

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

Midcontinent Independent System Operator, Inc.)
Operator, Inc.) Docket No. ER20-857-000
)

**COMMENTS OF THE
ORGANIZATION OF MISO STATES, INC.**

The Organization of MISO States (“OMS”) submits its comments in support of tariff revisions¹ filed by the Midcontinent Independent System Operator, Inc. (“MISO”) and a majority of the MISO Transmission Owners.²

On January 21, 2020, MISO and the MISO Transmission Owners (together, “Applicants”) submitted their January 2020 Proposal to revise Module A and Attachment FF of the MISO Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“Tariff”) and new Attachments FF-7 and FF-8. The January 2020 Proposal expands and modifies MISO’s approach to identifying and allocating costs for transmission facilities providing regional and local economic benefits to MISO customers.³ OMS supports the January 2020 Proposal because it incorporates the Commission’s findings in the Regional Order,⁴ enjoys broad stakeholder support, and is just and reasonable.⁵

¹ *Midcontinent Indep. Sys. Operator, Inc.*, “Proposed Revisions to Tariff Module A, Attachment FF and New Attachments FF-7 and FF-8 to Expand and Clarify Economic Project Selection and Cost Allocation,” Docket No. ER20-857-000 (filed Jan. 21, 2020) (January 2020 Proposal, or Proposal).

² See January 2020 Proposal at n.1 for a list of participating MISO Transmission Owners.

³ January 2020 Proposal, at 1-2.

⁴ *Midcontinent Indep. Sys. Operator, Inc.*, 167 FERC ¶ 61,258 (2019) (“Regional Order”).

⁵ The Michigan Public Service Commission (“MPSC”), the Indiana Utility Regulatory Commission (“IURC”), and the Missouri Public Service Commission (“MoPSC”) do not join in the OMS statement that all of the proposed tariff revisions are just and reasonable, based on the specific tariff revisions establishing the planning process and cost allocation method for “local economic projects” as described herein. It is the Commissions’ noted herein opinion that the proposed cost allocation for these projects (which relate to lower voltages between 100 kV and 230 kV) are a violation of the “beneficiary pays” principle.

The OMS is a non-profit, self-governing organization comprised of representatives from the seventeen regulatory bodies with jurisdiction over entities participating in MISO and serves as the regional state committee. The purpose of the OMS is to coordinate regulatory oversight among its members, to make recommendations to MISO, the MISO Board of Directors, the Commission, and 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.

Service of pleadings, documents, and communications in this proceeding should be made on the following:

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I. BACKGROUND

A. The February 2019 Regional Filing

The Applicants initially submitted a proposal in February 2019 to implement broad changes to the Market Efficiency Project (MEP) category.⁶ The February 2019 Proposal allowed for the expanded identification of MEPs, adopted the Local Economic Project (LEP) category, which related to certain economic projects with voltages at or above 100 kV but below 230 kV, and established a regional cost allocation methodology for MEPs and LEPs.⁷ In the Regional Order, the Commission rejected the February 2019 Proposal because FERC concluded that the proposed cost allocation method for LEPs had not been shown to be reasonable and consistent

⁶ *Midcontinent Indep. Sys. Operator, Inc. and the MISO Transmission Owners*, “Proposed Revisions to Module A, Attachment FF and New Attachment FF-7 to Expand and Clarify Economic Project Selection and Cost Allocation,” Docket Nos. ER19-1124-000 and ER19-1125-000 (Feb. 25, 2019) (February 2019 Proposal).

⁷ *Id.* at 5.

with the Commission's cost causation principle.⁸ Except for its issue with the LEP category, the Commission found the majority of the tariff revisions in the February 2019 Proposal to be reasonable. However, the integrated nature of the filing forced the Commission to reject the entire proposal.⁹ The Commission provided the Applicants specific guidance to address its concerns regarding LEPs and additional guidance on aspects of the proposal for the Applicants' consideration in resubmitting their proposal.¹⁰

The January 2020 Proposal revises the requirements applicable to the LEP category consistent with the Regional Order. The filing also reflects the Commission's additional guidance, which largely expressed support for the February 2019 Proposal.

