

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

Midcontinent Independent System Operator, Inc.,)
Pioneer Transmission, LLC) Docket No. ER18-1159-000
Pioneer Attachment O Filing under Section 205(d))
)

NOTICE OF INTERVENTION AND COMMENTS OF THE ORGANIZATION OF MISO STATES

Pursuant to Rule 211 and 214(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §385.211 and §385.214(a)(2), the Organization of MISO States (“OMS”) submits its Notice of Intervention and Comments in the above-captioned docket.

On March 22, 2018, Pioneer Transmission, LLC (“Pioneer”), and the Midcontinent Independent System Operator, Inc. (“MISO”) as tariff administrator, submitted proposed tariff sheets to the MISO Open Access Transmission Tariff, Energy and Operating Reserve Market Tariff (“Tariff”) to request cost recovery of the Greentown-to-Reynolds project, a \$347 million 65-mile 765 kV transmission line that is one segment of an interregional project that was approved as a Multi-Value Project (“MVP”) in MISO’s Regional Transmission Plan in 2011. Formula rate cost recovery is sought through Attachments O and MM of the Tariff and associated formula rate protocols.¹ In addition to the actual costs of the project, Pioneer is asking for approval to implement incentives previously authorized by the Commission in 2009.² Pioneer requested an effective date of June 1, 2018.

¹ The OMS is on the record advocating ideas for improvement to the MISO Transmission Owner formula rate provisions and protocols in EL12-35 and ER13-2379. The decision not to renew these concerns in the instant case is in no way intended to negate the concerns previously raised.

² *Midcontinent Independent System Operator*, Docket No. ER18-1159, (Mar. 28, 2018) (“Pioneer Filing” or “Filing”).

The OMS urges the Commission to reject Pioneer's instant request and require Pioneer to file detailed justification of the 150 basis point new transmission incentive adder in consideration of the drastic differences in the project as proposed and approved and the project as filed in this docket. To allow the large incentive adder, that will increase the costs of this project to consumers, to apply to a project that is approximately one-third the size and cost and far less complicated of what was originally filed would be unjust and unreasonable.

I. NOTICE OF INTERVENTION

The OMS files this Notice of Intervention in accordance with 18 C.F.R. §385.214(a)(2). The OMS is a not-for-profit, self-governing organization of representatives from each regulatory body with retail jurisdiction over entities participating in the MISO and serves as the regional state committee. The purpose of the OMS is to coordinate regulatory oversight among its members, to make recommendations to the MISO, the MISO Board of Directors, the Commission, and other relevant government entities and state commissions as appropriate, and to intervene in proceedings before the Commission to express the positions of the OMS member agencies.

Service of communications should be made on:

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II. COMMENTS

Pioneer petitioned the Commission in 2008 for formula rate treatment and transmission incentive adders for the Pioneer Project, described as a 240-mile 765 kV interregional transmission line and related facilities that would connect PJM and MISO at an estimated cost

of \$1 billion with over 4,000 MW of capacity to bring new wind generation in Indiana online (“Original Filing”).³ The Commission granted certain rate treatment and incentive adders, some of them conditional, based on the proposed nature and scope of the project.⁴ Though much of what the Commission approved for Pioneer in 2009 has become fairly common under Order 679, the 150 basis point adder for new transmission stands out as unique and, in light of the drastic change in size, scope, and risk of the project, particularly troubling to the OMS,

- A. The size and scope of the project has changed dramatically from what was proposed to justify the new transmission incentive and therefore should not be implemented as approved.

The 150 basis point incentive adder for new transmission was approved for a Pioneer Project proposal that is much different than that for which cost recovery is currently being sought. The project was going to be 240 miles long but is now only 65 miles. The project was supposed to be an interregional project between PJM and MISO that had to be approved in two Regional Transmission Organization (“RTO”) planning processes but has only been submitted and approved and being built in one. And the cost was estimated at \$1 billion dollars but now is \$347 million. In granting the incentive, the Commission stated, “Pioneer has shown a nexus between the 150 basis points for new transmission adder and the size, scope, benefits, and risks and challenges of the Pioneer project. For example, Pioneer faces the difficult task of securing the project’s approval in two RTOs’ transmission planning processes and obtaining rights-of-way through several counties without the benefit of a state siting process.”⁵

But the nexus does not exist in reality. The changes from the proposal in 2008 have

³ *Pioneer Transmission, LLC*, Docket No. ER09-75, at 1-2 (Oct. 15, 2008).

