wind power density locations in the country;

(6) As the Supporting Interventions make clear, numerous developers stand ready to move forward with projects if transmission is available (Moreover, the Midwest ISO has noted that, “[n]umerous relatively large generation projects are located in remote areas a great distance from load centers, requiring significant transmission upgrades. The bulk of the active queue projects are concentrated in the southwestern portion of Minnesota, eastern South and North Dakota, and northern Iowa where wind is most prevalent.”¹³);

(7) High voltage facilities make transmission of large volumes of energy over large distances feasible;¹⁴ and

(8) Consolidation of the Midwest ISO into a single market and single balancing authority area would enable the wind energy from the Midwest to displace emissions and higher energy cost generation. Elimination of pancaked transmission rates between the Midwest ISO and PJM allows for wheeling across the RTOs at a single rate.

A. The Commission Should Approve Green Power Express LP’s Proposal for a Regulatory Asset

In its February 9 Filing, the Partnership requested certain accounting treatments, rate structures and incentives for its proposed Green Power Express. In particular, the Partnership sought permission to establish a regulatory asset that will include expenses

¹³ MTEP 2008 at 54, available at: http://www.midwestiso.org/publish/Folder/279a04_11db4d152b9_7dc50a48324a?rev=1.

¹⁴ AWEA submits that to access and deliver renewable energy resources in a meaningful and efficient manner, it is critical that this nation develop a robust national interstate extra-high voltage (“EHV”) backbone grid that would permit large volumes of those resources to be integrated and delivered to load, thereby providing a reliable and secure supply of electricity for decades to come, while at the same time enhancing the overall efficiency, operation, and flexibility of the entire grid as well. AWEA at 3.

(1) not included in CWIP, and that are (2) incurred in connection with the formation of the Partnership or development of the Project.¹⁵

Although certain commenters argued that the Partnership's request for the creation of a regulatory asset is premature, these requests must be rejected.¹⁶ No commenter has provided facts or adequate reasons for delaying granting the requested regulatory asset treatment. Furthermore, the Partnership's request is consistent with very recent Commission precedent and should be approved.¹⁷

From the outset, the Partnership's parent company, ITC, recognized that building Extra High Voltage ("EHV") overlay lines over multiple regions and states would consume considerable amounts of time and resources. However, recognizing the nation's need for such a line and creating a business model that would accommodate such a line has been part of ITC's long-term business plan. As a result, ITC has spent over a year meeting with potential wind developers, assessing projects identified in the MISO queue, evaluating the potential for wind development in the Dakotas, Iowa, and Minnesota, and retaining expert consultants to examine the economics of a large-scale transmission project in the upper Midwest.

The Partnership needs the opportunity for cost recovery in order to proceed to the next phase of development and vet the project through a regional planning process.¹⁸ By

¹⁵ The Partnership also seeks authorization to (1) amortize the regulatory asset with interest over ten years for cost recovery purposes; and (2) accrue carrying charges on any items properly includable in the revenue requirement under the formula rate construct applied for in the filing.

¹⁶ See Basin Electric at 5-6; Dairyland at 2; Indicated PJM and MISO Members at 6; Iowa Utilities Board at 5; NIPSCO at 8; WEPCO at 3; and Wisconsin PSC at 5.

¹⁷ *ITC Great Plains* at P 24 (finding a project with some unresolved development issues generally not premature for Order No. 679 incentives and regulatory asset treatment request specifically not considered premature).

¹⁸ The creation of a regulatory asset likely would provide a transmission developer with more up-front certainty as to its ability to recover its investment, which would help secure financing on favorable terms and

approving the regulatory asset at this time, the Commission is not approving or guaranteeing cost recovery to the Partnership. Instead, the Partnership will have to make a future filing that will explain how the costs will be allocated. However, if the Commission fails to approve the creation of a regulatory asset for the Project at this early stage, the Commission will quite literally smother this Project and such action is sure to adversely impact future attempts by others to develop large scale transmission projects – which are widely recognized to be needed.¹⁹

The Partnership’s request for the creation of a regulatory asset and other incentive rate treatments is well within the Commission’s established precedent and policy. The Commission has specifically found that its authority “to grant policy-based incentives is well established and exist in addition to our policy under Order No. 679.”²⁰ Moreover, the Commission stated that “because of the size, scope and complexity of these projects, many companies may be unwilling and unable to spend significant sums of money to assess whether the project would ensure reliability and/or reduce congestion. In addition, there is an

justify the developer moving forward to incur the costs of constructing these types of projects. Without mechanisms to provide cost certainty regarding initial development costs, such as regulatory asset treatment, AWEA questions whether sufficient EHV transmission would be proposed and ultimately would be financeable. AWEA at 4.

