

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

Midcontinent Independent System Operator, Inc.)	Docket No. ER13-1943-000
)	
PJM Interconnection, L.L.C.)	Docket No. ER13-1944-000
)	
Duquesne Light Company, PJM Interconnection, L.L.C.)	Docket No. ER13-1924-000
)	
)	(not consolidated)

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

Pursuant to Rules 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), and the Notice issued by the Commission on August 8, 2013, establishing September 9, 2013, as the deadline for intervention and comment in these proceedings, the Organization of MISO States (“OMS”) respectfully submits the following Notice of Intervention and Comments in the above-captioned dockets regarding the interregional Order 1000 compliance filings submitted to the Commission by PJM Interconnection, L.L.C. (“PJM”) and Midcontinent Independent System Operator, Inc. (“MISO”) regional transmission organizations (“RTOs”) on July 10, 2013.

I. Notice of Intervention

Pursuant to Rule 214(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, 18 C.F.R. § 385.214(a)(2), the OMS submits 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:

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The OMS is a non-profit, self-governing organization of representatives from each state¹ with regulatory jurisdiction over entities participating in MISO. The purpose of the OMS, acting as the regional state committee for the MISO region, is to coordinate regulatory oversight among the states; to make recommendations to MISO, the MISO Board of Directors (BOD), the Commission, 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.

II. Background

Order 1000 placed numerous compliance requirements on MISO and its neighboring transmission providers.² For example, Order 1000 requires both MISO and PJM to address interregional transmission project coordination and cost allocation requirements between their respective regions. MISO, PJM and the PJM Transmission Owners could not reach agreement on all of the aspects of their compliance with Order No. 1000's interregional requirements and, therefore, have made separate interregional compliance filings. Specifically, Docket No. ER13-1943 is MISO's compliance filing proposing modifications to the Joint Operating Agreement ("JOA") between MISO and PJM. Docket No. ER13-1944 is PJM's filing, which largely

¹ Includes the Province of Manitoba, Canada, and the City of New Orleans.

² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, ("Order 1000"), FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

mirrors MISO's proposed JOA modifications with the exception of cost allocation for cross-border reliability projects, on which PJM and MISO disagree. PJM asserts that the current JOA approach to cross-border baseline reliability project ("BRP") cost allocation complies with the transmission planning coordination and cost allocation requirements of Order No. 1000, and should be retained.³ The PJM Transmission Owners' filing in Docket No. ER13-1924 agrees with PJM that the existing JOA between PJM and MISO complies with the interregional cost allocation requirements of Order 1000.⁴

III. OMS Comments

In general, the OMS commends MISO for working with all of its neighbors to establish or amend their respective interregional joint coordination agreements, in order to further support joint coordinated planning and cost allocation efforts going forward. It has been a substantial task to undertake, given the degree of differences between all the neighboring planning regions.

With respect to the treatment of baseline reliability projects in the interregional filings between MISO and PJM, some OMS members support MISO's filing to revise Section 9.4.3.2.1 whereas other OMS members recommend that the Commission retain the existing language in Section 9.4.3.2.1 (as urged by PJM in its ER13-1944 filing and by the PJM Transmission Owners in their ER13-1924 filing), but direct MISO to develop a regional cost allocation methodology for the costs allocated to MISO for cross-border baseline reliability projects under Section 9.4.3.2.1 of the Joint Operating Agreement (JOA). Additional analysis of these alternatives is provided later in this document as "Option 1" and "Option 2."

³ PJM July 10 Filing in ER13-1944, at 24.

⁴ PJM Transmission Owners July 10 Filing in ER13-1924, at 1-2.

In addition, the OMS: (1) notes a term in the proposed JOA that, if left unchanged, would cause additional confusion with respect to cross-border BRP cost allocation; (2) makes note of an unintended editing error; (3) recommends the addition of language in the JOA that further defines what constitutes an urgent need eligible for an expedited intra-regional approval process of an interregional project; (4) recommends that MISO and PJM should clarify how the proposed interregional procedures will work, given each RTO's process for designating projects and developers; and (5) opposes MISO's proposal for certain transmission upgrades needed for certain types of generator interconnection.

