

138 FERC ¶ 61,147
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Midwest Independent Transmission System Operator, Inc. Docket No. ER12-749-000
and Ameren Transmission Company of Illinois

ORDER CONDITIONALLY ACCEPTING REVISED
FORMULA RATE TEMPLATE AND PROTOCOLS

(Issued February 29, 2012)

1. On December 30, 2011, Midwest Independent Transmission System Operator, Inc. (MISO) and Ameren Transmission Company of Illinois (ATXI) (together, Applicants) filed, pursuant to section 205 of the Federal Power Act (FPA),¹ proposed revisions to MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff)² in order to transition ATXI from a transmission revenue requirement calculated on an historical basis to a forward-looking formula rate and to implement transmission incentive rate treatments previously approved by the Commission in connection with a new transmission project, the Illinois Rivers Project. In this order, we conditionally accept ATXI's proposed revisions to the Tariff for filing, subject to a compliance filing, to become effective March 1, 2012, as requested.

I. Background

2. ATXI is a transmission-only subsidiary of Ameren Corporation and an affiliate of Ameren Illinois Company. ATXI states that it initially was formed to help fund,

¹ 16 U.S.C. § 824d (2006).

² As administrator of the Tariff, MISO joins ATXI in the filing to amend the Tariff, but MISO states it takes no position on the substance of the filing.

construct, and/or own certain upgrades to the Illinois Power Company transmission system. ATXI maintains that it does not engage in wholesale or retail power sales.³

3. ATXI currently collects its annual transmission revenue requirement (ATRR) in the Ameren Illinois Pricing Zone of MISO through a Commission-approved Attachment O formula rate template in the Tariff, which is referred to as Attachment O-ATXI.⁴

4. On May 19, 2011, the Commission conditionally granted Ameren Services Company, on behalf of ATXI, the authority to recover certain transmission incentives for the Illinois Rivers Project.⁵ Specifically, the Incentives Order approved the following incentives: (1) inclusion of 100 percent of construction work in progress (CWIP) in rate base; (2) recovery of 100 percent of prudently incurred abandoned plant costs; (3) use of a hypothetical capital structure of 56 percent equity and 44 percent debt during the construction period; and (4) ability to expense and recover all prudently incurred costs on a current basis for the projects' pre-commercial operations.⁶ The Incentives Order conditioned approval of these incentives on the Illinois Rivers Project receiving approval through the MISO Transmission Expansion Planning (MTEP) process.⁷ On December 8, 2011, the MISO Board of Directors approved the Illinois Rivers Project through the MTEP as a Multi-Value Project (MVP).⁸

³ Applicants Filing, Transmittal Letter at 2.

⁴ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,016 (2011).

⁵ *Ameren Servs. Co.*, 135 FERC ¶ 61,142 (2011) (Incentives Order). The Illinois Rivers Project consists of a 331 mile 345 kV transmission line extending from Palmyra, Missouri to Pawnee, Illinois and then continuing to Sugar Creek, Indiana along with two line segments from Meredosia to Ipava, Illinois and Sidney to Rising, Illinois. The project is estimated to cost \$739 million. Applicants Filing, Transmittal Letter at 2 n.7.

⁶ Incentives Order, 135 FERC ¶ 61,142 at PP 48, 58, 69, 77.

⁷ *Id.* P 31.

⁸ The Incentives Order also approved transmission incentives for the Big Muddy River Project. But ATXI notes that it has not yet submitted the Big Muddy River Project to MISO for consideration. Thus ATXI is not proposing to implement transmission rate incentives for the Big Muddy River Project in the instant filing. Applicants Filing, Transmittal Letter at 4 n.16.

