

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

American Transmission Company LLC)	
)	
v.)	Docket No. EL13-9-000
)	
Midwest Independent Transmission System)	
Operator, Inc.,)	
and)	
)	
Xcel Energy Services, Inc., Northern States)	
Power Company, a Wisconsin corporation, and)	
Northern States Power Company, a Minnesota)	
Company)	

**MOTION TO INTERVENE AND COMMENTS OF
ITC MIDWEST LLC**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212, 385.214 (2012), ITC Midwest LLC (“ITC Midwest”) hereby moves to intervene in the captioned docket and submits these comments concerning the complaint of American Transmission Company LLC (“ATC”) against Xcel Energy Services Inc. (“XES”), on behalf of its operating company affiliates Northern States Power Company Wisconsin (“NSPW”) and Northern States Power Company Minnesota (“NSPM,” and together with XES and NSPW, “Xcel”) (the “Complaint”).¹

¹ ITC Midwest joins in and supports the comments of the Midwest Independent Transmission System Operator, Inc. Transmission Owners as filed in the above-referenced proceeding. ITC Midwest is filing separately here to highlight specific issues that relate to ITC Midwest and implementation of the “shared equally” provision of the Agreement of the Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation (“TOA”) Appendix B, Section VI of the TOA, as it relates to a joint project approved in the 2011 MISO Transmission Expansion Plan (“MTEP11”) between ATC and ITC Midwest.

For the reasons discussed herein, ATC's Complaint should be denied. ATC should be directed to work with ITC Midwest concerning their joint development responsibilities for the Dubuque to Cardinal Line approved by the Midwest Independent Transmission System Operator, Inc.'s ("MISO") in MTEP11 as part of MISO Project ID # 3127, the same Multi-Value Project ("MVP") that contains the La Crosse – North Madison 345 kV line discussed in this proceeding.

I. NOTICES AND COMMUNICATIONS

The persons to whom correspondence, pleadings and other papers regarding this proceeding should be addressed and whose names are to be placed on the Commission's official service list on behalf of ITC Midwest are designated as follows:

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II. DESCRIPTION OF ITC MIDWEST

ITC Midwest is a fully-independent transmission company operating within MISO. ITC Midwest was founded in 2007 when Interstate Power and Light Company sold its transmission assets to ITC Midwest, then a newly-formed subsidiary of ITC Holdings Corp. ITC Midwest owns more than 6,800 miles of transmission lines and 208 electric transmission substations in Iowa, Minnesota, Illinois, and Missouri, and maintains operating locations at Dubuque, Iowa City and Perry, Iowa, and Albert Lea and Lakefield, Minnesota. ITC Midwest is a transmission owning member of MISO and a signatory to the TOA. ITC Midwest provides

service over its transmission facilities pursuant to MISO's Open Access Transmission Energy and Operating Reserve Markets Tariff ("Tariff").²

III. MOTION TO INTERVENE

Pursuant to Rules 212 and 214 of the Commission's Rules of Practice and Procedure,³ ITC Midwest moves to intervene in the captioned proceeding. As just noted, ITC Midwest is a transmission owning member of MISO and signatory to the TOA. Additionally, ITC Midwest will be directly impacted by any determinations concerning development rights to projects in the Midwest Transmission Expansion Plan 2008 ("MTEP08") and MTEP11 or any other outcome of this proceeding. Accordingly, ITC Midwest's interests cannot be adequately represented by another party.

IV. COMMENTS

Simply stated, ATC cannot be permitted to abuse the provisions of the TOA by attempting to obtain development rights to a project approved in a prior MTEP planning cycle while also ignoring the need to enter into a joint development agreement for the interconnected project between itself and ITC Midwest authorized in the most recent MTEP11⁴ planning cycle. MISO has correctly interpreted the governing documents in designating the associated development rights in both MTEP08 and MTEP11. The Commission should uphold MISO's determinations.

² Midwest Independent Transmission System Operator, Inc., FERC Electric Tariff.

³ 18 C.F.R. §§ 385.212, 385.214.

