

TO: MISO: stakeholderrelations@misoenergy.org
FROM: OMS
DATE: 11/02/2016
RE: Pre- and Post- Service Restrictions

OMS Comments:

The OMS understands that MISO management would like to recommend to the MISO Board Corporate Governance Committee to revise the Bylaws and Transmission Owners Agreement to include a one-year pre-service restriction and to eliminate the post-service restriction. This recommendation seems to be based on industry practice, FERC precedent regarding RTO independence, and stakeholder feedback received.

OMS would like to draw MISO's attention to OMS comments submitted earlier on Aug 8, 2016, in which the OMS submitted comments favoring 1-year pre- and 1-year post-service restrictions. OMS still continues to support having 1 year pre- and post- service restrictions for MISO Board members. Though MISO cites evidence in favor of change, the following factors make it necessary for MISO to continue to have the restrictions.

1. The post-service restrictions reduce the likelihood that a Board member would act, while on the Board, in ways unduly favorable to a potential future employer. Because such behavior is difficult to spot when it is occurring and becomes apparent only after a Board member has secured subsequent employment, having post-service provisions in the MISO Bylaws is important.
2. MISO cannot compare itself with other RTOs because each RTO is different, for example, some RTOs have retail choice whereas in MISO, a number of utilities are vertically integrated. In MISO, the probability of a utility to recover costs of a project approved by the MISO Board is very high and the same is not true in case of a retail choice utility in other RTOs. In that sense, a MISO Board member has higher ability to help a utility in expectation of employment with the utility after leaving MISO Board. RTOs as comparable is too limited a universe.

In view of these, the OMS continues to strongly support keeping 1-year pre- and post-service restrictions.