¹⁹ *Testimony of FERC Acting Chairman Jon Wellinghoff*, U.S. Senate Committee on Energy and Natural Resources, Hearing on Legislation Regarding Electric Transmission Lines, Mar. 12, 2009 (“We need a National policy commitment to develop the extra-high voltage (EHV) transmission infrastructure to bring renewable energy from remote areas where it is produced most efficiently into our large metropolitan areas where most of this Nation’s power is consumed.”); Docket No. AD08-13-000, *Statement of Commissioner Marc Spitzer*, Technical Conference regarding Transmission Barriers to Entry, Oct. 14, 2008 (“the strength of the U.S. transmission grid will determine whether Americans receive reliable, affordable and environmentally responsible supply of electricity”); Docket Nos. OA08-30, *et al.*, *Statement of Commissioner Philip D. Moeller*, Open Access Transmission Tariff Planning, Jul. 17, 2008 (“Ultimately, I am glad to be part of a Commission that believes that building more transmission is necessary. Bringing additional energy to the market increases fuel choices for customers and will help to encourage long-term price stability.”). Concurrence of Commissioner Suedeen G. Kelly, *Midwest Indep. Transmission Sys. Operator, Inc.*, 120 FERC ¶ 61,080 (2007) (“We need a true nationwide transmission version of our interstate highway system; a grid of extra-high voltage backbone transmission lines reaching out to remote resources and overlaying, reinforcing, and tying together the existing grid in each interconnection to an extent never before seen.”).

²⁰ *Pacific Gas & Elec. Co.*, 123 FERC ¶ 61,067 at P 33 (2008).

important policy objective in encouraging companies to explore new ways of finding and delivering renewable resources.”²¹ The Partnership is doing nothing more than asking the Commission to support the continued development of the Green Power Express. By approving the Partnership’s request for the creation of a Regulatory Asset, the Commission is not ensuring cost recovery, it is simply ensuring the opportunity for cost recovery.²²

Moreover, the approval of the regulatory asset will assist the Partnership in engaging additional partners. As the Commission has recognized, approving an applicant’s request to recover “prudently incurred pre-commercial costs as a regulatory asset ... can reduce interest expense, improve coverage ratios and assist in the construction of the facility.”²³ The Commission has recognized that a proposal to construct 765 kV transmission facilities to facilitate the transfer of significant levels of wind generation to load, reduce transmission losses, reduce existing and expected congestion and improve reliability meets the standards for transmission rate incentives, including the creation of a regulatory asset, under section 219 of the FPA.²⁴ Given all of these reasons, the Commission should approve the Partnership’s request for the creation of a regulatory asset.

²¹ *Id.*

²² As the Commission stated in the Tallgrass order, “while this order provides the applicants with the ability to recover pre-commercial costs as a regulatory asset, the applicants will have to make a compliance filing when the formula rate becomes effective to demonstrate that the pre-commercial costs are just and reasonable.” *Tallgrass* at P 64.

²³ *Id.* at 63.

²⁴ *Id.*

B. The Partnership Is Not Working Outside Planning Processes, and Fully Supports the Need for Participation in a Regional Planning Process Consistent with Order No. 890, but Planning Processes Must Accommodate a Project Like the Green Power Express.

The Partnership is committed to participating in regional planning processes that are consistent with Order No. 890. Certain commenters who stated that the Partnership is attempting to bypass regional processes are just plain wrong.²⁵ The Partnership has submitted the Project to the Midwest ISO and as the Midwest ISO states, it “will be treating the project inside the planning process in a manner consistent with approved regional planning processes.”²⁶ The Partnership also recognizes the importance of coordinating this review with other regional planning efforts. The Partnership will be an active participant in the existing regional processes and will work with all stakeholders in the planning process for Green Power Express.

However, as discussed below, it is critical that regional planning process criteria fully accommodate a project with the size and purpose of Green Power Express.²⁷ In its Application, the Partnership simply acknowledged the reality that significant challenges in existing planning processes must be overcome if projects such as the Green Power Express are to come to fruition. This point was addressed at the Commission’s recent technical conference held earlier this month.²⁸ The Midwest ISO and PJM have been clear,²⁹

²⁵ See CapX2020 at 10; ETA at 3; Integrys at 5-6; Minnesota Power at 3; PJM at 3-4; Wisconsin PSC at 6; and Xcel at 8-15.