⁴ The MTEP is set forth in Attachment FF to the MISO Tariff and provides for the regional transmission planning process by which MISO determines the transmission facilities to be constructed in the region.

MVP Project 5, approved in MTEP11, is shown on the map in Figure 1. There are three 345 kV line segments in this project. First, there is the segment that was at issue in the Xcel proceeding (Docket No. EL12-28)⁵ involving the portion of MVP Project 5 from Xcel's North La Crosse (Briggs Road) substation to ATC's North Madison substation.⁶ The second segment runs between ATC's North Madison substation and ATC's Cardinal substation and is the only portion of the overall project that would be appropriately developed by ATC alone.⁷ The third segment of MVP Project 5 as approved by MISO in MTEP11 runs from the ATC's Cardinal substation to the ITC Midwest's substation in Dubuque, Iowa.⁸ In Appendix A of MTEP11, MISO appropriately designated two transmission owners to develop this project: ATC and ITC Midwest.⁹

Figure 1
MVP Project 5¹⁰

⁵ *Xcel Energy Svcs. Inc. and Northern States Power Co. v. American Transmission Co., LLC*, 140 FERC ¶ 61,058 (2012) ("Xcel Order").

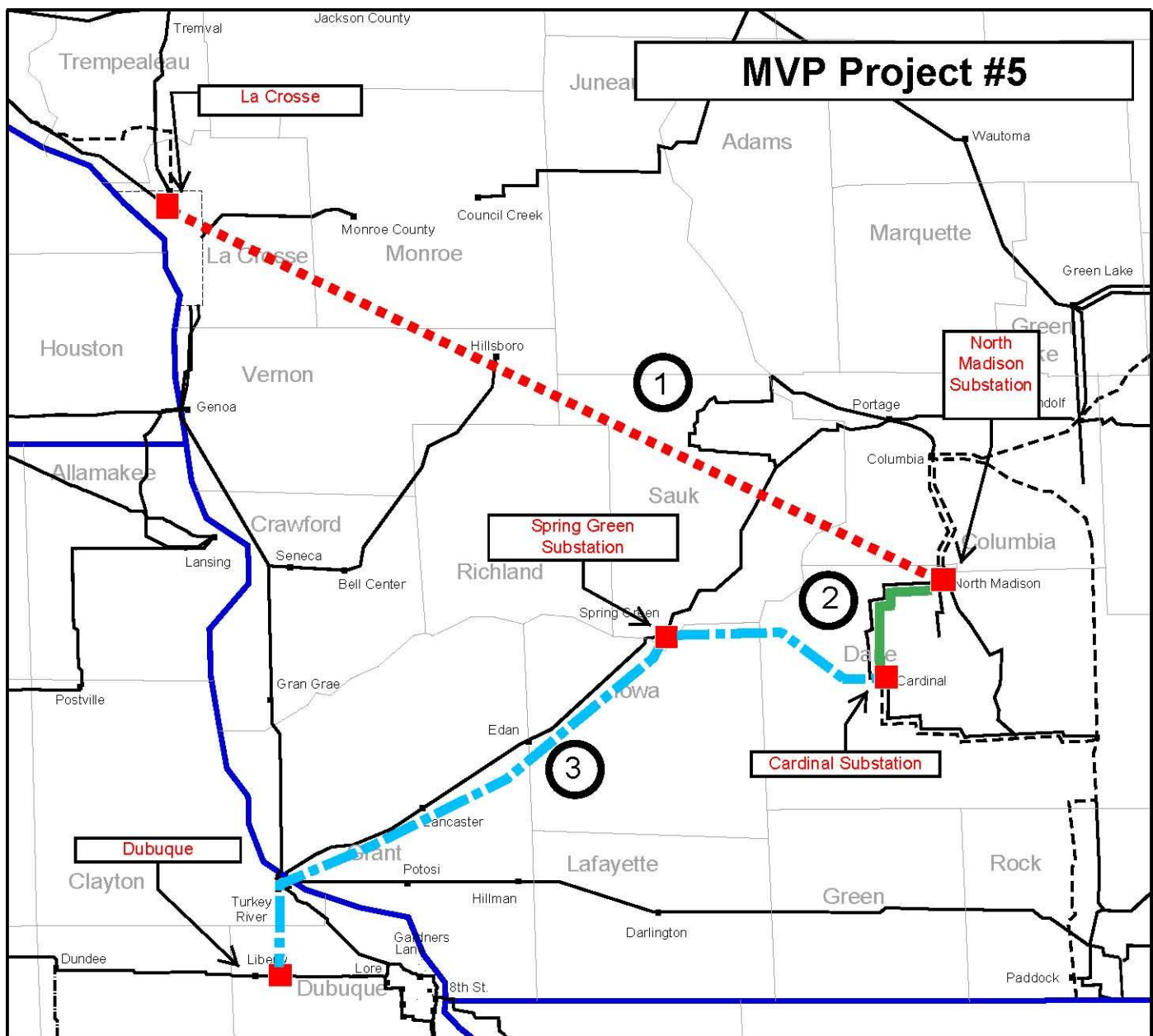
⁶ Midwest Independent Transmission System Operator, Inc., Multi Value Project Analysis Report at p. 28 (Jan. 10, 2012), provided as Exhibit 3 ("MVP Analysis").