1. Interregional Baseline Reliability Projects

A. Background

In its March 22 Order, the Commission approved MISO's proposal to change the cost allocation for Baseline Reliability Projects (BRPs), which had previously been cost shared beyond the project's local pricing zone, so that BRP costs are now only allocated to the local pricing zone.⁵ This means that BRPs no longer meet the Order 1000 definition of projects selected in a regional transmission plan for purposes of cost allocation. Intervenors and commenters had alerted the Commission to the possibility that this cost allocation change could impact interregional transmission planning and cost allocation.⁶ However, the Commission determined that the interregional impact of this decision was "beyond the scope" of that

⁵*Midwest Independent Transmission System Operator, Inc., et al.*, 142 FERC ¶ 61,215 at ¶ 518 (2013) ("March 22 Order").

⁶ *Id.*, at P 528.

proceeding and “premature.”⁷ This issue has now matured and the consequences of this decision are now becoming apparent.

Order 1000 and Order 1000-A established that one of the requirements for a project to be considered as an interregional project with interregional cost allocation is that the project must be “selected in a regional transmission plan for purposes of cost allocation.”⁸ Due to the March 22 Order, BRPs no longer meet that requirement. MISO’s filing regarding interregional BRPs with PJM offers one possible mechanism to address the issue by providing for negotiated cross-border BRPs with negotiated cost allocation across the seams, albeit with MISO’s portion of a project’s costs allocated just to the affected local zone, to the extent voluntarily accepted. PJM’s proposal would ordinarily comply with the Order 1000 interregional requirements, but it ignores the effect of Order 1000 and Order 1000-A on BRPs that cannot be selected in a transmission plan for purposes of cost allocation.

B. Cost Allocation for Cross-Border BRPs.

It appears that the principal difference between MISO’s proposed modifications to the JOA and PJM’s proposed modifications to the JOA lie in Section 9.4.3.2.1, having to do with cost allocation for interregional BRPs. PJM supports retention of the existing method and specific language in Section 9.4.3.2.1, while MISO is proposing modifications to the existing method and specific language to be consistent with the regional cost allocation for baseline reliability projects approved by the Commission in its ER13-186 Order.⁹

⁷ *Id.*

⁸ Order 1000-A, at P 394, 423, 500, 506, and 628.

⁹ March 22 Order at P 520.

In particular, MISO explains that, “Order No. 1000 conditioned a potential interregional project’s eligibility for interregional cost allocation on the selection of the project in each of the relevant regional transmission planning processes **for the purposes of cost allocation.**”¹⁰ MISO further explains that, “In Order No. 1000, the phrase ‘for purposes of cost allocation’ refers to selection pursuant to a transmission planning region’s transmission planning process for inclusion in a regional transmission plan for purposes of cost allocation.”¹¹ MISO concludes that “for a cross-border project between MISO and PJM to be eligible for cost allocation between them, it must be selected in both MISO’s and PJM’s respective transmission planning processes for the purposes of regional cost allocation.”¹² MISO states that, because the Commission approved MISO’s earlier proposal to eliminate regional cost allocation for baseline reliability projects, and the JOA currently requires a cross-border BRP located in MISO to be a BRP under MISO’s Tariff, it is no longer possible for a BRP that is a potential cross-border BRP to be selected in MISO’s transmission planning process for the purposes of regional cost allocation.¹³

In support of its proposal, PJM states that the existing JOA language already satisfies, and in some ways exceeds, Order 1000’s requirements.¹⁴ PJM asserts that “the JOA is a contractual agreement reached between PJM and MISO which by its terms can only be amended by agreement of both parties.”¹⁵ PJM further states that the JOA is a holistic agreement between the two RTOs and the provisions on planning, operation and market coordination all complement each other and work together to ensure efficient market outcomes, minimization of congestion

¹⁰ MISO July 10 Filing in ER13-1943, at 32-33, emphasis added, citing to Order No. 1000, at P 582.

