

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

Midcontinent Independent System Operator, Inc.)
) Docket No. ER20-1724-000
)

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

Pursuant to Rule 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), the Organization of MISO States (“OMS”) submits its Notice of Intervention and 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 April 30, 2020, MISO and the MISO Transmission Owners (together, “Applicants”) submitted a proposal to revise Module A and Attachment FF of the MISO Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“Tariff”) and to create the new Attachment FF-7. The April 2020 Proposal expands and modifies MISO’s approach to identifying Market Efficiency Projects (MEPs) and allocating costs for transmission facilities providing regional economic benefits to MISO customers.³ OMS supports⁴ the current proposal because it

¹ *Midcontinent Indep. Sys. Operator, Inc.*, “Proposed Revisions to Tariff Module A, Attachment FF, and New Attachments FF-7 to Expand and Clarify Market Efficiency Project and Cost Allocation,” Docket No. ER20-1724-000 (filed Apr. 30, 2020) (“April 2020 Proposal”, or “Current Proposal”).

² See April 2020 Proposal at fn.1 for a list of participating MISO Transmission Owners.

³ April 2020 Proposal, at 1-2.

⁴ The Public Service Commission of Wisconsin, the Michigan Public Service Commission, and the Kentucky Public Service Commission believe the regional threshold for MEPs should be 100kV to be consistent with MISO’s inter-regional compliance filing in the NIPSCO docket (ER16-1969 and EL13-88). The Missouri Public Service Commission also believes that the regional threshold should be 100kV and that the portions of MISO’s filing that only relate to lowering this threshold to 230kV create inequitable treatments across different MISO seams for cost allocation for these projects, most notably the seam with PJM versus the seam with SPP.

incorporates the Commission’s guidance in the 2019 Regional Order⁵ and the 2020 Regional Order,⁶ enjoys broad stakeholder support, and is just and reasonable.

I. NOTICE OF INTERVENTION

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. As such, the OMS files its Notice of Intervention in this proceeding under Rule 214(a)(2), 18 C.F.R. §385.214(a)(2), of the Commission’s Rules of Practice and Procedure.

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

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II. BACKGROUND

A. MISO’s Previous Proposals

The Applicants initially submitted a proposal in February 2019 to implement broad changes to the MEP category.⁷ The February 2019 Proposal allowed for the expanded

⁵ *Midcontinent Indep. Sys. Operator, Inc.*, 167 FERC ¶ 61,258 (2019) (“2019 Regional Order”).

⁶ *Midcontinent Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,241 (2020) (“2020 Regional Order”).

⁷ *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”).

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.⁸ In the 2019 Regional Order, the Commission rejected the February 2019 Proposal because it found that the proposed cost allocation method for LEPs had not been shown to be just and reasonable.⁹ With the exception of the LEP category, the Commission commented that the remaining tariff revisions in the February 2019 Proposal appeared reasonable but that the integrated nature of the filing forced the Commission to reject the entire proposal.¹⁰ The Commission provided the Applicants specific guidance to address its concerns on aspects of the proposal for the Applicants' consideration in resubmitting their proposal.¹¹

MISO's January 2020 Proposal revised the requirements applicable to the LEP category so that this category no longer required a regional benefit-to-cost ratio.¹² Nonetheless, the Commission again rejected MISO's proposal.¹³ Requests for rehearing of the 2020 Regional order were filed.

B. MISO's Current Regional Proposal

As recommended by the Commission, MISO's current proposal removes the LEP category¹⁴ and retains the remaining aspects of the previous proposals that the Commission twice indicated were reasonable. The Current Proposal changes the process by which MISO identifies and allocates costs for economically beneficial transmission projects. MISO's proposed revisions

⁸ *Id.* at 5.

⁹ 2019 Regional Order at P 56.

¹⁰ *Id.* at P 66.

¹¹ *Id.* at P 113-122.

¹² January 2020 proposal at 36. The January2020 proposal does not modify the current FERC-approved tariff provisions regarding transmission projects with voltages from 100 kV to 229 kV.

¹³ 2020 Regional Order at P 60.

