

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

**Midwest Independent Transmission            )           Docket ER09-1049-000**  
**System Operator, Inc.                            )**

**NOTICE OF INTERVENTION AND COMMENTS**  
**OF THE ORGANIZATION OF MISO STATES**

**I. Introduction**

The Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) made its compliance filing in the above-captioned docket on April 28, 2009 in response to Order 719. Notice was issued on May 1, 2009, setting the deadline for comments as May 26, 2009. The Organization of MISO States (“OMS”) now gives notice of its intervention in this docket and offers comments with respect to the portion of the filing relating to the responsiveness of the transmission organization to customers and stakeholders.

OMS member states are submitting separate comments on other aspects of the filing. The Illinois Commerce Commission, for example, has filed separate comments in this docket addressing market monitoring issues raised by Order 719.

**II. Notice of Intervention**

Pursuant to Rule 214(a)(2) of the Federal Energy Regulatory Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214(a)(2), the OMS files its Notice of Intervention in the above-captioned proceedings. Service of all pleadings, documents, and communications in this matter should be made on the following:

William H. Smith, Jr., Executive Director  
Organization of MISO States  
100 Court Avenue, Suite 315  
Des Moines, Iowa 50309  
e-mail: bill@misostates.org

### **III. Comments**

The OMS concurs with the Midwest ISO that its stakeholder relations institutions comply with the objectives of Order 719 and that both in design and in execution these institutions allow extensive stakeholder involvement in the decisions of the organization. The OMS submits as an attachment the comments it made to the Midwest ISO Advisory Committee in January 2009 when the Directors of the Midwest ISO specifically requested stakeholders to address matters of governance. That process itself was indicative of the kinds of opportunities offered within the Midwest ISO structure for communication with its ultimate decision-makers, the members of its independent board of directors. It also is indicative the interest of the board members to hear the views of stakeholder sector groups as well as minority positions within any particular sector.

The sections of the Midwest ISO filing dealing with market monitoring were influenced by positions advanced by the OMS within the stakeholder process. The Midwest ISO made draft tariff language available in time for review in the Market Subcommittee meeting on March 3, 2009. Several OMS suggestions were supported by a majority of that committee and are included in the compliance filing.

With such process examples in mind, the OMS supports the customer responsiveness sections of the Midwest ISO's compliance filing as providing incremental improvements to an already good set of governance institutions and attitudes.

### **VI. Conclusion**

The OMS submits these comments because a majority of its members have agreed to generally support them. Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments.<sup>1</sup>

Respectfully Submitted,

*William H. Smith, Jr.*  
William H. Smith, Jr.  
Executive Director  
Organization of MISO States

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<sup>1</sup> As noted, the Illinois Commerce Commission has filed separate comments in this docket addressing questions of market competitiveness, risk allocation, and responsiveness to consumers.

100 Court Avenue, Suite 315  
Des Moines, Iowa 50309  
Tel: 515-243-0742

Dated: May 26, 2009

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 26th day of May 2009.

William H. Smith, Jr.

William H. Smith, Jr.

## OMS RESPONSE TO MIDWEST ISO HOT TOPIC QUESTIONS:

January 8, 2009

**1. Do the current practices (such as the annual stakeholder meeting, open board meetings and hot topics discussion at the Advisory Committee meetings) allow stakeholders to communicate their views to the Midwest ISO Board of Directors in a manner which meets the requirements of Order 719? Can you point to better practices in other organizations that you would suggest? If not, what specific improvements do you suggest and what is your estimate of what it will cost to implement/accomplish?**

The challenge for an RTO or ISO in meeting the governance requirements of Order 719 is balancing the need *to consider* input from a diverse group of stakeholders, with the need *to take actions* in which those stakeholders have confidence. <sup>2</sup> The Advisory Committee structure and process provides a sound foundation for maintaining stakeholder confidence that the governance of the Midwest ISO is truly independent. Additional initiatives, like the annual stakeholder meeting, open Board meetings and hot topics discussions, have added value by providing greater opportunity for broad expression of opinion and greater transparency of decision-making. In other words, the OMS believes the Midwest ISO's existing stakeholder communications procedures generally provide adequate opportunities for stakeholder input and that these procedures are productively used by stakeholders and the Midwest ISO Board. However, recurring expressions that formal mechanisms are being used infrequently or, worse, ignored, should be a red flag that could signal diminished stakeholder confidence.