¹¹ MISO July 10 Filing in ER13-1943, at 33, citing to Order No. 1000 at P 63.

¹² MISO July 10 Filing in ER13-1943, at 33.

¹³ MISO July 10 Filing in ER13-1943, at 33.

¹⁴ PJM July 10 Filing in ER13-1944, at 2-3.

¹⁵ PJM July 10 Filing in ER13-1944, at 2-3.

costs and coordinated transmission planning and expansion.¹⁶ So, PJM requests the Commission to affirm that the current language in Section 9.4.3.2.1 is “consistent with and exceed[s] both the letter and the goals set out for Order No. 1000.”¹⁷

Given these circumstances, there are three readily apparent options that the Commission might pursue.¹⁸

- (1) Approve the voluntary approach to cross-border BRP cost allocation proposed by MISO in its July 10 filing in ER13-1943; or
- (2) Retain the existing language in Section 9.4.3.2.1 (as urged by PJM in its ER13-1944 filing and by the PJM Transmission Owners in their ER13-24 filing), but direct MISO to develop a regional cost allocation method for the interregional BRP allocated to MISO; or
- (3) Re-visit the regional cost allocation determination regarding BRPs made by the Commission in the March 22 Order.

Several OMS members favor Option 1; others favor Option 2. Neither position enjoys a majority of the 17 OMS members. The arguments for each of these two Options are presented. Option 3 listed above would involve Commission action outside these dockets and is not addressed further.

1. Arguments for Option 1:

Of these three options, some OMS members¹⁹ recommend that the Commission pursue Option 1. While some states support the concept of interregional reliability projects, they do not want the Commission to interject distortions that would inappropriately advantage interregional

¹⁶ PJM July 10 Filing in ER13-1944, at 2-3.

¹⁷ PJM July 10 Filing in ER13-1944, at 3.

¹⁸ The OMS readily acknowledges that other options may well exist.

¹⁹ OMS members favoring Option 1 are: Illinois Commerce Commission, Iowa Utilities Board, Kentucky Public Service Commission, Minnesota Public Utilities Commission, Montana Public Service Commission, City of New Orleans, North Dakota Public Service Commission, South Dakota Public Utilities Commission, and Texas Public Utility Commission.

projects over similar and perhaps better regional projects. This would likely happen if interregional reliability projects are afforded cost sharing while regional reliability projects in MISO are not cost shared. The way to prevent such a distortion for MISO stakeholders is to have a consistent cost allocation for both regional and interregional reliability projects. In other words, MISO's regional allocation for its portion of the costs of the interregional reliability projects must be the same as MISO's cost allocation for regional reliability projects. This consistency on internal reliability cost allocation should not be construed as a constraint on the diversity of criteria for reliability project selection and cost allocation between RTOs that might be negotiated at different seams, but as a necessary measure to maintain the terms of MISO's tariff.

As an example of how MISO's proposal would work, consider the scenario where a MISO member and a PJM member each have a pending reliability project. Through the joint planning process, MISO and PJM identify an alternative interregional project that is more efficient and cost effective than the individual projects. In that case, the member participants would negotiate a cost allocation based on benefits. Given that the project is more efficient and cost effective, this should benefit both parties such that an agreement will be reached. To the extent that they cannot reach agreement, then each will still have the option of building the individual project to address the need for its customers - which is still demonstrated as a local customer/reliability need.

MISO's proposal for the PJM seam is superior to creating a new reliability project category because MISO's proposal does not create an obligation for one utility to build a project for another utility when there is no benefit to it, and it does not require expensive cross-border

studies every time a utility needs to replace a minor piece of transmission equipment that serves a reliability function. The OMS members that support Option 1 oppose these potential unintended consequences when PJM and MISO utilities could instead negotiate on interregional projects to solve identified reliability issues and perhaps develop cost allocations on a project-by-project basis.

2. Arguments for Option 2:

Of these three options, some OMS members²⁰ recommend that the Commission pursue Option 2: retain the existing JOA language for interregional BRPs and direct MISO to develop an appropriate internal cost allocation mechanism. Another possibility is that MISO establish a new project type that would encompass interregional BRPs and develop a corresponding regional cost allocation methodology. This could provide another workable solution to address the apparent difference in opinion between MISO and its neighbors regarding interregional BRPs.

