

OMS Regional Planning and Transmission Cost Allocation Work Groups Feedback to MISO on Order 1000 Regional Compliance

The OMS Work Groups would like to highlight some concerns workgroup staff have with some of the new updated Attachment FF language MISO is proposing to file at FERC in response to FERC's compliance order. OMS WG Staff concerns have been verbally expressed and submitted in writing in response to feedback requests at various planning meetings. These comments serve as a written follow-up to current and prior concerns with the proposed tariff language.

- 1) Since inclusion of a backstop update in the Project Status Update BPM received support from the majority of PAC sectors, the OMS recommends that the following sentence be inserted in the Tariff either before or after the listing of milestones in Section I.C.11 of Attachment FF, page 19:

“If no milestone is reached during the calendar year, then a project status update is required at the end of the year.”

Inclusion of this sentence would incorporate an annual project status update requirement, as provided for in the Project Status Update BPM. While this is included in the BPM, OMS believes this is an important aspect of the new project status update process that should be recognized within the Tariff language.

- 2) A listing of legal requirements for qualified developers is provided in Section VIII.B.6.a, on page 103 of the redline Attachment FF. OMS Staff believes the requirement that a developer be legally organized in at least one state within MISO as described in the 2nd sentence may unnecessarily favor incumbent MISO TOs. It is unclear whether the “legally organized” requirement refers to the place of incorporation, the location of headquarters, or something else entirely. While the OMS Staff understands the need to ensure that a potential transmission developer is properly qualified, this requirement appears to be unduly discriminatory. The tariff language regarding developer qualifications should be revised to be indifferent as to whether a developer is an incumbent or a non-incumbent. Accordingly, MISO should provide further clarification and explanation within the proposed language or transmittal letter as to why these terms are referenced, or else MISO should remove them all together to avoid unnecessary confusion and concern.
- 3) Under the removed Section VIII.B, page 78 of the redline Attachment FF document, MISO removed the language that would allow a state to select the developer, in compliance with FERC's order. However, within that language is a particular sentence that should remain in the Tariff. Below is the removed section containing the slightly revised sentence (in red with new proposed language in italics) that should remain in the tariff:

~~“B. State Selection of Qualified Transmission Developers. In the absence of any Applicable Laws and Regulations granting a right of first refusal, a state with the authority to do so may elect to determine the Selected Transmission Developer(s) from the Qualified Transmission Developers who have submitted Transmission Proposals for any Open~~

~~Transmission Projects, or portion of such Open Transmission Projects that are physically located within such state's boundaries, in accordance with applicable state criteria and procedures. Prior to the Transmission Provider Board's approval of Open Transmission Project(s) for inclusion in Appendix A of the MTEP, states may identify any potential Open Transmission Projects within its state boundaries for which it will determine the Selected Transmission Developer. States that elect to determine the Selected Transmission Developer may request additional state-specific data or qualification criteria related to the specific potential Open Transmission Project (s) located within their state boundaries, for which the state has indicated that it will determine the Selected Transmission Developer to be included in the corresponding Transmission Proposal Request(s)."~~

The retention of this sentence would allow states the opportunity to request that additional state specific data or qualification criteria be included in a project bid proposal. OMS Staff believes that this particular language would still be acceptable to FERC, (See P 354 of the March 22 FERC Order regarding the role of state regulatory authorities in the competitive process for developer selection.) while aiding the overall developer selection process by taking state specific preferences into consideration. Such an approach could provide MISO with better direction regarding the selection of a developer for a given project in a given state. In addition, this Tariff change would also allow states an opportunity to provide input into the process, as recommended by FERC.

- 4) Section VIII.C.3.4 & 5 (page 113), and Section VIII.C.7 (page 119) of the redline Attachment FF proposes new language at the end of several bullet points: "...relative to the applicable locations and jurisdictions where the New Transmission Facilities will be constructed."

OMS Staff is concerned that in the context of the developer evaluation process, this sentence could be interpreted to favor incumbents within MISO and be unduly discriminatory to non-incumbents. To reduce the likelihood of misinterpretation of this sentence, OMS suggests that MISO provide further clarification and explanation as to why this verbiage has been added and consider removing the particular phrase from Attachment FF to avoid leaving an impression that MISO is trying to favor the incumbents.

