UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission System Operator, Inc.	))	Docket No. ER07-478-000

COMMENTS OF THE ORGANIZATION OF MISO STATES

I. Background

On January 29, 2007, the Midwest Independent Transmission System Operator, Inc. ("MISO") filed with the Federal Energy Regulatory Commission ("FERC" or "Commission") proposed revisions to its Open Access Transmission and Energy Markets tariff, FERC Electric Tariff, Third Revised Volume No. 1, providing for Long-Term Firm Transmission Rights ("LTTR") in compliance with the Commission's Order Nos. 681 and 681-A. The Organization of MISO States ("OMS") offers the following comments in response to MISO's proposed tariff revisions. The OMS does not take a position on any aspects of MISO's filing not specifically addressed in these comments.

II. Summary of Issues

The OMS generally supports MISO's proposed tariff revisions to move from the current financial transmission right ("FTR") allocation process to an auction revenue right ("ARR") allocation process, including the allocation of LTTRs by way of the initial stage of the ARR allocation process. However, the OMS has the following recommendations on a few aspects of the proposed tariff revisions.

- Uplift charges resulting from infeasible LTTRs that are not covered by counterflow should be allocated to LTTR holders based on the economic value of the LTTR determined through the annual FTR Auction. (Section IV.A)
- MISO's letter that accompanied its January 29, 2007 filing states MISO's intent to maintain the feasibility of LTTRs through transmission upgrades as part of the MISO Transmission Expansion Plan, but no tariff language was proposed to memorialize this intent. The OMS believes that this issue has not been adequately vetted through the stakeholder process and recommends that the Commission require MISO to obtain stakeholder input on this issue before submitting changes, if any, to Attachment FF or other sections of the tariff. (Section IV.B)

- MISO’s proposal concerning market participants’ rights to obtain LTTRs for incremental transmission capacity for network upgrades that they fund is not clear. The Commission should direct MISO, after engaging with stakeholders, to make the needed clarifications. (Section IV.C)
- MISO’s proposed tariff fails to distinguish newly defined ARRs from previous uses of that same terminology in its tariff, and fails to address why the previously defined ARRs should be valued by monthly FTR auctions rather than by the annual FTR auction. (Section IV.D)
- The OMS is proposing minor changes to tariff language in Sections 43.2.5.d, 43.6.4, 43.7.2, 44.6, 44.7.b and 46 for the purpose of clarification. (Section IV.E)

III. Brief Description of MISO’s Proposal

A. Stakeholder Process

The OMS found MISO’s description of the stakeholder process used to develop its proposed revisions to be accurate. MISO staff did a laudable job facilitating the stakeholder discussions of many difficult issues and options associated with this filing. In brief, the stakeholder voting was divided between whether or not to limit the allocation of nominated ARRs in the first stage of the allocation process (Stage 1A) to those that are simultaneously feasible. However, there were many additional issues and details that had to be addressed under a compressed schedule. The OMS agrees with MISO’s concern stated at page 4 regarding cost shifting that may occur if all Stage 1A ARRs are allocated as LTTRs.

B. Auction Revenue Rights

The basic change in MISO’s proposed filing is to move away from directly allocating FTRs to initially allocating ARRs. This change more closely resembles the process used in PJM. There are several key components:

1. Auction Revenue Rights: Instead of FTRs, the Midwest ISO will allocate ARRs that can either be submitted for FTRs in the annual FTR auction, or not submitted for FTRs and be entitled to revenues from that FTR auction.
2. ARR Allocation: Allocations occur in three stages 1A, 1B and 2. Stage 1A nominations are limited to market participant’s Baseload Resources (50% capacity factor or better) and a megawatt limit of 50% of a market participant’s peak load.

Stage 1B includes all generation in the peak resource set and 100% of a market participant's peak load. In stage 2 the MISO will calculate the MW shortfall in ARRs allocated from 100% of market participants' peak loads. The percentage of shortfall for each participant determines its allocation of any excess revenues that MISO might receive from the annual FTR auction.