II. Filing

5. As a result of receiving MTEP approval for the Illinois Rivers Project as an MVP, ATXI states that the Illinois Rivers Project has satisfied the Commission's condition for incentive rates and this filing revises Attachment O-ATXI to implement the incentives for the Illinois Rivers Project previously approved by the Commission.⁹ In addition to implementing the incentives into Attachment O-ATXI, ATXI proposes to transition from a formula rate calculated on an historical basis to one that is calculated on a forward-looking basis using projected costs to develop the annual transmission revenue requirement, subject to a true-up mechanism. ATXI explains that the Illinois Rivers Project represents a substantial investment for ATXI and that granting the request would allow for current cost recovery, and thus improve its cash flow position while not resulting in an overall increase or change in the rate that customers actually pay. Furthermore, because of the true-up mechanism, ATXI states that it will recover no more, and no less, than the actual transmission costs for the year.¹⁰

6. ATXI requests an effective date of March 1, 2012 for the proposed Tariff revisions and waiver of the requirements to submit full Period I and Period II cost of service statements under section 35.13 of the Commission's regulations, 18 C.F.R. § 35.13 (2011).

III. Notice of Filing and Responsive Pleadings

7. Notice of Applicant's filing was published in the *Federal Register*, 77 Fed. Reg. 1478 (2012), with interventions and protests due on or before January 20, 2012. Illinois Commerce Commission (Illinois Commission) submitted a notice of intervention. The Detroit Edison Company, Consumers Energy Company, American Municipal Power, Inc., filed timely motions to intervene. Illinois Municipal Electric Agency, Hoosier Energy Rural Electric Cooperative, Inc., Southern Illinois Power Cooperative and Wabash Valley Power Association, Inc. (collectively, Customers) filed a timely motion to intervene and protest, and Prairie Power, Inc. (Prairie Power) filed a timely motion to intervene and comments.

8. On January 23, 2012, Southwestern Electric Cooperative, Inc. (Southwestern) filed a motion to intervene and comments out-of-time. On January 25, 2012, Illinois Commission filed comments out-of-time.

⁹ *Id.* at 4.

¹⁰ Applicants Filing, Transmittal Letter at 8.

9. On February 6, 2012, ATXI filed a motion for leave to answer and answer to the comments and protests.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2011), we will grant Southwestern's motion to intervene out of time given its interest in this proceeding, the early stages of the proceeding, and the absence of undue prejudice or delay.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept ATXI's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

12. We will conditionally accept ATXI's filing, to become effective March 1, 2012, subject to a compliance filing, as discussed below.

1. ATXI's Proposal

a. Attachment O-ATXI, Attachment GG-ATXI, and Attachment MM-ATXI Revisions

13. ATXI proposes revisions to Attachment O-ATXI to transition ATXI from a transmission revenue requirement calculated on an historical basis to that of a forward-looking calculation with annual true-up to ensure that customers pay ATXI's actual revenue requirement based on data reported in its annual FERC Form No. 1 reports. ATXI states that the Commission has approved virtually identical changes to the Tariff to establish such Attachment O formula rates for other MISO transmission owners.¹¹ Also,

¹¹ Applicants Filing, Transmittal Letter at 4 (citing *Otter Tail Power Co.*, 129 FERC ¶ 61,287 (2009); *Am. Transmission Co.*, Docket No. ER05-1506-000 (Dec. 20, 2005) (delegated letter order); *Int'l Transmission Co. and Midwest Indep. Transmission Sys. Operator, Inc.*, 116 FERC ¶ 61,036 (2006); *Mich. Elec. Transmission Co. and Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,314 (2006), *order on reh'g*, 118 FERC ¶ 61,139 (2007)).

ATXI proposes certain specific revisions to Attachment O-ATXI to implement transmission incentive rate treatments previously approved by the Commission for the Illinois Rivers Project.

14. ATXI explains that the proposed revisions to Attachment O-ATXI involve a change to the manner in which the inputs to the template are developed, rather than a change to the formula rate contained in the template. Although the initial transmission rate based on projected costs will begin on March 1, 2012, the requested effective date, going forward ATXI will include the projected costs beginning on January 1 of each year.¹²

15. With regard to implementing the incentives, ATXI proposes revisions to allow it to recover 100 percent of CWIP in rate base and to implement the hypothetical capital structure. ATXI states it has implemented accounting processes and mechanisms designed to prevent any double recovery of the Illinois Rivers Project cost as CWIP in rate base and as capitalized Allowance for Funds Used During Construction (AFUDC).¹³ For the hypothetical capital structure, ATXI proposes to include four new lines to Attachment O-ATXI, page 4, lines 30a-30d to reflect the approved capital structure.¹⁴ Consistent with the Incentives Order, ATXI states that ATXI will only utilize a hypothetical capital structure during the construction period.¹⁵

