

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

Midwest Independent Transmission System)	Docket No. ER12-480-003
Operator, Inc.)	Docket No. ER12-480-004

MOTION FOR LEAVE TO SUBMIT COMMENTS AND COMMENTS OF INDICATED MEMBERS OF THE ORGANIZATION OF MISO STATES

I. MOTION FOR LEAVE TO SUBMIT COMMENTS

Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212, Indicated Members¹ of the Organization of MISO States (“OMS”)² seek leave to respond to the Midwest Independent Transmission System Operator, Inc. (“MISO”) and the MISO Transmission Owners’ December 17, 2012, Request for Clarification filed in the above captioned docket. While the Indicated Members recognize that the Commission’s rules generally prohibit answers to “a protest, an answer, a motion for oral argument or a request for rehearing, unless otherwise ordered by the decisional authority,” the Indicated Members seek leave to file the following comments by requesting a waiver of Rule 213 of the Commission’s rules and procedures.³ The Commission has discretion to permit such answers and comments and does so if those comments or answers provide information that assists the Commission in its decision-making process.⁴ These comments will provide additional information and will clarify certain arguments and issues under consideration in this proceeding. Therefore, good cause exists to permit these comments, because doing so will assist the Commission's decision-making process regarding MISO's Request for Clarification filed in the above-captioned docket on December 17, 2012.

¹ For purposes of this filing, the Indicated Members are the Indiana Utility Regulatory Commission, the Iowa Utilities Board, the Kentucky Public Service Commission, the Michigan Public Service Commission, the Minnesota Public Utilities Commission, the Missouri Public Service Commission, the North Dakota Public Service Commission, and the Wisconsin Public Service Commission.

² This pleading was considered by the OMS Board of Directors on January 17, 2013, but did not obtain a majority of the recently enlarged OMS membership. Under OMS bylaws, a policy statement requires support of a majority of the members. Four retail regulators of Entergy Operating Companies have very recently become OMS members and abstained from voting on this pleading.

³ 18 C.F.R. § 385.213(a)(2).

⁴ *N.Y. Indep. Sys. Operator, Inc.*, 123 FERC ¶ 61,206 at P 29 (2008); *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,202 at P 5 (2008); *Sw. Power Pool, Inc.*, 118 FERC ¶ 61,055 at P 12 (2007) (accepting answers because they provided information that assisted the Commission in its decision-making process).

II. EXECUTIVE SUMMARY

MISO's December 2012 filings in this docket, the Compliance Filing and the Request for Clarification and Rehearing, are confusing. Indicated Members think the December 2012 filings mean that for Multi-Value Project (MVP) portfolios not paid for by the Entergy region, Entergy region benefits will not be used in MISO's analysis for determining whether the projects are MVPs. If that is, in fact, what MISO intends and what MISO's December 2012 filings mean, then Indicated Members support Commission acceptance of the filings. If that is not what MISO intends or not what MISO's December 2012 filings mean, Indicated Members do not support the filings and asks that FERC reject the filings with directions to MISO to file language consistent with Indicated Members' understanding.

Indicated Members have created a chart, attached to these comments, to fully delineate their understanding of MISO's interpretation of the tariff language submitted in the Compliance Filing. This chart explains all of the possible MVP portfolios, which benefits MISO will use to justify the projects, and how costs for the MVP portfolios will be allocated.

III. BACKGROUND

On December 17, 2012, the MISO and the MISO Transmission Owners (together, the "Filing Parties") filed proposed tariff revisions in Docket No. ER12-480-003 pursuant to the Federal Energy Regulatory Commission's ("Commission") November 15, 2012, Order on Rehearing and Compliance.⁵ ("Compliance Filing") On that same day, in Docket No. ER12-480-004, MISO filed a Request for Clarification or Rehearing of the November 15 Order. ("Request for Clarification") On December 18, 2012, the Deputy Secretary of the Commission issued a notice setting January 7, 2013, as the comment deadline. On December 28, 2012, the OMS requested an extension of the comment deadline in this docket. On January 4, 2013, the Secretary of the Commission issued a notice extending the comment deadline to January 21, 2013. On January 14, 2013, in Docket No. ER12-480-004, the Deputy Secretary of the Commission issued an Order Granting Rehearing for Further Consideration.

⁵ *Midwest Independent Transmission System Operator, Inc.*, 141 FERC ¶ 61,128 (2012) ("November 15 Order").

IV. SUMMARY OF MISO'S REQUEST FOR CLARIFICATION AND COMPLIANCE FILING

MISO's Compliance Filing and Request for Clarification attempts to describe the circumstances when the First and Second Planning Regions' benefits would be used to justify MVPs. In the Request for Clarification, on page 4, MISO describes what the Filing Parties "intended" in their original filing. Further, the Request for Clarification describes the intent of the Request:

The November 15 Order upheld the core elements of the proposed Entergy transition, but some compliance requirements need to be clarified, or reconsidered, to ensure greater consistency with the Filing Parties' original proposal. Hence, the Filing Parties submit this request for clarification or rehearing.

