

*As approved 1/16/2014*

**The Organization of MISO States  
Public Response to  
MISO's Governance Feedback Request  
January 17, 2014**

**MISO Request:**

**Based on three (3) questions that were presented to the MISO Stakeholders in December 2012 by MISO Board Chairman Evans, MISO Representatives met with each of the MISO Sectors over the course of 2013 with the goal of informing them about the work undertaken to solicit their sector, company and individual responses to the three questions posed. The near-term goal of this outreach is for MISO to receive responses in a confidential manner and provide an initial progress report to the MISO Advisory Committee and Board of Directors at their December 2013 meetings. The longer-term activity will involve further discussion and dialogue with MISO Stakeholders based on the feedback provided. Final responses are due no later than Monday, January 13, 2014. Please note that all responses are confidential unless in a response a sector, company or individual wishes to disclose information to identify that response as non-confidential (for example a sector may wish to publicly convey a sector response). Thank you very much for your attention to this survey and we look forward to your insights.**

**OMS Responses:**

- 1. What steps can MISO take to ensure that the Board of Directors and stakeholders continue to discuss issues and exchange views in an appropriate fashion?**

The mechanisms MISO has established for stakeholder input are generally well structured. However, it is worth emphasizing the importance of transparency in the use of those mechanisms in the organization's decision-making process. The Board should be particularly attentive to ensure that dialogue leading to major policy or operational decisions is transparent to stakeholders and complies with the "no surprises" rule. Perception among stakeholders about "off-line" decisions can raise doubts about whether exchange is occurring in an appropriate

fashion, and make effective communication more difficult. Recommitting to transparency as a high corporate value and conducting consumer relations accordingly can assuage doubts. To that end, the following suggestions and comments are offered:

- The Advisory Committee (“AC”) needs to be re-invigorated. The AC was originally designed as the forum where the independent Board could hear the views of the stakeholders. While the Hot Topics discussions are designed to serve that purpose, other parts of the AC agenda are not addressed to the Board. The AC should be re-oriented to the basics for which it was designed.

The AC also provides stakeholder advice to the MISO officers and management. In this area, the OMS suggests giving the AC an opportunity to discuss major filings that MISO plans to file at FERC prior to their submission. MISO’s criteria for stakeholder review of upcoming filings date back several years and should be re-evaluated in light of its increased size and breath of operations. Currently, it is the stakeholders who typically identify filing-related issues for public discussion. That should not be the stakeholders’ responsibility. To initiate a dialogue about this point, the OMS recommends that the decision-making process that MISO follows in approving FERC filings, and, particularly, the role of the Board in that process should be explained by MISO management to the Board at a future AC meeting and discussed by that body.

- Prior to each public MISO Board meeting or public MISO Board Committee meeting, a more detailed agenda of issues to be discussed should be posted. Agendas should include a concise description of the basic issues to be decided. In addition, MISO should consider providing electronic links to supporting documents related to the decision items. Also, public comment should be received at the beginning of each such meeting, before Board decisions, as well as at the end of the meeting. .

Another concern with the Board Committee meetings is that the Board is often provided material different from what is publicly posted, making it difficult to follow the discussions. Simple changes, such as consistent page numbering, would help in this area.

- The process for stakeholders to submit written statements or papers for the attention of the Board should be formalized and made more accessible for stakeholders. A process by which the Board responds to, or at least acknowledges these formal communications, should be established. All such written communications should be posted for public viewing. PJM's practices in these regards (so-called *ex parte* letters) could serve as a useful model.
- At MISO's Annual Stakeholder Meeting, a public "Stakeholder Open Forum" should be held. The session should permit any stakeholder or sector to express opinions and concerns about issues and processes that arose in the prior year. Similarly, MISO management and the MISO Board should be provided with an opportunity to respond—and to air their own opinions and concerns about issues and processes they addressed and stakeholder responses to those issues in the prior year. The Board should consider having the Stakeholder Open Forum moderated by a professional moderator. The Stakeholder Open Forum may help keep the "air clean" for productive exchanges of views in the context of MISO's day-to-day stakeholder discussions.

**2. What steps can MISO take to make certain that the Board, in the words of FERC, does "not favor any single market participant or any industry class" as it oversees MISO's performance of its obligations?**

The issue behind this question really goes to the heart of the matter—what is the role of a member compared to the role of a stakeholder? Should both be equal in terms of responsibilities, expectations and privileges? That is a question which deserves further study by MISO and its members and stakeholders. Answering that question could potentially result in a major revision of MISO By-Laws and governance practices. Many changes, economic, regulatory, legislative,

environmental, etc. have taken place since the establishment of MISO. As a result, the roles of members and stakeholders have also changed over time. As the organization matures, it needs to review the roles of members, sectors, stakeholders and the Board itself.

MISO should consider changing from its one member-one vote method for open director positions to sector voting. Sector memberships currently range from one to about 50. If the Board wishes to put the sectors on a more even playing field, voting by sector could help accomplish that goal. See question 3 for additional discussion.

**3. What, if any, changes should be made to member voting rights, including extending such rights to stakeholders who currently cannot be members, in order to broaden the membership base and better reflect the interest of MISO customers?**

- The Board of Directors is elected by the members, without regard to sector. 25 percent of the Membership or their proxies constitute a quorum, and a candidate is elected by simple majority. Votes may be cast for, against or withheld with respect to each candidate.

