

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

Coalition of MISO Transmission Customers,)
Industrial Energy Customers of America,)
LS Power Midcontinent, LLC, Complainants)
)
v.)
)
Midcontinent Independent System)
Operator, Inc., Respondent)

Docket No. EL20-19-000

**MOTION TO DISMISS COMPLAINT WITHOUT PREJUDICE AND
COMMENTS OF THE ORGANIZATION OF MISO STATES, INC.**

Pursuant to Rules 211 and 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §385.211 and 18 C.F.R. §385.212, the Organization of MISO States (“OMS”) submits its *Motion to Dismiss Complaint Without Prejudice and Comments* in the above-captioned docket.

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.

I. NOTICE

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

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II. BACKGROUND

On January 21st, 2020, the Coalition of MISO Transmission Customers (“CMTC”), Industrial Energy Consumers of America (“IECA”), and LS Power Midcontinent, LLC (“LS Power”) (collectively, “Complainants”) filed the Complaint¹ in this docket challenging MISO’s tariff provisions regarding its Baseline Reliability Project (“BRP”) category. The Complainants argue that the “the current location-based cost allocation methodology for Baseline Reliability Projects fails the Commission’s obligation to ensure just and reasonable rates by identifying the beneficiaries of each Baseline Reliability Project in a manner that is roughly commensurate with the benefits received from that project and is, therefore, unjust and unreasonable.”²

III. THE COMMISSION SHOULD DISMISS THE COMPLAINT WITHOUT PREJUDICE

The OMS moves the Commission to dismiss the Complaint without prejudice³ because the changes to the MISO tariff that the complainants request have not been subjected to a rigorous

¹ *Coalition of MISO Transmission Customers, Industrial Energy Consumers of America, LS Power Midcontinent, LLC v. Midcontinent Indep. Sys. Operator, Inc.*, “Complaint of Coalition of MISO Transmission Customers, Industrial Energy Consumers of America, and LS Power Midcontinent, LLC, and Request for Fast Track Processing,” Docket EL20-19-000 (Jan. 23, 2020) (“Complaint”).

² Complaint at 1-2.

³ The Public Service Commission of Wisconsin (“PSCW”) believes promoting reliability is the paramount objective pursued by BRPs. However, it is important to recognize that reliability and competition are not mutually exclusive objectives. Competitive BRP bidding procedures must still require the full compliance with all relevant reliability requirements and the full assumption of reliability compliance responsibilities by successful bidders. The PSCW, the Missouri Public Service Commission (“MoPSC”), and the Michigan Public Service Commission (“Michigan PSC”) concur with the OMS in recommending the discussion of the technical and economic merits of alternative methodologies and metrics that might help to identify BRP beneficiaries and to quantify those benefits in pursuit of a fair and just allocation of costs without relying on a postage stamp method. As the PSCW, the MoPSC, and the Michigan PSC have previously commented, the cost allocation for baseline reliability projects does not comport with the beneficiaries pay principle. Cost allocation should not be driven by the competitive bidding requirements under Order 1000 (or attempts thereunder to be relieved of the obligation to competitively bid projects). The Michigan PSC does not take a policy position on whether BRPs should or should not be competitively bid and would prefer an outright exception to the bidding requirement than to have a suboptimal cost allocation methodology. The PSCW and the MoPSC do not take a position on this issue in that they believe such issues should be discussed and agreed upon in a future stakeholder process.

stakeholder process. MISO recently submitted revisions to its regional⁴ and interregional⁵ MEP cost allocation methodologies, and those proposals took several years to develop within the MISO stakeholder process and were the result of extensive stakeholder discussion and compromise. LS Power sought to cut that stakeholder process short,⁶ and the OMS asked the Commission to let the stakeholder process conclude prior to ruling on this complaint.⁷ The Commission has not acted on this complaint and has allowed this stakeholder process to conclude. The Commission rejected MISO's regional cost allocation proposal on March 20th, 2020.⁸ Further, pursuant to FPA section 206, the Commission set a just and reasonable cost allocation method for certain MISO-PJM interregional transmission projects down to 100 kV. MISO is required to file a compliance filing in 30 days.⁹

There is no ongoing stakeholder process regarding revisions to this project category or its methodology for determining benefits. Stakeholders should be given the opportunity to study these issues prior to the Commission ruling on this complaint. The OMS does not believe that this complaint proceeding is the appropriate place for the Commission to determine the cost allocation methodology of the BRP project category. Prior to the Commission changing an existing methodology that the Commission has already found to be just and reasonable, MISO stakeholders, and in particular the state regulatory authorities, should be allowed time to understand the views

⁴ *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 (Jan. 21, 2020).

⁵ *Midcontinent Indep. Sys. Operator, Inc.*, “Proposed Revisions to MISO Tariff to Provide MISO Cost Allocation for Interregional Economic Projects,” Docket No. ER20-862-000 (Jan. 22, 2020).

⁶ *LS Power Transmission Holdings II, LLC, Cardinal Point Electric, LLC, and LS Power Midcontinent, LLC v. Midcontinent Indep. Sys. Operator, Inc.*, “Complaint of LS Power Transmission Holdings II, LLC, Cardinal Point Electric, LLC, and LS Power Midcontinent, LLC,” Docket No. EL19-79-000 (Jun. 5, 2019).

⁷ *LS Power Transmission Holdings II, LLC, Cardinal Point Electric, LLC, and LS Power Midcontinent, LLC v. Midcontinent Indep. Sys. Operator, Inc.*, “Motion to Hold Complaint in Abeyance of the Organization of MISO States, Inc.” Docket EL19-79 (July 24, 2019).

⁸ *Midcontinent Indep. Sys. Operator, Inc.* 170 FERC ¶ 61,241 (2020).

⁹ *Midcontinent Indep. Sys. Operator, Inc.* 170 FERC ¶ 61,242 (2020).

of all stakeholders on the existing method's purported shortcomings, consider the appropriateness and need for possible modifications, and then suggest refinements to any proposed changes. That has not happened here. Further, the Commission has already determined that MISO's current BRP cost allocation methodology is just and reasonable, and that ruling should not be disturbed at this time.¹⁰

As states have the responsibility to maintain reliability, there is a public policy interest in ensuring that local utilities build BRPs. Further, these projects are distinguishable from economic projects, which could be better situated to be competitively bid and built.¹¹ For these reasons, the OMS opposes this complaint.

IV. CONCLUSION

WHEREFORE, the OMS respectfully requests the Commission dismiss this complaint without prejudice.

The OMS submits this Motion to Dismiss and Comments because a majority of OMS members support this filing.¹² Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments.

Respectfully submitted,

/s/ Marcus Hawkins

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Dated March 26th, 2020

¹⁰ See *Midwest Indep. Transmission Sys. Operator, Inc. and the MISO Transmission Owners, et al.*, 142 FERC ¶ 61,215, at PP 484, 518, 520 (2013) (accepting the revised cost allocation methodology effective June 1, 2013).

¹¹ The MoPSC does not take a position on the issues raised in this sentence or the preceding sentence in that it believes such issues should be discussed in a future stakeholder process.

¹² The Illinois Commerce Commission, the Iowa Utilities Board, and the Kentucky Public Service Commission abstained. The Manitoba Public Utilities Board did not participate in the vote on this filing.

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 26th day of March, 2020.

/s/ Marcus Hawkins

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