⁷ *See Xcel Energy Services Inc. and Northern States Power Company, a Wisconsin Corporation v. American Transmission Company, LLC*, Docket No. EL12-28, Xcel Energy Motion for Leave to Answer and Answer, dated March 20, 2012 at p. 27 ("Notably Xcel Energy makes no claim on the portion of this MVP beyond ATC's North Madison Substation to ATC's Cardinal Substation as the TOA mandates that ownership for this facility belongs to ATC").

⁸ *Id.* at p. 29.

⁹ *See* Midwest Independent Transmission Operator, Inc., MISO Transmission Expansion Plan, Appendix A at line 503, available at: <https://www.misoenergy.org/layouts/MISO/ECM/Redirect.aspx?ID=113909>.

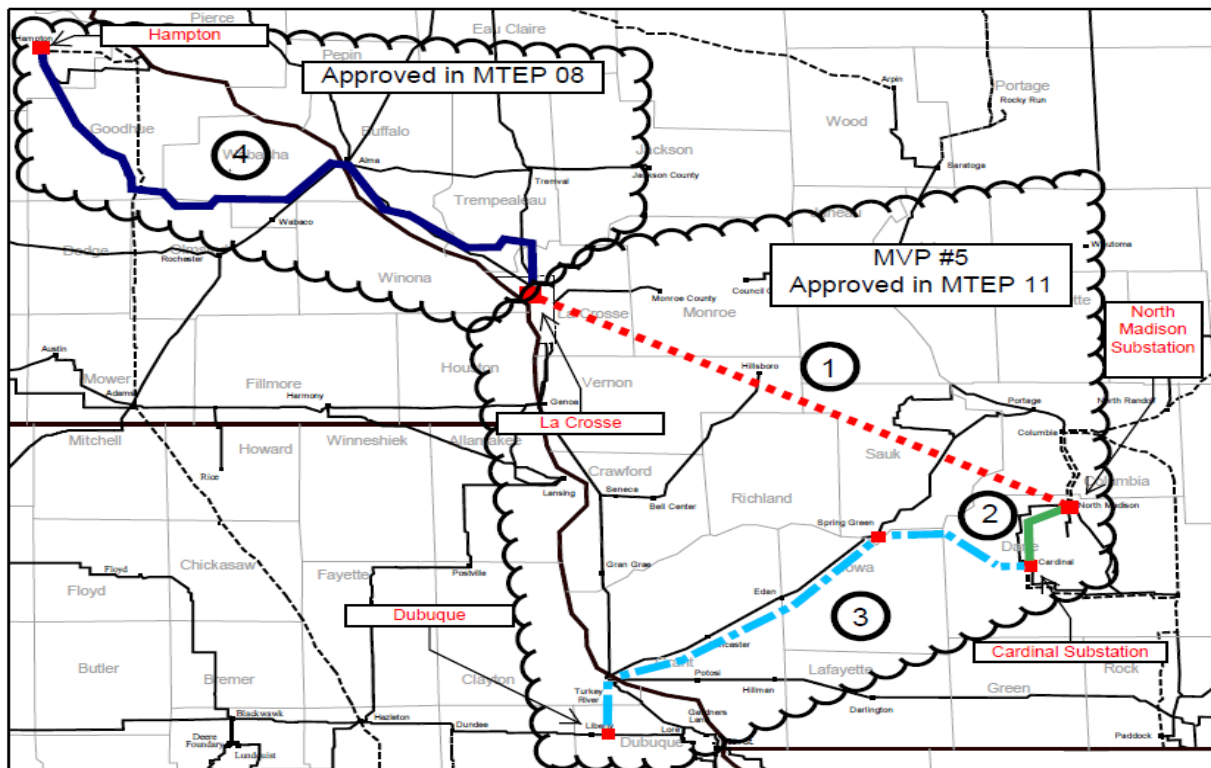
¹⁰ Figure 1 reflects MVP Project 5 as represented and approved by MISO in MTEP11. Line routing and locations of planned facilities may be altered as the project is further developed.