²⁶ MISO Answer at 5.

²⁷ ETA criticizes Green Power Express for seeking to “side-step the existing open transmission planning processes that the Commission mandated in Order No. 890.” ETA’s criticisms are surprising, given the fact that AEP itself would prefer major changes to the PJM/Midwest ISO cross-border planning proposal. AEP (in joint comments with ITC) has called for significant revisions to the PJM/Midwest ISO cross-border project planning process. See Docket Nos. ER05-6-108, *et al.*, “Motion for Leave to Intervene and Joint Protest of International Transmission Company d/b/a *ITC Transmission*, Michigan Elec. Transmission Co., ITC Midwest LLC, and American Electric Power Serv. Corp.,” Feb 18, 2009.

²⁸ As the Midwest ISO has stated to the Commission,

consistent,³⁰ and candid³¹ that their current Midwest ISO Transmission Expansion Plan (“MTEP”) and Regional Transmission Expansion Plan (“RTEP”) processes do not go beyond the traditional scope of incremental reliability and congestion-relief improvements and are not suited to large scale projects designed to meet national policy objectives³² – even if such projects present significant economic and environmental benefits.³³ As the Midwest ISO has informed the Commission:

Another issue identified relates to the sliding cost benefit ratio, which ranges from 1.2 to 3.0 depending on the project’s in-service date. That ratio reflects a compromise reached through the stakeholder process on how to value future benefits which may be uncertain. From a purely economic perspective, this approach may be problematic because, in theory, any benefits larger than a 1:1 ratio should be sufficient to reach a “go decision” on a transmission expansion project. From a practical perspective, the current sliding cost benefit ratio requirement may result in an under-build of projects that do, in fact, provide regional benefits, but aren’t able to reach this hurdle given the narrow range of benefits considered in the RECB II process. Addressing this issue does, however, introduce complexity into the analysis by introducing a requirement to approach a second potential area of concern, selection of discount rates, in a different manner.

Docket No. ER06-18-013, “Informational Compliance Filing of the Midwest Independent Transmission System Operator, Inc.,” at 12, Aug. 29, 2008 (“MISO August 2008 Report”).

²⁹ “If the large scale projects is [sic] to meet multiple planning objectives beyond basic congestion relief which RECBII metrics is more appropriated for, RECBII metrics are very limited to fully capture all the benefits the long term project creates, a further thorough analysis would be needed to explore additional value metrics to support the long term projects such as import capability, deferred generation capacity, loss reduction, constraint relief, etc. ...” See MTEP 2008 at 262.

³⁰ “The RTOs have already indicated to FERC ...additional reforms and direction the Commission could provide on a generic basis to address large scale projects such as Pioneer.” Docket Nos. ER05-6-108, *et al.*, “Joint Motion for Leave to Answer and Answer of PJM Interconnection, LLC and the Midwest Independent Transmission System Operator, Inc.,” at 11 (Mar. 5, 2009).

³¹ “In some cases, the analysis of ‘economic’ projects is similar to trying to put a square peg into a round hole. Projects premised on a wide range of benefits are likely unable to be justified based solely on the existing RECB II criteria. There is also some concern that the analysis and threshold requirements for the current RECB II implementation would exclude those projects which are solely focused on increasing market efficiency.” MISO August 2008 Report at 11.

³² The Partnership notes for example that the benefits of the 20% wind scenario examined in the JCSP produced benefits of 1.70, less than the 3 to 1 ratio needed to satisfy the Midwest ISO criteria for approval of an economic upgrade.

³³ In its comments in this docket, PJM agrees with ITC that the current Commission-approved planning processes do not authorize transmission providers to direct the building of policy driven projects whose economic benefits are not quantifiable under the current reliability and economic metrics. PJM’s current Commission-approved RTEP identifies which projects are selected to be built based on system needs, such as load growth or generation interconnection, as opposed to a “build it and they will come” approach. PJM at 7-8.