Over the past few years, fewer eligible voting members have been turning in ballots. In 2010, 80% of the eligible voting members turned in ballots for the open director seats. In 2011, that number dropped to 42%, and in 2012 it dropped again, to 38%. In the 2013 vote, the participation rate was 54%.

Because voter turnout is so low, and which members are voting is not transparent, voting by sector, rather than by individual members, could be a useful option. Whether conducted as one sector, one vote (like the PAC), or weighted (like the AC), results would neither be skewed by heavy voting in one sector nor indifference in another.

Another option would be a “differently weighted” sector approach, in which weights could be based on several factors. For example, (1) sectors with higher numbers of members could, within limits, be provided with greater weights; (2) sectors could be differently

weighted on the basis of some measure of assets subject to MISO control; (3) sectors could be weighted differently based on their alignment with the public interest; or (4) other.

- Currently, nonmember participants have been awarded voting rights in the stakeholder process, but do not vote in elections for the Board of Directors. These participant types include the Environmental/Other Stakeholder Groups, State Regulatory Authorities, and Public Consumer Groups.

The current stakeholder process is advisory only, which is sometimes a source of frustration to some sector participants. Not allowing stakeholders who are non-member participants to vote in the election for Board members further marginalizes non-member stakeholders. Allowing non-members stakeholders to vote in Board elections could help to make the stakeholder process more meaningful and would allow the MISO Board to take into account a broader range of perspectives and interests on issues.

- OMS States had diverse views on the advisability of allowing state regulatory authorities to vote for Board Members. Extending voting rights to OMS, in particular, could help ensure that MISO meets its “public interest” mandate because, unlike other sectors, OMS members share that mandate. On the other hand, some Commissions question whether it is appropriate for retail regulators to vote for members of the Board of Directors of MISO, many of whose members are utilities regulated by those State Commissions.<sup>1</sup> Currently, only the end result of an elections, i.e. whether a candidate is elected or not, is made public. Final tallies, that is, how many votes for and against, are not made public. There has been no recent discussion of the reasons for not making the final tallies public.

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<sup>1</sup> Some Commissions, such as the Louisiana Public Service Commission and the Minnesota Public Utilities Commission, question whether they are authorized to vote for, or participate in a vote for, members of the MISO Board of Directors. Other Commissions, such as the Mississippi Public Service Commission, question whether it is appropriate for a retail regulator to vote for members of a utility board, like MISO, over which they have regulatory jurisdiction.

**Additional issues not addressed by MISO's three questions:**

- a) *Should the President be on the Board, and should he/she be allowed to vote?*

Only CAISO does not have its President/CEO on its Board of Directors. The Presidents of ISO New England and PJM are not allowed to vote. The Presidents of MISO, SPP, New York ISO and ERCOT are allowed to vote. (Voting authority is restricted in some personnel issues.)

The President's involvement as a member of the Board can add stability to a Board's effectiveness, particularly if the Board is less actively engaged in day to day activities. However, if independence of the Board is the goal, as many stakeholders have noted, it would seem that not having the President on the Board, or at least not allowing the President to vote if he/she is a member, would advance that goal. Issues are generally presented to the Board by management, under the direction of the President. Allowing the President to then advance his/her own issues through his/her vote on the Board is, in effect, granting two bites of the apple.

- b) *Should terms of office be restricted?*

ISO New England, New York ISO and ERCOT all have term limits for the directors. ISO New England and New York ISO also have age restrictions. The other ISOs have no restrictions.

Benefits of an unrestricted Board include continuity and institutional knowledge. Term limits, however, would have the advantage of introducing new ideas and perspectives, as well as challenging old ones. Concerns on this issue would be mitigated if changes were made to the nomination process (see c, below.)

- c) *Should the composition of the Nominating Committee, and the nomination process, be changed?*

Three of the five members of the MISO Nominating Committee are current members of the Board. With the exception of CAISO, two ISOs, ISO New England and ERCOT, have a

nomination process that is less open to stakeholders than MISO's; the Nominating Committees are fully comprised of Board members. PJM, SPP and New York ISO each have a nomination process with greater stakeholder involvement; the Nominating Committees are comprised mostly or entirely of stakeholders.

There are merits to limiting the Board's role in the nomination process, particularly in the absence of term limits. The nomination process could be made more transparent if the Board's role in determining nominations for Board vacancies. The Nominating Committee should be comprised predominantly of stakeholders, and should include representatives from the non-member sectors (e.g., State Regulatory Authorities, Public Consumer Groups and Environmental/Other Stakeholder Groups.)<sup>2</sup> .A possible first step would be to decrease from three to two the number of current Board members on the committee, and increase the number of stakeholders from two to three. The process for selecting the stakeholder members may have to be revisited.

The process for submitting candidates to the electorate should also be reexamined. Currently, the Nominating Committee selects at least two candidates for each open position and forwards those names to the Board. The Board narrows the list to at least one candidate per open position, and those candidates are placed on the ballots. The Board should consider offering on the ballot the two candidates identified by the Nominating Committee and refrain from limiting the number of final candidates to a single person selected by the Board.

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<sup>2</sup> The MPSC questions whether it is appropriate for Board members to be on the nominating committee for other Board members. At a minimum, the nominating committee should be comprised by a majority of stakeholders; the MPSC recommends four stakeholder-members and one Board member.