- 1)  Portion of Project #5 from La Crosse to the North Madison Substation (Xcel and ATC)
- 2)  Portion of Project #5 from North Madison Substation to the Cardinal Substation (ATC and ATC)
- 3)  Portion of Project #5 from the Cardinal Substation to Dubuque (ATC and ITC Midwest)

ATC has filed a complaint against Xcel over the development rights to the Twin Cities (Hampton Corner) – La Crosse Project approved in MTEP08.¹¹ The differences between the MTEP08 and MTEP11 projects are illustrated in Figure 2 below.

Figure 2



- 1) ■■■■■ Portion of Project #5 from La Crosse to the North Madison Substation (Xcel and ATC)
- 2) ■■■ Portion of Project #5 from North Madison Substation to the Cardinal Substation (ATC and ATC)
- 3) ■■■ Portion of Project #5 from the Cardinal Substation to Dubuque (ATC and ITC Midwest)
- 4) ■■■ La Crosse to Hampton Project (Xcel and Xcel)

¹¹ MTEP08, the MISO Transmission Expansion Plan at 6; Appendix A, p. 25. Material for MTEP08 is posted at <https://www.midwestiso.org/Planning/Pages/StudyRepository.aspx>. Appendix A lists the projects that have been approved by the MISO Board.

ATC claims that, because the Twin Cities (Hampton Corner) – La Crosse Project approved in MTEP08 will connect to the same Xcel North La Crosse substation as the portion of MVP Project 5 running between North La Crosse and ATC’s North Madison substation approved in MTEP11, it should be entitled to half of the combined projects. According to ATC:

The two line segments were approved by MISO in different planning cycles, but that does not change the essential fact that neither segment of the interconnecting 345kV line will provide the anticipated regional reliability and economic benefits identified by MISO to justify construction at 345 kV without the construction of the other segment. As shown below, Xcel Energy consistently has argued that the two segments of this interconnection are both necessary to provide sufficient benefits to justify regulatory approval, and the relevant studies reach the same conclusion. Accordingly, the applicable “facilities” for purposes of applying the Share Equally Provision consist of the entire 345 kV line that will interconnect NSPM’s facilities with ATC’s facilities. Under the Share Equally Provision as interpreted and applied by the Commission in the *Xcel Order*, ATC and Xcel Energy (on behalf of NSPM and NSPW) are each entitled to own and construct fifty percent of the 345 kV facilities.¹²

ATC is overreaching in trying to assert a claim to a line approved in MTEP08 (which connects to the La Crosse-North Madison portion of MVP Project 5) while at the same time ignoring its responsibility to negotiate with ITC Midwest over the Dubuque to Cardinal Line approved in MTEP11 which actually is part of the same MVP Project 5.