Although in the strictest sense, transmission required to interconnect wind generation meets the current definition of interconnection transmission required to maintain the reliability of the transmission system, the underlying attributes of wind generation are quite different than what most stakeholders contemplated during the development of RECB I procedures. The primary impetus for the large amounts of wind generation requiring transmission build out originates from an RPS public policy decision. Additionally, the transmission required to interconnect (and economically and operationally support) large quantities of wind generation is larger and spans much longer distances than what might be considered typical under a more traditional view of generator interconnections. Given these attributes, the transmission required to support wind generation may be better defined using the notion “regionally beneficial” in a broader manner that incorporates reliability, economic and public policy attributes that are not considered comprehensively, if at all, in the current cost allocation methodology.³⁴

The Partnership believes that all stakeholders should be active in regional planning and that each stakeholder brings different expertise to the process. While the Partnership believes that challenges exist with existing processes, it remains committed to the regional process and will coordinate with affected stakeholders. Additionally, regional planning will be required in evaluating options for the Green Power Express including routing and facilities. ITC’s subsidiary ITC Midwest LLC (“ITCM”) is in the process of building significant transmission upgrades in Iowa and is working closely with all stakeholders including the Iowa Utilities Board. The Partnership expects to bring this same coordinated effort to the development and construction of Green Power Express. As a result, the Commission should not penalize or jeopardize the Green Power Express because the project does not fit neatly into one of the currently established planning buckets. Instead, the Commission should indicate that projects of this scope and size are worth pursuing by working with ITC and other stakeholders to realize the benefits of projects like the Green Power Express and harmonizing planning efforts to accommodate such projects.

³⁴ MISO August 2008 Report at 10.

C. ITC is Committed to Working Within Various Existing Transmission Planning Efforts and Collaboratives, but Limitations in Those Existing Efforts Should Not Jeopardize the Project, and Should Not Prevent Approval of the Partnership’s Requested Accounting and Rate Treatments.

ITC supports and participates in numerous transmission planning stakeholder meetings, technical conferences, and other similar forums. For example, ITC is engaged in the Upper Midwest Transmission Development Initiative (“UMTDI”), and ITCM requested but was turned down for membership in CapX2020 (but still attempts to participate in CapX2020 meetings). While various parties have commented that the Project should be made part of various different planning efforts, the reality is that the limited scope or other limitations in those efforts do not fit the Green Power Express. Furthermore, the fact that the commenting parties in this case do not agree on which of the various regional planning processes now underway the Green Power Express should be planned through only reinforces the concerns outlined in the Application that the Project does not fit neatly into any existing process. In addition, it is important to note that while the Partnership committed to having the Project reviewed under an Order No. 890 compliant process, and according to its Answer the Midwest ISO is now engaged that effort, the other collaborations advocated by intervenors are not Order No. 890 planning processes. The results of those efforts ultimately may be filtered through or serve as inputs to Order No. 890 planning efforts, but they are not themselves sufficient for that purpose.

What is clear is that waiting to grant even the initial actions requested by the Partnership in this proceeding while various planning efforts are adjusted – even after the Project has been submitted to the Midwest ISO – cannot be just and reasonable and in the interests of the nation and its citizens.

1. Joint Coordinating System Planning

Certain intervenors stated that the Partnership should work through the Joint Coordinating System Planning (“JCSP”) prior to having its application granted.³⁵ Several intervenors also claim that Green Power Express does not fit into the JCSP indicative plans.³⁶ As to this latter argument, the Midwest ISO notes that “the GPE proposal, while not identical to, aligns well with the elements of the preliminary high voltage overlay proposals that the Midwest ISO and other Eastern Interconnection participants studied and reported upon in the recently published Joint Coordinated System Plan.”³⁷

The JCSP offers a conceptual regional transmission and generation system plan for a large portion of the Eastern Interconnection, including the footprints of Midwest ISO, PJM, Southwest Power Pool (“SPP”), Tennessee Valley Authority (“TVA”), MAPP, and the SERC Reliability Corporation. The initial JCSP study focused on two scenarios that expand transmission and generation opportunities between 2008 and 2024. The first scenario assumed existing renewable portfolio standards would be met via wind generation by developing a 5 percent Eastern Interconnection wind energy model. The second scenario assumed that 20 percent of energy consumption in the Eastern Interconnection would be served via wind generation. The JCSP developed several transmission overlay scenarios in order to deliver this future generation to loads throughout the Eastern Interconnection.

The Partnership has supported the JCSP and its efforts. However, the JCSP’s purpose was to examine the feasibility of large-scale use of renewable projects across the Eastern Interconnection. The JCSP provides no commitment to study specific projects, affords no

³⁵ See Consumers at 4; Integrys at 7; MidAmerican at 5; Minnesota Public Utilities Commission and Minnesota Office of Energy Security at 3; PJM at 9; and WEPCO at 5.

³⁶ See Alliant at 10 and Wisconsin PSC at 4.