B. MISO's Regional Project Proposal

The January 2020 Proposal changes the process by which MISO identifies and allocates costs for economically beneficial transmission projects. MISO's proposed revisions to the MEP tariff provisions include: (i) two new benefit metrics (Avoided Reliability Project Savings and MISO-SPP Settlement Agreement Costs) to be used in conjunction with the existing Adjusted Production Cost (APC) Savings metric to calculate project benefits associated with MEPs; (ii) elimination of the existing 20 percent cost allocation for MEPs to all of MISO on a postage-stamp basis -- instead allocating, based on the revised benefit metrics, 100 percent of costs to Transmission Pricing Zones (TPZs) that receive benefits from the MEP; (iii) provision of an expanded framework for the identification and analysis of MEPs at lower voltages, lowering the voltage threshold from 345 kilovolts ("kV") to 230 kV; and (iv) a limited exception from the MISO Competitive Developer Process for certain Immediate Need Reliability Projects that also qualify

⁸ Regional Order, 167 FERC ¶ 61,258 at P 56.

⁹ *Id.* at P 66.

¹⁰ *Id.* at P 68.

as MEPs and could otherwise be delayed absent the exception.¹¹ The Proposal includes new Attachments FF-7 and FF-8 to expand, modify, and provide added clarity regarding the identification and cost allocation of transmission facilities providing regional and local economic benefits to MISO customers.¹²

The Proposal also adopts a new project category for LEPs, which are similar to MEPs, but are limited in voltage between 100 kV and 230 kV.¹³ Consistent with the Commission’s cost causation principles and based on the guidance provided in the Regional Order, the proposed requirements will ensure that only projects of a local nature are included in this category and that LEPs are not subjected to mutually inconsistent regional and local benefit-to-cost tests.¹⁴ Reflecting their local nature, cost allocation for Local Economic Projects will be to the Transmission Pricing Zone(s) in which the LEP is located.¹⁵ The LEP category will formalize the planning, identification, and cost allocation of local economic projects.¹⁶

MISO has requested an effective date of March 22, 2020, so that it can use its improved methodology in the MISO Transmission Expansion Plan (“MTEP”) 2020 approval process.¹⁷ In keeping with MISO’s stated goal of doing the best job possible of aligning the costs and benefits associated with transmission projects, MISO commits to review the filed cost allocation methodology in the Proposal with stakeholders after a three-year period. The Proposal is a compromise, resulting from over three years of stakeholder discussions and efforts focused on effective cost allocation methodologies.

¹¹ January 2020 Proposal, at 4-5.

¹² *Id.* at 2.

¹³ *Id.* at 5-6.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ January 2020 Proposal, at 45.

II. COMMENTS IN SUPPORT

The OMS supports the January 2020 Proposal as a just and reasonable method to allocate costs for MISO's economically beneficial transmission projects. Although no cost allocation method is perfect, this broadly-supported proposal is a compromise that should significantly advance identification, evaluation, and, where warranted, construction of regional economic transmission projects.¹⁸ MISO's Proposal revises its February 2019 Proposal to comply with FERC's guidance in the Regional Order. The updated Proposal is just and reasonable and should be approved by the Commission.

A. MISO's Proposal is supported by a majority of MISO Transmission Owners and OMS Members.

The January 2020 Proposal enjoys broad stakeholder support and incorporates regional flexibility in cost allocation methodologies appropriate for MISO's large and diverse footprint. The Commission, in Order No. 890,¹⁹ found that stakeholder support for cost allocation proposals is a critical component of its determination as to the reasonableness of a cost allocation proposal.²⁰