To date, ATC has refused to enter into a joint development agreement with ITC Midwest based on the shared equally provisions of the TOA as determined by the Commission in the *Xcel Order*. ATC’s intentional failure to act as required has stayed the effectiveness of the prior Commission determination and consequently delayed necessary coordinated planning and engineering work. Such a tactic is in direct contravention of the MISO TOA which requires that “Ownership and the responsibility to construct facilities which are connected between two (2) or

¹² Complaint at 3.

more Owners' facilities belong equally to each Owner . . .”¹³ The TOA also states that “[t]he affected Owner(s) shall make a good faith effort to design, certify, and build the designated facilities to fulfill the approved Midwest ISO Plan.”¹⁴ ATC, a signatory to the TOA, has not met its commitments.¹⁵ Moreover, ATC's recalcitrance is in stark contrast to the actions taken by Pioneer Transmission, LLC and Northern Indiana Public Service Company, following the Commission's orders to reach agreement on a joint development agreement.¹⁶

In MTEP08, MISO designated five CapX 2020 transmission owners to develop the Twin Cities (Hampton Corner) – North La Crosse line: Xcel, Southern Minnesota Municipal Power, Rochester Public Utilities, WPPI Energy, and Dairyland Power Cooperative. This designation was in accordance with Xcel's agreement with the other four owners, since the project connects two Xcel-owned substations.¹⁷ Under Section VI, Appendix B of the TOA, “[o]wnership and the responsibilities to construct facilities which are connected between two (2) or more Owners' facilities belong equally to each Owner, *unless such Owners otherwise agree*.” In this case, the designation reflected that other agreement. No party challenged this determination.¹⁸ The

¹³ Appendix B, Section VI of the TOA.

¹⁴ *Id.*

¹⁵ ATC has argued to the Commission that the MISO TOA permits “third-parties” to participate in the financing construction and ownership of transmission facilities specified in the MISO plan. *See* Xcel Order at P 23. Such an argument overlooks the fact that ATC is not a Third-Party but an existing MISO Transmission Owner contractually bound to the benefits and burdens of the TOA. In addition, the Commission determined the provision permitting third party participation must be read in conjunction with the share equally provisions. *Id.* at P 62.

¹⁶ *See, Pioneer Transmission, LLC v. Northern Indiana Public Service Company and Midwest Independent Transmission System Operator, Inc.*, Docket No. EL12-24, Offer of Settlement, Aug. 20, 2012.

¹⁷ MTEP08 at Appendix A, p. 25.

¹⁸ The Twin Cities (Hampton Corner) – La Crosse line is connected to other projects approved in MTEP08: (1) a 225 mile line running from Fargo, North Dakota to the Twin Cities substation and (2) a line running from Brookings County, South Dakota to the Twin Cities substation.

project was approved as a Baseline Reliability Project “needed to resolve a lengthy list of NERC contingency based violations.”¹⁹

Three years later in MTEP11 MISO appropriately divided the 345 kV line facilities that comprise most of MVP Project 5 into 3 segments: (1) the line from Xcel’s new North La Crosse substation to ATC’s North Madison substation to be shared between Xcel and ATC; (2) the line between ATC’s North Madison substation and ATC’s Cardinal substation to be built by ATC; and (3) the line from ATC’s Cardinal substation and ITC Midwest’s Dubuque substation to be shared between ATC and ITC Midwest. ATC cannot be permitted to abuse the provisions of the TOA by attempting to seek development rights to a project approved in a prior planning cycle (MTEP08) while ignoring the interconnected project between itself and ITC Midwest authorized in the same MTEP11 planning cycle.

MISO has correctly interpreted the governing documents in designating the associated development rights. The Commission should uphold MISO’s determination and reject ATC’s Complaint and also require ATC to enter into a joint development agreement with ITC Midwest for the Dubuque to Cardinal 345 kV line, in accordance with the shared equally provision of the TOA.

¹⁹ MTEP08 at p. 6.

V. CONCLUSION

Based on the foregoing, ITC Midwest respectfully requests that the Commission grant its motion to intervene and deny the Complaint.

Respectfully Submitted,

/s/ David. B. Rubin

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Dated: October 22, 2012
Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October 2012, I have caused a copy of the foregoing document to be served electronically on each person listed on the Secretary's official service list for the above-referenced proceeding.

/s/ Allison B. Nicholson
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