The Indicated Members' dilemma is that the Request for Clarification appears to introduce additional confusion. The confusion in MISO's proposed tariff language in the Compliance Filing and in the Request for Clarification is to:

- (a) What the different possible MVP portfolios are;
- (b) How those individual MVP portfolios would be justified, in terms of what Planning Area's benefits would be utilized; and,
- (c) How the costs of the various MVP portfolios will be recovered.

V. THE INDICATED MEMBERS' POSITION AND RECOMMENDATION

MISO's Request for Clarification results in a need for further comment to fully understand what would be the result of the Commission granting the Request. In its Request for Clarification, MISO's discussion of its interpretation of the November 15 Order and its proposed tariff revisions is unclear.

Indicated Members recommend MISO's proposed tariff language should be written to reflect their understanding of MISO's intent. The Commission should expressly clarify that MISO's tariff language conforms with Indicated Members' understanding of MISO's intent and thus means what Indicated Members thinks it means, or, in the alternative, reject MISO's Request for Clarification and the related tariff language in the Compliance Filing.

The Indicated Members' concern is that in performing a cost-benefit analysis to justify a Baseline Reliability Project ("BRP"), MVP, or a Market Efficiency Project ("MEP") line in the classic MISO area ("First Planning Area") benefits should not be counted from a different

planning area (Second Planning Area) if the cost sharing will be borne entirely by the First Planning Area.

In particular, Second Planning Area benefits should not be used to justify MVPs when customers in the Second Planning Area will never pay for the MVP Portfolio, via the circumstances of the Entergy Waiver previously approved by the Commission.

The proposed tariff language in section II B (3) of MISO's Compliance Filing is unclear on this issue and Indicated Members urge MISO to clarify its position on this manner. A possible example is an MVP Portfolio that was planned before the "transition period," is approved during the "transition period," and fails any of the benefit-cost equations in Attachment FF-6. In this circumstance, Indicated Members urge MISO to clarify that the portfolio would only be justified using benefits from the First Planning Region. This portfolio is designated as MVP Portfolio 1(a) in the attached Appendix A.

The Commission should also clarify that if MISO is unable to identify a "Combined Portfolio" that satisfies the benefit cost equations in Attachment FF-6, any MVP portfolio planned and approved during the transition period, should be justified using the benefits of the entire MISO footprint (i.e., both the First and Second Planning Areas) with costs allocated across the entire MISO footprint with no phase-in period. This circumstance is listed as MVP Portfolio 2 in Appendix A.

VI. COMMENTS

A. Confusion between the Compliance Filing and the Request for Clarification

Due to imprecision in the tariff language included in the Compliance Filing, state regulatory staffers have been working to understand MISO's Compliance Filing and the Request for Clarification by holding informal discussions with MISO Staff over the recent weeks. Indicated Members appreciate the MISO Staff's responses. Even with these discussions, Indicated Members remain concerned that due to lack of clarity, the proposed tariff language in the Compliance Filing does not comply with the November 15 Order in the following respects:

1. MISO Must Clarify which Benefits MISO will use to Justify MVP Portfolios in the First and Second Planning Areas.

The proposed tariff language in the Compliance Filing fails to describe with specificity which benefits MISO will use to justify MVP portfolios under different circumstances. More

specifically, it remains unclear that for an MVP portfolio planned before the transition period, specifically for the First Planning Area approved during the transition period, MISO shall only use the benefits of the First Planning Area to justify the portfolio. If that is the intent of the tariff language, the Indicated Members are satisfied. If that is not the Filing Parties' intent, the Commission should require the Filing Parties to amend the tariff language to clearly state that provision in the tariff. Because of this ambiguity in the MISO compliance filing the Indicated Members created a visual representation (Appendix A) of what the Indicated Members understand MISO's intent to be, with respect to the various circumstances being described in MISO's Compliance Filing and Request for Clarification.

The Indicated Members understand that MISO intends that any MVP Portfolio planned and approved during the transition period that did not satisfy the benefit-cost test in Attachment FF-6 would not involve any phase-in period and would be justified utilizing the benefits from the entire footprint as well as paid for by the entire footprint. Even though the tariff language in the -preceding paragraph captures MISO's unqualified intent and would be the result of MISO's Compliance Filing, the Indicated Members agree with MISO's interpretation of the tariff.

2. MISO Must Clarify how It Intends to Determine Payments for MVPs and the Conditions under Which those Payments Will Be Made.

