BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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| Phyllis A. Reha | Acting Chair |
| David C. Boyd | Commissioner |
| J. Dennis O'Brien | Commissioner |
| Betsy Wergin | Commissioner |

In the Matter of ITC Midwest LLC Compliance with Commitments in Docket E-001/PA-07-540 to Improve the Transmission System and Relieve Constraints

In the Matter of the Joint Petition for Approval of Transfer of Transmission Assets of Interstate Power and Light Company to ITC Midwest LLC

ISSUE DATE: May 15, 2012

DOCKET NO. ET-6675/CI-11-1178

DOCKET NO. E-001/PA-07-540

ORDER REQUIRING FILINGS

## PROCEDURAL HISTORY

### I. The Original Order

On February 7, 2008, the Commission issued an order in the second case listed above, permitting Interstate Power and Light Company (IPL), a regulated utility, to sell its transmission assets to ITC Midwest LLC (ITC), an independent transmission company.[1] The order imposed conditions on the sale, which were set forth in the order itself and in an incorporated Settlement Agreement between IPL, ITC, the Minnesota Department of Commerce, and a coalition of municipal-utility transmission owners.[2]

These conditions were designed to address two major public-interest concerns: (1) protecting Minnesota ratepayers from potentially adverse financial consequences of the change in ownership; and (2) ensuring that ITC would make the significant infrastructure investments necessary to relieve existing transmission constraints, improve reliability and efficiency, lower retail energy costs, and facilitate the development of renewable energy.

One of the critical transmission investments required under the order was the construction of the long-planned, 81-mile, 345-kV Salem-Lore-Hazelton line in northeastern Iowa. This line is necessary both to meet reliability standards and to relieve the transmission congestion raising retail rates in northern Iowa and southern Minnesota. Under the terms of the Settlement Agreement, incorporated into the Commission's February 7, 2008 order, ITC was required to complete the line by December 31, 2011 or incur financial penalties in the form of a retrospective reduction in its rate of return on equity. This obligation was subject to ITC's ability

[1] Order Approving Transfer of Transmission Assets, with Conditions (February 7, 2008).

[2] The members of the coalition were the Midwest Municipal Transmission Group, Missouri River Energy Services, and Wisconsin Public Power, Inc.

to “acquire all needed regional transmission organization approvals and acceptances, permits, and regulatory approvals,” using “commercially reasonable best efforts.”[3]

## II. The Current Filing

On December 1, 2011, ITC filed a report on its compliance with the February 7 order. That report stated that ITC would miss the December 31 deadline to complete construction of the Salem-Lore-Hazelton line – now called the Salem-Hazelton line to reflect its rerouting around the City of Dubuque and the Lore substation – and expected to complete the line during the first half of 2013. The company stated that this delay was due to circumstances beyond its control, mainly unexpected difficulties and delays in obtaining regulatory approvals from the Iowa Utilities Board.

On December 2, 2011, the Commission issued a notice seeking comments on ITC’s filing, specifically on the issue of whether its failure to complete the Salem-Hazelton line by the December 31 deadline merited the financial penalties set forth in the February 7 order or other remedial actions. ITC, IPL, and the Minnesota Department of Commerce filed comments.

ITC outlined in detail the actions it had taken to meet the December 31 deadline, the difficulties it had encountered, and facts and arguments supporting its claim that the delay was beyond its control and occurred despite its best commercial efforts.

IPL took no position on the penalty issue, stated that ITC’s account of its compliance activities was consistent with IPL’s knowledge of the challenges experienced by ITC, and stated that, in its opinion, rerouting the line to bypass Dubuque and the Lore substation would not degrade the benefits of the project as originally envisioned.

The Department of Commerce requested additional information from ITC in its initial comments. In its reply comments, the Department stated that it had concluded the delay in completing the project was due to factors beyond ITC’s control, that it was not necessary or appropriate to impose financial penalties at this time, that the agency understood and expected the line to be completed by the end of the first half of 2013, and that any further delays might well merit penalties.