3. Historical Generation Rights: Generation sources for ARR allocations are limited to historical generation sources that were held by any market participant in the year prior to the MISO energy market start-up; i.e., March 1, 2004 through February 28, 2005. Additions to Baseload Resources can be granted, but only to the extent that these do not result in making previously allocated Stage 1A ARRs infeasible. A market participant that wants more Stage 1A ARRs can obtain those by funding transmission upgrades needed to make those additional rights feasible. Stage 1B ARRs include all generation sources that qualify under the historical requirement. As with Stage 1A ARRs, a market participant can obtain additional rights by funding transmission upgrades.

4. ARR Zones: Generally ARR zones are defined as Points of Delivery ("POD") for transmission service, but there can be ARR zones defined within a POD when certain criteria are met.

C. LTTR Procedures

Changes were also proposed to meet the requirements of the Commission's LTTR Rulemaking. There are several key elements of MISO's proposed LTTR procedures.

1. Eligibility: All ARRs that qualify for Stage 1A are accorded treatment as LTTRs. However, the allocation of LTTRs will be restricted to nominated ARRs that are simultaneously feasible subject to the exceptions discussed below.

2. Counterflow ARRs: If a nominated Stage 1A ARR is infeasible because another market participant did not nominate an eligible counterflow ARR, the infeasible ARR will be reinstated to the extent that the counterflow ARR provides feasibility. In addition, the counterflow ARR will be assigned to the entity that did not nominate it.

3. Guaranteed Rights: In stage 1A, LTTRs are allocated for a one-year term, but are guaranteed to be allocated, if nominated, in the following year.

4. Allocation of infeasible ARRs to meet MW quantity guarantee: Once allocated, LTTRs that continue to be nominated in subsequent years may become infeasible due to changes in topology, loop flows, or other reasons. Therefore, to guarantee the quantity of LTTRs that were previously allocated, MISO proposes to allocate infeasible Stage 1A ARRs associated with last year's LTTRs, even if they are not offset by counterflow ARR allocations. Unlike the direct assignment of Stage 1A counterflow ARRs, the costs of these infeasible ARRs would be shared (uplifted) to all holders of LTTRs in a given year.

5. New LTTRs: New Baseload Resources can be nominated subject to meeting the simultaneous feasibility test using allocated LTTRs from the previous year.

IV. Discussion of Issues

A. Uplift charges resulting from infeasible LTTRs that are not covered by counterflow should be allocated to LTTR holders based on the economic value of the LTTR determined through the annual FTR Auction.

MISO proposes to uplift the cost of any infeasible ARRs (that are not covered by counterflow) resulting from the LTTR MW guarantee among all LTTR holders. The OMS believes that it would be more equitable to reflect the economic value of the LTTR in the uplift calculation. This would be more in line with the method PJM proposed in its compliance filing of January 22, 2007 to FERC November 22, 2006 *Order Accepting Long-Term Transmission Rights Proposal, Subject to Modifications*[1] to distribute uplift costs among LTTR holders. The infeasible LTTRs occurring in years two and beyond are generally caused by the specified model assumptions of expected conditions not matching the conditions of the real-time system operations. These differences stem mainly from the model assumptions of expected transmission outages (occurrences and/or duration of the expected outage) and loop flow.

At issue is how to equitably distribute the costs associated with these infeasible LTTRs. The OMS believes that the full-funding guarantee of LTTRs benefits the LTTR holders so it is logical that this group should be the ones to bear the risk of sharing in the cost of the uplift. Furthermore, the OMS contends that the distribution of the uplift costs should be based on the economic value of the LTTR, which is the product of two components: the ARR MW and the price of the ARR as determined in the annual FTR auction. As explained below, this methodology should ensure a more equitable way of allocating the uplift costs.

First, if the purpose is to allocate uplift charges to beneficiaries, then such uplift charges should be allocated in proportion to the benefits received by the beneficiaries. The benefits from LTTRs are not measured in megawatts, but instead are measured in dollars. In this instance, there is no issue in determining the dollar value of the benefits, as the value for LTTRs will be determined in the annual FTR Auction.