¹⁸ While not opposing the OMS filing comments in support of MISO's filing with FERC, the Public Service Commission of Wisconsin ("PSCW") notes its footnoted comments in the OMS' earlier filings on these same matters: *Midcontinent Independent System Operator, Inc. and the MISO Transmission Owners*, "Notice of Intervention and Comments of the Organization of MISO States," Docket No. ER19-1124-000 (filed Mar. 27, 2019) at n. 3 and 38. ("It is the Commission's noted herein opinion that the proposed cost allocation for these projects (which relate to lower voltages between 100kV and 230kV) are a violation of the 'beneficiary pays' principle... The PSCW also notes that the LEP project category lacks competitive bidding which in turn may create higher costs and longer timelines." And in footnote 38 "[T]he PSCW do[es] not support... creating local economic projects which limit cost recovery for such projects to only those local transmission pricing zones in which the project is located. This is because these lower voltage economic projects between 100 kV and 230 kV are limited for cost recovery to only those local transmission pricing zones and no other factors in cost recovery are considered. Other zones receiving economic benefits used to justify the project would not be allocated costs for these projects.") The PSCW also notes its detailed feedback comments provided to MISO, dated August 8, 2019, which accurately reflect the PSCW's position on these matters which can be found at: https://cdn.misoenergy.org/20190815%20RECBWG%20Stakeholder%20Comments%20on%20MEP%20Tariff%20Refiling_PSCW372811.pdf.

¹⁹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

²⁰ Order No. 890 at PP 559-60.

Regional solutions that garner stakeholder support are more apt to support new transmission investment where costs are allocated fairly.²¹ Likewise, states may be reluctant to site regional transmission if they believe the costs are not being allocated properly.²² The Commission does not require unanimity or near unanimity among participants and state authorities in the region.²³ “[G]eneral support, not consensus, is the touchstone of Order No. 890....”²⁴ As the Commission has recognized: “[a]llocation of costs is not a matter for the slide-rule[,]” but “[i]t involves judgment of a myriad of facts,” and “has no claim to an exact science.”²⁵ The Commission allows regional flexibility in cost allocation.²⁶

The Proposal is the result of a joint MISO/stakeholder process lasting over three years. This compromise is supported by a majority of MISO Transmission Owners, other stakeholders, and state and local regulators.²⁷ Stakeholders participated in numerous monthly meetings of MISO’s Regional Expansion Criteria and Benefits Working Group (RECBWG), Planning Subcommittee (PSC) and Planning Advisory Committee (PAC) to identify issues, evaluate alternatives, and develop proposals.²⁸ MISO used stakeholder feedback developed over several years to tailor its proposal.²⁹ The OMS Board and Transmission Cost Allocation Working Group participated extensively at the RECBWG to ensure the resultant proposal was an improvement on the status quo.

²¹ *Id.* at P 560.

²² *Id.*

²³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,074, at P 174 (2011).

²⁴ *Id.*

²⁵ Order No. 890 at P 559 (quoting *Colorado Interstate Gas Co. v. FPC*, 324 U.S. 581, 589 (1945)).

²⁶ Order No. 890 at P 559.

²⁷ January 2020 Proposal at 12.

²⁸ *Id.*

²⁹ *Id.*

B. The OMS supports the January 2020 Proposal because it is just and reasonable.

1. The January 2020 Proposal complies with the Commission’s cost allocation principles.

The January 2020 Proposal complies with the Order No. 1000³⁰ regional cost allocation principles. The Commission required each public utility transmission provider to show that its regional cost allocation methodology is just and reasonable and not unduly discriminatory or preferential by demonstrating that each method satisfies six cost allocation principles described in Order No. 1000.³¹ The Commission noted that different methods for cost allocation methods may satisfy the general principles of Order No. 1000 and recognized that regional differences may warrant distinctions in cost allocation methods among transmission planning regions.³² The Commission sought to “retain regional flexibility” and allow transmission providers in each transmission planning region to develop transmission cost allocation methods that best suit that region so long as those approaches comply with the Order No. 1000’s regional cost allocation principles.³³

As MISO explains, the January 2020 Proposal complies with Order No. 1000’s six cost allocation principles.³⁴ For the reasons described in the filing,³⁵ the January 2020 Proposal satisfies the Order No. 1000 requirements and is consistent with the Commission’s cost allocation goals.

