

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>ALLETE, Inc.</b>	)	<b>Docket Nos. ER16-1107</b>
<b>Great River Energy</b>	)	<b>ER16-1108</b>
<b>Midcontinent Independent System Operator, Inc.</b>	)	<b>ER16-1116</b> <b>(not consolidated)</b>

**JOINT ANSWER OF ALLETE, INC. AND GREAT RIVER ENERGY**

Pursuant to Rule 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission<sup>1</sup> (“FERC” or “Commission”), ALLETE, Inc. (“ALLETE”) and Great River Energy (“GRE”) (collectively, the “Parties”) hereby file this Joint Answer in opposition of the Motion to Intervene and Protest, and for Extension of Time of Missouri River Energy Services (respectively, “MRES Protest” and “MRES”).

This proceeding concerns four “Zonal Agreements”<sup>2</sup> filed by the Midcontinent Independent System Operator, Inc. (“MISO”), ALLETE and GRE on March 8, 2016. The Commission’s Combined Notice issued on the same day established March 29, 2016 as the comment date based on the Commission’s standard 21-day comment period. The MRES Protest alleges that the Zonal Agreements were negotiated “outside of Commission processes”<sup>3</sup> and are inconsistent with the MISO Open Access Transmission, Energy and Operating Reserve Markets

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.213 (2015).

<sup>2</sup> The Zonal Agreements are a: (1) Coordinated Local Planning Agreement (“Local Planning Agreement”); (2) Joint Pricing Zone Revenue Allocation Agreement (“JPZ Agreement”); (3) Revenue Credit Agreement for the Great Northern Transmission Line Project (“GNTL Credit Agreement”); and (4) Wholesale Distribution Service Agreement (“WDSA”).

<sup>3</sup> MRES Protest at 4.

Tariff (“Tariff”) and governing Commission precedent.<sup>4</sup> MRES also requests an additional 14 days beyond March 29<sup>th</sup> (i.e., to April 12, 2016) to file additional comments in this proceeding.<sup>5</sup> The MRES Protest lacks merit and should be rejected. Additionally, MRES has failed to establish “good cause” to grant its requested extension and, therefore, such request should be denied.

The transmittal letter accompanying the Zonal Agreements (“Transmittal Letter”) explains that the agreements reflect a “global” settlement meant to balance ALLETE’s and GRE’s commercial interests and resolve many contested issues between ALLETE and GRE. This settlement was intended to avoid time-consuming and resource-intensive litigation between ALLETE and GRE concerning the Parties’ obligations to each other regarding cost allocation, revenue sharing for certain facilities and load within the Minnesota Power Pricing Zone (“MP Pricing Zone”) and/or the Minnesota Power Local Balancing Authority Area, as well as local planning obligations for purposes of “feeding” information up to the MISO Transmission Expansion Planning (“MTEP”).

If ALLETE and GRE had not resolved their differences, they would have been forced to litigate complex and fact-intensive issues concerning MISO pricing zones boundaries, classification of assets for cost allocation under the MISO Tariff and standards that should be applied to cost-sharing by two MISO transmission owners in the same MISO Pricing Zone (such as ALLETE and GRE). This litigation likely would have taken years and resources away from all parties (including MISO and Commission Staff), who all may prefer to focus on other areas. Both ALLETE and GRE stand by their global settlement reflected in the Zonal Agreements.

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<sup>4</sup> MRES Protest at 8.

<sup>5</sup> *Id.*

All of MRES's claims are either procedurally improper or unfounded and should not delay the Commission's approval of the Zonal Agreements. In particular, MRES's claims that ALLETE and GRE negotiated the Zonal Agreements "outside of Commission processes"<sup>6</sup> and that the Zonal Agreements are inconsistent with the MISO Tariff and FERC precedent are incorrect.<sup>7</sup> GRE is a MISO Transmission Owner with facilities in the MP Pricing Zone. Appendix C, Article III, Section A.8 of the MISO Transmission Owner Agreement ("TOA") provides that MISO will distribute revenue to a single Transmission Owner within a pricing zone where there is more than one transmission owner. The TOA provides that this Transmission Owner is then required to distribute revenue to other transmission owners in its zone using a methodology that will, to "the greatest extent possible, minimize cost shifts so that the [Transmission Owners] shall continue to receive the revenues they would have received absent the formation of MISO."<sup>8</sup> The JPZ Agreement is the agreement between ALLETE and GRE implementing the revenue distribution provisions of Appendix C, Article III, Section A.8 of the MISO TOA, as negotiated to replace the "grandfathered" agreement identified in the Transmittal Letter.