Second, because a counterflow ARR assigned (not nominated) in Stage 1A is by definition a LTTR, the assignee will be responsible for any allocations of uplift charges

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[1] November 22, 2006 Order, Docket No. ER06-1218-000 and ER06-1218-001

associated with the allocation of infeasible LTTRs. The annual FTR Auction will determine whether or not the market places a positive or negative value on these counterflow ARRs. If the FTR auction value of the counterflow ARR is negative, and uplift is needed to maintain the feasibility of the prior year's set of LTTRs, and that uplift is apportioned based on the FTR auction value of the LTTR, rather than megawatts, the result will be that the value of the counterflow ARR would be subtracted from the liability that entity has for uplift charges. Moreover, it is not equitable to assign an entity an instrument that has negative value and then use that same instrument as a means to add additional downside risk to that same entity.

B. The Commission should direct MISO to initiate a stakeholder process to discuss the issue of MISO's planned transmission expansion to maintain the feasibility of LTTRs.

On pages 5, 12 and 13 of its January 29 filing letter in this case, MISO makes a commitment to include in its transmission expansion plan transmission upgrades needed to maintain the feasibility of LTTRs. Specifically, at page 5, the Midwest ISO states:

> The feasibility of existing ARRs in Stage 1A will be maintained by including the maintenance of this feasibility in the Midwest ISO Transmission Expansion Plan ("MTEP") criteria for system expansion.[14] Any transmission projects added to the MTEP as a result of this process will be subject to normal stakeholder review and, as with all proposed MTEP projects, will be subject to final approval by the Midwest ISO Board of Directors. To assist the Board in its determination, a cost/benefit analysis of any projects proposed for this purpose will be provided in addition to the standard information provided for MTEP projects.
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> [14] EMT, Attachment FF.

And at pages 12-13, the Midwest ISO states:

> The simultaneous feasibility of Stage 1A ARRs shall be assessed and addressed in relation to the Transmission Provider's transmission expansion planning process.[42]
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> [42] EMT, Section 46.

Although MISO makes these statements about its transmission expansion policy intentions in its filing letter, MISO did not include any changes to its Attachment FF tariff language--counter to the suggestion in MISO's footnote 14. Similarly, the changes that MISO made to the Section 46 tariff language deal only with the assignment of LTTRs to entities that fund transmission upgrades, which is not consistent with MISO's suggestion in footnote 42. Counter to the suggestions in its filing letter, MISO did not provide tariff language to explain its intent to maintain LTTR feasibility through transmission expansion.

To our knowledge, neither MISO's Regional Expansion Criteria and Benefits ("RECB") Task Force nor any other MISO stakeholder body has discussed in any detail how MISO will determine upgrades needed to maintain the feasibility of LTTRs[2] and whether this is an appropriate criteria for system expansion. Similarly, the stakeholders have not engaged in a substantive discussion of how the costs of such upgrades would be allocated.[3]

The OMS is not taking a position herein on whether it would be good policy to implement MISO's proposed intention to include in its transmission expansion plan transmission projects needed to maintain the feasibility of LTTRs. Nor is the OMS taking a position herein on the appropriate cost allocation for such expansion projects should such a policy be adopted. The OMS believes that having stakeholder discussion on these matters is crucial. The OMS recommends that the Commission direct MISO to engage in such stakeholder discussions prior to making any decisions on the issue of MISO's planned transmission expansion to maintain the feasibility of LTTRs. We believe MISO's RECB Task Force would be the most likely forum for such discussions.

In this respect, the OMS points out that many provisions related to MISO's proposed ARR tariff changes are not scheduled to be implemented until June 1, 2008. Therefore,

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[2] From page 5 of its filing, it is not clear what MISO means by maintaining the feasibility of "existing Stage 1A ARRs." Is this concept applied only to Stage 1A nominated ARRs that are determined to be simultaneously feasible, or does it also include all Stage 1A nominated ARRs that were allocated, including those that are infeasible, but have been restored through the assignment of Stage 1A counterflow ARRs. It might also refer to infeasible Stage 1A ARRs for which uplift is required. In addition, by excluding the phrase "existing" at pages 12-13 of its filing, it is unclear as to whether MISO intends to open up the possibility that planned upgrades would include those needed to maintain the feasibility of all Stage 1A ARRs, whether currently feasible or not.

