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October 1, 2010
VIA U.S. MAIL

Jeff Derouen, Executive Director
KENTUCKY PUBLIC SERVICE COMMISSION
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

Re: Case No. 2010-00203

RECEIVED

OCT 04 2010

PUBLIC SERVICE
COMMISSION

Dear Mr. Derouen:

Enclosed for filing in the above referenced case are an original and 10 copies of the Motion of the Midwest Independent Transmission System Operator, Inc. for the Commission to Take Official Notice of Filings in FERC Proceeding. Please contact me if you need further information. Thank you for your assistance in this matter.

Sincerely,



Patricia M. Murphy

Legal Assistant

Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

OCT 04 2010

PUBLIC SERVICE
COMMISSION

In the Matter of:

Duke Energy Kentucky, Inc.'s Application
for Approval to Transfer Functional Control
of Certain Transmission Assets from the
Midwest Independent Transmission System
Operator to the PJM Interconnection
Regional Transmission Organization and
Request for Expedited Treatment

Case No. 2010-00203

**Motion of the Midwest Independent Transmission System Operator, Inc.
for the Commission to Take
Official Notice of Filings in FERC Proceeding**

The Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") hereby moves the Commission to take official/administrative notice of filings made by any of the parties to this proceeding or the Commission and the orders entered (collectively, "Filings") in the following proceeding at the Federal Energy Regulatory Commission ("FERC"):

Docket ER10-1562-000	Duke Energy Ohio, Inc.;	Integration Agreement; proposed
	Duke Energy Kentucky, Inc.	move from the Midwest ISO to
		PJM Interconnection

A Commission ruling now that it will take official notice of the Filings will generally assist the parties in their preparation for the hearing without undue burden to the record. In further support of their request, the Midwest ISO states as follows:

1. In the above-referenced FERC proceeding, Duke Energy Kentucky, Inc. ("DEK") is one of the applicants, and the Midwest ISO, PJM Interconnection, L.L.C. ("PJM"), and the Commission are official parties (intervenors).

2. In initial and supplemental data requests in this case, the Commission staff has referred to filings in the FERC proceeding. According to the Commission docket for this case, at least two of DEK's filings in the FERC proceeding have been filed in the record of this case.

3. To avoid *ad hoc* duplication of parts of the FERC proceeding's record in the Commission's file, and to assist the Commission, its staff, and the parties to make efficient reference to and use of the Filings in this case, the Midwest ISO asks that the Commission rule that it will take official notice of the fact and content of the Filings in FERC Docket No. ER-1562-000 through the weekday immediately preceding the first day of the hearing in this case.

4. The Midwest ISO's request for the Commission to take official notice is limited to the fact that the Filings were made, and to the contents of the Filings. The Midwest ISO does not ask the Commission to accept as true any fact, argument, or conclusion made in the Filings, and the parties should retain the right to challenge in this matter any such fact, argument, or conclusion. The Midwest ISO also does not ask the Commission to take official notice of filings of parties to the FERC proceeding other than those that are parties to this proceeding and the Commission.

5. By statute, the Commission may take official notice of the facts about filings in the FERC proceeding, including the contents of those filings:

The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's specialized knowledge. The hearing officer shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any facts so noticed and their source. All parties shall be given an opportunity to contest facts officially noticed.

KRS 13B.090(5). The Commission's ruling on this Motion will also satisfy the requirement that "a statement of matters officially noticed" be part of the official record of the proceedings. KRS 13B.130(4).

6. The facts about the individual filings in the FERC proceeding (*e.g.*, when filed, by whom, contents thereof) are not in dispute. They are “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned” — a definition of facts not subject to reasonable dispute. *See* KRE 201(b)(2) (judicial notice).

7. “A court may properly take judicial notice of public records and government documents, including public records and government documents available from reliable sources on the internet.” *Polley v. Allen*, 132 S.W. 3d 223, 226 (Ky. App. 2004). By analogy, the Commission may take official notice of the fact of filing and the contents of filing obtainable through a FERC database that can be accessed via the Internet: FERC Online (portal to documents and dockets) <<http://www.ferc.gov/docs-filing/ferconline.asp>>. *See also Doe v. Golden & Walters, PLLC*, 173 S.W.3d 260, 265 (Ky. App. 2005) (judicially noticing fact and contents of federal-court decisions accessible through Internet, but not passing on those decisions’ propriety or correctness).

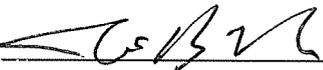
8. Limiting the pre-hearing ruling to those Filings made before the day on which the hearing in this case begins will ensure that there is notice to the parties and an adequate opportunity to contest the facts so noticed, in compliance with KRS 13B.090(5). Later filings in the FERC proceeding may be the subject of individual requests or rulings of official notice.

WHEREFORE, the Midwest ISO respectfully requests that the Commission rule that it takes official notice of the Filings filed in FERC Docket No. ER-1562-000 through the weekday immediately preceding the first day of the hearing in this case (now scheduled for November 3, 2010).

Respectfully submitted,

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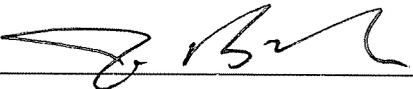
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By:  _____

COUNSEL FOR INTERVENOR MIDWEST INDEPENDENT
TRANSMISSION SYSTEM OPERATOR, INC.

CERTIFICATE of FILING and SERVICE

I hereby certify that on this the 1st day of October, 2010, the original and ten (10) copies of the foregoing were sent via U.S. Mail, first-class, postage prepaid, to the Commission for filing, and a copy was served, via U.S. Mail, first-class, postage prepaid, on each person at the address shown on the attached Service List.

 _____

Attorney for Midwest Independent
Transmission System Operator, Inc.

SERVICE LIST

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