

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

**Midcontinent Independent System
Operator, Inc.**

Docket No. ER15-358-000

**NOTICE OF INTERVENTION AND PROTEST OF
THE ORGANIZATION OF MISO STATES, INC.**

I. Background

On November 6, 2014, the Midcontinent Independent System Operator, Inc. (“MISO”), on behalf of certain Transmission Owners (“TOs”), proposed modifications to Attachment O of MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (“Tariff”).¹ The RTO Adder Filing would allow the filing TOs to implement a 50-basis point adder (“RTO Adder”) for their participation in MISO, a regional transmission organization (“RTO”). The TOs propose an effective date of November 7, 2014, but ask to defer collection of the RTO Adder until issuance of a final order by the Federal Energy Regulatory Commission (“FERC” or “Commission”) on the pending complaint on the justness and reasonableness of MISO's current rate of return on equity (“ROE”) in Docket No. EL14-12. Accordingly, the current proposal appears intended to mitigate against any refunds that may result from the EL14-12 docket.

II. Intervention

Pursuant to Rules 211 and 214(a)(2) of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.211 and § 385.214(a)(2), the Organization of MISO States, Inc. (“OMS”) files its Notice of Intervention and Protest of the November 6, 2014, MISO filing. 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

¹ See, MISO Transmission Owners, Request for Incentive Adder to Return on Equity for Participation in Regional Transmission Organization, Docket No. ER15-358-000, Nov. 6, 2014 (RTO Adder Filing).

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III. The RTO Adder Filing, as Presented, Is Not Just and Reasonable nor in the Public Interest.

The OMS believes the RTO Adder Filing is not just and reasonable nor in the public interest because, as detailed below, the TOs have failed to demonstrate that the RTO Adder incentive is necessary and results in demonstrable benefits to MISO's transmission customers. The Commission should, therefore, reject the filing, or in the alternative, suspend the filing and consolidate it with the settlement and hearing process recently begun on MISO's appropriate base ROE in Docket No. EL14-12.

A. The RTO Adder Filing Does Not Show the RTO Adder Incentive is Necessary and the Commission Should Continue to Evaluate Transmission Incentives in Light of Benefits to Transmission Development Consistent with Relevant FPA Sections.

In the RTO Adder Filing, the TOs cite Commission orders to show that the Commission consistently grants a 50-basis point adder to a public utilities' ROE as an incentive for joining and continuing membership in a RTO.² Relying solely on this precedent, the TOs claim that, by virtue of their continued membership in MISO, they qualify to receive the RTO Adder.³

Despite the TOs' claims to contrary, the RTO Adder Filing does not adequately demonstrate that granting the RTO Adder incentive is appropriate in this case. Consistent with the notion of an "incentive," the RTO Adder should be awarded only when it influences decisions to join or remain in an RTO. Since the Commission's review of its electric transmission incentives policies in Docket No. RM11-26,⁴ the historical record has simply shown that there are no instances of MISO members leaving its membership except to transfer to a different RTO, and a gain of several new members. In fact, after more than a decade of MISO's existence, only one out of 50 TOs in MISO has been granted the RTO Adder incentive.

² See RTO Adder Filing at 4.

³ See *id.* at 8.

⁴ See *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129 (2012) ("Transmission Incentive Policy Statement").

Yet, none of these TOs have felt compelled to discontinue their membership without this incentive. Therefore, the TOs have failed to demonstrate that an RTO Adder to incent existing reality is necessary and just and reasonable.

Moreover, when the Commission undertook its most recent revision of its transmission incentives policies in Docket No. RM11-26, the Commission was sensitive to the ongoing need to ensure that its incentive regulations and policies encourage the development of transmission infrastructure in a manner consistent with FPA sections 219, 205, and 206.⁵ In other words, the Commission's transmission incentives should ultimately produce demonstrable benefits to transmission customers. The Commission also stated that it will continue to monitor and assess the consequences that its transmission incentive policy has on customers.⁶ The current RTO Adder Filing fails to address either of the Commission's stated objectives, and therefore, cannot be found to be just and reasonable.

The OMS also notes that the TO group requesting this treatment does not include all the MISO transmission owners. This omission suggests that some of MISO's transmission owners do not believe it is necessary to be rewarded for membership that is beneficial in other ways.

B. The Requested RTO Adder is Inextricably Linked with the Issues and Facts Being Litigated in Docket EL14-12.

In the RTO Adder Filing, the TOs request waiver of the requirements to submit cost of service information and statements, testimony, and exhibits to support their request to implement the RTO Adder into the each of the TO's formula rate templates.⁷ In doing so, the TOs argue this request is justified because submitting that information in the instant docket would just be duplicative of the analysis and documentation that will be part of the complaint proceeding relating to MISO's based ROE in Docket No. EL14-12.⁸ The TOs also request to defer collection of the RTO Adder until FERC issues a final order in that same proceeding.⁹

⁵ See Transmission Incentive Policy Statement at P1.

⁶ See *id.* at P 31.

⁷ See RTO Adder Filing at 11.

⁸ See *id.* note 35 and accompanying text.

⁹ See RTO Adder Filing at 10-11.

The Commission has found that it is appropriate to consolidate proceedings for purposes of settlement, hearing and decision when there are common issues of law and fact.¹⁰ OMS contends that the TOs' waiver and deferral requests clearly demonstrate the linkage between the RTO Adder and the level of the base ROE and the zone of reasonableness for the TOs' ROEs to be determined in the ongoing proceeding in Docket No. EL14-12. Therefore, the OMS requests the Commission consolidate the instant filing with docket EL14-12 and refer the issues relating to the RTO Adder to the ongoing settlement and hearing process in that proceeding.

IV. Conclusion

For the reasons provided, the OMS requests that the RTO Adder Filing be rejected, or in the alternative, that it be suspended and consolidated with the settlement and hearing process in Docket No. EL14-12.

The OMS submits this protest by decision of its Executive Committee under Article VII of its bylaws.¹¹ Individual OMS members reserve the right to file separate comments regarding the issues discussed in this pleading.

Respectfully Submitted,

William H. Smith, Jr.

William H. Smith, Jr.

Executive Director, Organization of MISO States

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Dated: November 25, 2014

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 25th day of November, 2014.

William H. Smith, Jr.

¹⁰ See *Midcontinent Indep. Sys. Operator, Inc.*, 147 FERC ¶ 61,161, at P 15 (2014).

¹¹ The Arkansas Public Service Commission abstained.