Finally, the Department asked the Commission to require ITC to notify the Commission promptly and fully of any changes to the project conveyed to the Midwest Independent Transmission System Operator or the Iowa Utilities Board, including routing or line path changes, and to fully identify for this Commission the assumptions – as well as the goals – underlying projected line completion dates.

On May 3, 2012, this case came before the Commission.

[3] Offer of Settlement, § 4.2, f; § 4.2 g.

## FINDINGS AND CONCLUSIONS

The Commission will not invoke the penalty provisions of the February 7, 2008 order at this time, but it will take immediate action to strengthen its ability to monitor ITC's management of transmission facilities affecting Minnesota ratepayers and ITC's compliance with the requirements of the February 7 order. The Commission will establish reporting requirements to ensure that Minnesota regulators and stakeholders are fully informed of any future delays in or changes to projects deemed critical under that order. And the Commission will require clear explanations of the operative and essential assumptions on which ITC bases its estimates of project completion dates.

Minnesota's strong public interest in efficient, reliable, and least-cost transmission survives the sale of IPL's transmission system to ITC, as does this Commission's responsibility to monitor ITC's performance under the terms of the February 7, 2008 order. The Commission puts ITC on notice that it may invoke the penalty provisions of that order if further delays in compliance occur.

The Commission will so order.

## ORDER

1. As a condition in the February 7, 2008 order and the Settlement Agreement it incorporates, ITC must resolve all system constraints in the IPL service territory as reported by the Midwest Independent Transmission System Operator (MISO) and comply with a directive from the Commission to invest in any project the Commission has determined is necessary to ensure safe, adequate, efficient, and reliable service. To determine which binding constraints still exist in the MN NCA and what projects are still needed to resolve these constraints, ITC shall file the following reports by June 30, 2012:

    a. A report on the current state of the transmission system in IPL service territory, including all binding constraints, the current impact of these constraints on Minnesota in terms of annual cost differential for energy flow into Minnesota, the duration of the constraint if no longer 500 hours or no longer fully mitigated, as well as the magnitude of that constraint in MWs that are not getting to Minnesota.

    b. A report on MISO projects that address constraints in the MN NCA and ITC's plans to implement such projects, including its plans for the Lakefield-Fox Lake-Rutland-Winnebago-Hayward-Adams 161 kV line. This report should include proposed timelines for each project with the incremental steps already taken and to be taken toward the completion of the project, such as filings for state and local permits, public notices, public hearings, easement acquisitions, petitions for franchise approvals, requests for eminent domain, construction, and other relevant actions.

    c. A reconciliation of ITC Midwest's assessment of the project costs and benefits during the 07-540 proceeding and why its assessment differed from MISO's 2008 assessment of the Salem-Lore-Hazelton project that had only a 1.23 B/C ratio.

d. Based on current data, an estimated projected savings over the next 15 years in Minnesota from the completions of (i) the Salem-Hazelton Project and (ii) the Arnold-Vinton Rebuild; and additionally, the extent to which constraints in the area are mitigated by these projects. If they are not fully mitigated, state by how many of the 500 hours annually this area will see constraints with and without the projects.

2. By June 30, 2012, ITC shall file a report on the impact of rerouting the Salem-Lore-Hazelton project around the Lore substation and provide the Commission with evidence that the rerouting of the project did not impact the purpose of the project as defined by the Settlement Agreement.

3. On June 30, 2012 and December 31, 2012, ITC shall file a report on the investment projects ITC has completed as part of its requirement to make $250 million in capital investments in transmission infrastructure in the IPL service territory during the five years following closing of the transaction transferring IPL's transmission facilities to ITC.

4. ITC shall file status reports on the progress of the construction of the Salem-Hazelton Project on June 30, 2012, December 31, 2012, every six months thereafter, and upon the completion of the project.

5. ITC shall notify the Commission in the future about any changes to the Salem-Hazelton Project that are conveyed to the Midwest Independent Transmission System Operator or the Iowa Utilities Board, including such things as siting or line path changes.

6. For any project reasonably related to the settlement agreements incorporated into the February 7, 2008 order, ITC shall clearly and fully identify the operative and essential assumptions the Company is making when committing to project completion dates.

7. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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