The rates, terms and conditions of the JPZ Agreement, along with the other Zonal Agreements, reflect a settlement that resolves disputes between the Parties regarding their obligations to each other with respect to the facilities and loads that are eligible for revenue

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<sup>6</sup> MRES Protest at 4.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> Appendix C, Article III, Section A.8 of the MISO TOA states:  
The Owners located within a Zone that has more than one (1) Owner shall appoint a single Owner or designee to receive the revenues allocated to the Zone and to further distribute such revenues pursuant to agreement of the Owners within the Zone. If the Owners in a Zone cannot agree to a methodology for distributing such revenues, Owners may seek recourse through the Dispute Resolution procedures under Attachment HH of the Tariff or the Owners may go to the FERC for resolution. An intra-Zonal revenue distribution methodology shall, to the greatest extent possible, minimize cost shifts so that the Owners shall continue to receive the revenues they would have received absent the formation of MISO.

sharing in the MP Pricing Zone. Therefore, ALLETE and GRE worked “within” the context of processes set forth in the TOA, as approved by FERC. An argument that ALLETE and GRE have attempted to thwart any Commission process is a collateral attack on the TOA, and misrepresents the process used by ALLETE and GRE when negotiating the Zonal Agreements.

MRES’s Protest, at best, reflects a misunderstanding of the process used to negotiate the Zonal Agreements as well as such agreements’ fundamental purpose. Moreover, the concerns that MRES has raised are primarily related to cost recovery under Attachment O of the MISO Tariff and are not properly raised in this proceeding. Specifically, MRES argues that ALLETE and GRE have proposed to roll into rates the costs associated with the Great Northern Transmission Project’s (“GNTL”) and other unidentified facilities that MRES believes should not be eligible for Attachment O recovery. By raising these claims in this docket, MRES is effectively asking the Commission to ignore the stakeholder process set forth in ALLETE’s Attachment O challenge protocols. Therefore, the concerns raised by MRES in its protest are either not relevant and/or not properly raised in this docket. MRES should avail itself of the processes and procedures included in ALLETE’s Attachment O challenge protocols if it wishes to challenge a facility’s eligibility for rate recovery – which is not implicated in the Zonal Agreements.

**A. MOTION FOR LEAVE TO FILE JOINT ANSWER**

To the extent necessary, ALLETE and GRE respectfully seek leave to answer the MRES Protest. As explained below, the MRES Protest includes misstatements of law and fact in its criticism of the Zonal Agreements. This Answer clarifies these misstatements and will assist the Commission in its decision making process with respect to both the substantive issues raised by

MRES, as well as explain why MRES has not established “good cause” under 18 C.F.R. § 385.2008 to justify an additional 14 days to file comments in this proceeding.<sup>9</sup>

## **B. JOINT ANSWER**

### **1. MRES’s Fundamental Concerns Should Be Raised in the Context of ALLETE’s Attachment O Challenge Protocols**

The focus of MRES’s Protest is the appropriateness of the recovery of GNTL-related costs, as well as other unidentified facilities, under ALLETE’s Attachment O.<sup>10</sup> Specifically, MRES argues that the GNTL may not be eligible as a “Network Upgrade” subject to Attachment N of the MISO Tariff and that ALLETE and GRE may have improperly classified certain facilities as “Transmission” for purposes of cost recovery under Attachment O.<sup>11</sup> Other than the GNTL, MRES has failed to identify any specific facility which MRES believes should not be qualified as transmission. As ALLETE and GRE clearly stated in their Transmittal Letter: “ALLETE and GRE have not removed, or added, facilities or load from, or to, the MP Pricing Zone for purposes of calculating rates for transmission service under the MISO Tariff . . .”<sup>12</sup> The JPZ Agreement reflects the status quo.

The Zonal Agreements, however, are not the mechanism pursuant to which ALLETE will seek cost recovery under Attachment O for any particular facility, including the GNTL. Instead, the Zonal Agreements (in particular, the JPZ Agreement) simply establish revenue sharing and

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<sup>9</sup> See, e.g., *PJM Interconnection, L.L.C.*, 114 FERC ¶ 61,108 (2006) (accepting an answer where “it further clarifies the issues and assisted in [the Commission’s] decision making process”); *N.Y. Indep. Sys. Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (2000) (allowing an answer as “useful in addressing the issues arising in these proceedings”); *Cent. Hudson Gas & Elec. Corp.*, 88 FERC ¶ 61,138 at 61,381 (1999) (accepting pleadings because they helped to clarify the issues and because of the complex nature of the proceeding).

