

## **OMS Transmission Cost Allocation Work Group Comments to the MISO on MISO's Proposed MVP Review**

FERC's MVP Rehearing Order (ER10-1791) requires MISO to submit a compliance filing by April 18, 2012. Paragraphs 190 - 191 require MISO to "revise its Tariff to include periodic reviews of the costs and benefits associated with MVPs." At the January 26 RECBTF meeting, MISO presented how it intends to comply with these requirements.

While the MVP Rehearing Order required review only every three years, in the stakeholder process MISO is proposing to file that a limited review be performed annually. The OMS Transmission Cost Allocation Work Group (TCAWG) appreciates that MISO will perform yearly reviews to update MVP costs, in-service dates, and production cost analyses for interim years between the required three-year reviews. Nonetheless, the OMS TCAWG is concerned that MISO has proposed the MVP review would be forward-looking only, and based only on updating the MTEP future scenarios to capture changes in load forecasts, fuel prices, environmental costs, and public policies.<sup>1</sup>

In paragraph 191 of the MVP Rehearing Order FERC states they "expect that these reviews will provide an additional safeguard that ensures that the MVP methodology is working as expected, informs stakeholder decisions regarding future transmission plans, and provides a basis for any potential adjustments to the allocation of the costs associated with those MVPs." The OMS TCAWG does not believe that MISO's proposal to perform only forward-looking cost/benefit reviews provides the additional safeguard FERC intended.

By continuing to use a forward-looking analysis that relies on updated underlying assumptions to model projected benefits of MVP's MISO does not address any errors that may have been present in previous MVP portfolio cost/benefit analyses or how the beneficiaries of transmission system upgrades change over time. Most every business that performs forecasts or projections as part of their organizational processes also performs an evaluation of previous activity to account for any errors in their forecast and projections and new circumstances. This historical review is then used as guidance and input for the next forecast or projection to closer align them with actual verifiable information. The OMS TCAWG believes that a similar review that utilizes actual historical data is most responsive to the intent of the FERC order.

Data reporting and informational updates endure as significant tools for evaluation and will prove especially valuable as MVPs are needed in the future. The OMS TCAWG recognizes that a level of certainty in transmission planning and cost allocation is necessary to allow

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<sup>1</sup> Representatives of the states of Iowa, Minnesota, North Dakota and South Dakota support a forward-looking analysis that recognizes that decisions made regarding transmission should be based on the best information based on the time the decision was made and recognizes the importance for cost certainty. This forward-looking approach would not change cost containment processes and provide clear support for cost increases as discussed later in this document.

upgrades to the system to be completed. Therefore MISO needs to further clarify how it would utilize the MVP review data and information in its stakeholder processes. The OMS TCAWG would like MISO to better identify how the MVP review proposal will ensure the MVP methodology is working as expected, how it will be used in future transmission planning, and how, or if, it will potentially be used to provide adjustments to future MVP cost allocation. The OMS TCAWG thinks that this issue needs more policy discussion between the various interests, including FERC, MISO, OMS, and other MISO stakeholders.

The OMS TCAWG believes that one of the vital areas that MISO should consider in its review proposal is project cost containment. MISO's proposal should incorporate transparent reporting features for any MVP changes and update individual project costs. To the extent that any project's costs increase, MISO should require the project's developer to provide stakeholders with verifiable justification for such cost overruns. While the States in which the project will be sited and physically located will have a specific role in project cost containment,<sup>2</sup> the costs of MVPs will be spread to electricity consumers in all States in the MISO region and those States also will have an important interest in cost containment and need a process to express that interest.

If MISO files only a forward-looking cost/benefit analysis, those parties paying for the MVPs must simply trust the accuracy of MISO's forward-looking projections with no ability for stakeholders to verify and for MISO to be accountable for their accuracy. While cost/benefit projections are simply estimates that rely on assumptions, the costs charged to parties for the MVP's are very real. The parties paying for the MVP's should have access to actual data regarding the costs and benefits of the MVP portfolios.

The OMS TCAWG believes that a historic MVP cost/benefit review can be conducted at the resource zone level consistent with the MVP cost allocation methodology. This approach does not undermine the MVP portfolio approach or cause proprietary information of any party to be inappropriately revealed. The OMS TCAWG acknowledges that adopting this procedure will require MISO to record and store historic data and will also likely require the development of a new system or systems to track and analyze the historic data. This procedure and system design shouldn't be beyond the scope of MISO's capabilities although it may require outside technical consultation. Implementing this procedure would be very valuable for MISO to determine the benefits of a given MVP portfolio, would put to rest many stakeholder concerns about fairness and accountability, and show how those who have paid for the MVP's benefit.