16. ATXI also proposes to include a placeholder for the abandoned plant recovery incentive by adding two lines and a footnote in the template where abandoned plant amounts would be included, should ATXI abandon any portion of the Illinois Rivers Project. ATXI states that, consistent with recent Commission decisions approving placeholders for abandoned plant recovery, ATXI will maintain a value of zero in the formula rate template until such time as it receives Commission approval to recover any abandoned plant costs through a separate section 205 filing.¹⁶

¹² Applicants Filing, Ex. No. ATXI-1 (Gudeman Test.) at 6.

¹³ *Id.*, Ex. No. ATXI-9 (Steinke Test.) at 3-4.

¹⁴ *Id.*, Gudeman Test. at 20.

¹⁵ *Id.*, Transmittal Letter at 7.

¹⁶ *Id.*, Gudeman Test. at 19-20.

17. ATXI also proposes ATXI-specific revisions to the standard Attachment GG and MM templates¹⁷ of the Tariff to implement the incentives of the Illinois Rivers Project. Specifically, ATXI proposes an additional column to Attachment GG to capture the incremental return due to ATXI's hypothetical capital structure. ATXI states that the ATXI-specific Attachments are consistent with other revisions to Attachment GG and Attachment MM proposed by the MISO transmission owners. ATXI adds that the proposed revisions to ATXI-specific Attachments require true-up and have proposed a true-up procedure for Attachment GG, as part of this filing. ATXI explains that, because Attachment MM is a new Tariff provision under which the first charges will not begin until January 1, 2012, the MISO transmission owners are still working to develop an Attachment MM true-up procedure. However, once that process is complete, ATXI commits to filing an Attachment MM-ATXI true-up procedure, which ATXI anticipates it will file sometime in 2012.¹⁸

b. Attachment O-ATXI Formula Rate Protocols

18. As part of the proposal to adjust to a forward-looking formula rate, ATXI proposes new formula rate protocols. Specifically, the formula rate protocols provide that, by September 1 of each year, ATXI will determine its projected net revenue requirement for the following year, and then make this information available to customers through the Ameren Midwest ISO Open Access Same-Time Information System (OASIS) site. ATXI will post supporting work papers regarding projected costs of plant in projected rate base, expected construction schedules and in-service dates and resultant rates

¹⁷ Attachment GG allows MISO to allocate the costs of certain new regionally beneficial and market efficiency transmission projects under Attachment FF of the Tariff. Applicants state that the annual revenue requirement for projects that qualify for regional cost allocation under Attachment GG is subtracted from the gross Attachment O revenue requirement, which ensures that customers do not pay for these projects through the general transmission charges for Network Integration Transmission Service under Schedule 9 or Point-To-Point Service under Schedules 7 and 8. Attachment MM allows MISO to allocate the costs of MVPs under Attachment FF of the Tariff. Applicants state that the annual revenue requirement for projects that qualify for regional cost allocation under Attachment MM is subtracted from the gross Attachment O revenue requirement to ensure that customers do not pay for these projects through the general transmission charges under Midwest ISO Schedules 7, 8, and 9. Applicants Filing, Transmittal Letter at 9-10; *id.*, Gudeman Test. at 15-17.

¹⁸ Applicants Filing, Transmittal Letter at 10; *id.*, Gudeman Test. at 15-17.

incorporating a true-up adjustment¹⁹ for the previous year. ATXI commits to provide all inputs in sufficient detail to identify the components of the ATXI net revenue requirement. By October 31 of each year, ATXI will hold customer meetings to explain the formula rate input projections and cost details.²⁰

19. ATXI states that for this year, because the normal timeline for customer input and review procedures cannot be followed, ATXI has posted the 2012 estimated costs, revenues and revenue requirements on the ATXI public page located on the MISO OASIS site concurrent with the filing. ATXI also states that an initial customer meeting will be held before February 15, 2012, to provide an opportunity for customers to ask questions and request information concerning projected costs, revenues and resulting rates for 2012.²¹

2. Comments and Protests

20. Several parties raise three general concerns with Applicants' filing. As outlined below, they: (1) allege errors or inconsistency in the formula rate; (2) request clarifications on incentives to be implemented; and (3) raise issues concerning the proposed protocols.