MISO's interregional compliance filings appear to meet most of the requirements of Order 1000 interregional transmission planning and cost allocation, but all have the same problematic issue regarding interregional cost allocation for cross-border BRPs. This issue is a direct result of the change in BRP cost allocation approved by the Commission in its March 22 Order.

Order 1000 and Order 1000-A established that one of the requirements for a project to be considered as an interregional project with interregional cost allocation is that the project must be

²⁰ OMS members favoring Option 2 are: Arkansas Public Service Commission, Indiana Utility Regulatory Commission, Michigan Public Service Commission, Missouri Public Service Commission, and Wisconsin Public Service Commission.

“selected in a regional transmission plan for purposes of cost allocation.”²¹ Due to the March 22 Order, BRPs no longer meet that requirement and, under Order 1000 and Order 1000-A, can no longer be interregional projects. As a result, MISO has had to propose along all of its seams either the elimination of cross-border BRPs and interregional cost allocation for cross-border BRPs, or to have no cross-border reliability projects and no interregional cost allocation for such projects. Consequently, the change in BRP cost allocation, together with the Order 1000 interregional requirements, has led to the situation of Order 1000 eliminating interregional reliability projects, rather than its stated goal of encouraging such projects when they are more efficient or cost effective than regional BRPs.

While PJM’s proposal would ordinarily comply with the Order 1000 interregional requirements, it ignores the effect of Order 1000 and Order 1000-A on BRPs, which are not selected in a transmission plan for purposes of cost allocation. This leaves the Commission with an interesting conundrum in these proceedings. The Commission can: (1) change the Order 1000 requirement that interregional projects must be selected in a regional transmission plan for purposes of cost allocation; or (2) change the JOA between MISO and PJM to eliminate cross-border reliability projects and interregional cost allocation for such projects. The Commission also has the options of ordering MISO to develop an interregional reliability project type with interregional cost allocation or the Commission developing such an interregional cost allocation based on the record before it. However, in both of these instances, the Commission would also likely need to amend the Order 1000 interregional requirement that interregional projects must

²¹ Order 1000-A, at P 394, 423, 500, 506, and 628.

be selected in both RTOs regional transmission plans for purposes of cost allocation or amend its March Order approving the elimination of cost sharing for MISO BRPs.

In light of the March 22 Order, there needs to be a workable solution to address the evaluation and cost allocation of interregional BRPs. Regarding the difference of opinion between MISO and PJM concerning interregional BRPs, the Commission cannot simply ignore the inconsistency identified by MISO. The Commission also cannot merely affirm the current language in Section 9.4.3.2.1 for purposes of compliance with the interregional cost allocation provisions of Order 1000. To do so would set up an unworkable process, given the cost allocation method approved by the Commission for MISO's BRPs in its March 22 Order, and would not support the development of interregional reliability projects between the PJM and MISO regions.

In order to implement Option 2, MISO would need to develop a regional cost allocation methodology for the costs allocated to MISO for cross-border baseline reliability projects under Section 9.4.3.2.1 of the JOA. To that end, the OMS members supporting Option 2 recommend that the Commission direct MISO to work with its stakeholders and OMS in developing this specific regional cost allocation method for the cross-border BRP costs allocated to MISO.

In Order 1000, the Commission concluded:

[T]he absence of clear cost allocation rules for interregional transmission facilities can impede the development of such transmission facilities due to the uncertainty regarding the allocation of responsibility for associated costs. This may, in turn, adversely affect rates for jurisdictional services, causing them to become unjust and unreasonable or unduly discriminatory or preferential.²²

²² *Order 1000* at ¶ 579.