MISO's MVP cost allocation methodology and related cost benefit analysis are contentious issues, with some parties asserting that they will not receive benefits commensurate with the costs allocated to them. Simply updating estimates of costs and benefits will likely cause continued grievances and litigation on cost/benefit alignment. Therefore, MISO should take the opportunity presented by this triennial review requirement to perform transparent

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<sup>2</sup> Due to the divestiture of most transmission assets in Michigan to an independent transmission company not under Michigan PSC jurisdiction, it is critical to the Michigan PSC that historic data on previous MVP cost/benefit analyses is collected to allow evaluation of the MVP cost allocation methodology in the MISO stakeholder process.

historic reviews with actual data so that parties can determine how MVP portfolios provide benefits commensurate with the allocated costs.

The OMS TCAWG appreciates the opportunity to provide MISO and the RECBTF with comments on the proposed MVP review and is hopeful that MISO will file a proposal that includes historic informational and data reporting features. The OMS TCAWG believes that further clarification on MISO's proposed MVP review would be appropriate to comply with FERC's requirements and allow stakeholders to better understand how the MVP review will be conducted and applied.

## **Separate Statement of the Illinois Commerce Commission Regarding MISO's MVP Review and Reporting Compliance Proposal**

The ICC believes that MISO's January 26, 2012 compliance proposal concerning the MVP Review and Reporting requirement fails to meet the requirements detailed in FERC's October 21, 2011 MVP Rehearing Order.<sup>3</sup>

### **A. Forward Looking Only Does Not Satisfy FERC's Requirement.**

It is clear that FERC's requirement is not merely a "forward looking only" obligation. It is clear that FERC's requirement envisions that the results of the cost and benefit review may be used to modify transmission cost allocation, and not just for MVP projects that may be approved in the future, but also for those already approved. On each of these points, MISO's proposal falls short.

No interpretation is needed to reach these conclusions—FERC's own words are clear. FERC says that the review is intended to "ensure[ ] that the MVP methodology is working as expected."<sup>4</sup> FERC says that the reviews will "provide[ ] a basis for any potential adjustments to the allocation of the costs associated with those MVPs"<sup>5</sup> Ensuring that the cost allocation methodology is "working as expected" requires that the methodology be adjusted if it is determined by the review to not be working as expected. Note that FERC specifically uses the words, "adjustments to the allocation." FERC doesn't use the words "adjustments to the future application of the cost allocation methodology", which is all MISO's forward looking evaluation would enable (if that). Furthermore, it is clear that FERC is not only speaking about hypothetical MVPs that may be approved in the future, but also MVPs that have already been approved. For example, FERC refers clearly to "the costs associated with those MVPs"<sup>6</sup> and states that MISO will be required to conduct reviews at least every three years in order to monitor the costs and benefits of the cumulative effects of all approved MVPs.<sup>7</sup>

FERC is similarly clear about what MISO must analyze, namely "costs and benefits of the cumulative effects of all approved MVPs."<sup>8</sup> FERC states that, "at a minimum", the MVP benefits review must" (1) include "analyses of relevant economic factors"; (2) "quantify the economic benefits"; and (3) "examine the qualitative impacts of MVPs".

So, MISO's intention to limit its analysis in a manner that "Benefits would be forward looking only" clearly falls short of FERC's directive. FERC states that MISO must analyze "the

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<sup>3</sup> *Midwest Independent Transmission System Operator, Inc.*, 137 FERC ¶ 61,074 (2011) ("MVP Rehearing Order")

<sup>4</sup> MVP Rehearing Order at P 190

<sup>5</sup> MVP Rehearing Order at P 190, underlining added.

<sup>6</sup> MVP Rehearing Order at P 190

<sup>7</sup> MVP Rehearing Order at P 191

<sup>8</sup> MVP Rehearing Order at P 191

cumulative effects of all approved MVPs.” Similarly, MISO’s January 26, 2012 proposal that “Results will be used to drive refinements to the regional plan and further changes to the cost allocation methodology for projects to be approved in the future” clearly falls short regarding how FERC intends the results to be used. FERC says that the reviews must “provide[ ] a basis for any potential adjustments to the allocation of the costs associated with those MVPs.”<sup>9</sup>

**B. Aggregating to the Local Resource Zone Level Will Not Reveal the Information that FERC Requires MISO to Provide to Stakeholders.**

Contrary to the apparent position of the OMS, the ICC does not agree that providing the results of the MVP review aggregated up to the Local Resource Zone level, rather than at the utility level or the transmission owner zone level, would provide the information needed by stakeholders to “understand the costs and benefits resulting from MVPs” as required by FERC.<sup>10</sup> The FERC requires that MISO provide stakeholders with the information they need to confirm (or disprove) that they are receiving benefits commensurate with the costs that they pay. FERC intends to enable “stakeholders” to “better understand the costs and benefits resulting from MVPs, including their distribution across the Midwest ISO region.”<sup>11</sup> The only way that stakeholders can make that confirmation is if MISO provides sufficiently disaggregated data and analyses for that purpose. Accordingly, MISO must provide the results of the MVP cost and benefit review at the utility level or the transmission owner zone level.