³⁷ MISO Answer at 4.

ability to submit alternative designs, provides no vetting process through the RTO planning process, and does not include any cost allocation methodology.³⁸

2. The Midwest ISO Regional Expansion and Criteria Benefits Task Force

Certain intervenors stated that the Partnership should use the Midwest ISO Regional Expansion and Criteria Benefits Task Force (“RECB III”).³⁹ Initially, however, the Midwest ISO’s RECB III will focus its efforts on network upgrades for generator interconnections and the addition of a new category of cost sharing for Forward Looking Interconnection Projects. Only as part of Phase III of this effort will the task force begin to evaluate issues associated with the RECB I and RECB II protocols. Issues to be discussed include:

- Appropriateness of current cost allocation mechanisms vs. potential alternatives (e.g., allowing investment instead of allocation, injection/withdrawal rate mechanism);
- Fairness of the current inclusion criteria, including as it relates to the balance of costs incurred across the footprint;
- Potential elimination of reliability/economic distinction;
- Need for additional measures to reflect wider range of value drivers for cost sharing;
- Portfolio based methodology; and
- Technical drivers impacting analytics (e.g., discount rate, length of analysis and fixed charge rate).⁴⁰

³⁸ The benefits of the 20% Scenario examined in the JCSP produced benefits of 1.70, thus failing the MISO’s RECB II criteria. *See* Joint Coordinated System Plan ‘08, Volume 1 at 111, available at: <http://www.jcspstudy.org/>.

³⁹ *See* Wisconsin PSC at 3 and NIPSCO at 11.

⁴⁰ RECB Task Force Charter, available at: http://www.midwestiso.org/publish/Document/20b78d_11ef44fc9c0_-

After such issues are discussed, the task force will recommend solutions in filings to the Commission during 2009 and 2010.

While the Partnership appreciates Midwest ISO's recognition that additional efforts must be made to enhance cost allocation mechanisms and related transmission planning metrics, the timing of this program will not be sufficient to facilitate the Project. As noted in RECB Task Force Charter, filings will be made with the Commission in 2009 and 2010. The Partnership seeks approval of its project prior to the time any RECB III filings will likely be submitted.

3. Organization of MISO States Cost Allocation Regional Planning

Certain intervenors stated that the Partnership should use the Organization of MISO States ("OMS") Cost Allocation Regional Planning ("CARP") process because it is a process already underway.⁴¹ The OMS Board, which facilitates CARP, is charged with reviewing cost allocation and regional planning together to determine how regional planning should be used in the process of cost allocation, a timeline for development of a plan, and the proper role for stakeholders. OMS has held two CARP meetings to date and is set to meet at the end of March as well.

While the Partnership also supports such efforts, it believes that CARP will not reach all of the jurisdictions potentially affected by the Project. Moreover, even a joint proposal by OMS – if one is forthcoming – will need to be put forward and addressed by the Commission in a proceeding that, based on experience, is likely to be hotly contested.

77590a48324a/RECB%20Task%20Force%20Charter%20March%2011.pdf?action=download&_property=Attachment.

⁴¹ See NIPSCO at 11; Wisconsin PSC at 8.

4. Regional Generation Outlet Study

Certain intervenors stated that the Partnership should use the Regional Generation Outlet Study (“RGOS”) because, like CARP, it is a process already in place working to integrate into the grid large amounts of wind power.⁴² In an encouraging sign, the Midwest ISO states that the proposed Project is “an appropriate alternative expansion proposal to be considered in the Regional Generation Outlet Study.”⁴³ Still, the Partnership understands the objective of the RGOS is to develop a mid-term (5-15 years, approximately) set of regionally coordinated transmission projects that meet, at a minimum, the *existing* individual state renewable portfolio standard requirements within the Midwest ISO, using resources primarily from the states that have adopted RPS standards.⁴⁴

While the Partnership supports the RGOS initiative, the limitations on the planning objectives and criteria do not appear to include the scope of the Green Power Express. If the Midwest ISO has expanded the scope of the RGOS study effort as a means to facilitate including the Green Power Express in their regional planning efforts, the Midwest ISO should be commended and supported in this effort. Planning is a critical step in the development of the Project, but planning, without the ability to obtain approval through a fair set of metrics and the ability to realistically allocate costs to facilitate construction, will not lead to steel in the ground.

⁴² See Alliant at 9; Integrys at 7; NIPSCO at 11; Wisconsin PSC at 2-4; MISO Answer at 4-5 (viewing GPE “as an appropriate expansion alternative to be integrated into the RGOS regional studies in progress as well as with continuation of the JSCP inter-regional planning efforts”).