While the Commission allowed for different cost allocation methods between RTOs and for different types of transmission facilities, the Commission also stated that each cost allocation method must be determined in advance for each type of transmission facility.²³ The Commission further emphasized the importance of having an open and transparent stakeholder process and a transparent method for determining benefits and identifying beneficiaries.²⁴

The OMS states supporting Option 2 agree that there are significant benefits to having a predetermined interregional cost allocation methodology for cross-border BRPs, as well as an open and transparent stakeholder process for determining the cost allocation methodology. Stakeholders involved in identifying and planning BRPs should have certainty during the planning process of how the costs of such projects would be allocated. As the Commission stated, “greater stakeholder access to cost allocation information will help aid in the development and construction of new transmission, as stakeholders will be able to see clearly who is benefiting from, and subsequently who has to pay for, the transmission investment.”

By requiring MISO to have the category of interregional reliability projects and a stakeholder process for establishing the appropriate cost allocation methodology for such projects, the Commission will be enforcing the implementation of the cost allocation principles set out in Order 1000.

²³ *Id.* at ¶ 581.

²⁴ *Id.* at ¶¶ 668-669.

2. Section 9.4.3.1.1 uses the Word “or”, Rather Than the Word “and”, Which Appears to be an Unintended Editing Error by PJM and MISO.

Section 9.4.3.1.1 states:

Projects that meet all of the following criteria will be designated as CBBRPs: (i) by agreement of the JRPC, the project is needed to efficiently meet applicable reliability criteria; (ii) the project must be a baseline reliability project as defined under the Midwest ISO *or* PJM Tariffs. (emphasis added)

The OMS wishes to call the Commission’s attention to the word “or” in this section.

Order 1000 clearly stated an interregional transmission facility must be selected in **both** of the relevant regional transmission planning processes for purposes of cost allocation in order to be eligible for interregional cost allocation.²⁵ Accordingly, in order to qualify as an interregional BRP, the project must qualify for inclusion in PJM’s regional plan **and** MISO’s regional plan. For this reason, the OMS recommends that the Commission direct PJM and MISO to change the word “or” to “and” in Section 9.4.3.1.1 of the JOA.²⁶

3. Additional Language in the JOA, Sec 9.3.5.2(b)(x) Would Clarify the RTOs’ Intent Regarding the Critical Upgrade Exception Process.

Within both MISO’s and PJM’s JOA language as filed separately, Section 9.3.4.2(b)(x) describes an exception within the coordinated system planning process that would allow for expedited intra-RTO approval of a Joint RTO Planning Committee (“JRPC”) recommended interregional project. Under the normal coordinated system planning process, both MISO and PJM would evaluate the recommendation from the JRPC for intra-RTO Board approval following each RTO’s respective procedures for approval (i.e., normal planning cycles).

²⁵ Order 1000, at P 582.

²⁶ This issue has been discussed with MISO. MISO has authorized the OMS to state that it concurs that “and” should be used.

However, in Section 9.3.4.2(b)(x) the JOA would provide for an expedited approval process for upgrades identified as having a critical need. Specifically, Section 9.3.4.2(b)(x) states the following:

9.3.5.2(b)(x) Coordinated System Planning Process exception for critical needed upgrades... Critical upgrades for which the **need to begin development is urgent** [emphasis added] will be reviewed by each Party in accordance with their procedures and presented to the Parties' Boards for approval as soon as possible after identification through the coordinated planning process...²⁷

As the language above suggests, if an interregional project's development was needed urgently, then the project could be presented for approval to the respective RTO Boards, in accordance with the RTO-specific procedures, as soon as the JRPC recommends the project. While the OMS supports an expedited approval process exception for reliability projects that may in fact have a justifiable need, the OMS does question what exactly would constitute a critical upgrade for which the need to begin development is urgent in the context of MISO and PJM's JOA procedures, since there is no corresponding definition of "need" or "urgent" in the JOA. The OMS is concerned that without further clarification in the JOA, some projects that should not be granted expedited review could be unduly considered for such a process and exempt from a full regional review cycle to assess the necessity and compatibility of the project within each respective region.