<sup>10</sup> MRES Protest at 6-7 (challenging ALLETE’s ability to roll GNTL-related costs into its MISO rates under Attachment N and arguing that ALLETE and GRE are attempting to seek rate recovery under MISO transmission rates for unidentified facilities that may not qualify under the MISO Tariff and Commission precedent (including the “Seven-Factor” Test)).

<sup>11</sup> *Id.*

<sup>12</sup> See Transmittal Letter at 11.

cost recovery vis-à-vis ALLETE and GRE, as the two transmission owners within the MP Pricing Zone, as well as local planning obligations that will be used to feed information up to the MISO MTEP. Cost recovery (or the lack thereof) for a particular facility under ALLETE's Attachment O is subject to the applicable requirements of the MISO Tariff, including ALLETE's Attachment O challenge protocols. Therefore, this proceeding is not the correct forum for MRES to raise concerns relating to any facility's eligibility for cost recovery under ALLETE's Attachment O. ALLETE's Attachment O challenge protocols delineate very detailed informal and formal processes and procedures that are meant to provide a venue for MRES to raise exactly the types of concerns that it is raising in this proceeding.<sup>13</sup> MRES's attempt to raise cost recovery issues in this proceeding is a thinly veiled attempt to usurp the process that the Commission has approved for reviewing ALLETE's Attachment O inputs and should be rejected by the Commission.

The Commission should similarly reject MRES's attempt to misrepresent the GNTL's financing arrangements, as already approved by the Commission and the Minnesota Public Utility Commission ("MPUC"), as a means to expand this proceeding to include Attachment O cost-recovery. As approved by the Commission and the MPUC, ALLETE's and the Manitoba Hydro subsidiary's ("Manitoba Sub") respective capital contributions and ownership interests are based on the amount of capacity on the GNTL necessary to satisfy the GNTL's primary economic drivers (i.e., sales of hydroelectric power into the United States).<sup>14</sup> Despite MRES's assertions otherwise, there is no "unaccounted for" revenue requirement for the GNTL.<sup>15</sup>

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<sup>13</sup> *ALLETE, Inc., Letter Order*, Docket No. ER10-190 (Dec. 4, 2009) (accepting ALLETE's revised Attachment O).

<sup>14</sup> *ALLETE, Inc., Filing of Executed Multi-Party Facilities Construction Agreement*, Docket No. ER14-2950, at 4 n.18 (filed Sept. 26, 2014); *Midwest Independent Sys. Operator., Inc.*, 149 FERC ¶ 61,161 (2014) (order approving Facilities Construction Agreement); *ALLETE, Inc., Request for Transmission Rate Incentives, Prepared Direct Testimony of Christopher Fleege*, Exhibit No. ATE-1, Docket No. ER16-118-000, at 16:3-13 (filed Oct. 19,

ALLETE will own 51% and the Manitoba Sub will own 49% of the GNTL as tenants-in-common (“TIC”).<sup>16</sup> Initially, ALLETE is responsible for 46% of the GNTL’s costs even though ALLETE will own 51% of the GNTL. The Manitoba Sub is responsible for 54% of the GNTL’s costs even though it will own 49% of the GNTL. One of ALLETE’s power supply agreements with the Manitoba Sub includes a payment from the Manitoba Sub to ALLETE for an additional 17.7% of the GNTL’s capital costs. This payment will be applied toward ALLETE’s capital obligations, thereby further reducing ALLETE’s capital obligations for the GNTL from 46% to 28.3%. In other words, all amounts paid by the Manitoba Sub to ALLETE for purposes of funding the GNTL will, in effect, apply as a “credit” toward the GNTL’s retail revenue requirements and MISO Attachment O revenue requirement, and ALLETE’s customers will only be cost-allocated approximately 28.3% of the GNTL’s costs, subject to applicable regulatory approvals.<sup>17</sup>

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2015). The Manitoba Sub is considering ownership options with another Minnesota MISO Transmission Owner because it does not plan to be a TIC owner beyond mid-year 2016. If the Manitoba Sub does not identify another MISO Transmission Owner to assume its share by mid-year 2016, then ALLETE will assume 100% ownership of the GNTL. Even if ALLETE assumes 100% ownership, however, the Manitoba Sub will be obligated to continue funding its share of the GNTL’s costs as described above. All funds ALLETE receives from the Manitoba Sub after mid-year 2016 would be considered a Contribution in Aid of Construction by ALLETE and will be booked as an offset to the GNTL costs. *In the Matter of the Request of Minnesota Power for a Certificate of Need for the Great Northern Transmission Line, Order Granting Certificate of Need with Conditions*, MPUC Docket No. E-015/CN-12-1163 (Jun. 30, 2015).