a. Errors or Inconsistency in the Formula Rate

21. Several parties express concern that because ATXI seeks a significant change in rate methodology, any proposal that is incorrect, inconsistent or otherwise flawed could potentially subject customers to over-recovery of costs or otherwise cause those costs to

¹⁹ Applicants state that the true-up adjustment accounts for any differences between estimated revenue requirement amounts and ATXI's actual net revenue requirements in a given calendar year as calculated using ATXI's FERC Form 1 for that year. Actual divisor loads for the Ameren Illinois pricing zone will be compared to the divisor loads used in calculating the forward-looking rate and the difference multiplied by the ATXI rate that was actually billed to determine any excess or shortfall due to volume differences. The sum of the excess or shortfall due to the difference between the actual versus projected net ATRR and the excess or shortfall due to volume differences constitutes the true-up adjustment. The true-up adjustment for the prior year will be calculated after the annual FERC Form 1 filing in April of each year.

²⁰ *Id.*, Transmittal Letter at 5, 6.

²¹ *Id.*, Gudeman Test. at 13.

be recovered improperly.²² In particular, Customers argue that the annual allocation factor for transmission operation and maintenance (O&M) at line 4 of Attachment MM-ATXI is incorrectly computed.²³ In addition, Prairie Power and Customers argue that an error was made in the proposed Attachment GG-ATXI example of the True-Up Calculation (Exhibit No. ATXI-6), based on an over-collection of \$20,500.²⁴ Prairie Power and Customers also claim that the interest should be calculated for the 24-month period from mid-year 2012 to mid-year 2014, not to mid-year 2013.

22. In addition, Illinois Commission contends that ATXI's proposal is inconsistent with promises and commitments made by ATXI in its November 12, 2010 filing in Docket No. ER11-2104-000.²⁵ Illinois Commission explains that it protested ATXI's filing in that case because it lacked a transparent and comprehensive formula rate update protocol and was concerned about "potential rate shock given the magnitude of proposed transmission expenditures."²⁶ Illinois Commission states that in ATXI's answer to its protest, ATXI stated that "ATXI unequivocally clarifies that the November 12 Filing [in Docket No. ER11-2104-000] is unrelated to the Ameren Petition [in Docket No. EL10-80-000]," and the "costs for the proposed transmission projects that are the subject of the Ameren Petition will not be flowed through to customers through the Attachment O-ATXI proposed in the November 12 Filing."²⁷ Illinois Commission states that it did not further pursue its concerns about ATXI's protocols based upon ATXI's assurance that transmission costs recovered through Attachment O-ATXI would be limited to the Baldwin Line. Illinois Commission asserts that the Commission's acceptance of ATXI's

²² *E.g.*, Southwestern Comments at 4-5.

²³ Customers Protest at 5.

²⁴ Prairie Power Comments at 5, Customers Protest at 5.

²⁵ In Docket ER11-2104-000, on November 12, 2010, MISO and ATXI submitted proposed revisions to Attachment O under MISO's Tariff to establish a formula rate to recover ATXI's transmission revenue requirement for the Baldwin Line, a new 28-mile transmission line.

²⁶ Illinois Commission Comments 6-7 (citing Illinois Commission Comments, Docket No. ER11-2104-000 (filed Dec. 2, 2010)).

²⁷ *Id.* at 7 (quoting ATXI Answer, Docket No. ER11-2104-000, at 4-5 (filed Dec. 14, 2010)).

Attachment O-ATXI also was based on ATXI's commitments.²⁸ Illinois Commission states that the Commission should "take note of ATXI's past statements and commitments, and the reliance that parties such as [Illinois Commission] placed on them, in considering ATXI's . . . proposal."²⁹