⁴³ MISO Answer at 4.

⁴⁴ MTEP 2008 at 19-20.

5. Upper Midwest Transmission Development Initiative

Certain intervenors stated that the Partnership should use the Upper Midwest Transmission Development Initiative (“UMTDI”) because it is yet another ongoing planning process.⁴⁵ On September 18, 2008, the states of Minnesota, Iowa, Wisconsin, North Dakota and South Dakota announced creation of a regional transmission planning effort to “promote regional electric transmission investment and cost sharing” among the states. The initiative will coordinate efforts among entities involved in transmission matters, including state regulatory agencies, transmission companies, utilities, independent generation owners and other key stakeholders.

ITC, the parent company of Green Power Express LP, has shown great support for the creation of the UMTDI and the Partnership supports its focus on the need for a more robust transmission system to support the integration of wind energy resources. However, the UMTDI does not quite go far enough to facilitate the Project. Specifically, the UMTDI only involves five of the states for which the Project traverses. In addition, it will be difficult for the UMTDI to come up with a cost allocation for exporting power to other regions. Accordingly, the Partnership believes the outcome will not be sufficient to facilitate the Project.

D. Response to Additional Issues

1. The Scope of the Regulatory Asset Is Reasonable

AMP-Ohio contends that the request for regulatory asset treatment is over-inclusive because it seeks to recover costs incurred in connection with the formation of the partnership,

⁴⁵ See Alliant at 9; ATC at 5-7; WEPCO at 5; and Wisconsin PSC at 4-5, 8.

since ITC was not required to form the Partnership.⁴⁶ While not “required,” formation of the partnership was a prudent means to undertake development of the Green Power Express. As explained in the filing letter,⁴⁷ the Partnership could have undertaken the project under one of the existing operating companies, but that approach would have presented cost allocation concerns as potentially one affiliate’s ratepayers would have been asked to bear a disproportionate share of the development risks. Formation of a separate operating entity is consistent with the size of the undertaking and will facilitate partnering with additional entities that will bring valuable local knowledge and capital to the Project. The Commission has recently permitted regulatory asset treatment associated with the start-up of a subsidiary entity whose principal mission is the development of transmission lines in the Midwest.⁴⁸ The Commission should follow its precedent here.

2. The Proposed Capital Structure Is Reasonable

AMP-Ohio complains that the proposed capital structure is “too rich.”⁴⁹ Consumers Energy contends that the Commission should require Green Power Express to utilize the capital structure of ITC until the first facilities of the project are placed into service.⁵⁰ As explained in the filing letter and in the Testimony of Edward Rahill,⁵¹ the proposed capital structure is consistent with the structure the Commission has previously approved for the ITC operating companies and which has allowed these entities to achieve and maintain credit

⁴⁶ AMP-Ohio at 7.

⁴⁷ Filing Letter at 51-52.

⁴⁸ *ITC Great Plains* at PP 71, 74.

⁴⁹ AMP-Ohio at 7

⁵⁰ Consumers at 8.

⁵¹ Filing Letter at 42; Rahill Testimony, Exhibit No. GPE-200, at 6:14-7:2.

ratings and access capital markets, even in these difficult times.⁵² Consumers Energy provides no argument as to why it would be appropriate to utilize the capital structure of the parent company as opposed to the capital structure approved for the operating entities, which, like the Partnership intends to be, are independent transmission-owning members of an RTO.

3. The Proposed Rate of Return on Equity Is Reasonable

Two intervenors, AMP-Ohio and Consumers Energy protest the proposed rate of return on common equity (“ROE”).⁵³ They raise concerns such as: (1) not all of the facilities planned for the Project will lie within the footprint of an RTO and, therefore, an adjustment to the requested ROE incentive is required; (2) if the Commission grants the CWIP incentive, it should not also grant ROE incentives because such incentives are duplicative; (3) the Commission should consider the risk reduction effects of formula rates as an offsetting element in Green Power Express’s overall risk profile; (4) there is a remaining 10 base point adder that is missing a justification; (5) if Green Power Express is granted an RTO incentive based on RTO membership, it should not become effective until all of Green Power Express’s facilities are under control of the RTO and it has been approved for a regional transmission expansion plan. These issues are without foundation and, as a result, the well-supported proposed ROE of 12.38% should be approved.

First, it is the Partnership’s intention to turn over control of the Project to existing RTO operation, similar to the manner in which facilities owed by ITC’s existing operating companies are operated. In other words, the Partnership does not anticipate providing service under a separate open access tariff and believes it is important not to create a seam between the wind resources and the RTO markets. Thus, this concern is without merit.