- 5) Section I.C.b, of the redline Attachment FF (page 8, under the first bullet point) includes the phrase "as part of the Transmission Issues they may raise."

"Stakeholders submit to MISO, proposals to consider transmission needs driven by public policy requirements, **as part of the Transmission Issues they may raise**, in accordance with Section I.C.2.b, through the Planning Subcommittee and/or the Planning Advisory Committee."

OMS Staff questions the need for this phrase, as its inclusion seems out of place and unnecessary in the context of this section. Proposals to consider transmission needs driven by public policy requirements should be permitted either together with identified transmission issues or separate from them. Accordingly, MISO should either clarify the intent of the phrase or remove it.

- 6) The language in Section VIII.A.1.1.2, of the redline Attachment FF (page 83), seems to suggest that MISO will use “subsequent state or local regulatory proceedings” as one avenue for deciding whether a new transmission circuit could be considered an upgrade to the existing system. However, at the time when the State regulatory proceedings will take place, the project type and developer selection process will have already been completed. So, MISO’s use of the words “subsequent” and “proceedings” is incorrect in this instance and should be removed. However, MISO’s intent here may be consideration of state preferences, (for example on right of way) when making the decision about whether a new circuit would be an upgrade or not and eligible for developer competition. Therefore, OMS Staff suggests the following changes to remove the timing issue and possibly get closer to MISO’s original intent:

“1.1.2 Installation of Additional Transmission Circuits on Existing Transmission Lines. If a proposed transmission project not subject to a federal right-of-first-refusal includes developing a new transmission circuit and either the project scope or ~~subsequent state or local regulatory proceedings~~ **regulations** determine that all or a portion of the circuit must be installed on an existing transmission line that is part of the Transmission System (i.e., co-located with an existing transmission line), the following rules will be used to determine what constitutes an upgrade:”

- 7) OMS continues to question whether the 30% value given by MISO for cost factors is appropriate. This is because the weight placed on cost factors may be an unrealistic measure to use when selecting the most cost-effective developer, if costs change significantly from the original cost estimate. The weight given to the cost factors should be related to the differential between the initial project cost estimate and the final project cost at the in-service date.

Regardless of what percentage weight is put on the initial cost estimate during the developer selection process, OMS urges MISO to consider the inclusion of a mechanism to 1) incentivize accurate initial cost estimates such as sharing of cost overruns and savings; and 2) hold bidders close to their initial cost estimate, such as some sort of cost tracking or cost control measures.

- 8) OMS notes the lack of amended language regarding the issue of the 20 contiguous mile threshold requirement within the redline Tariff (Section VIII.A.1.1.1, page 82) and assumes that MISO will therefore address the issue within the transmittal letter of its compliance filing. Regardless of where and how MISO provides their justification to FERC, OMS would like MISO to consider the following comments by the OMS on this issue.

In comments to MISO’s October compliance filing, OMS expressed concern over the use of the word “contiguous” in MISO’s proposed threshold and provided a suggested revision:

“...Application of this standard could allow a developer to divide up a project so that a small portion of the line is an existing line, provided that the new portions

were less than 20 contiguous miles...If a 20-mile-standard is a reasonable threshold, the OMS believes the standard should be set at a total of 20 miles of new transmission line, regardless of whether those miles are contiguous or not. At the least, the OMS requests that FERC modify the MISO Compliance Filing to remove or clarify the continuity element.” OMS December 10 Comments, at 33.

OMS commented further, suggesting that in the alternative, MISO could consider not only a mileage threshold, but also a percentage threshold:

“...an alternative threshold that would count as an upgrade: (1) any upgrade that consists of five (5) miles or less of facilities in new rights-of-way, or (2) the new rights-of-way involved in the upgrade are less than 25% of the total mileage of the line, but the new portions would never exceed a total of twenty (20) miles. This approach would maintain upgrade status for relatively small projects (any with less than 5 miles of new right-of-way) and would address the concern that 25% of a project could be large (i.e., 25% of 200 miles if 50 miles) since the 20-mile cap would apply.” OMS December 10 Comments, at 33-34.