⁴ *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 (2009)(“*Pioneer I*”), *reh’g order*, 130 FERC ¶ 61,044 (2010) (“*Pioneer II*”).

⁵ *Pioneer I* at P 56.

reduced the project scope by approximately two-thirds and greatly reduced the project risk and complexity that the Commission relied up in its approval of the incentive. Transmission projects certainly can change in a variety of ways from inception to in-service for prudent reasons, but not all transmission projects receive incentives of 150 basis points. As the Commission noted, the scope and complicated nature of the proposed project was the driver of the incentive, which never came to fruition.

Though Pioneer claims to be committed to developing the project as originally conceived, the incentive should not be allowed to be implemented as approved until that is actually the case. As noted below, the Filing is short on information related to the progress of any other portion of the as-proposed project. Nor has Pioneer presented any information on the benefits to consumers required by Section 219 of the Federal Power Act of “ensuring reliability and reducing the cost of delivered power by reducing transmission congestion”⁶ for the revised project including new wind capacity and reduced line loading. Therefore, the Commission should reject the inclusion of the 150 basis point adder for the new transmission and require Pioneer to file justification for any new transmission incentive adder based on the project that is actually in front of the Commission.

- B. The conditions set in the Commission’s 2009 approval have not been met so implementation of the new transmission incentive adder cannot be granted.

The Commission made approval of 150 basis point adder for new transmission conditional upon (1) obtaining approval in the planning processes in PJM and MISO and (2) an interregional project cost allocation methodology approved by the Commission.⁷ Since only a small segment of the project has been approved by MISO, none by PJM, and without an

⁶ 16 U.S.C § 824s

⁷ *Pioneer I* at P 56.

approved interregional cost allocation methodology in place, the adder must not be allowed to be implemented.

Pioneer addresses these shortcomings in its Filing, advocating that the adder be “viewed in the proper context.”⁸ In essence, Pioneer argues that the requirements should be waived because the project is so drastically reduced in size and scope, they are no longer applicable, but at the same time that the Commission’s basis for granting the adder has not changed, as “the development and construction of new transmission projects must overcome significant risks and challenges – and the Pioneer Project most definitely has faced those risks and challenges.”⁹ Pioneer has not provided any detail of its attempts to bring the project as proposed to reality or provided much more than general statements of transmission development difficulty during the decade between when the Pioneer Project was proposed and when the small segment that is the subject of this docket nears completion. Therefore, Pioneer has not provided sufficient justification for the Commission to grant the requested waiver of conditions for implementation of the new transmission incentive.

C. Pioneer fails to even assert that any activity is underway to make other segments of the Pioneer Project a reality.

Pioneer refers to the Greentown-to-Reynolds project as the “initial segment” of the Pioneer Project and states that the company “remains fully committed to developing all three segments so as to complete the inter-regional project as originally conceived”¹⁰ yet fails in its Filing to include information on the progress of any other segment of the project. It only vaguely asserts that “Pioneer is awaiting the appropriate forum to submit these segments into

⁸ Filing at 15.

⁹ *Id.* at 17.

¹⁰ *Id.* at 16.

PJM and/or MISO regional planning processes.”¹¹

If Pioneer is asking the Commission to implement a generous incentive approved under the guise of a much larger and more complicated project, and is indeed actively pursuing additional segments, some detail on such efforts is warranted, but lacking here. Therefore, the Commission should reject implementation the requested 150 basis point adder.

The OMS submits these comments because a majority of its members have agreed to generally support them. The Indiana Utility Regulatory Commission abstains. The Manitoba Public Utilities Board and Public Utility Commission of Texas did not participate in the vote. The Minnesota Department of Commerce joins as an associate member. OMS members reserve the right to file separate comments regarding the issues discussed in these comments.

Respectfully Submitted,
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¹¹ *Id.* at 8.

Dated: April 12, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 12th day of April 2018.

Tanya Paslawski