In both MISO and PJM's regional planning procedures relating to expedited approval of a regional project, each RTO has defined, to varying extents, what constitutes "urgent" and "need" for purposes of justifying an expedited process for intra-regional projects. As explained

²⁷ MISO July 10 Filing in Docket ER13-1943, at 326.

in the following paragraphs, both RTOs specifically pinpoint reliability projects when qualifying any sort of urgent need that would lead to an expedited approval process.

Per MISO's Transmission Planning Business Practice Manual, Section 6, which explains its Out of Cycle project review process allowing for expedited review and approval by the MISO BOD of urgently needed reliability projects, MISO states the following:

Section 6.1.1 Criteria for Out-of-Cycle Project Designation

Out-of-Cycle project must meet all of the following criteria:

- 1) Be a Baseline Reliability Project or an Other (Reliability) project required for compliance with the transmission planning reliability criteria of a member Transmission Owner as posted on the MISO Planning website
- 2) Address a need that has been identified after the project submittal cutoff date of the prior annual MTEP cycle as posted on the MISO webpage
- 3) *Address one of the following needs:*
 - a. *A new load addition*
 - b. *A generator change of status pursuant to an Attachment Y submittal*
 - c. *A regulatory, or legal mandate [emphasis added]*
- 4) Have a required in-service need date within 3 years of the Out-of-Cycle request date and expected in service date within 4 years of Out-of-Cycle request date.²⁸

PJM's Tariff designation of an Immediate-Need Reliability Project allows for a similar expedited approval process. PJM's definition of an Immediate-Need Reliability Project is below:

1.15A Immediate-need Reliability Project.

A reliability-based transmission enhancement or expansion: (i) with an in-service date of three years or less from the year the Office of the Interconnection identified the existing or projected limitations on the Transmission System that gave rise to the need for such enhancement or expansion pursuant to the study process described in section 1.5.3 of this Schedule 6.²⁹

²⁸ BPM Language approved by MISO Planning Advisory Committee on April 17, 2013.

²⁹ PJM July 22 Filing, Operating Agreement Definitions I-L in Docket ER13-198-002, at 83

As further explained in PJM’s Order 1000 regional compliance filing, amendments to Schedule 6 from its July 22nd filing, if there is an identified “time-sensitive need” for project development, then there could be a shortened proposal window (i.e., developer selection review time).³⁰

The OMS suggests that specific definition of “need” and “urgent” be included in this section of the JOA, similar to what MISO and PJM have done in their respective Tariffs and associated BPM language, as noted above. Clarifying this within the JOA will provide groups such as the Inter-Regional Planning Stakeholder Advisory Committee, JRPC, as well as other MISO and PJM stakeholders with the information necessary to evaluate and justify a particular interregional project for expedited approval post-JRPC recommendation and make sure only those projects (i.e., needed and urgent reliability projects) that should be granted expedited review are eligible.

4. MISO and PJM Fail to Address How Each RTO’s Developer Selection Process will be coordinated in the Proposed Interregional Procedures.

MISO and PJM have very different processes for selecting which entity will construct, own, and operate transmission projects that are approved by the RTO. In MISO, BRPs are assigned to the incumbent transmission owner(s), and for market efficiency projects (“MEPs”) and multi-value projects (“MVPs”) that proceed through a competitive bidding process, the designated entity is determined after the MISO Board has approved the transmission project as part of the MISO Transmission Expansion Plan (“MTEP”) process.

³⁰ See PJM July 22 Filing, Operating Agreement Section 1.5.8(m)(2) of proposed Schedule 6 amendments in Docket ER13-198-002, at 119.

The competitive selection process adopted by PJM is a project sponsorship method that **simultaneously** identifies the project and the developer of that project after the transmission need or problem has been identified by PJM. As a result, there will be no PJM-recommended or PJM-proposed projects, until after the conclusion of PJM's competitive project selection process. The timeframes for project identification and developer selection are not consistent across the two RTOs.