b. Clarification on Incentive Implementation

23. Several parties seek clarification on various aspects of the ATXI proposal. First, Prairie Power seeks clarification that there will be no 2011 costs included in the proposed true-up or otherwise applied to Prairie Power.³⁰ Second, Customers argue that in the proposed template, depreciation expense is not properly annotated and does not reflect the results of accounting policy and practice. Customers add that at the very least, the Attachment O templates should be revised to note the conditions placed on ATXI through the Incentives Order.³¹ Third, parties seek clarification that ATXI is not proposing to recover pre-commercial operations expenses through the proposal as contemplated by the Incentives Order.³² Fourth, Illinois Commission seeks clarification on whether ATXI has been assigned the CWIP and abandoned plant recovery authorization incentives from Ameren Services Company and whether ATXI's filing constitutes the section 205 filing required by the Commission to implement those approved incentives.³³

c. Issues on Proposed Protocols

24. Parties argue that the proposed protocols are deficient relative to other formula rate protocols accepted by the Commission.³⁴ For example, Customers contend that the proposed protocols provide no real opportunity for customers, state regulators or other interested parties to evaluate the formula rate input data including true-up or to challenge

²⁸ *Id.* at 8 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 134 FERC ¶ 61,016 at PP 1, 20).

²⁹ *Id.*

³⁰ Prairie Power Comments at 4.

³¹ Customers Protest at 7.

³² Illinois Commission Comments at 10-11; Prairie Power Comments at 5-6; Customers Protest at 6.

³³ Illinois Commission Comments at 8-9.

³⁴ *Id.* at 14-17; Customers Protest at 7-12.

either the correctness or reasonableness of the inputs including true-up, or the prudence of the costs to be recovered.³⁵

25. In addition, Illinois Commission contends that the proposed protocols do not provide transparency or include critical features necessary to ensure that ratepayers and other interested parties are reasonably informed of rate input changes and true-up and can adequately investigate and potentially challenge costs and formula rate inputs.³⁶ It states that the proposed OASIS posting is not transparent and does not provide adequate notice to affected customer, state regulator, or other interested parties.³⁷

26. Customers ask the Commission to reject the proposed procedures and require ATXI to refile its formula rate with procedures that are gauged to conform with the FPA and to provide all customers and the Commission a fair opportunity to protest, examine and, if necessary, to correct an annual filing.³⁸ Further, Illinois Commission asks the Commission to reject ATXI's proposal for OASIS posting as insufficient and require ATXI to submit its annual formula rate projections as an informational filing and to develop a transparent process for the true-up step.³⁹

3. Answer

27. In its answer, ATXI responds to the Comments and Protests. In response to Customers' contention that the Annual Allocation Factor for transmission O&M at line 4 is incorrectly computed and, consequently, too much is allocated to transmission rates, ATXI explains that its proposal is consistent with the Transmission Accumulated Depreciation methodology accepted by the Commission.⁴⁰

28. With regard to Prairie Power's and Customers' allegation that an error was made in the true-up example portion of the proposed Attachment GG-ATXI, ATXI states that it believes the proposed Attachment GG-ATXI are free of errors. However, ATXI states that it acknowledges that the wording for the true-up example may be confusing and

³⁵ Customers Protest at 8.

³⁶ Illinois Commission Comments at 12

³⁷ *Id.* at 12.

³⁸ Customers Protest at 11.

³⁹ Illinois Commission Comments at 12-13.

⁴⁰ ATXI Answer at 6-7.

therefore, it is willing to clarify this section of the Tariff in a compliance filing. ATXI offers to clarify Attachment GG-ATXI (Exhibit No. ATXI-6), as follows: “[a]n average of the interest rates will be used to calculate the time value of money, from the mid-point of the Projected Year to the mid-point of the True-Up Year. The average interest rate will be determined using the same period as is used in ATXI’s Attachment O-ATXI true-up calculation.”⁴¹

29. ATXI also responds to Prairie Power’s concern that there be no cost recovery applied to 2011 costs. ATXI clarifies that Prairie Power is correct and states that if the Commission approves the filing, actual 2011 costs will not be included in any true-up.⁴²

30. Regarding alleged inconsistencies in reference to promises and commitments with prior Ameren Services and ATXI filings, ATXI states that contrary to the Illinois Commission’s assertions, ATXI did not promise in prior filings that it would never recover the cost of certain projects from its customers through Attachment O-ATXI. ATXI clarifies that it previously explained in the November 12, 2010 filing, in Docket No. ER11-2104-000, that ATXI would not recover incentives approved in the Incentives Order through the November 12, 2010 filing.⁴³ ATXI also states that the filing in this proceeding is the filing referenced in the November 12 filing, where ATXI stated, in pertinent part, “Ameren will file the appropriate Attachment O for the incentivized transmission projects.”⁴⁴