⁵² Rahill Testimony, Exhibit No. GPE-200, at 6:14-8:1.

⁵³ See Consumers at 5-6 and AMP-Ohio at 8.

Second, the incentives for independence and RTO participation exist with or without CWIP.⁵⁴ Moreover, the proposed ROE is the same as that currently in place for the transmission owning members of the Midwest ISO and is utilized for their transmission-related capital expenditures. The additional 10 basis points requested is not “missing a justification” but represents an extremely conservative recognition of the management risks in undertaking a \$10-12 billion dollar construction project. None of the requested incentives relieves the Partnership from the responsibility of prudently overseeing the Project development and expenditures.

Third, it is inconsistent with the use of CWIP – a necessary component of funding the Green Power Express Construction – to wait until the project is under the operational control of the RTO. The rate will be in effect during the construction phase before the facilities are operational. Furthermore, the Commission has recognized the benefits of CWIP in rate base with respect to rates in Order No. 298, where the Commission found that:

Without any CWIP in rate base, a new plant has no direct effect on consumer prices until it begins to provide service. Then, when it does come on line, consumer’s rates must be increased to give the company a cash return on both the direct cost of the plant and the capitalized [Allowance for Funds Used During Construction (AFUDC)] as well as a return of capital through depreciation. If the plant is large relative to the existing rate base, the result can be a rate increase that is both large and sudden, producing a so-called “rate shock.” In contrast, with all CWIP in rate base, the impact of new plant is spread over the entire construction period, and the rates when the plant begins to provide service are lower because they do not include a return on and of capitalized AFUDC. (footnote omitted) (Order No. 298, FERC Stats. & Regs. P 30,455 at 30,499).

⁵⁴ *Promoting Transmission Investment Through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 at PP 115, 204, 239-240, *order on reh’g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh’g*, 119 FERC ¶ 61,062 (2007).

Accordingly, the protests of the proposed ROE are without merit and the requested ROE of 12.38% should be approved.

4. The Commission Need Not Make Any Decision on the Particulars of Abandoned Plant Cost Recovery

Alliant is concerned that Interstate Power and Light Company, ITCM's primary network transmission customer, may be forced to absorb the majority of costs if Green Power Express is cancelled, since ITCM is the only transmission providing subsidiary of ITC in the general footprint of the Green Power Express. As a result, Alliant asks the Commission to assure that if the Regulatory Asset and Abandoned Plant Recovery are approved, that cost recovery will not be limited to ITCM's network customers.⁵⁵ The Midwest TDUs do not oppose abandoned plant protection or the establishment of an associated regulatory asset, provided that the limitations proposed by the Partnership are maintained and clarified as follows: (1) recovery for abandoned plant should be limited to cost, and (2) the abandoned plant incentive should not fund circumvention of regional planning.⁵⁶

The Partnership recognizes that, if it is forced to abandon the project, it will need to make a filing under Section 205 to recover its costs, and, consistent with Commission precedent, at such time the Partnership "must propose a rate and cost allocation method."⁵⁷ Accordingly, Alliant's concerns as to cost allocation are premature.

As the Partnership has no intention of "circumventing" a regional planning process as described above, the Midwest TDUs' concern is unfounded. The Project must be approved by a planning process consistent with Order No. 890. The Partnership also recognizes that

⁵⁵ Alliant at 12.

⁵⁶ Midwest TDUs at 14-15.

⁵⁷ *ITC Great Plains, LLC*, 126 FERC ¶ 61,223 at P 70.

under the *Tallgrass* precedent cited by the Midwest TDUs,⁵⁸ if the Partnership is forced to cancel the Project and seeks to recover the costs, it will be required to demonstrate the prudence of any costs incurred prior to abandonment.

5. The Partnership Agrees To Make Regular Compliance Filings

Alliant states that if regulatory asset treatment is granted, the Commission should require the Partnership to provide semi-annual reports about the accrued level of costs in sufficient detail for stakeholders to understand the nature of the costs.⁵⁹ CapX2020 states that if the Commission approves Green Power Express's request for regulatory asset treatment, it should clarify that Green Power Express is required to make a compliance filing if and when its formula rate becomes effective.⁶⁰ Consumers Energy asks that any compliance filings for formula rates should be the same format and with the same level of granularity as that required in the FERC Form 1.⁶¹

In its filing letter, the Partnership stated that with respect to its rates "prior to the period before the Partnership would be required to file a Form 1, the Partnership would propose to make a compliance filing at least on an annual basis that would contain the relevant information relating to the company's expenses and rates that would be identified in a Form 1."⁶² The Partnership also recognizes that its expenditures will be subject to review as to their prudence.⁶³

⁵⁸ Midwest TDUs at 15 (citing *Tallgrass* at PP 62-67).