The ICC notes that MISO has provided benefit and cost data on a utility-specific and project-specific basis in other circumstances. See, for example, MISO’s February 3, 2012 Answer in Dkt. No. ER12-715 where MISO attached testimony of Jennifer Curran “explaining the estimated benefits to FirstEnergy Services Corp. and its affiliates (including American Transmission Systems, Incorporated or “ATSI”); and to Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc. (collectively, “DEOK”) from the Multi Value Projects.”<sup>12</sup> Therein, MISO’s “explanation” was provided at the project level and the transmission owner zone level. However, when providing or reporting such disaggregated data does not serve MISO’s purposes, MISO claims that reporting data more granular than on a portfolio basis and at the Local Resource Zone level would be “falsely precise.”<sup>13</sup> MISO’s position on this point is, to say the least, inconsistent.

To achieve the objective that FERC says it wants to achieve with the MVP review and reporting compliance obligation, MISO must produce MVP benefit and cost data on a project basis and on a utility basis (or transmission owner zone basis) and make that information available to stakeholders.

**C. The ICC Agrees with the OMS that MISO has an Important Role to Play in MVP Project Cost Containmentment.**

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<sup>9</sup> MVP Rehearing Order at P 190, underlining added.

<sup>10</sup> MVP Rehearing Order at P 190

<sup>11</sup> MVP Rehearing Order at P 190

<sup>12</sup> Answer of the Midwest ISO in Dkt. No. ER12-715, Curran Testimony at 3 (February 3, 2012)

<sup>13</sup> MTEP 11, Appendix F at 14

In its January 26, 2012 proposal, MISO states that its MVP review will use “estimated project cost or actual in-service cost at the time of the review.” The ICC supports that MISO commitment, as far as it goes. However, MISO has an important role to play in MVP cost containment and the ICC urges MISO to put in place project cost containment mechanisms. The ICC agrees with the OMS that MVP project cost containment is “one of the vital areas” that MISO should pursue in its MVP review and reporting process. While the States in which an MVP project will be sited and physically located will have a specific role in project cost containment, the costs of MVPs will be spread to electricity consumers in all States in the MISO region and those States also will have an important interest in cost containment and need a process to express that interest. MISO should use the MVP review and reporting process to put in place MVP cost containment mechanisms in which stakeholders and others, particularly State Commissions, can have an important role.

#### **D. MISO’s Compliance Filing Should be Informed by SPP’s “Unintended Consequences” Provisions.**

With respect to the MVP Review and Reporting process, FERC’s MVP Rehearing Order clearly states, “we will grant IPL’s rehearing request.”<sup>14</sup> In its September 10, 2010 Comments in ER10-1791, IPL cited SPP’s “unintended consequences provisions” which IPL described as a “reasonable mechanism for adversely affected parties to raise their concerns through the stakeholder process and for unintended outcomes to be amended.”<sup>15</sup> In its December 16, 2010 Order in ER10-1791, FERC denied IPL’s proposal in this regard stating, “[W]e find it unnecessary to require Midwest ISO to include an ‘unintended consequences’ provision similar to that which is included in the SPP tariff.”<sup>16</sup> In its request for rehearing, IPL again urged the FERC to order MISO to adopt SPP-style protections against unintended consequences.<sup>17</sup> In its MVP Rehearing Order FERC reversed itself on this matter, stating, “we will grant IPL’s rehearing request.”<sup>18</sup> The reasonable conclusion to be reached from FERC’s statements is that FERC intends MISO’s MVP review and reporting process to (at least) be informed by SPP’s “unintended consequences” process, and perhaps, be modeled on that process.

In its January 26, 2012 proposal, MISO entirely ignores FERC’s statements and intentions in this regard. In IPL’s Request for Rehearing on this issue, which FERC granted, IPL asked FERC to “require the same protective measures that Southwest Power Pool (“SPP”) adopted in its transmission cost allocation tariff provisions to ensure that IPL and other transmission owners are protected from adverse or unintended consequences.”<sup>19</sup> FERC granted that request for rehearing. Accordingly, MISO must look to SPP’s “unintended consequences” provisions and processes for guidance on developing a proper MVP review and reporting process.

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<sup>14</sup> MVP Rehearing Order at P 190

<sup>15</sup> IPL’s September 10, 2010 Comments in ER10-1791, at 30

<sup>16</sup> December 16 Order at P 244

<sup>17</sup> IPL Request for Rehearing in Docket No. ER10-1791, at 38-39.

<sup>18</sup> MVP Rehearing Order at P 190

<sup>19</sup> IPL Request for Rehearing, at 36