The second issue is how MISO intends to determine cost allocation for MVP portfolios and the conditions under which those cost allocations will be made. The original Entergy tariff waiver was filed over a year ago and the tariff remains unclear on this issue. This lack of clarity concerning cost allocation creates continuing confusion over how MISO intends to allocate costs for MVP projects. While MISO Staff provided answers to the questions asked by the regulatory staffers, the MISO tariff remains imprecise concerning the circumstances under which MVP projects will be paid for by which regions, and whether MISO would apply the provisions of the phase in period. Accordingly, the Indicated Members recommend that MISO further revise its tariff to clarify this issue. This would eliminate many possible difficulties in administering the tariff when actual project costs are at stake.

3. MISO Should Clarify the Difference between the Terms “MVP Portfolio 2” as Described in the Request for Clarification and a Potential “Portfolio2” that Would Satisfy the FF-6 Benefit-Cost Test.

The Indicated Members are concerned with the difference between an “MVP Portfolio 2” as described in the Filing Parties' Request for Clarification or Rehearing and a potential “Portfolio 2” that would combine with MVP Portfolios 1 and 1(a) to create a “Combined Portfolio” that satisfies the Attachment FF-6 benefit-cost tests. The Indicated Members understand that there is no difference, and recommend that MISO clarify this understanding. Simple and consistent terminology across both December 2012 filings could have clarified the Filing Parties’ intentions in the Request for Clarification and MISO’s Compliance Filing regarding the circumstances, especially in terms of timing, under which MVP portfolios were identifiable, and which region’s benefits would be utilized to justify which MVP portfolios in which circumstances. Using phrases such as “both planning areas taken into account” is not as clear as, “using both planning areas’ benefits to justify a portfolio.” While the tariff language in the Compliance Filing uses both of these phrases, the Request for Clarification only uses the first phrase, making it difficult to understand if the Request for Clarification is asking for the same thing as the Compliance Filing.

B. The Issues Surrounding the Cost Allocation of MVP Projects and the First and Second Planning Areas are Not Urgent and the Request for Clarification Could be Rejected Without Disrupting the MISO MVP Planning Process.

On page 11 in the Request for Clarification, the Filing Parties state that no MVPs “are expected to be included in MTEP13.” This provides parties with a window of time to address the issues surrounding the cost allocation of MVP projects in the First and Second Planning Areas without negatively impacting the transmission planning process. The original Entergy tariff waiver filing in this docket stated that a need to “study Entergy’s congestion and other pertinent characteristics” made the waiver necessary, so it may not be until MTEP15 or later that an MVP Portfolio which benefits the combined MISO footprint could be developed. Therefore, if the Commission decides not to proceed with the OMS conditions recommended herein, the Indicated Members request that the Commission deny MISO’s Request for Clarification and order MISO to conduct a more thorough stakeholder process to clarify what benefits should be used to justify which MVPs in the MISO region.

VII. CONCLUSION

Wherefore, for the reasons explained above, the Indicated Members respectfully request that the Commission consider these comments and take action consistent with the recommendations herein. The following Indicated Members generally support this request:

Indiana Utility Regulatory Commission
Iowa Utilities Board
Kentucky Public Service Commission
Michigan Public Service Commission
Minnesota Public Utilities Commission
Missouri Public Service Commission
North Dakota Public Service Commission
Wisconsin Public Service Commission

The Minnesota Department of Commerce, as an associate member of the OMS, participated in these comments and generally supports these comments.

Respectfully Submitted,

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Dated: January 22, 2013

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 January, 2013.

William H. Smith, Jr.

William H. Smith, Jr.

Appendix A

	<i>IF THE FF-6 TEST IS NOT SATISFIED:</i>			<i>IF THE FF-6 TEST IS SATISFIED:</i>	
Portfolio	MVP Portfolio 1	MVP Portfolio 1a	Combined Portfolio*	MVP Portfolio 2	Combined Portfolio*
When Planned: Before, During, or After Transition Period	Before	Before	DOESN'T EXIST	During &/or After	Before and During
When Approved	December 2011	During transition period	DOESN'T EXIST	During transition period	December 2011 and during the transition period
where could the projects be located	MISO Classic	MISO Classic	DOESN'T EXIST	MISO Classic and/or Entergy	MISO Classic and/or Entergy
Whose benefits are used to justify the projects / determine if the FF test is passed	MISO Classic	MISO Classic	DOESN'T EXIST	MISO Classic + Entergy	MISO Classic + Entergy
Who is paying for the projects	MISO Classic	MISO Classic	DOESN'T EXIST	MISO Classic + Entergy	MISO Classic + Entergy
Is ther any phase in period for payment of projects in the other region (i.e., for Entergy paying for projects in MISO Classic	N/A	N/A	DOESN'T EXIST	NO	YES

* the "Combined Portfolio", if FF-6 is satisfied, would be a combination of MVP Portoflio 1, MVP Portfolio 1A, and additional projects identified during the transition period.