⁵⁹ Alliant at 11-12.

⁶⁰ CapX2020 at 12-13.

⁶¹ Consumers at 9.

⁶² Filing letter at 59.

⁶³ *ITC Great Plains, LLC*, 126 FERC ¶ 61,223 at P 76.

6. The Proposed Depreciation Rates Are Reasonable

One entity, Xcel, objected to the Partnership's proposed depreciation rate of 10% for one account – Account 393.⁶⁴ Xcel claims this rate amounts to “accelerated depreciation.”⁶⁵ As explained in Exhibit No. GPE-600, the Testimony of Fred Stibor, the depreciation rates reflected in Exhibit No. GPE-601 are based on the Commission's Uniform System of Accounts General Instruction No. 22 for Depreciation Accounting.⁶⁶ They are based on an estimate of average service life and net salvage and took into account ITC's experience with owning and operating similar facilities.⁶⁷ The partnership did not propose to utilize accelerated depreciation. As shown in Exhibit No. GPE-601, the average service lives for Account 352 structures and improvements, Account 354 for towers and fixtures, and Account 355 for poles and fixtures are 60 years. The average service life of the conductors in Accounts 356, 357, and 358 are 55 years, and the average service life for Account 353 for station equipment is 45 years.

Account 393 – the focus of Xcel's complaint is for Stores Equipment which includes portable cranes, elevating equipment, hoists, lockers, scales, shelving, storage bins, trucks, and wheelbarrows. The 10 year average service life is a reasonable estimate for this account. Indeed, the Commission accepted a 10 year average service life for Account No. 393 in Docket No. ER06-1040 which was supported by a depreciation study by Gannett Fleming.⁶⁸

⁶⁴ Xcel at 25.

⁶⁵ *Id.*

⁶⁶ Stibor Testimony, Exhibit No. GPE-600 at 14.

⁶⁷ *Id.* at 14-15.

⁶⁸ *See* Docket No. ER06-1040, Volume 6 Depreciation Study at II-30, May 19, 2006.

7. Need for Hearing on Rates

IntegrYS, WEPCO, and the Midwest TDUs request that the formula rate protocols be set for hearing.⁶⁹ The Midwest TDUs state that in light of the geographically broad scope and cost allocation deferral being proposed by Green Power Express, it would be appropriate to defer the formula rate monitoring protocol issues until the cost allocation is determined through other, later RTO and/or FERC proceedings, and that for now, it would suffice to clarify that any approvals granted here are subject to those future protocols.⁷⁰ The Partnership believes that its formula rates are just and reasonable and consistent with those approved previously for the ITC operating companies. In that vein, the formula proposed for the Green Power Express would operate in the same manner as—if not exactly like—the rate process used under the Midwest ISO’s Attachment O, with similar disclosure and review provisions. Once the rate is in effect, the Partnership will forecast revenue requirements for the ensuing year, post the resulting rate and hold meetings to inform and discuss the rate and inputs with affected parties. Likewise, the annual true up process will include posting, customer notices and meetings. There is no need for future hearings on this issue.

8. The Partnership Will Have Section 205 Filing Rights and Did Not Seek To Amend the Midwest ISO or PJM Tariffs At This Time

Xcel notes that because the Partnership is not a transmission-owning member of the Midwest ISO or PJM, it does not have the right to make a unilateral Section 205 filing affecting rates, terms, or conditions of service pursuant to the Midwest ISO or PJM tariffs.⁷¹ The Partnership has not sought in the instant filing to modify the RTO tariffs. Rather, the

⁶⁹ Midwest TDUs at 18-19; WEPCO at 8; IntegrYS at 15.

⁷⁰ Midwest TDUs at 19.

⁷¹ Xcel at 5.

Partnership has sought to exercise its own rights. Modification of the RTO tariffs should come as a section 205 filing by the RTOs or by means of a section 206 filing.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, the Commission should approve the request for the creation of a regulatory asset and other incentives requested in Green Power Express's February 9 filing.

Respectfully submitted,

/s/ _____

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Dated: March 23, 2009
Washington, DC

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 23rd day of March, 2009.

/s/ _____

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