31. ATXI also affirms that the instant proposal seeks to implement only the 100 percent CWIP and hypothetical capital structure incentives at this time. ATXI also clarifies that it is not seeking recovery of pre-commercial operations expenses and therefore is not required to comply with the Commission’s requirements associated with implementation of this incentive.⁴⁵

32. Regarding the forward-looking formula rate template methodology and proposed protocols, in its answer ATXI states that the proposal was modeled after similarly situated MISO transmission owners’ forward-looking formula rate protocols previously

⁴¹ *Id.* at 7-8.

⁴² *Id.* at 10.

⁴³ *Id.* at 9.

⁴⁴ *Id.* at 10 (quoting ATXI Answer, Docket No. ER11-2104-000, at 5 (filed Dec. 14, 2010)).

⁴⁵ *Id.* at 5-6.

approved by the Commission. In particular, ATXI states that it modeled its proposed protocols on MidAmerican Energy Company's and Missouri River Energy Services' Commission accepted formula rate protocols. ATXI states that Illinois Commission raises many of the same concerns regarding the proposed protocols as it did in the MidAmerican Energy Company proceeding, Docket No. ER12-242-000, in which the Commission found MidAmerican's filing to be just and reasonable and accepted it for filing.

4. Commission Determination

33. We will conditionally accept Applicants' proposed revisions to Attachment O-ATXI, Attachment GG-ATXI, and Attachment MM-ATXI, effective March 1, 2012, to transition ATXI from an historical formula rate to a forward-looking formula rate and to implement the 100 percent CWIP and hypothetical capital structure transmission incentive rate treatments previously approved by the Commission in connection with the Illinois Rivers Project, subject to the compliance filing ordered below. The Commission has approved the use of forward-looking formula rates for other transmission-owning members of MISO.⁴⁶ Similarly, forward-looking formula rates, if properly designed and supported, as is the case here, would be acceptable to avoid lag in cost recovery for the Illinois Rivers Project.

34. Additionally, we will accept ATXI's proposed protocols. ATXI's proposed protocols are virtually identical to the accepted protocols of other MISO transmission owners that use a forward-looking Attachment O formula rate and, with respect to the issue raised by Illinois Commission and Customers, also conform to MISO's Attachment O formula rate protocols. We note that Illinois Commission's and Customers' filings on that issue thus challenge MISO's existing Attachment O formula rate protocols and, therefore, are more appropriately characterized as complaints on that broader issue rather than as protests on the issue presented by Applicants in this proceeding. The Commission discourages the combination of complaints with other types of filings, including protests.⁴⁷ Accordingly, we will reject Illinois Commission's and Customers' protest pertaining to this issue, without prejudice. Illinois Commission and Customers

⁴⁶ See, e.g., *MidAmerican Energy Co.*, 137 FERC ¶ 61,250, at P 70 (2011); *Xcel Energy Servs., Inc.*, 121 FERC ¶ 61,284, at P 69 (2007); *Mich. Elec. Transmission Co., LLC*, 117 FERC ¶ 61,314 at P 17.

⁴⁷ See *MidAmerican Energy Co.*, 137 FERC ¶ 61,250 at P 71; *Entergy Servs., Inc.*, 104 FERC ¶ 61,084, at P 13 (2003); *Yankee Atomic Elect. Co.*, 60 FERC ¶ 61,316, at 62,096 n.19 (1992); *Missouri Basin Municipal Power Agency v. Midwest Energy Co. and Iowa Resources, Inc.*, 55 FERC ¶ 61,464, at 62,533 (1991).

are of course free to file separate complaints on this issue pursuant to section 206 of the FPA.

35. We also grant ATXI's request for waiver of section 35.13's requirement to submit full Period I and Period II cost of service statements, for good cause shown. The Commission has granted waivers of the requirements to provide such data previously in a series of cases involving transmission formula rates.⁴⁸

36. With regard to Customers' claim that the annual allocation factor for transmission O&M at line 4 of Attachment MM-ATXI is incorrectly computed, we agree with ATXI that the filing in this proceeding is consistent with the accepted MISO Attachment MM methodology in allocating transmission O&M costs to Attachment MM projects.⁴⁹ Accordingly, we find that ATXI applied the correct divisor in Attachment MM-ATXI.

