

OMS Proposal for Enhanced Authority for Determining Cost Allocation Methodologies to Be Filed Pursuant to Section 205 of the Federal Power Act

August 16, 2012

Background

This proposal attempts to synthesize and harmonize the proposal set forth in Clair Moeller's testimony of May 24, 2012 in the Arkansas Public Service Commission Docket 10-011-U, the proposal set forth by the Public Service Commission of Wisconsin dated June 7, 2012, points that were made at the OMS Special Board Meeting of June 13, 2012, and MISO's response to early drafts of this document.

The right to make filings pursuant to Section 205 of the Federal Power Act belongs to public utilities, but can be shared. See Atlantic City Elec. Co. v. FERC, 295 F.3d 1, 10-11 (D.C. Cir. 2002).

OMS proposes to enhance state authority with respect to determining cost allocation methodologies for transmission projects that are regional in nature; in other words, projects to which costs would be allocated to more than one state, other than BRP projects below 345 kV.

In his May 24, 2012 testimony submitted to the Arkansas Public Service Commission in case number 10-011-U, Clair Moeller proposed the following:

MISO will include alternative tariff sheets and justification proposed by the OMS in any cost allocation filing in which MISO seeks to amend or otherwise modify the regional transmission cost allocation methodologies or formulae, where OMS has an alternative proposal to a major element or elements of the MISO proposal. Inclusion of the alternative tariff sheets and justification proposed by the OMS will be contingent upon the alternative proposal meeting the qualifying circumstances set forth below:

1. MISO is filing a new proposal seeking to amend the existing cost allocation methodology accepted by FERC for any of its regional transmission cost allocation methodologies.
2. At the conclusion of MISO's stakeholder process developing a proposal seeking to amend the existing cost allocation methodology:
 - a. OMS disagrees with one or more components of the proposed MISO filing; and
 - b. OMS provides an alternative approach to such component memorialized in the form of alternative Tariff provisions; and,

- c. The required supermajority or special majority of OMS members requests [sic] MISO to include the OMS's alternate Tariff sheets in MISO's filing seeking FERC acceptance of MISO's proposal referenced above.

If the qualifying circumstances are met, MISO will include the OMS's alternative proposal in MISO's section 205 filing to modify the cost allocation methodology. The OMS's alternative proposal will be included along with MISO's proposal in the MISO filing in the following manner:

1. The OMS's alternative proposal will be included in the filing in addition to, not in lieu of, the MISO proposal and will be identified as being requested by the OMS.
2. OMS is responsible for supporting the justness and reasonableness of their alternative proposal.
3. MISO will include such justification as well as any testimony or other supporting documentation provided by OMS in MISO's filing as so requested by OMS, contingent upon OMS providing any supporting language in a time frame that is consistent with MISO's schedule for the filing.

See Sur Sur-Rebuttal Testimony of Clair J. Moeller, filed in Arkansas Pub. Serv. Comm'n, Docket 10-011-U, May 24, 2012.

Proposal

OMS proposes to modify and supplement its earlier proposal as follows:

1. OMS would have the legal right under MISO's tariff to request and MISO will agree to file an amendment to its cost allocation methodology that would be identified as an OMS proposed filing.
2. OMS's authority to request MISO to file a separate filing would be exercisable in any of the following circumstances:
 - a. Upon MISO undertaking to amend an existing cost allocation methodology.
 - b. Upon OMS request that MISO 1) examine a change or changes in methodology, which MISO would not unreasonably deny, and subject to the commencement of a stakeholder process as provided and modified in 5. below, or 2) make minor technical and clarification tariff changes. Once an examination is requested under 1), MISO shall begin the requested stakeholder process not more than 60 days after the date of OMS's request.

For purposes of this No. 2, “examine a change or changes in methodology” means changing any transmission project cost allocation methodology, changing the definition of the classes or types of transmission projects subject to any MISO cost allocation formula, or any combination of the foregoing. In the case of any dispute between MISO and OMS as to whether a MISO proposal examines a change or changes in methodology, the proposal nonetheless shall be deemed to be an examination of a change or changes in methodology for purposes of OMS’s Section 205 rights described herein.

3. The right described above would apply to the cost allocation methodology being applied to new regional projects and those previously-approved projects that MISO re-evaluates in the future (in other words, the cost allocation methodology may be an existing methodology that is being applied to a new or reevaluated set of projects), other than BRP projects below 345 kV.

4. This new involvement would apply immediately, not upon the expiration of the five-year transition period accepted by the FERC in its Order in Docket No. ER-12-480-000, dated April 19, 2012 (139 FERC ¶ 61,056). Nothing in this paragraph is intended to transfer costs between MISO North and MISO South during the five-year transition period.

5. Barring extraordinary circumstances, MISO shall honor any request by OMS that one or more state commissioners be selected as stakeholder process co-chairs, provided OMS provides assurances of the availability of said commissioner(s) to help direct the stakeholder process in a timely manner. At the beginning of the stakeholder process developing a proposal seeking to amend an existing cost allocation methodology or develop a new cost allocation methodology, MISO and OMS will work cooperatively to develop appropriate guidelines and time frames by which any alternative proposal and supporting materials would be completed.

6. At any point during the stakeholder process (whether initiated by MISO or OMS request) developing a proposal seeking to amend an existing cost allocation methodology or develop a new cost allocation methodology, OMS may undertake to develop an alternative cost-allocation methodology, so long as 66% of the OMS voting members agree to this undertaking.

7. OMS and MISO will work cooperatively to ensure that OMS's alternative tariff language, as well as any material supporting justness and reasonableness, is filed in an agreed upon time frame.

8. Nothing in this proposal is intended to supersede or abrogate MISO's or any MISO Transmission Owner's existing Section 205 rights.

9. Nothing in this proposal is intended to affect any existing or currently planned transmission project in the 2011 MISO MTEP, Appendix A. In other words, nothing in this proposal is intended to operate retroactively on currently approved projects that proceed without re-evaluation by MISO.

10. MISO shall provide the technical support (either in human or financial resources) in order for OMS to support the justness and reasonableness of its proposal. MISO staff shall be subject to reasonable direction by authorized OMS representatives for purposes of developing an OMS cost allocation methodology proposal whether or not OMS ultimately requests that MISO files a tariff as provided herein.

This proposal was adopted by the OMS Board of Directors on August 16, 2012. The Montana Public Service Commission and the Manitoba Public Utilities Board abstained from voting on this proposal.