[3] If transmission upgrades are being considered for LTTRs that require counterflow, who should pay for the upgrade: the entity required to take the counterflow, the entity whose LTTR is restored or both? If the MISO planned upgrades include infeasible Stage 1A ARRs for which uplift is required, and since the allocation of counterflow ARRs in Stage 1A is limited to ten years after first assigned, to guarantee the allocation of the corresponding LTTR after that period, any cost will be uplifted to all LTTR holders. Does this then mean that any costs associated with transmission upgrades required to eliminate this uplift would be assigned to all LTTR holders? If the MISO planned upgrades include those needed to maintain the feasibility of all Stage 1A ARRs, this could result in significantly more transmission upgrades, and raises the question of who should be allocated the cost of upgrades built in order to make all Stage 1A ARRs simultaneously feasible. For example, should those receiving greater levels of LTTRs pay for the upgrades?

there is sufficient time for MISO to have the needed stakeholder discussions on the transmission expansion issue and present the Commission with specific tariff language on this issue, if needed.

C. MISO's proposal concerning market participants' rights to obtain LTTRs for incremental transmission capacity for network upgrades that they fund is not clear.

With respect to upgrades, page 10 of MISO's January 29 filing letter in this case states,

> If a qualified Market Participant wishes to fund the transmission upgrades necessary to make feasible otherwise infeasible ARRs, the Midwest ISO will provide the qualified Market Participant a detailed description of the upgrades that would be necessary to achieve the desired ARR feasibility to the extent that this is not currently provided for under the Tariff or Midwest ISO procedures. The Market Participant may then utilize existing Tariff provisions in Attachment FF to be compensated for the upgrade.

However, the tariff language that MISO actually proposed is not clear.

- The tariff language does not include a process for providing a detailed description of the upgrades that would be necessary to achieve the desired ARR feasibility.
- Section 46.1 makes a statement that "Market Participants may request LTTRs for the incremental transmission capacity created by the Network Upgrade that they fund," but does not refer to other parts of the tariff to specify what is meant by or required of market participants to "fund" network upgrades.
- Section 46.1 of the tariff does not reference the relevant compensation provisions of Attachment FF as suggested in MISO's filing letter.
- Section 46 states that, "The Transmission Provider shall issue FTRs and LTTRs to all Market Participants that fund Network Upgrades . . ." It is not clear why this section continues to use the terms "FTRs and LTTRs" rather than the terms "ARRs and LTTRs."

The bottom line is that MISO's statements in the January 29 filing letter and associated tariff language concerning network upgrades for incremental LTTRs are unclear. The Commission should direct MISO, after engaging with stakeholders, to make the needed clarifications. These stakeholder discussions should be coordinated with the discussions proposed in Section IV.B above concerning system upgrades to maintain

LTTR feasibility to ensure that MISO's tariff clearly and cohesively addresses the relationship among LTTRs, transmission expansion, and cost allocation.

D. MISO's proposed tariff fails to distinguish newly defined ARRs from previous uses of that same terminology in its tariff, and fails to address why the previously defined ARRs should be valued by monthly FTR auctions rather than by the annual FTR auction.

Section 43.7.2 is an existing section of the tariff primarily designed to address rights when retail load switches suppliers. This section, which has not been revised, provides load-serving entities that gain load with a right to receive revenue based on the monthly FTR auctions. There are two concerns related to this section.

- MISO's existing tariff uses the term ARRs to describe the rights when load switches suppliers. MISO's proposed tariff has introduced a second application of the term ARR. Using the same term to apply to two distinct applications may result in confusion.
- The revised tariff defines ARR values as being determined in the annual FTR auction. Yet Section 43.7.2 still states that the load serving entity that gains load during the ARR period will be allocated ARRs whose value will be based on the monthly FTR auctions. It is not clear why ARRs in both applications should not be based on the value determined from the annual auction.

E. The OMS Recommends the Following Minor Tariff Language Clarifications

1. Section 43.2.5.d

MISO's proposed Sheet 627a reads:

> "d**.** In year 1 of the Annual ARR Allocation, Counterflow ARRs can be assigned from any of the un-nominated Stage 1A ARR Entitlements or any portion thereof and that meets the Eligible Base Criteria. In the year 2 Annual ARR Allocation and beyond, counterflow ARRs can be assigned only to non-nominated allocated Stage 1A ARRs from the prior year's Annual ARR Allocation (the prior year's LTTRs)."