³⁰ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

³¹ Order No. 1000, FERC Stats. & Regs. ¶ 31,323, at PP 566, 604.

³² *Id.* at P 604 (“We adopt the use of cost allocation principles because we do not want to prescribe a uniform method of cost allocation for new regional and interregional transmission facilities for every transmission planning region. To the contrary, we recognize that regional differences may warrant distinctions in cost allocation methods among transmission planning regions.”)

³³ *Id.*

³⁴ January 2020 Proposal, at 25-28.

³⁵ *Id.*

The proposed additional benefit metrics will allow for more precise cost allocation to benefitting Transmission Customers because more benefits will be considered both in determining beneficial economic projects and in assessing the magnitude of benefits to beneficiaries. The new Avoided Reliability Project Savings metric determines whether an economic project would eliminate the need for a separate Baseline Reliability Project or a reliability “Other Project.”³⁶ The new MISO-SPP Settlement Agreement Cost metric assesses changes in payments by MISO, pursuant to a settlement, for use of neighboring systems that could occur from the implementation of an economic project.³⁷ The proposed new metrics will enable MISO to take into account broader benefits than under the current Adjusted Production Cost Savings-only construct in identifying potentially beneficial economic projects.

The January 2020 Proposal reduces the minimum voltage for MEPs from 345 kV to 230 kV.³⁸ As the Commission has recognized, MISO South’s backbone transmission system is comprised of facilities used primarily to connect local system generation with local load, most of which is transmission that is 230 kV and above.³⁹ MISO has previously recognized that backbone transmission offers region-wide benefits and should be subject to regional cost allocation.⁴⁰

³⁶ *Id.* at 15-17.

³⁷ *Id.* at 17-19.

³⁸ After 3 years of discussion the majority of states support this 230 kV threshold, with only a few states believing a 100 kV threshold might be more appropriate.

³⁹ *See Louisiana Pub. Serv. Comm’n v. Entergy Corp.*, 138 FERC ¶ 61,029, P 45 (2012) (acknowledging 230 kV as the voltage threshold for the backbone, or bulk transmission, system in Entergy, and therefore as regionally allocated throughout the Entergy system. “Under the System Agreement, bulk transmission costs (generally above 230kV) are equalized among the Operating Companies as set forth in Service Schedule MSS-2. ... We agree with Entergy that, for transmission upgrades below the bulk transmission voltage threshold (generally 230 kV), the System Agreement contemplates that an Operating Company may make such an investment in transmission facilities for the collective benefit of all the Operating Companies and that the related costs will not be equalized among the Operating Companies.”); *see also ITC Holdings Corp.*, 146 FERC ¶ 61,111, P 34 (2014) (“In addition to these costs, under Service Schedule MSS-2 of the Entergy System Agreement, each Entergy Operating Company contributes to or receives a share of the cost of Entergy system-wide transmission assets at voltages at and above 230 kV based on the theory that all Entergy Operating Companies benefit from facilities at voltages at and above 230 kV.”).

⁴⁰ *See Midwest Indep. Transmission Sys. Operator, Inc.*, 118 FERC ¶ 61,209, P 92 (2007) (FERC established a 345 kV threshold for transmission project costs that would be regionally allocated because these served as backbone

Reducing the threshold for MEPs from 345 kV to 230 kV allows the full extent of the backbone transmission system in MISO South that meets the MTEP criteria to be open for competitive transmission development.