The OMS appreciates the Board's interest in seeking out means for effective stakeholder involvement. Stakeholder confidence is critical for the success of the Midwest ISO. However, it is also important to remember the Midwest ISO's governance practices must result in actions that promote the *public interest*. It is this specific

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<sup>2</sup> As the Commission stated in its Order: RTO and ISO independence remains fundamental, and we will preserve it; however, we find that RTOs and ISOs must provide an avenue for customers and other stakeholders to present their views on RTO and ISO decision-making, and to have those views considered. Establishing practices and procedures that would allow RTO and ISO boards to be responsive to the concerns of customers and other stakeholders is important to providing these entities with confidence in RTOs' and ISOs' independent governance processes [ Order, paragraph 503]

charge of acting in the public interest that is shared by the Midwest ISO and the OMS member states.

**2. Does each stakeholder group have the same opportunity to communicate their views to the Midwest ISO Board of Directors? If not, what specific improvements do you suggest?**

The OMS believes that the existing mechanisms for stakeholder input, as a group or individually, are effective. However, governance is a continuous process and the Board needs to continue to work with its Stakeholder Governance Working Group to ensure the committee structure and its processes is effective and is in touch with stakeholder needs and expectations.

**3. Are minority positions communicated to the Midwest ISO Board of Directors?**

The extent to which minority positions are developed and accounted for in decision-making is a function of governance processes, attentiveness by Board members, and the initiative of minority position advocates. The OMS believes the Midwest ISO governance processes provide reasonable avenues for development and communication of minority positions. Midwest ISO Board attentiveness to the practices and operations of committee activities will help foster robust debate and, thus, ensure decision-makers are fully aware of the positions of customers and other stakeholders and that issues are fully and fairly vetted. Such engagement will also provide an awareness of intra-sector dynamics that can also have an impact on minority positions that come forward.

However, the OMS also agrees with the Commission that the goal of representation of minority interests “does not mandate that minority interests override majority decisions, rather it requires that the board be made aware of the minority position where necessary.” [Order, Paragraph 510]

**4. A future Stakeholder Workshop is being planned to discuss FERC Order 719 Compliance; Responsiveness of RTOs to Customers and Stakeholders. What specific issues should be addressed?**

Generally, the OMS recommends that the Board continually seek to improve governance through refinement of formal and informal mechanisms; in each case looking at whether stakeholders have the opportunity to present ideas through the working groups and if the Board is ultimately made aware of their positions. The following are some suggestions the Board may want to consider.

- Continue efforts to incorporate stakeholders in the decision-making process as early as possible and keep effective dissemination of information as a top governance priority.
- Continue to have open Board meetings and provide telephone access for *all* public Board meetings; i.e., not just those where a Board member has to call in.
- Continue to strongly encourage direct board member participation in substantive committee meetings.
- Work with other RTOs to formally establish a best practices process.
- The following are suggestions for the board to consider, but are not meant to supplant existing formal processes, and need to be tailored in such a way that they do not become overly burdensome:
  - Establish a formal “feedback loop” that would provide greater transparency in how stakeholder views are received, reviewed, and considered in the Board decision making process. This would include a requirement that all written stakeholder comments to the Board for all issues be posted. Management summaries of comments are not sufficient
  - Establish a system whereby the Midwest ISO Board and Management would separately and independently report to the Advisory Committee on why they chose actions on major initiatives that differed from positions taken by the Advisory Committee. This report could be once-a-year or at the next Advisory Committee meeting.
  - Continue to allow Board members to gather information directly from stakeholders (i.e., unfiltered by RTO management) and to directly interact with stakeholders. Such procedures could include Board member participation in major stakeholder meetings, making all stakeholder comments available to the Board and by regular Board solicitation of stakeholder input (e.g., position papers) on relevant issues. Stakeholders should also be allowed to submit written correspondence to individual Board members and the Board as a whole.

In addition, the Board should continue to safeguard its independence; particularly, to ensure that the process of filling Board positions is free of undue influences.