The OMS finds this wording to be difficult to understand, and would suggest the following rewording:

> d. In year 1 of the Annual ARR Allocation, Counterflow ARRs can be assigned

> from any of the un-nominated Stage 1A ARR Entitlements or any portion thereof and that meets the Eligible Base Criteria. In the year 2 Annual ARR Allocation and beyond, counterflow ARRs can be assigned only to ~~**non-nominated allocated Stage 1A ARRs from the prior year's Annual ARR Allocation (the prior year's LTTRs**~~ **ARRs that were allocated as LTTRs in the previous year, but are not nominated in Stage 1A in the current year.**

2. Section 43.6.4

The following from sheet 644 does not appear to be a full sentence:

> "Market Participants cannot nominate from the ARR Entitlements once request for retirement."

It should say:

> Market Participants cannot nominate from the ARR Entitlements once **a** request **has been received** for retirement.

3. Section 43.7.2

The title of this section on Sheet 646 uses the term "FRR Re-assignment." The title to this section should read:

> 43.7.2 ~~**F**~~**A**RR Re-Assignment to Reflect Load Switching.

4. Section 44.6

This section on Sheet 661 reads

> The Transmission Provider shall pay or collect the FTR Auction Market Clearing Practices for each ARR that was allocated to the ARR Holder in the Annual ARR Allocation.

This section should instead read:

> The Transmission Provider shall pay or collect the FTR Auction Market Clearing ~~Practices~~ **Prices** for each ARR that was allocated to the ARR Holder in the Annual ARR Allocation.

5. Section 44.7.b

This section on Sheet 670 reads

> An FTR Offer may not specify a minimum quantity offered but may specify a minimum quantity offered but may specify a reserve price, below which the FTR Holder does not wish to sell the FTR.

This section should instead read:

> An FTR Offer may not specify a minimum quantity offered ~~but may specify a minimum quantity offered~~ but may specify a reserve price, below which the FTR Holder does not wish to sell the FTR.

6. Section 46

The second paragraph on Sheet No. 674 uses the word "ommercial" when it should read "commercial."

V. Conclusion

Wherefore, for all of the reasons explained above, the OMS recommends that the Commission: (1) direct MISO to allocate to LTTR holders the uplift charges that result from infeasible LTTRs that are not covered by counterflow based on the economic value of the LTTR, rather than the MW level; (2) direct MISO to initiate a stakeholder process to discuss the issue of MISO's planned transmission expansion policy to maintain the feasibility of LTTRs; (3) direct MISO, after engaging with stakeholders, to make the needed clarifications to the tariff concerning market participants' rights to obtain LTTRs for incremental transmission capacity from network upgrades that they fund; (4) direct MISO to clarify the language in Section 43.7.2 of the tariff concerning the transfer of rights when retail load switches suppliers; and (5) direct MISO to make the minor recommended changes to tariff language in Sections 43.2.5.d, 43.6.4, 43.7.2, 44.6, 44.7.b and 46 for the purpose of clarification.

The OMS submits the foregoing motion and comments because a majority of the members have agreed to support it. Individual OMS members reserve the right to file separate comments regarding the issues discussed in this pleading. The following members support this request:

Illinois Commerce Commission
Indiana Utility Regulatory Commission
Iowa Utilities Board
Michigan Public Service Commission
Minnesota Public Utilities Commission
Missouri Public Service Commission
Montana Public Service Commission
Nebraska Power Review Board
North Dakota Public Service Commission
Public Utilities Commission of Ohio
Wisconsin Public Service Commission
Kentucky Public Service Commission
South Dakota Public Utilities Commission

The Manitoba Public Utilities Board did not participate in this pleading. The Pennsylvania Public Utility Commission abstained from support of these comments.

The Illinois Citizens Utility Board, the Indiana Office of Utility Consumer Counselor, the

Iowa Office of Consumer Advocate, and the Minnesota Department of Commerce, as associate members of the OMS, participated in these comments and generally support these comments.

Respectfully Submitted,

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Dated: March 22, 2007

CERTIFICATE OF SERVICE

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

Dated at Des Moines, Iowa, this 22nd day of March, 2007.

William H. Smith, Jr.