37. With regard to the true-up example contained in Attachment GG-ATXI, the proposed true-up calculation example states that "Interest will be added through June 30, 2013, the mid-point of the True-up Year."⁵⁰ As ATXI acknowledges in its answer, the example could be confusing in light of section 3 of the True-up Procedure in Attachment GG-ATXI providing that the average interest is calculated over a two-year period. Therefore, we direct ATXI, in the compliance filing ordered below, to revise the Attachment GG-ATXI true-up example to clarify that the interest will be applied over 24 months.

38. With regard to recovery of pre-commercial operations expenses, as ATXI clarified in its answer, it is not seeking to implement this incentive in rates at this time and, therefore, all requirements set forth by the Incentives Order to implement the pre-commercial operations expenses incentive are not applicable at this time. However,

⁴⁸ *E.g.*, *PPL Elec. Utils. Corp.*, 125 FERC ¶ 61,121, at PP 40-41 (2008); *Pub. Serv. Elec. & Gas Co.*, 124 FERC ¶ 61,303, at P 23 (2008); *Okla. Gas & Elec. Co.*, 122 FERC ¶ 61,071 (2008); *Commonwealth Edison Co.*, 119 FERC ¶ 61,238, at P 94 (2007), *order on reh'g*, 122 FERC ¶ 61,037, *order on reh'g*, 124 FERC ¶ 61,231 (2008).

⁴⁹ *Midwest Indep. Transmission Sys. Operator, Inc.*, Docket No. ER12-312-000 (Dec. 29, 2011) (delegated letter order) (revised Attachment MM to base the allocator for Transmission O&M Expense on Transmission Accumulated Depreciation rather than Gross Transmission Plant in Service. As a result, less Transmission O&M is allocated to MVPs providing a more equitable manner that matches costs with when they would be expected to occur.).

⁵⁰ Applicants Filing, Ex. No. ATXI-6.

when ATXI does seek to implement this incentive, it must submit a section 205 filing with appropriate support consistent with the requirements in the Incentives Order.

39. We reject Customers' argument that the effective annual depreciation rate is not properly annotated.⁵¹ We find that Applicants have properly supported the rate through Exhibit No. ATXI-5, along with explanatory notes regarding how the rate is calculated on the formula rate template itself, and that the proposed template is consistent with the accepted templates of other similarly situated MISO transmission owners.⁵²

40. Further, with regard to Illinois Commission's concern about assignment of the incentives from Ameren to ATXI and whether ATXI's filing constitutes the section 205 filing required by the Commission to implement the approved incentives, we find that Applicants' filing constitutes the section 205 filing that Commission required ATXI to make to implement the CWIP and abandoned plant recovery incentives granted in the Incentives Order.⁵³

41. Finally, we find that ATXI sufficiently clarified in its answer, as requested by Prairie Power, that there will be no 2011 costs included in the proposed true-up or otherwise applied to Prairie Power. Because we accept ATXI's proposal to transition ATXI from an historical formula rate to a forward-looking formula rate, 2011 costs will not be recovered through its formula rate, and the transmission rates as of March 1, 2012 will be based on projected 2012 costs.

The Commission orders:

(A) ATXI's proposed Tariff revisions are hereby conditionally accepted for filing, subject to the compliance filing ordered below, to become effective on March 1, 2012, as requested, as discussed in the body of this order.

(B) ATXI's request for waiver of section 35.13 of the Commission's regulations is hereby granted, as discussed in the body of this order.

⁵¹ Customers Protest at 7.

⁵² See *Int'l Transmission Co.*, 116 FERC ¶ 61,036; *Mich. Elec. Transmission Co.*, 117 FERC ¶ 61,314.

⁵³ See Incentives Order, 135 FERC ¶ 61,142 at P 104.

(C) ATXI is hereby directed to submit a compliance filing within 30 days of the date of this order that revises Attachment GG-ATXI, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.