The January 2020 Proposal establishes MISO's ability to direct construction of lower voltage projects (100 kV to below 230 kV) that meet the LEP definition. The LEP's primary purpose is to deliver local generation to local load.⁴¹ Compared to those of MEPs, the benefits of LEPs are much more localized.^{42 43} As such, these two project types are cost allocated differently. Costs for an MEP will be allocated to customers in each TPZ that receives a measurable benefit defined according to the January 2020 Proposal. Costs for LEPs will be allocated to the customers served in TPZ(s) where the LEP is physically located.⁴⁴

2. The January 2020 Proposal addresses the Commission's Concerns in the Regional Order.⁴⁵

The January 2020 Proposal addresses FERC's concerns in the express in Regional Order. The Proposal better aligns LEPs with the Commission's cost causation principles. In the Regional Order, FERC rejected the February 2019 Proposal because the filing required LEPs to demonstrate both a regional 1.25-to-1 benefit-to-cost ratio and a local 1.25-to-1 benefit-to-cost ratio for each

facilities for the MISO North area, explaining that "345 kV is a reasonable cut-off line for regional allocations for Regionally Beneficial Projects.... The Midwest ISO region is as large as it is geographically diverse, serving more than 100,000 MWs of load in an area that stretches from North Dakota to Ohio. It is therefore reasonable, particularly as a first step, for the Midwest ISO to confine its cost-sharing methodology to higher-voltage backbone facilities.").

⁴¹ January 2020 Proposal, at 35-36, 43.

⁴² *Id.* at 43.

⁴³ The MPSC, IURC, and MoPSC note that MISO has not provided any technical analysis to justify its assertion that the benefits of LEPs are much more localized.

⁴⁴ *Id.* at 35-36, 43.

⁴⁵ The MPSC, IURC, and MoPSC do not join in the statement that the January 2020 Proposal addresses the Commission's concerns in the Regional Order. In the Regional Order, the Commission specifically found the Filing Parties' proposal to disregard regional benefits for purposes of imposing its preferred cost allocation methodology to a local zone to be unjust and unreasonable. The January 2020 Proposal does not correct this deficiency as regional benefits will still be disregarded for purposes of cost allocation. Further, as with the February 2019 proposal, the January 2020 Proposal is fundamentally at odds with the simultaneous proposal to improve project benefit metrics that will identify regional benefits for LEPs, but for the purpose of imposing its preferred cost allocation method, will actually ignore the benefits that may accrue outside the local TPZ.

Transmission Pricing Zone where an LEP is located.⁴⁶ The Commission held that subjecting Local Economic Projects to both of these benefit-to-cost ratios would be inconsistent with the cost causation principle.⁴⁷

The January 2020 Proposal responds to this issue by removing the regional benefit-to-cost ratio requirement. Instead, the Proposal requires LEPs to meet only the 1.25-to-1 benefit-to-cost ratio for each TPZ where it is physically located.⁴⁸ This revision closely aligns with the Commission's cost causation principles, requiring that the local zone must receive demonstrable benefits that exceed the costs that will be allocated to that zone.

As such, the Commission should accept the January 2020 Proposal as just and reasonable and consistent with FERC's Regional Order.

C. The OMS Supports MISO's Commitment to Conduct a Triennial Review.

The OMS supports MISO's commitment to revisit the cost allocation methodology included in the Proposal at the end of a three-year period, and to work with stakeholders to determine the specifics of how that evaluation will be conducted.⁴⁹ No proposal is perfect and changes in the system may warrant adjustments and improvements. MISO and its stakeholders are moving beyond the minimal "roughly commensurate" standard to improve the accuracy and precision with which transmission project costs are allocated. Conducting triennial reviews advances that goal.

⁴⁶ Regional Order, 167 FERC ¶ 61,258 at P 56.

⁴⁷ *Id.*

⁴⁸ January 2020 Proposal, at 44-45.

III. CONCLUSION

WHEREFORE, the OMS respectfully requests that the Commission consider these comments and accept the January 2020 Proposal. The OMS submits these comments because a majority of its members have agreed to generally support them.⁵⁰ Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments.

Respectfully submitted,

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Dated February 11th, 2020

⁵⁰ The Mississippi Public Utilities Staff, an associate member of OMS, supports these comments. The Manitoba Public Utilities Board did not participate in this filing. The Illinois Commerce Commission abstained.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list prepared by the Secretary for the above-captioned docket in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.2010.

DATED at Madison, Wisconsin this the 11th day of February, 2020.

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