¹⁴ 2020 Regional Order at fn. 145 ("Filing Parties could, for example, propose to lower the Market Efficiency Project voltage threshold to 100 kV. Another possibility would be to eliminate the Local Economic Project category from the proposal.").

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 as MEPs and could otherwise be delayed absent the exception.¹⁵ The Current Proposal includes new Attachment FF-7 to expand, modify, and provide added clarity regarding the identification and cost allocation of transmission facilities providing regional economic benefits to MISO customers.¹⁶

MISO requested an effective date of July 29, 2020.¹⁷ In keeping with MISO’s stated goal of better aligning the costs and benefits of transmission projects, MISO commits to review the filed cost allocation methodology in the Current Proposal with stakeholders after three years.¹⁸ The Current Proposal is a compromise, resulting from over four years of stakeholder discussions and efforts focused on exploring and developing effective cost allocation methodologies.

III. COMMENTS IN SUPPORT

The OMS supports the April 2020 Proposal as a just and reasonable method to allocate costs for MISO’s economically beneficial regional transmission projects. Although no cost

¹⁵ April 2020 Proposal, at 4-5.

¹⁶ *Id.* at 2.

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 33-34.

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. MISO's current proposal revises its January 2020 Proposal to comply with FERC's guidance in the 2019 and 2020 Regional Orders. 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 April 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 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

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.

²¹ *Id.* at P 560.

²² *Id.*

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

²⁴ *Id.*

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 four 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 Work Group participated extensively at the RECBWG to ensure the resultant proposal was an improvement.

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

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

The Current 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

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 April 2020 Proposal at 11.

²⁸ *Id.*

²⁹ *Id.*

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.

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

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.

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 April 2020 Proposal, at 24-26.

³⁵ *Id.*

³⁶ *Id.* at 14-16.

³⁷ *Id.* at 16-17.

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

2. The Current Proposal addresses the Commission’s Concerns in the 2019 and 2020 Regional Orders.

The Current Proposal responds to FERC’s concerns expressed in the 2019 and 2020 Regional Orders.⁴¹ In the 2019 Regional Order, FERC rejected the February 2019 Proposal because it required LEPs to demonstrate both a regional 1.25-to-1 benefit-to-cost ratio and a local

³⁸ After four years of discussion the majority of states support this 230kV threshold. Some states believe that a 100kV threshold is 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 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 2020 Regional Order at fn. 145.

1.25-to-1 benefit-to-cost ratio for each Transmission Pricing Zone where an LEP is located.⁴² The Commission held that subjecting Local Economic Projects to both of these benefit-to-cost ratios would be inconsistent with the cost causation principle.⁴³

The January 2020 Proposal responded to this issue by removing the regional benefit-to-cost ratio requirement. Instead, the January 2020 Proposal required LEPs to meet only the 1.25-to-1 benefit-to-cost ratio for each TPZ where it is physically located.⁴⁴ The Commission rejected this proposal.⁴⁵ The Current Proposal removes the LEP category in accordance with the Commission's guidance⁴⁶ and does not propose to modify the tariff as it currently exists with respect to projects from 100 kV to below 230 kV.

As such, the Commission should accept the April 2020 Proposal as just and reasonable, consistent with FERC's guidance in the 2019 and 2020 Regional Orders.

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

The OMS supports MISO's commitment⁴⁷ 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. 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.

⁴² Regional Order, 167 FERC ¶ 61,258 at P 56.

⁴³ *Id.*

⁴⁴ January 2020 Proposal, at 44-45.

⁴⁵ 2020 Regional Order at P 60.

⁴⁶ *Id.* at fn. 145.

⁴⁷ April 2020 Proposal at p. 33-34.

IV. CONCLUSION

WHEREFORE, the OMS respectfully requests that the Commission consider these comments and accept MISO's April 2020 Proposal. The OMS submits these comments because a majority of its members have agreed to generally support them.⁴⁸ Individual OMS members reserve the right to file separate comments regarding the issues discussed in these comments.

Respectfully submitted,

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Dated June 1st, 2020

⁴⁸ The Illinois Commerce Commission abstained. The Manitoba Public Utilities Board did not participate.

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 1st of June 2020.

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Document Content(s)

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