<sup>15</sup> MRES Protest at 5.

<sup>16</sup> *Id.*

<sup>17</sup> The power supply agreements between ALLETE and Manitoba Hydro have been filed with and approved by the MPUC. *In the Matter of Minnesota Power’s Request for Approval of a Power Purchase Agreement with Manitoba Hydro Company*, MPUC Docket No. E-015/M-11-938 (Feb. 1, 2012); *In the Matter of Minnesota Power’s Petition for Approval of a 133 MW Power Purchase Agreement with Manitoba Hydro*, MPUC Docket No. E-015/M-14-960 (Jan. 30, 2015). To the extent subject to the Commission’s review under Section 205 of the FPA, these power supply agreements will be filed for Commission review before any actual sales of capacity or energy are made under the agreements (which will not take place until after the GNTL goes into service in June 2020). *ALLETE, Filing of Executed Multi-Party Facilities Construction Agreement*, Docket No. ER14-2950, at 4 n.18 (filed Sept. 26, 2014); *ALLETE, Inc.*, 149 FERC ¶ 61,161 (2014).

After construction, ALLETE will be responsible only for its *pro rata* share of operation and maintenance costs based on its 51% ownership percentage. The Manitoba Sub will be financially responsible for the balance of the GNTL's costs and its share of ongoing maintenance. The above arrangement was accepted by both the Commission in Docket No. ER14-2950<sup>18</sup> and the MPUC in Docket Nos. E-015/M-11-938 and E-015/M-14-960.

## **2. MRES's Misunderstanding of the GNTL Credit Agreement**

The Zonal Agreements are long-term agreements and properly recognize that ALLETE or GRE may not always be MISO members.<sup>19</sup> For example, the GNTL Credit Agreement has a 47-year term. As noted by MRES, the GNTL Credit Agreement provides that MP and GRE will work together to identify facilities that will be used to calculate the revenue requirement applied in the load-ratio share calculation used to determine the GNTL credit if ALLETE and GRE leave MISO and join another regional transmission organization. ALLETE's and GRE's agreement to work together to identify facilities in circumstances that may occur years (if not decades) from now is simply an acknowledgment that the facilities that may be at issue may not even currently exist. MRES points to this agreement as evidence that ALLETE and GRE are attempting to "include facilities with the MP Pricing Zone based on an asset list that has not yet been identified, yet alone evaluated against the seven factor test."<sup>20</sup> This is incorrect and reflects a fundamental misreading of the GNTL Credit Agreement. Clearly, ALLETE and GRE are still

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<sup>18</sup> *Midwest Independent Sys. Operator, Inc.*, 149 FERC ¶ 61,161 (2014).

<sup>19</sup> *See, e.g.*, JPZ Agreement Article 4.3 (stating that "[n]othing in this Agreement will be construed as affecting the rights of any Party hereto to: (a) unilaterally make an application to FERC to withdraw from MISO; or (b) challenge such withdrawal from MISO by any other Party); GNTL Credit Agreement Article 2.4 (stating that "[t]o the extent a Party is no longer a member of MISO, the Parties will mutually agree upon true-up timelines and procedures, including calculation of interest on any over- or under-recovery, that achieves the intent and objectives of this Article 2.4").

<sup>20</sup> MRES Protest at 7, n.16.



MISO members. The language referenced by MRES has not been implicated and, therefore, is not being used by ALLETE and GRE to include any facilities whatsoever into a pricing zone for purposes of rate recovery.