Under both MISO's and PJM's respective competitive processes the transmission owner for a cross-border project will not be identified until the respective RTO's competitive process has concluded. In this context, explanation is needed regarding the timeframe for the following steps in the cross-border process so it can work consistently with the respective RTO's competitive selection processes. For example, Section 9.4.3.1.2.1(f) states:

The annual revenue requirements for the CBMEP are determined from the estimated CBMEP installed costs and the fixed charge rate applicable *to the constructing transmission owner(s)*. (emphasis added)

and,

The benefits-to-costs ratio threshold for a project to qualify as a CBMEP shall be 1.25 to 1. To determine the present value of the annual benefits and costs, the discount rate *shall be based on the transmission owners' most recent after-tax embedded cost of capital weighted by each transmission owner's total transmission capitalization*. (emphasis added)

Similarly, Section 9.4.3.2.1(a) states:

For a CBBRP that meets the criteria in Section 9.4.3.1.1 and interconnects to the transmission facilities of a Transmission Owner in MISO and the transmission facilities of a Transmission Owner in PJM, the ownership and responsibility to construct shall be based on the RTO boundaries between the connected Transmission Owners in each RTO, *unless otherwise agreed to by such Transmission Owners*. (emphasis added)

The timeframes suggested in the JOA sections quoted above do not appear to be consistent with the steps for transmission owner identification under the RTOs' Order 1000 ROFR-compliance tariffs. Neither MISO nor PJM address how each RTO's developer selection process will be coordinated in their proposed interregional procedures. The timeline suggested by the JOA provisions does not comport with the project selection process (and consequent transmission owner selection process) set forth in PJM's tariff. MISO and PJM must clarify how the steps in their proposals will work given that the competitive selection processes differ.

5. The OMS Opposes MISO's Proposal for Cost Allocation for Certain Types of Generator Interconnections.

The OMS opposes MISO's proposed cost allocation of generator interconnection network upgrades provided for in Section 9.4.1 of the JOA which states:

9.4.1 Network Upgrades Associated with Interconnections.

When under Section 9.3.3 it is determined that a generation or merchant transmission interconnection to a Party's system will have an impact on the Affected System such that Network Upgrades shall be made, *the upgrades on the Affected System shall be paid for in accordance with the terms and conditions of the Party's OATT.* (emphasis added)

The OMS opposes the terms of this payment obligation. Section III.A.d.(1) of MISO's Attachment FF tariff provides that network transmission upgrades of 345 kV or above that are needed to facilitate generator interconnection will have 10% of their costs allocated to load across the MISO footprint on a postage stamp basis. If a Network Upgrade is needed on PJM's system to enable a generator to interconnect to the MISO system without creating reliability issues on the PJM system, it would not be reasonable to allocate 10% of that project's cost to load across the MISO footprint on a postage stamp basis without a case-specific demonstration of commensurate benefits to all MISO load-serving entities. Yet, that is precisely the outcome

that would result from application of Section 9.4.1 in this instance. The OMS proposes, that in such circumstances where a network upgrade is needed on PJM's system to enable a generator to interconnect to the MISO system without creating reliability issues on the PJM system, that the costs of such a network upgrade be allocated to the generator seeking interconnection.

IV. Conclusion

Wherefore, for all of the reasons explained above, the OMS requests that the Commission issue its Order consistent with these comments. The OMS submits these comments because a majority of the members have agreed to generally support them. Individual OMS members reserve the right to file separate pleadings regarding the issues discussed herein. The following members generally support these comments:

Arkansas Public Service Commission
Illinois Commerce Commission
Indiana Utility Regulatory Commission
Iowa Utilities Board
Kentucky Public Service Commission
Michigan Public Service Commission
Minnesota Public Utilities Commission
Missouri Public Service Commission
Montana Public Service Commission
City of New Orleans
North Dakota Public Service Commission
South Dakota Public Utilities Commission
Public Utility Commission of Texas
Wisconsin Public Service Commission

The Louisiana Public Service Commission abstained from these comments. The Manitoba Public Utilities Board and the Mississippi Public Service Commission did not participate in these comments.

The Indiana Office of Utility Consumer Counselor, as an associate member of the OMS, participated in these comments and generally supports these comments.

Respectfully Submitted,

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Dated: September 9, 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 9th day of September, 2013.

William H. Smith, Jr.