### **3. Clarifications that ALLETE and GRE Are Willing to Make in a Compliance Filing**

As explained in the Transmittal Letter, the Local Planning Agreement establishes two types of facilities for purposes of revenue sharing and cost allocation under the JPZ Agreement and successor revenue sharing agreements: “Zonal Transmission Facilities” and “Sole Use Transmission Facilities.”<sup>21</sup> Facilities subject to revenue sharing under the JPZ Agreement (and subsequent revenue sharing agreements) are considered Zonal Transmission Facilities. Facilities not subject to revenue sharing and cost allocation (i.e., facilities whose costs will be directly assigned to the relevant party) are considered Sole Use Transmission Facilities. MRES argues that the definition of Zonal Transmission Facility allows the “Management Committee” established by the Local Planning Agreement to ignore the MISO Tariff and Commission precedent (including the Seven-Factor Test, as incorporated in the MISO Tariff) when deciding a facility’s eligibility for cost-recovery under ALLETE’s Attachment O. This is not the intent and GRE and ALLETE’s clear understanding was that such decisions would need to be consistent with Commission precedent. As such, if ordered by the Commission, and as an accommodation to MRES, ALLETE and GRE would be willing to revise the definition of Zonal Transmission Facility to expressly reference the MISO Tariff and the Seven-Factor Test, in addition to the definition of Bulk Electric System already included therein. The revised definition of Zonal Transmission Facility would read as follows:

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<sup>21</sup> ALLETE, Inc., *Transmittal Letter, Filing of Coordinated Local Planning Agreement, Joint Pricing Zone Revenue Allocation Agreement, and Revenue Credit Agreement for the Great Northern Transmission Line Project, and Wholesale Distribution Service Agreement*, Docket Nos. ER16-1107 and ER16-1108, at 6 (Mar. 8, 2016).

**Zonal Transmission Facility:** Transmission Facilities that are eligible for cost recovery and revenue sharing under a Revenue Sharing Agreement. For purposes of this Agreement, the Parties agree that a networked transmission facility that meets the NERC definition of the Bulk Electric System shall be considered a Zonal Transmission Facility **if such classification is consistent with the requirements of the MISO Tariff and FERC precedent, including the “Seven-Factor Test.”** In addition to networked transmission facilities, (1) any radial transmission facility with an operating voltage greater than 100 kV that transmits power to serve customers of both Parties, or (2) any radial facility with an operating voltage greater than 50 kV that transmits power to serve a Third Party, shall be considered a Zonal Transmission Facility. The Parties agree that the Management Committee may designate a transmission facility as a Zonal Transmission Facility for purposes of this Agreement even if it does not satisfy the above definition but reasonable and agreed-upon criteria are used, **and the classification is consistent with the requirements of the MISO Tariff and FERC precedent, including the “Seven-Factor Test.”** The Parties recognize that the facilities identified in Attachment D of the JPZ Agreement may or may not satisfy the above definition and reflect a negotiated settlement to avoid litigation.

**C. THE COMMISSION SHOULD REJECT MRES’S REQUEST FOR A 14-DAY EXTENSION TO FILE COMMENTS IN THIS PROCEEDING**

The Commission should reject MRES’s request for a 14-day extension of the comment period in this proceeding. MRES has failed to establish the requisite “good cause” for its requested comment date.<sup>22</sup> As explained above, MRES’s concerns about GNTL or any other facility’s eligibility for cost recovery in MISO transmission rates are not properly raised in this proceeding; rather they should be raised in the context of ALLETE’s Attachment O challenge protocols. Moreover, ALLETE and GRE did not intend for the definition of Zonal Transmission Facility to be read to ignore the MISO Tariff and/or the Seven-Factor Test and are willing to revise this definition, as described above. Therefore, as the concerns raised in the MRES Protest are not properly raised in this proceeding and/or are based on factual misunderstandings, there is no good cause for an extended comment period. As a courtesy to MRES, however, ALLETE and GRE do not oppose a three-day extension to allow comments to be filed on April 1, 2016.

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<sup>22</sup> 18 C.F.R. § 385.2008.

**D. CONCLUSION**

The MRES Protest is not properly raised in this proceeding and is based on misunderstandings of fact and should be rejected. MRES has failed to establish good cause to grant a 14-day extended comment period. As a courtesy, ALLETE and GRE will not oppose a three-day extension to allow comments to be filed on April 1, 2016. For the foregoing reasons, and as explained in the Transmittal Letter, ALLETE respectfully requests that the Commission accept the Local Planning Agreement, JPZ Agreement, GNTL Credit Agreement and WDSA to be effective as requested.

Respectfully submitted,

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March 29, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 29<sup>th</sup> day of March, 2016, served the foregoing Joint Answer of ALLETE, Inc. and Great River Energy on all parties as indicated on the service list as compiled by the Commission in this proceeding.

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